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04/03/2026



REPUBLIC OF KENYA
13TH PARLIAMENT | 5TH SESSION



THE SENATE

STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND

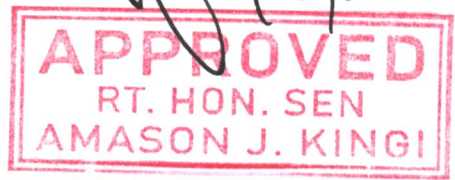
HUMAN RIGHTS	PAPERS LAID
DATE	11.03.2026
TABLED BY	Sen. Karen Nyanu on behalf of the chairperson.
COMMITTEE	ALATRC
CLERK AT THE TABLE	Mr. Matara

REPORT ON A PETITION BY HON. ISAIAH MAINA, MCA ON PROPOSED AMENDMENTS TO THE COUNTY GOVERNMENTS ACT (CAP. 265)

Rt. Hon. Speaker
You may approve for tabling.
J. M. Nyegenye, C.B.S.,
Clerk of the senate/secretary, PSC
Date: 04/03/26

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

04/03/26



February, 2026

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*RC Hon. Speaker
J.M. Nkomo, C.B.E.
Chairman of the Joint Select Committee
on the Petition of the
People of Zimbabwe for the
Right to Petition Parliament*

LIST OF ABBREVIATIONS AND ACRONYMS

CAF	County Assemblies Forum
CCO	County Chief Officer
CECM	County Executive Committee Member
COG	Council of Governors
CRA	Commission on Revenue Allocation
IGRTC	Intergovernmental Relations Technical Committee
KLRC	Kenya Law Reform Commission
MCA	Member of County Assembly
PSC	Public Service Commission
SRC	Salaries and Remuneration Commission

PRELIMINARIES

Establishment and Mandate of the Committee

The Standing Committee on Justice, Legal Affairs and Human Rights is established under the Standing Orders of the Senate and is mandated ‘to consider all matters relating to constitutional affairs, the organization and administration of law and justice, elections, promotion of principles of leadership, ethics, and integrity; agreements, treaties and conventions; and implementation of the provisions of the Constitution on human rights.

Membership of the Committee

The Committee is comprised of –

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

Minutes of the Committee in considering the Petition by Hon. Isaiah Maina, MCA on proposed amendments to the County Governments Act (Cap 265) are attached to this Report as *Annex 1*.

FOREWORD BY THE CHAIRPERSON

Honourable Speaker,

On Tuesday, 23rd September, 2025, the Speaker of the Senate reported that a Petition had been received from Hon. Isaiah Maina, a Member of the County Assembly of Nandi representing Ol'lessos Ward, regarding proposed amendments to the County Governments Act (Cap. 265). The amendments were proposed to better align the functioning of the county governments with the objects and principles of devolution as set out in the Constitution, specifically, Articles 10, 174, 175, 179, 183 and 232, among others.

Honourable Speaker,

The Committee embarked on its consideration of the Petition, whereupon it held a meeting with the Petitioner to better understand the background, rationale and justification for the proposed amendments. The Committee further invited and received written responses from the Office of the Attorney General, Kenya Law Reform Commission (KLRC), Council of Governors (CoG) and the County Assemblies Forum (CAF).

The submissions by these stakeholders on each proposed amendment, together with the observations and resolution by the Committee, are detailed in Chapter Two of this Report.

Honourable Speaker,

Having considered the Petition and the submissions received thereon, the Committee resolved to recommend that –

- a) the Senate **partially accepts** the proposed amendment to section 58A of the County Governments Act (Cap. 265) to require that the quorum of a county public service board be at least three members and proposing a 30-day timeline for announcement of a vacancy at the board;
- b) the Senate **mandates** the Standing Committee on Justice, Legal Affairs and Human Rights to introduce the said legislation for consideration by Parliament;
- c) the Senate **rejects** the proposed amendments to sections 2, 30(2)(d), 30(2)(e), 30(2)(f), 30(3)(f), 31(a), 32(3), 35, 39 and 45 of the County Governments Act (Cap. 265) as well as the other new provisions as proposed in the Petition; and

- d) the Council of Governors, in partnership with the Public Service Commission and other relevant State agencies, develops harmonized policies and procedures on leave and absence from office of county governors, deputy governors and appointed members of the county executive, and to submit a report to the Senate within six months of the adoption of this Report.

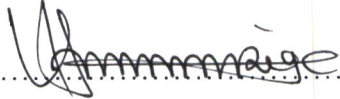
It is observed that the proposed amendments to the County Governments Act (Cap. 265) would need to go through the legislative process in Parliament as contemplated under the Constitution and the Standing Orders of the two Houses of Parliament.

Honourable Speaker,

I take this opportunity to thank the Petitioner as well as the stakeholders who submitted written comments which greatly assisted the Committee 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 Hon. Isaiah Maina regarding proposed amendments to the County Governments Act (Cap. 265).

Signed.......... Date.....24/02/2026.....

**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 Tuesday, 23rd September, 2025, the Speaker of the Senate reported that a Petition had been received from Hon. Isaiah Maina, a Member of the County Assembly of Nandi representing Ol’lessos Ward, regarding proposed amendments to the County Governments Act (Cap. 265).
4. The amendments were proposed to better align the functioning of the county governments with the objects and principles of devolution as set out in the Constitution, specifically, Articles 10, 174, 175, 179, 183 and 232, among others. A copy of the Petition is attached to this Report as ***Annex 2***.
5. The salient issues raised in the Petition were –
 - a) That Section 32 (e) of the County Governments Act (Cap. 265) empowers the governor to constitute a County Executive Committee portfolio structure, while Section 46 of the Act grants the County Executive Committee (CEC) authority to determine the organisation of the county and its departments. This creates ambiguity regarding the respective roles of the governor and the CEC in the county administrative structure. The petitioner therefore requests for an amendment to Section 32 (e) and 46 of the Act to clarify the term organisation of the county or alternatively, replace Section 32 (e) of the Act, with a provision establishing a uniform organisational structure for counties.

- b) That, Section 32 (1) of the Act provides that the governor shall assign and cause to be published in the County Gazette Notice of all important formal decisions by the governor or by the county executive. However, the Act lacks a clear definition of what constitutes important formal decisions. The petitioner requests for an amendment to Section 32 (1) to include a definition for important formal decisions, set timelines for gazettelement, require immutable timestamps, include county expenditure and electronic funds transfer (EFT) reports as formal decisions and provide sanctions for non-compliance.
- c) That, Section 33 (a) of the Act holds the county governor accountable for managing county resources, but does not explicitly require accountability to the county assembly, contrary to Article 183 (3) of the Constitution. The petitioner requests an amendment to Section 33 (f) of the Act to establish a clear accountability mechanism requiring the governor to be accountable to the county assembly.
- d) That, pursuant to Section 31 (a) of the Act, a governor can dismiss CEC members without checks, undermining collective executive responsibility. The petitioner requests for an amendment to the section to require consultation and concurrence for at least 50 per cent of the county assembly present and voting before dismissal of a CEC member.
- e) That, pursuant to Section 32 (3) of the Act, the governor may assign the deputy governor executive portfolios. This risks reducing the deputy governor to an ordinary CEC member. The petitioner requests that Section 32 (3) of the Act be amended to expressly exempt the deputy governor from approval and removal processes intended for CEC members.
- f) That, the appointment process for CEC members as envisioned under Section 35 of the Act lacks transparency and consistency in the sourcing, shortlisting and nomination process. The petitioner requests for an amendment to Section 35 of the Act to include a clear merit-based process for sourcing, shortlisting, nomination and appointment of CEC members.
- g) That, Section 45 lacks clarity on the qualifications for county chief officers and does not provide for the reassignment and removal procedures. The petitioner, therefore, requests for an amendment indicating the specification of required competencies and a well-defined removal framework.

- h) That, Sections 58 and 58 (a) of the Act are vague regarding timelines for filing vacancies in the County Public Service Board (CPSB), minimum quorum for legal operation and the representation of minorities and marginalised groups. The petitioner, therefore, requests amendments to impose a 14-day deadline for filling vacancies, require a minimum of three members for board's operations and ensure inclusive representation.
 - i) That, additionally, governors often make acting appointments without county assembly approval contrary to Article 259 (11) of the Constitution. The petitioner, therefore, requests the introduction of a new section mandating compliance with approval procedures and that violation thereof be grounds for removal of a governor.
 - j) That, there lacks clear leave procedures for governors, deputy governors and CEC members. The term 'absence' under Section 2 of the Act is undefined, creating governance risk. The petitioner requests an amendment to define absence and special circumstances, establish formal leave duration of 20 to 30 days annually and provide for proper handover procedures during such leave.
6. Consequently, the petitioner prayed that the Senate intervenes by way of amending the County Governments Act (Cap. 265) in line with the proposals stated above.
7. Pursuant to Standing Order 238(1), the Speaker committed the Petition to the Standing Committee on Justice, Legal Affairs and Human Rights for consideration.

CHAPTER TWO: CONSIDERATION OF THE PETITION

2.1 Introduction

8. Upon committal of the Petition, the Committee met with the Petitioner on Tuesday, 30th September, 2025, whereupon he took Members through the background, rationale and justification for the proposed amendments to the County Governments Act (Cap. 265).
9. The Committee further invited and received written responses from –
 - a) the Office of the Attorney General;
 - b) the Kenya Law Reform Commission (KLRC);
 - c) the Council of Governors (CoG); and
 - d) the County Assemblies Forum (CAF).
10. The submissions by various stakeholders on each proposed amendment, together with the observations and resolution by the Committee, are detailed in the section below, while copies of the submissions are attached to this Report as *Annex 3*.

2.2 Proposed amendment to section 2 of the County Governments Act to define the term ‘absent’

11. The petitioner proposed that section 2 of the Act be amended to include a definition of the term “absent” and what it shall entail in respect to the governor and deputy governor.
12. **COG** agreed to this proposal but noted that there is no similar provision at the national level as this is usually administratively managed between the president and the deputy president.
13. **CAF** supported this proposal as the ambiguity around what constitutes “absence” of Governor or Deputy Governor has led to inconsistencies in interpretations and governance gaps. The stakeholder proposed that the term “absent” be defined in a manner consistent with Article 182 of the Constitution and include a requirement for written notification to the deputy governor and county governor.
14. **KLRC** submitted that Article 182 of the Constitution already covers temporary incapacity and vacancy in the Governor’s office. The stakeholder added that a statutory definition of “absence” could distort this constitutional provision and

proposed that the issue should be handled through administrative procedures; such as regulations or circulars requiring notification to the county assembly when the Governor or Deputy Governor is away. The stakeholder further proposed that the guidelines should be developed jointly by the PSC, SRC, and CoG under their constitutional and statutory mandates, rather than through amendments to the principal Act.

Committee Resolution

15. **The Committee noted that Article 182 of the constitution covers temporary incapacity and vacancy in the Governor’s office, and adding a statutory definition of “absence” could distort this constitutional provision. The Committee proposed that instead, the issue should be handled through administrative procedures - such as regulations or circulars - requiring notification to the county assembly when the Governor or Deputy Governor is away. The Committee therefore rejected the proposed amendment.**
- 2.3 **Proposed amendment to section 2 of the County Governments Act to define the term ‘special circumstances’**
16. The petitioner proposed that section 2 of the Act be amended to define the term “special circumstances” during which a county governor or deputy governor or appointed members of the county executive on leave shall be expected to resume work or perform official duties.
17. **COG** opposed this proposal as governors and deputy governors are state officers who are not subject to the terms of office for public officers. The stakeholder further submitted that their proceeding on leave is an administrative arrangement that does not need to be legislated upon and is not necessary as it is already provided in the Constitution and section 35(2) of the principal Act.
18. **CAF** submitted that defining “special circumstances” risks subjectivity and proposed that the term “special circumstances” should be narrowly defined and be objective. The stakeholder recommended that to prevent abuse, the term should be limited to clear, verifiable emergencies such as national disasters, security crises, or court orders, with any invocation requiring public justification.
19. **KLRC** submitted that the matter is best addressed through administrative circulars or human resource guidelines developed collaboratively by the Public

Service Commission, the Salaries and Remuneration Commission (SRC), and the Council of Governors (COG).

Committee Resolution

20. **The Committee noted that Article 182 of the Constitution covers temporary incapacity and vacancy in the Governor's office and thus the matter can be handled administratively. The Committee therefore rejected the proposed amendment.**

2.4 Proposed amendment to section 30(2)(d) of the County Governments Act

21. The petitioner proposed that section 30(2)(d) of the Act be amended to make the appointments of CEC Members subject to Article 179 (2) (b) and section 35 of the Act.
22. **COG** submitted that the proposal is not necessary as it is already provided for in the Constitution and Section 35(2) of the Principal Act.
23. **CAF** submitted that Article 179(2)(b) of the Constitution and Section 35 of the Principal Act already govern the appointment of CECs thus the proposal is redundant and is not necessary.
24. **KLRC** submitted that the proposed link between section 30(2)(d) and Section 35 is sound in purpose, but the provision already reads harmoniously with Article 179(2)(b) and that no statutory amendment is required. The stakeholder proposed that interpretive guidance could be issued through a circular from the State Department for Devolution to clarify that appointments of CEC members must adhere to both the constitution and the Act.

Committee Resolution

25. **The Committee rejected this amendment noting that the provision is already provided for in Article 179(2)(b) of the Constitution and Section 35 of the Act and there is no need to over legislate.**

2.5 Proposed amendment to section 30(2)(e) of the County Governments Act

26. The petitioner proposed that this section be deleted and replaced with a provision establishing a uniform organizational structure for all counties.

27. **COG** opposed the provision of a uniform organizational structure for all counties, as every county is unique in the requirements for effectiveness of its service delivery and submitted that allowing counties to determine how they are organized allows for efficiency in service delivery.
28. The stakeholder further submitted that there is no contradiction between Section 30(2)(e) and Section 46 of the Principal Act as Section 30(2)(e) provides the Governor's mandate to appoint county executive committee members whereas section 46 expounds on the executive committee's mandate to determine and approve the nature of county departments.
29. **CAF** supported this proposal as uniformity would enhance inter-county comparability, improve national coordination and reduce politicization of departmental configurations. CAF proposed that the template must allow for limited contextual adaptation to accommodate unique county needs such as pastoralist vs. urban counties. The stakeholder recommended the adoption of a minimum core structure—such as Finance, Health, Agriculture, Lands, and Public Service—with room for counties to add context-specific departments.
30. **KLRC** submitted that this proposal raises constitutional and policy concerns as Article 6(2) of the Constitution establishes counties as distinct governments with discretion to determine their internal structures. The stakeholder added that imposing uniformity through law would contravene that principle and proposed that a Model County Organizational Framework be developed through the Public Service Commission (PSC), the Intergovernmental Relations Technical Committee (IGRTC) and the COG, for adoption by counties through administrative resolutions rather than the legislation.
31. **The Office of the Attorney General** submitted that creating a standard template for all counties may be impractical, as every county government has its own unique needs and requirements and that this is further stipulated and reflected in Article 176(2) of the Constitution.

Committee Resolution

32. **The Committee noted that the Constitution protects devolution and the autonomy of counties. It resolved to reject the proposal as it is overreaching since counties vary in their sizes and have unique challenges.**

2.6 Proposed amendment to section 30(2)(l) of the County Governments Act

33. The petitioner proposes amendments to subsection 2(1) to provide for the following details concerning "important formal decisions":
 - a) The meaning and scope of an important formal decision.
 - b) Timelines for gazettment and communication.
 - c) Inclusion of immutable time stamps for all such decisions.
 - d) Require county expenditure decisions in the form of financial reports (reported under Article 183 (3) of the constitution) to include Electronic Funds Transfer Reports and certified bank statements held by the County, including Assembly reports.
 - e) Provide sanctions for failure to comply with these requirements, which may include suspension and/or removal from office without the need for a vote by the assembly.
34. **COG** opposed the proposals and noted that the county gazette has not been operationalized. It further submitted that determining what to gazette should remain an administrative decision.
35. The stakeholder added that Citizens already have a constitutional right to access information under Article 35 of the Constitution, while Sections 163–168 of the Act provide adequate reporting obligations. Therefore, additional prescriptions or sanctions for non-compliance are unnecessary.
36. **CAF** supported this proposal as lack of definition has enabled opacity in gubernatorial decision-making and added that requiring immutable timestamps, certified financial reports and bank statements aligns with Article 10 on transparency and Article 232 on public service values.
37. The stakeholder recommended that reporting and documentation requirements be retained but link non-compliance to initiation of removal proceedings, not automatic ouster from the county assembly.
38. **KLRC** submitted that the lack of clear criteria for what qualifies as a formal decision has led to selective gazettment, undermining legality and audit trails. KLRC recommends addressing this through subsidiary legislation that defines such decisions—such as executive orders, appointments, delegations, and strategic plans—and requires their gazettment within 14 days, thereby enhancing transparency while preserving flexibility.

39. **The Office of the Attorney General** submitted that there is a disconnect on what exactly the proposer intends to constitute as a failure to comply, which will warrant sanction and added that this proposal requires further clarification to ensure comprehension and informed guidance on the matter.

Committee Resolution

40. **The Committee resolved to reject the amendment, noting that it is not possible to exhaustively define what is important. The Committee proposed that the matter should be left to the discretion of the county executive.**

2.7 Proposed amendment to section 30(3)(f) of the County Governments Act

41. The petitioner proposed amendment to this section to establish a clear accountability mechanism, requiring the Governor and the Deputy Governor to be accountable to the people through the County Assemblies, by providing reports envisaged under Article 183(3) of the Constitution and answering questions in the Assembly alongside CEC Members.
42. **KLRC** submitted that embedding this in the Act would institutionalize accountability cycles and create predictability for assemblies to schedule such sessions alongside budget and development reviews.

Committee Resolution

43. **The Committee resolved to reject the amendment, noting that submission of reports to the county assemblies is already provided for under Article 183(3) of the Constitution.**

2.8 Proposed amendment to section 31(a) of the County Governments Act

44. The petitioner proposed the deletion of this subsection, and that it be replaced with a new subsection requiring the governor to seek the consultation and concurrence of at least 50% of members of the County Assembly when reassigning a member of the executive committee to a portfolio other than the one they were vetted for.
45. **COG** was opposed to the proposal and stated that CECMs are state officers under Article 260 of the Constitution and are appointees who once vetted by the County Assembly at appointment, may be reassigned to ensure efficiency in

service delivery. The stakeholder added that there is no corresponding provision of approval of re-assignments for cabinet secretaries as at the national level.

46. **CAF** supported the proposal requiring County Assembly concurrence when a CEC member is reassigned to a substantially different portfolio, particularly where the original vetting was based on specialized expertise. The stakeholder added that minor adjustments should remain within the Governor's discretion. CAF further recommended introducing a threshold so that new vetting is required if the reassignment falls outside the nominee's declared area of competence.

Committee Resolution

47. **The Committee resolved to reject the amendment noting that it is overly prescriptive, and proposed that the discretion should belong to the approving authority i.e. the governor.**

2.9 Proposed amendment to section 32(3) of the County Governments Act

48. The petitioner proposed the deletion of subsection 3 and replacing it with a new subsection clarifying that the governor may only delegate responsibilities to the deputy governor in writing, but not as a member of the county executive committee under Article 179(2)(b) or where the law provides otherwise.
49. **COG** opposed this proposal noting the constitutional parallel between the governor-deputy governor and the president-deputy president relationship in Kenya's governance structures. The stakeholder submitted that the Principal Act affords each governor the flexibility to delegate responsibilities based on the county needs, mirroring how the President assigns functions to the Deputy President via Executive Orders at the national level.
50. The stakeholder further submitted that such assignment of responsibilities to the deputy governor is usually in writing through respective county executive orders
51. **CAF** supported the deletion of this subsection noting that the deputy governor should not be subordinate to the governor as a CEC member and further recommended that the role of the Deputy Governor be affirmed as successor-in-waiting and principal assistant to the governor.

52. **KLRC** recommended amending section 32 to explicitly require that delegation of duties be made in writing, gazetted and filed with the county assembly, and to clarify that such delegation does not confer independent portfolio status nor alter the Deputy Governor's substantive role. The stakeholder added that this would align county practice with the national precedent where the Deputy President may coordinate or chair functions but does not hold a ministerial docket

Committee Resolution

53. **The Committee resolved to reject the amendment noting that the governor may assign a county executive committee portfolio to the deputy governor, without interfering with the deputy governor's mandate as the principal assistant to the governor.**

2.10 Proposed amendment to section 35 of the County Governments Act

54. The petitioner proposed amendment to section 35 to provide a clear process for sourcing, shortlisting and nominating persons for vetting and appointment to the office of a member of the county executive committee
55. **COG** submitted that the proposal is over prescriptive as the current section 35 provides sufficient qualifications and appointment requirements for CECMs as they are state officers.
56. **CAF** supported the proposal noting that the absence of a transparent, merit-based nomination framework has led to patronage and weak vetting and that the proposed nomination criteria aligned with Articles 10 and 232 of the Constitution. The stakeholder recommended that the amendment includes the requirement of public advertisement, stakeholder input and publication of shortlists prior to nomination.
57. **KLRC** submitted that the Governor has constitutional authority to constitute the county cabinet, while the assembly provides oversight to ensure integrity, competence and diversity. The stakeholder added that introducing additional statutory or regulatory procedures for sourcing, shortlisting, and nomination would unduly restrict this executive function and shift it into an administrative process.
58. The stakeholder further submitted that existing vetting under the Public Appointments (County Assemblies) Approval Act already addresses

qualifications and suitability and that no further regulations are needed. Instead, they proposed the strengthening of county assemblies' vetting capacity and adherence to Articles 10 and 232 as the more constitutionally sound approach.

Committee Resolution

59. **The Committee resolved to reject the proposal noting that the Governor's prerogative to nominate is constitutional. The Committee noted that over-prescription risks rigidity since the short list will be examined at the vetting stage and that no similar provisions exist in the national government. It proposed that transparency can be enhanced by strengthening vetting under the Public Appointments (County Assemblies) Approval Act and encouraging public advertisement of vacancies.**

2.11 Proposed amendment to section 39 of the County Governments Act

60. The petitioner proposed the insertion of a provision in subsection 2 to require the governor and/or deputy governor to attend and/or appear before a committee of the county assembly to answer questions and provide evidence regarding their duties.
61. **COG** opposes this proposal as the current subsection (2) as framed allows for the Governor or Deputy Governor, as members of the county executive, to appear before the county assembly to answer questions relating to their responsibilities.
62. **CAF** supported the proposal noting that Article 183(3) of the Constitution obligates the county executive committee to report to the assembly; and that the governor and deputy as its head and deputy, must be personally accountable. The stakeholder recommended mandating the appearance within 14 days of summons, with penalties such as censure or budget withholding for non-compliance.
63. **KLRC** noted that Article 183(3) and Section 39 already provide for regular reporting, and that the proposed amendment would reinforce accountability by institutionalizing appearances within the accountability calendar. The stakeholder further submitted that this aligns with Articles 10 and 185(3), enhancing transparency without limiting executive autonomy and that it supports a clarificatory amendment requiring Governors and Deputies to present biannual performance reports to the assembly and to appear when summoned for clarifications.

Committee Resolution

64. **The Committee resolved to reject the amendment terming it as overly prescriptive as the provision exists in the Constitution under Article 183(3).**

2.12 Proposed amendment to Section 45 of the County Governments Act

65. The petitioner proposes amendments to clarify the competencies required for the appointment of county chief officers (whether specific to a department or general), introduce a provision allowing the governor to re-assign a county chief officer to a different department only with the concurrence of the county assembly and provide for the grounds and process for the removal of county chief officers.
66. **COG** opposed the proposal, noting that CCOs once vetted by the County Assembly at appointment, may be reassigned to ensure efficiency in service delivery and that there is no corresponding provision of approval of re-assignments in departments at the national level. The stakeholder proposed that a procedure for removal may be provided in regulations as opposed to the Principal Act as section 45(6)(c) provides for the removal of CCO.
67. **CAF** supported this proposal clarifying that CCO appointments are portfolio-specific, given their technical nature. CAF noted that reassignment to a different technical field should require assembly concurrence since the current vagueness enables arbitrary dismissals. The stakeholder recommended that the removal process be aligned with Public Service Commission procedures.
68. **KLRC** submitted that the proposed clarification on grounds for removal is unnecessary, as County Public Service Boards already have authority to make disciplinary decisions under national human resource laws. The stakeholder added that the existing frameworks—the Public Service Commission Regulations and the Public Service (Values and Principles) Act—adequately cover grounds for removal, leaving no legislative gap that requires amendment.

Committee Resolution

69. **The Committee resolved to reject the amendment as it was over prescriptive. The Committee further noted that the County Public Service Board has adequate guidelines in place for removal of Chief Officers.**

2.13 Proposed amendment to section 58A of the County Governments Act

70. The petitioner proposes for the provision for time limits between the occurrence of a vacancy in the position of chair and/or secretary, the fall of membership to less than three and the formation of a selection panel, limiting this period to not exceed 14 days.
71. **COG** was agreeable to provision on quorum, inclusive representation of certain groups and having timelines for declaration of a vacancy in the CPSB.
72. **CAF** supported the proposed amendments to Section 58A on timelines, transparent nominee sourcing, quorum, and part-time operations with clear protocols. However, it opposes requiring non-residents to serve on County Public Service Boards, as this undermines local accountability under devolution. It recommends amending Section 58A to require all nominees to be registered county residents, while expressly mandating inclusion of minority and marginalized community representatives from within the county to ensure both accountability and equitable representation.
73. **KLRC** submitted that while the proposal aligns with constitutional values of inclusiveness and diversity under Articles 56 and 232(1)(h), KLRC notes these obligations are already embedded in law. The stakeholder identified the real challenge lies in weak compliance and enforcement, as shown by PSC and NCIC audits and proposed that reform should therefore focus on accountability and sanctions rather than new legislation.
74. KLRC further recommended that PSC, through regulations under Section 59 of the County Governments Act, require annual diversity implementation reports from County Public Service Boards, with administrative sanctions (e.g., suspension of recruitment approvals or remedial measures) for non-compliance thus amendment to Section 58A is not necessary.

Committee Resolution

The Committee resolved to partially accept this amendment, by accepting that the quorum of the CPSB be at least three members and proposing a 30-day timeline for announcement of a vacancy at the board.

2.14 Proposed amendment to insert a new provision on the procedure for dealing with investigative reports by county assemblies

75. The petitioner proposed that the Act be amended by inserting a new provision on the procedures for county assemblies to follow when dealing with investigative reports, especially those arising from ad-hoc committees. The section is to mandate that if an investigative report returns a verdict of gross violation of the constitution or law, the assembly shall consider the merits and should not vote to reject a report whose findings can be substantiated unequivocally.
76. **CAF** supported mandating evidentiary deliberation before rejecting investigative reports and proposed that the assembly must retain final voting discretion under Article 179(2)(b) and separation of powers. CAF recommended that that a substantive debate and recorded justification for rejecting reports with credible evidence be a requirement rather than automatic adoption.
77. **KLRC** submitted that while this proposal underscores the importance of evidence-based oversight, it touches on the internal workings of the legislature, and noted that Article 185(3) and the County Assemblies Powers and Privileges Act, 2017 protect assemblies' procedural autonomy. The stakeholder further submitted that this matter is therefore best addressed through amendments to county standing orders rather than statute.

Committee Resolution

78. **The Committee noted that Assemblies enjoy procedural autonomy under Article 185(3) and mandating adoption of reports would undermine separation of powers. It recommended that instead, Standing Orders should require substantive debate and recorded justification before rejecting evidence-based reports.**

2.15 Proposed amendment to insert a new provision on the exercise of shared powers between the governor and the county assembly

79. **CAF** submitted that the proposal is redundant as Article 259(11) of the Constitution is self-executing and proposed that having a reminder clause may enhance awareness. The stakeholder recommended including the proposal as a guiding principle in the Act's preamble or interpretation section, not as a standalone enforcement provision.

80. **COG** acknowledged that the Constitution ought to be read together with Acts of Parliament that state who the Governor needs to consult in making his/her decisions and submitted that there is no need to restate this in the Principal Act.

Committee Resolution

81. **The Committee resolved to reject the proposed amendment, noting that the provision is self-executing and that restating it in statute is redundant.**

2.16 Proposed amendment to insert a new section mandating annual leave for the county governor, deputy governor and appointed members of the county executive

82. The petitioner proposed the insertion of a new Section to provide for mandatory annual leave for the county governor, deputy county governor, and appointed members of the county executive, requiring a minimum of 20 days and a maximum of 30 days leave yearly.
83. **CAF** supported this proposal because it supports wellness and prevents burnout. It however noted that handovers must be formalized to avoid power vacuums and proposed that a written handover to the deputy governor and a public notice be made noting that the provision should limit official acts during leave to emergencies.
84. **COG** submitted that this is an administrative arrangement as these are state officers, hence there is no need to provide this in the Principal Act
85. **KLRC** submitted that the intention may be to regularize administrative continuity, but noted that such provisions are misplaced in primary legislation. The stakeholder alluded to the Employment Act, 2007 and public service manuals which already cover leave for employees, whereas state officers' terms are guided by leadership and integrity obligations. It proposed that the issue is therefore purely administrative and should be handled through guidelines issued by specifying procedure for temporary delegation during absence.

Committee Resolution

86. **The Committee resolved to reject the proposed amendment, noting that leave for state officers is not statutory and that mandatory leave risks undermining accountability. It proposed that instead, a formal handover procedures and public notice during absence be a requirement.**

2.17 Proposed amendment to provide for the creation of an inter-county institution to scrutinize project identification, distribution and execution within counties

87. The petitioner proposed the insertion of a new Section providing for the creation of an inter-county institution with a mandate to scrutinize and analyze project identification, distribution, and execution within counties.
88. **CAF** submitted that the proposal risks duplication as the functions overlap with Controller of Budget, Auditor-General and the Commission on Revenue Allocation (CRA). The stakeholder recommended that Senate's oversight role be strengthened or the CRA be tasked with monitoring equity in project distribution.
89. **COG** submitted that the proposal is not necessary as county planning including identification, approval and oversight of project execution is overseen by the county assembly under Part XI of the Principal Act. The stakeholder added that counties that wish to collaborate on execution of projects are allowed to form joint committees and joint authorities under Article 189(2) of the constitution.
90. **KLRC** submitted that the proposal to create an inter-county institution under Section 36 is unnecessary and constitutionally misaligned. The stakeholder added that the existing frameworks—CIDPs under the County Governments Act and inter-county mechanisms under the Intergovernmental Relations Act, 2012 (including COG and IGRTC)—already provide for planning, consultation, coordination, and evaluation, thus establishing another institution would duplicate mandates, distort accountability, and add bureaucracy.
91. **The Office of the Attorney General** submitted that the proposal is not necessary as the Act establishes monitoring mechanisms within a clear governance framework and departments, where defined roles exist at the county level, which can be utilized to identify community needs and enhance project success within counties.

Committee Resolution

92. **The Committee resolved that creating a new body duplicates existing oversight. It noted that Senate, CRA, and IGRTC already provide inter-county scrutiny and proposed that strengthening their mandates is more efficient than creating new bureaucracy.**

CHAPTER THREE: OBSERVATIONS

3.1 Committee Observations

93. Having considered the Petition, received the testimony by the Petitioner, and considered the written and oral submissions by the Council of Governors, County Assemblies Forum, Kenya Law Reform Commission and the Office of the Attorney General, the Standing Committee on Justice, Legal Affairs and Human Rights observed and resolved as follows with regard to the proposed amendments to the County Governments Act (Cap. 265) –

No.	Proposed Amendment	Committee Resolution
1.	Proposed amendment to section 2 of the Act to define the term ‘absent’	The Committee noted that Article 182 of the constitution covers temporary incapacity and vacancy in the Governor’s office, and adding a statutory definition of “absence” could distort this constitutional provision. The Committee proposed that, instead, the issue should be handled through administrative procedures - such as regulations or circulars - requiring notification to the County Assembly when the Governor or Deputy Governor is away. The Committee therefore rejected the proposed amendment.
2.	Proposed amendment to section 2 of the Act to define the term ‘special circumstances’	The Committee noted that Article 182 of the Constitution covers temporary incapacity and vacancy in the Governor’s office and thus the matter can be handled administratively. The Committee therefore rejected the proposed amendment.
3.	Proposed amendment to section 30(2)(d) of the Act	The Committee rejected this amendment noting that the provision is already provided for in Article 179(2)(b) of the Constitution and Section 35 of the Act and there is no need to over legislate.
4.	Proposed amendment to section 30(2)(e) of the Act	The Committee noted that the Constitution protects devolution and the autonomy of counties. It resolved to reject the proposal as it is overreaching since counties vary in their

		sizes and have unique challenges.
5.	Proposed amendment to section 30(2)(1) of the Act	The Committee resolved to reject the amendment, noting that it is not possible to exhaustively define what is important. The Committee proposed that the matter should be left to the discretion of the county executive.
6.	Proposed amendment to section 30(3)(f) of the Act	The Committee resolved to reject the amendment, noting that submission of reports to the county assemblies is already provided for under Article 183(3) of the Constitution.
7.	Proposed amendment to section 31(a) of the Act	The Committee resolved to reject the amendment noting that it is overly prescriptive and proposed that the discretion should belong to the approving authority i.e. the governor.
8.	Proposed amendment to section 32(3) of the Act	The Committee resolved to reject the amendment noting that the governor may assign a county executive committee portfolio to the deputy governor, without interfering with the deputy governor's mandate as the principal assistant to the governor
9.	Proposed amendment to section 35 of the County Governments Act	The Committee resolved to reject the proposal noting that the Governor's prerogative to nominate is constitutional. The Committee noted that over-prescription risks rigidity since the shortlist will be examined at the vetting stage and that no similar provisions exist in the national government. It proposed that transparency can be enhanced by strengthening vetting under the Public Appointments (County Assemblies Approval) Act (Cap. 265B) and encouraging public advertisement of vacancies
10.	Proposed amendment to section 39 of the Act	The Committee resolved to reject the amendment terming it as overly prescriptive as the provision exists in the Constitution under Article 183(3).
11.	Proposed amendment to Section 45 of the Act	The Committee resolved to reject the amendment as it was over prescriptive. The

		Committee further noted that the County Public Service Board has adequate guidelines in place for removal of Chief Officers.
12.	Proposed amendment to section 58A of the Act	The Committee resolved to partially accept this amendment, by accepting that the quorum of the CPSB be at least three members and proposing a 30-day timeline for announcement of a vacancy at the board.
13.	Proposed amendment to insert a new provision on the procedure for dealing with investigative reports by county assemblies	The Committee noted that county assemblies enjoy procedural autonomy under Article 185(3) and mandating adoption of reports would undermine separation of powers. It recommended that instead, Standing Orders should require substantive debate and recorded justification before rejecting evidence-based reports
14.	Proposed amendment to insert a new provision on the exercise of shared powers between the governor and the county assembly	The Committee resolved to reject the proposed amendment, noting that the provision is self-executing and that restating it in statute is redundant
15.	Proposed amendment to insert a new section mandating annual leave for the county governor, deputy governor and appointed members of the county executive	The Committee resolved to reject the proposed amendment, noting that leave for state officers is not statutory and that mandatory leave risks undermining accountability. It proposed that instead, a formal handover procedures and public notice during absence be a requirement.
16.	Proposed amendment to provide for the creation of an inter-county institution to scrutinize project identification, distribution and execution within counties	The Committee resolved that creating a new body duplicates existing oversight. It noted that Senate, CRA, and IGRTC already provide inter-county scrutiny and proposed that strengthening their mandates is more efficient than creating new bureaucracy.

94. The Committee further observes that the Petition called upon the Senate to enact specific amendments to the County Governments Act (Cap. 265). The adoption

of this Report, including some of the proposals by the Petitioner, would not automatically give rise to amendment of the said provisions. Instead, these would need to go through the legislative process in Parliament as contemplated under the Constitution and the Standing Orders of the two Houses of Parliament.

CHAPTER FOUR: RECOMMENDATIONS

4.1 Committee Recommendations

95. Arising from its consideration of the Petition, the submissions received thereto, and based on its Observations as set out in the preceding Chapter, the Standing Committee on Justice, Legal Affairs and Human Rights **recommends** that –
- e) the Senate **partially accepts** the proposed amendment to section 58A of the County Governments Act (Cap. 265) to require that the quorum of a county public service board be at least three members and proposing a 30-day timeline for announcement of a vacancy at the board;
 - f) the Senate **mandates** the Standing Committee on Justice, Legal Affairs and Human Rights to introduce the said legislation for consideration by Parliament;
 - g) the Senate **rejects** the proposed amendments to sections 2, 30(2)(d), 30(2)(e), 30(2)(f), 30(3)(f), 31(a), 32(3), 35, 39 and 45 of the County Governments Act (Cap. 265) as well as the other new provisions as proposed in the Petition; and
 - h) the Council of Governors in partnership with the Public Service Commission and other relevant State agencies develop harmonized policies and procedures on leave and absence from office of county governors, deputy governors and appointed members of the county executive, and to submit a report to the Senate within six months of the adoption of this Report.

LIST OF ANNEXES

- Annex 1:* Minutes of the Committee in considering the Petition
- Annex 2:* Copy of the Petition
- Annex 3:* Submissions received in response to the Petition

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

Annex I: Minutes

of the Committee

on the subject of

the



13TH PARLIAMENT | 5TH SESSION

MINUTES OF THE 264TH SITTING OF THE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS HELD ON THURSDAY, 19TH FEBRUARY, 2026 AT 8:00 A.M. VIRTUALLY ON THE ZOOM ONLINE MEETING PLATFORM

PRESENT

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

ABSENT WITH APOLOGY

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

SECRETARIAT

- | | |
|------------------------|--|
| 1. Mr. Boniface Kiambi | - Senior Clerk Assistant (<i>Taking Minutes</i>) |
| 2. Ms. Faith Wangui | - Legal Counsel II |
| 3. Ms. Angela Bonaya | - Clerk Assistant III |
| 4. Ms. Linet Aseka | - Research Officer III |
| 5. Mr. Josphat Ngeno | - Media Relations Officer |
| 6. Ms. Rosebella Ngesa | - Public Communications Officer |
| 7. Mr. Zenton Williams | - Audio Officer |
| 8. Ms. Anne Kigoro | - Pupil |

MIN. NO. 843/2026

PRELIMINARIES

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

MIN. NO. 844/2026

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. 845/2026

**THE BUDGET POLICY STATEMENT FOR FY
2026/2027 – GOVERNANCE, JUSTICE, LAW AND
ORDER SECTOR**

The Committee resumed deliberations on the Budget Policy Statement for FY 2026/2027, with specific reference to the Governance, Justice, Law and Order (GJLO) Sector.

During deliberations –

- a) Members sought clarification on how the recommendations by the Committee on the Budget Policy Statement informed the eventual preparation of the Budget Estimates for the Financial Year; and
- b) Members raised concern regarding the constitutional process relating to the Budget Policy Statement and its legislative implications.

Thereupon, the Committee resolved that its observations on the Budget Policy Statement be transmitted to the Standing Committee on Finance and Budget for inclusion in the consolidated Senate Report on the Budget Policy Statement for FY 2026/2027.

MIN. NO. 846/2026

**PETITION BY HON. ISAIAH MAINA REGARDING
PROPOSED AMENDMENTS TO THE COUNTY
GOVERNMENTS ACT (CAP. 265)**

The Committee was taken through a Brief highlighting its previous consideration of the Petition by Hon. Isaiah Maina whereupon the Committee adopted its Report on 25th November, 2025 for tabling in the Senate.

Members were informed that while, in its Report, the Committee recommended that the Directorate of Legal Services drafts the text of the proposed amendments to the clauses on which the Committee concurred with the Petitioner, following which the Committee would sponsor the Bill for introduction in the Senate, concern had been raised on the potential difficulties that this presented during debate in plenary on the Committee report, as it was not clear what exactly the House was being asked to resolve.

Consequently, following deliberations, the Committee resolved to revise Chapter Four of the Report to recommend that –

- a) the Senate partially accepts the proposed amendment to section 58A of the County Governments Act (Cap. 265) to require that the quorum of a county public service board be at least three members and proposing a 30-day timeline for announcement of a vacancy at the board;
- b) the Senate mandates the Standing Committee on Justice, Legal Affairs and Human Rights to introduce the said legislation for consideration by Parliament;
- c) the Senate rejects the proposed amendments to sections 2, 30(2)(d), 30(2)(e), 30(2)(l), 30(3)(f), 31(a), 32(3), 35, 39 and 45 of the County Governments Act (Cap. 265) as well as the other new provisions as proposed in the Petition; and
- d) the Council of Governors, in partnership with the Public Service Commission and other relevant State agencies, develops harmonized policies and procedures on

leave and absence from office of county governors, deputy governors and appointed members of the county executive, and to submit a report to the Senate within six months of the adoption of this Report.

Thereupon, the Committee adopted the revised Report, having been proposed by Sen. Daniel Kitonga Maanzo, EBS, MP and seconded by Sen. Andrew Omtatah Okotti, MP.

MIN. NO. 847/2026

ANY OTHER BUSINESS

The Committee deliberated on the proposed public hearings and stakeholder engagement forums on the Constitution of Kenya (Amendment) (No.2) Bill, 2025 (Senate Bills No. 16 of 2025), and directed the Secretariat to prepare a comprehensive schedule for consideration by the Committee at its next meeting.

MIN. NO. 848/2026

ADJOURNMENT

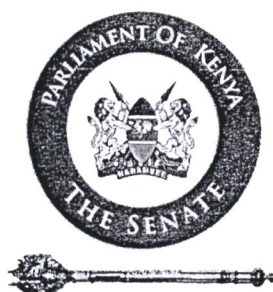
The Chairperson adjourned the meeting at twenty five minutes past nine O'clock. The next meeting will be held on Tuesday, 24th February, 2026 at 8.00 a.m.

SIGNED:



DATE:

24.02.2026



13TH PARLIAMENT | 4TH SESSION

MINUTES OF THE 258TH SITTING OF THE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS HELD ON TUESDAY, 25TH NOVEMBER, 2025 AT 8.00 A.M. VIRTUALLY ON THE ZOOM ONLINE MEETING PLATFORM

PRESENT

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

ABSENT WITH APOLOGY

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

SECRETARIAT

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

MIN. NO. 813/2025

PRELIMINARIES

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

MIN. NO. 814/2025

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. Andrew Omtatah Okoiti, MP.

MIN. NO. 815/2025

THE DRAFT REFERENDUM BILL, 2025

The Committee resumed its consideration of the Bill from *Parts 3 and 4*, which address referendum petitions and general provisions. Discussions covered procedures for filing and determining referendum petitions, as well as the conduct, results, and validity of referendums.

During deliberations –

- a) Members raised concerns about potential delays and the need to align the proposed rules with existing legislation. Particular focus was placed on refining provisions related to referendum petitions, including filing procedures, timelines, and the powers of the courts;
- b) The Committee reviewed specific clauses relating to referendum processes and agreed on several modifications, including extending appeal timelines and clarifying the scope of court powers; and
- c) It was agreed to extend the period for hearing and determining appeals in the Court of Appeal from *30 to 60 days*, delete *Clause 40*, and amend *Clause 42* to require regulations to undergo the normal parliamentary process at the draft stage rather than after publication.

Thereupon, the Committee –

- i) resolved that the proposed amendments be incorporated in the text of the draft Bill; and
- ii) approved the draft Bill, subject to the said amendments, for publication.

MIN. NO. 816/2025

PETITION BY HON. ISAIAH MAINA, MCA,
CONCERNING PROPOSED AMENDMENTS TO
THE COUNTY GOVERNMENTS ACT (CAP. 265)

The Committee was taken through and considered the draft Report on a Petition by Hon. Isaiah Maina, MCA, concerning proposed amendments to the County Governments Act (Cap. 265).

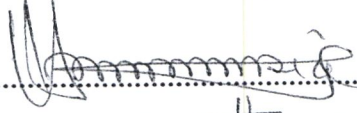
During deliberations, Members resolved that the Committee recommendation be amended to reflect that the Committee will sponsor a Bill for consideration by Parliament on the proposals by the Petitioner that the Committee concurred with.

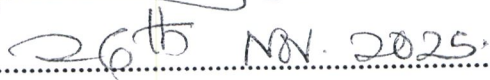
Thereupon, the Committee adopted the Report having been proposed by Sen. Daniel Kitonga Maanzo, EBS, MP and seconded by Sen. Andrew Omtatah Okoiti, MP.

MIN. NO. 817/2025

ADJOURNMENT

The Chairperson adjourned the meeting at twenty four minutes past nine O'clock. The next meeting will be held on Wednesday, 26th November, 2025 at 8.00 am.

SIGNED:

DATE:



13TH PARLIAMENT | 4TH SESSION

MINUTES OF THE 252ND SITTING OF THE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS HELD ON TUESDAY, 11TH NOVEMBER, 2025 AT 8:00 AM VIRTUALLY ON THE ZOOM ONLINE MEETING PLATFORM

PRESENT

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

ABSENT WITH APOLOGY

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

SECRETARIAT

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

MIN. NO. 779/2025

PRELIMINARIES

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

MIN. NO. 780/2025

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. Andrew Omtatah Okoiti, MP.

MIN. NO. 781/2025

CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

- a) The Minutes of the 249th Sitting were confirmed as the true record of the proceedings having been proposed by Sen. Veronica W. Maina, MP and seconded by Sen. Daniel Kitonga Maanzo, EBS, MP.
- b) The Minutes of the 250th Sitting were confirmed as the true record of the proceedings having been proposed by Sen. (Prof.) Tom Ojienda, SC, MP and seconded by Sen. Andrew Omtatah Okoiti, MP.
- c) The Minutes of the 251st Sitting were confirmed as the true record of the proceedings having been proposed by Sen. (Prof.) Tom Ojienda, SC, MP and seconded by Sen. Daniel Kitonga Maanzo, EBS, MP.

MIN. NO. 782/2025

MATTERS ARISING FROM THE MINUTES OF PREVIOUS MEETINGS

- a) *Under Min. No. 766/2025 - Proposed Retreat of the Committee*

The Committee resolved to hold a retreat on 16th to 18th November, 2025, in Kiambu County, to –

- i) consider the County Governments (State Officers' Removal from Office) Procedure Bill, 2024 (Senate Bills No. 34 of 2024); and
- ii) consider and adopt Committee reports on the National Assembly amendments to the Election Offences (Amendment) (No. 2) Bill, 2024 (Senate Bills No. 28 of 2024), and a Petition by Hon. Isaiah Maina, MCA, concerning proposed amendments to the County Governments Act (Cap. 265).

A request was made for a virtual link to be provided for Members who may not be able to attend the meeting physically.

- (b) *Under Min. 773/2025 (b) - Foreign travel by the Committee to Cape Town, RSA*

- i) Sen. Daniel Maanzo, EBS, MP informed the Committee that he had since deferred the proposed travel to El Salvador due to security concerns, and would instead travel with the Committee to Cape Town as earlier scheduled.
- ii) Members requested to be provided with a travel brief in good time on the logistical and other arrangements for the visit.

MIN. NO. 783/2025

PETITION BY HON. ISAIAH MAINA, MCA, CONCERNING PROPOSED AMENDMENTS TO THE COUNTY GOVERNMENTS ACT (CAP. 265)

The Committee resumed its consideration of the Petition by Hon. Isaiah Maina, MCA, concerning proposed amendments to the County Governments Act (CAP.265).

Following deliberations –

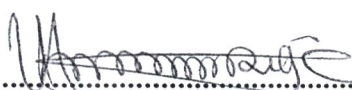
- a) Members rejected a proposal to amend section 31(a) of the Act to require county assembly concurrence in the Governor's reassignment of County Executive Committee (CEC) Members, noting that the Governor should retain discretion over appointments and reassignments.
- b) Members supported the proposal to amend section 32(3) of the County Governments Act which allowed Governors to assign a CEC portfolio to a Deputy Governor, noting concerns on the vetting procedure, accountability mechanism, and interference with the role of a Deputy Governor as principal assistant to the Governor. Sen. Tom Ojienda, SC, MP dissented and held the view that the provision allows Deputy Governors to hold additional functions without interfering with the vetting process or accountability mechanisms;
- c) Members rejected the proposed amendments to section 35 of the Act, noting that the current provision already sets adequate qualifications and requirements for the appointment of CEC Members;
- d) Members rejected the proposed amendment to section 39 of the Act, noting as overly prescriptive and impractical the proposal to require Governors and Deputy Governors to appear before committees of county assemblies to answer questions regarding their duties;
- e) Members rejected the proposed amendment to section 45 of the Act on the competencies and removal framework for Chief Officers;
- f) On the proposed amendments relating to the County Public Service Boards, Members resolved to —
 - i) reject the proposed 14-day timeline for declaring vacancies, and instead propose a 30-day period;
 - ii) require a quorum of at least three members for board meetings; and
 - iii) reject the proposal restricting board membership to county residents only.
- g) Members rejected the proposed new provision on the procedures for handling investigative reports by county assemblies; and
- h) Members rejected the proposed new provision on mandatory annual leave for the Governor and Deputy Governor.

Thereupon, having concluded the consideration of the proposed amendments, the Committee directed that the Secretariat proceeds to prepare the draft Report on the Petition for consideration and adoption.

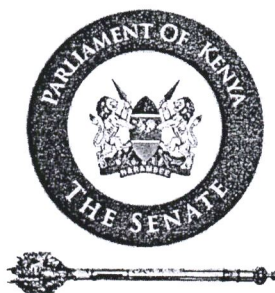
MIN. NO. 785/2025

ADJOURNMENT

The Chairperson adjourned the meeting at twenty seven minutes past nine O'clock. The next meeting will be held on Thursday, 13th November, 2025 at 9.00 am.

SIGNED: 

DATE: 26th Nov. 2025



13TH PARLIAMENT | 4TH SESSION

MINUTES OF THE 250TH SITTING OF THE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS HELD ON WEDNESDAY, 5TH NOVEMBER, 2025 AT 8:00 A.M. VIRTUALLY ON THE ZOOM ONLINE MEETING PLATFORM

PRESENT

- | | |
|--|-----------------------------------|
| 1. Sen. Wakili Hillary Sigei, CBS, MP | - Chairperson (<i>Chairing</i>) |
| 2. Sen. Veronica W. Maina, MP | - Vice-chairperson |
| 3. Sen. Andrew Omtatah Okoiti, MP | - Member |
| 4. Sen. Daniel Kitonga Maanzo, EBS, MP | - Member |
| 5. Sen. (Prof.) Tom Ojienda, SC, 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. Boniface Kiambi | - Senior Clerk Assistant |
| 2. Ms. Faith Wangui | - Legal Counsel II |
| 3. Ms. Angela Bonaya | - Clerk Assistant III (<i>Taking Minutes</i>) |
| 4. Mr. Linet Aseka | - Research Officer III |
| 5. Mr. Josphat Ngeno | - Media Relation Officer III |
| 6. Mr. Zenton Williams | - Audio Officer |

MIN. NO.770/2025

PRELIMINARIES

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

MIN. NO. 771/2025

ADOPTION OF THE AGENDA

The Agenda of the meeting was adopted having been proposed by Sen. Andrew Omtatah Okoiti, MP and seconded by Sen. Veronica W. Maina, MP.

MIN. NO. 772/2025

PETITION BY HON. ISAIAH MAINA, MCA,
CONCERNING PROPOSED AMENDMENTS TO
THE COUNTY GOVERNMENTS ACT (CAP. 265)

The Committee was taken through a matrix of stakeholder submissions on the proposed amendments to the County Governments Act (Cap. 265).

During deliberations –

- i) Members rejected the proposed amendment to section 2 of the Act, which sought to define the term “absence” of Governor, Deputy Governor and CEC Member and the term “special circumstances” under which the officials must resume work, as the definitions could sufficiently be determined through the relevant administrative procedures and it was unnecessary to define the same in statute.
- ii) On the proposal to amend the Act to provide for the establishment of a uniform organizational structure for counties, the Committee noted that imposing such a uniform structure undermined the autonomy of counties.
- iii) On the proposal to amend section 30(2)(1) to define what constitutes ‘important formal decisions’ requiring gazette, the Committee noted that the proposed amendment was not viable as the county gazette was yet to be operationalized and the decision on what to gazette should be purely administrative.

Due to time constraints, the Committee resolved to resume consideration of the matrix at a subsequent meeting.

MIN. NO. 773/2025

ANY OTHER BUSINESS

- (a) *Consideration of the conservatory orders and directions issued in High Court Constitutional Petition No. E234 of 2025; Katiba Institute & 4 Others v the Attorney General & 3 Others*

The Committee observed that the matter had been considered by the Senate Business Committee at its meeting held on Tuesday, 4th November, 2025 and the Directorate of Litigation and Compliance would give a further brief on the way forward in due course.

- (b) *Foreign travel by the Committee to Cape Town, RSA*

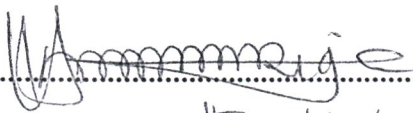
The Committee was informed that Sen. Daniel Maanzo, EBS, MP had made a request to have his foreign travel allocation be utilized for his official travel to El Salvador to attend a conference. Having considered the request, the Committee resolved that the Senator be allocated a sum of Kshs.1,110,000/- towards the visit, in which case he would forfeit his opportunity to travel with the Committee to South Africa.

(c) *Status of the County Government Election Laws (Amendment) Bill (Senate Bills No. 2 of 2024)*

Sen. Crystal Asige, MP sought clarification on the status of the Bill in the House since the Committee tabled its Report on the same. The Secretariat committed to follow up on the same and give feedback at the next meeting.

MIN. NO. 774/2025 ADJOURNMENT

The Chairperson adjourned the meeting at thirty minutes past nine O'clock. The next meeting will be held on Thursday, 6th November, 2025 at 9.00 am.

SIGNED: 
DATE: 26th NOV. 2025



13TH PARLIAMENT | 4TH SESSION

MINUTES OF THE 244TH SITTING OF THE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS HELD ON TUESDAY, 30TH SEPTEMBER, 2025 AT 8:00 A.M. VIRTUALLY ON THE ZOOM ONLINE MEETING PLATFORM

PRESENT

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

ABSENT WITH APOLOGY

- | | |
|---------------------------------------|---------------|
| 1. Sen. Wakili Hillary Sigei, CBS, MP | - Chairperson |
| 2. Sen. Raphael Chimera Mwinzagu, MP | - Member |

SECRETARIAT

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

IN ATTENDANCE

- | | |
|---------------------------|--------------|
| 1. Hon. Isaiah Maina, MCA | - Petitioner |
|---------------------------|--------------|

MIN. NO. 739/2025

PRELIMINARIES

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

MIN. NO. 740/2025

ADOPTION OF THE AGENDA

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

MIN. NO. 741/2025

WORK PLAN OF THE COMMITTEE FOR THE
REMAINDER OF THE FOURTH SESSION

The Committee was taken through the draft Work Plan for the remainder of the Fourth Session. During deliberations, Members –

- i) sought clarification on the proposed foreign travel by the Committee, the available budget and the number of Members it could accommodate; and
- ii) underscored the need to not schedule activities during recess so as to allow Members to attend to other official and personal commitments.

Thereupon, the Committee resolved to defer the matter for substantive consideration at its next meeting.

MIN. NO. 742/2025

PETITION BY HON. ISAIAH MAINA, MCA,
CONCERNING PROPOSED AMENDMENTS TO
THE COUNTY GOVERNMENTS ACT (CAP. 265)

The Committee was taken through a Brief on the Petition and later met with the Petitioner who took the Committee through the background, rationale and justification for the proposed amendments to the County Governments Act (Cap. 265).

During deliberations, Members observed that the proposed amendments required careful consideration noting their far-reaching implications on the Constitutional architecture for devolution as well as the County Governments Act.

In this regard, the Committee resolved that –

- i) the Secretariat prepares a detailed research brief on the legal and policy implications of the proposed amendments; and
- ii) subsequently, the Committee holds a retreat to consider the Petition, together with the research brief and submissions to be received from key stakeholders on the proposed amendments.

MIN. NO. 743/2025

ADJOURNMENT

The meeting was adjourned at seventeen minutes past nine O'clock. The next meeting would be held on Wednesday, 1st October, 2025 at 8:00 a.m.

SIGNED:

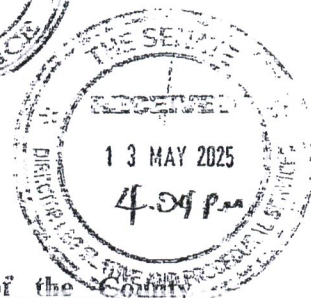
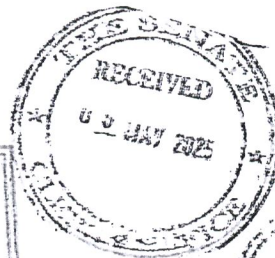
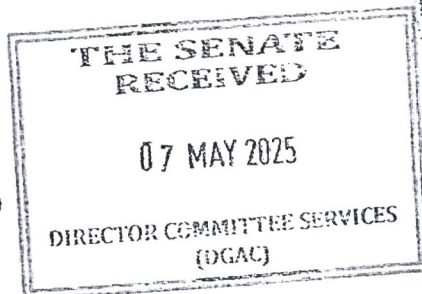
DATE:
28/10/2025

***Annex 2: Copy of
the Petition***

Hon. Isaian Maina (MCA)
Ol'lessos Ward,
P.O. BOX 673-30300,
KAPSABET.
30th April 2025.

To

The Clerk of the Senate,
Parliament Buildings
P.O. Box 41842 – 00100



Subject: Petition to the Senate Concerning Amendment of the
Government Act No. 17 of 2012

I acknowledge receipt of your letter dated 4th April 2025 concerning the above subject.

I appreciate your response to the petition. After reviewing the issues outlined in the letter, which require my compliance for the petition to be deemed admissible, I have redrafted petition and integrated the issues raised in the letter.

Enclosed is the duly signed petition for your further action.

Yours faithfully

A handwritten signature in black ink, appearing to be "Isaian Maina", written over a horizontal line.

Hon. Isaian Maina (MCA)
Ol'lessos Ward,

05.05.25

in

PETITION TO THE SENATE CONCERNING AMENDMENT OF COUNTY
GOVERNMENT ACT NO. 17 OF 2012

Hon. Isaian Maina (MCA)
Ol'lessos Ward,
P.O. BOX 673-30300,
KAPSABET.

The Clerk of the Senate,
Parliament Buildings
P.O. Box 41842 – 00100
NAIROBI.

RE: PETITION TO THE SENATE CONCERNING AMENDMENT OF COUNTY
GOVERNMENT ACT NO. 17 OF 2012

I the undersigned, being a resident Nandi County and a serving Member of the County Assembly representing Ol'lessos Ward wish to PETITION the Parliament of the Republic of Kenya to consider amending the County Government Act No. 17 of 2012 in order to streamline the functioning of county governments with a specific emphasis on the attainment of the **OBJECTS** of devolution set out in Article 174 and the observation of the **PRINCIPLES** of devolution provided under Article 175 of the constitution of Kenya 2010. From the foregoing allow me to draw the attention of the Senate to the following:

1. **THAT**, whereas Article 174 of the constitution provides that the objects of devolution are among other things to promote the democratic and accountable exercise of power, give powers of self-governance to the people, recognize the right of communities to manage their own affairs, promote socio-economic development, ensure equitable sharing of national and local resources, and to enhance checks and balances and the separation of powers;
2. **THAT**, whereas Article 175 of the constitution stipulates that county governments established under the constitution shall be based on democratic principles and the separation of powers;



PETITION TO THE SENATE CONCERNING AMENDMENT OF COUNTY
GOVERNMENT ACT NO. 17 OF 2012

3. **THAT**, whereas Article 10 of the constitution on national values and principles of governance outlines national values and principles of governance as including among others the rule of law, democracy and participation of the people, social justice, good governance, and integrity, transparency, and accountability;
4. **THAT**, whereas Article 232 on the values and principles of public service provides that high standards of professional ethics, efficient, effective, and economic use of resources, responsive, prompt, effective, impartial, and equitable provision of services, transparency, and provision to the people of timely and accurate information, and that competition and merit shall form the basis of appointments and promotions;
5. **THAT**, whereas Article 179 (1) provides that the executive authority of the county is vested and exercised by the county executive committee; and that Section 34 of the County Government Act provides that the County Executive Committee shall exercise executive authority for the wellbeing of the people, while enhancing self-governance of communities in the management of development programs and while ensuring equitable sharing of available resources throughout the county;
6. **THAT**, whereas Article 179 (2) provides that the county executive committee shall be composed of the governor, deputy governor and members appointed by the county governor with the approval of the county assembly from among persons who are not members of the county assembly;
7. **THAT**, whereas Article 179 (4) provides that the governor and his/her deputy shall be the chief executive and deputy chief executive of the county respectively;

PETITION TO THE SENATE CONCERNING AMENDMENT OF COUNTY
GOVERNMENT ACT NO. 17 OF 2012

8. **THAT**, whereas Article 179 (6) provides that members of the county executive committee shall be accountable to the county governor for the performance of their functions and exercise of their powers;
9. **THAT**, whereas Article 183 (1) (a) (b) and (c) of the constitution provides that the functions of the County Executive Committee shall be to implement county legislation, implement national legislation within the county, **manage and coordinate the functions** of the county administration and departments;
10. **THAT**, whereas Article 183 (3) provides that the **county executive committee** shall provide the county assembly with **full and regular reports** on matters relating to the county assembly;
11. **THAT**, whereas Article 259 (11) provides that if a function or power conferred on a person under the constitution is exercisable by the person on the advice or recommendation, with approval or consent or in consultation with another person, then the function may be performed or power exercised only on that advice, recommendation, with approval or consent or after consultation except where the constitution provides otherwise;
12. **THAT**, Section 30 (2) (e) of the County Government Act provides that the county governor shall constitute the executive committee portfolio structure to respond to functions and competencies assigned and transferred to each county. The County Government Act No.17 of 2012 also provides under Section 46 that the **County Executive Committee shall determine the organization of the county and its various departments.**

The two positions are contradictory and require realignment and clarity on the meaning of portfolio structure and organization of the county envisaged under Section 46. The provision of Section 30 (2) (e) which gives each county governor

PETITION TO THE SENATE CONCERNING AMENDMENT OF COUNTY
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the power to constitute the executive committee portfolio structure based on the functions and competencies transferred is unnecessary since the functions and competencies assigned and transferred to all counties are uniform. From the reading of sections 30 and 46 and other enabling provisions of the County Government Act, there is no standard template on how county departments should be organized under section 46 with the approval of the County Assembly thus contravening Article 235 as read with Article 176 (1) of the constitution. To realize these constitutional imperatives I propose that section 30 (2) (e) of the County Government Act be deleted and replaced with a section providing for a standard national template for adoption by all counties;

13. **THAT**, Section 30 (2) (l) of the County Government Act provides that the governor shall sign and cause to be published in the county gazette, notice of all important formal decisions by the governor or by the county executive but neither defines what constitutes an important formal decision nor provide any measures to ensure compliance. I propose that this section be amended to provide for what constitutes important formal decisions, timelines required for gazettelement, a requirement that such communication(s) shall bear immutable time stamps and that failure to comply shall render the decisions invalid and that all important decisions shall fall under Article 183 (3) of the constitution and that county expenditure decisions and the resultant financial reports be deemed as important formal decisions and that such reports shall have to be accompanied by **Certified Electronic Funds Transfer Reports and certified bank statements of all bank accounts** held by the county Government and that failure to comply shall constitute grounds for removal from office without the necessity for a vote by the County Assembly;

14. **THAT**, Section 30 (3) (f) of the Act provides that the County Governor shall be accountable for the management and use of county resources but does not require him/her to be accountable to the oversight body (County Assembly) contrary to

PETITION TO THE SENATE CONCERNING AMENDMENT OF COUNTY
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the constitutional requirement for the County Executive Committee chaired by the County Governor to provide full and regular reports to the County Assembly on matters relating to the county begging the question of who should speak for the County Executive Committee if not the Governor to whom the members nominated and appointed under Article 179 (2) (b) and Section 35 of the Act are individually and collectively accountable to? I propose that this section be amended to provide that the County Governor and the Deputy County Governor shall primarily be accountable to the people through the County Assemblies by providing the reports envisaged under article 183 (3) of the constitution and answering questions in the assembly along with member(s) of the County Executive Committee nominated and appointed under Article 179 (2) (b) as the need may be;

15. **THAT**, Section 31 (a) of the County Governments Act provides that the county governor may dismiss a county executive committee member without any recourse. Although this provision may be necessary for the smooth running of government and to avoid rendering the County Governor powerless over his/her appointees, I contend that it goes counter to the spirit of the constitution and the law. Notably unlike the national executive (Article 131 (1) (b)) where the executive power vests in the president assisted by the rest of the cabinet, Article 179 (1) of the constitution provides that the **executive authority of the counties is vested in and exercised by the County Executive Committees** meaning that once appointed members of the County Executive Committee take on a solemn duty of steering the county and should be free of any arbitrary action.

I propose that the Senate amends this section to limit the power of the County Governor to arbitrarily dismiss members of the County Executive Committee replaced with a provision requiring the governor to consult the County Assembly whenever such action(s) are deemed necessary along with reasonable thresholds like 50% concurrence of all members of the assembly present and voting;



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16. **THAT**, Section 32 (3) of the County Government Act provides that the county Governor may assign the Deputy Governor any other responsibility or portfolio as a member of the county executive committee contrary to the constitutional provision under Article 179 (4) that the County Governor and Deputy shall be Chief Executive Officer and Deputy Chief Executive Officer of the county respectively and further provides under Article 179 (5) that when the county Governor is absent the Deputy shall act as County Governor as captured in Section 32 (2) of the County Government Act which provides that the Deputy Governor shall deputize the County Governor in the execution of the Governor's functions. It is my contention that the role of the deputy governor is clearly provided under the constitution and the law and does not therefore require any input from the county governor. It also follows that the county governor may not donate any powers he/she does not have!

It is my contention that section 32 (3) of the County Government Act No.17 of 2012 is **unconstitutional** since it unilaterally permits the Governor to derogate the status of the Deputy Governor from principal assistant to an underling accountable to him along with the appointed members of the county executive and in any event the power to appoint members to the executive is shared with the County Assembly and can only be exercised with the approval of the assembly a process neither envisaged under the constitution nor under the County Government Act. This raises the question as to what would be the implications of a refusal by the County Assembly to approve the appointment based on the requirements of the Public Appointments (County Assemblies Approval) Act which provides that approval hearings shall focus on among other things the candidate's academic credentials, professional training, and experience? Will the Deputy be subject to removal under Section 40 of the Act? and if so, would such a removal amount to an impeachment? and if not, what would be the implications of the removal of a Deputy Governor under this Section? I propose that section 32(3) of

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the County Government Act No.17 of 2012 be amended to do away with the power of the Governor to appoint the Deputy Governor as a member of the County Executive Committee in-charge of a specific portfolio, to include the instances where the county governor can be considered as being **absent**, and to also include a requirement for the Governor to notify the Deputy in writing whenever he/she is absent from office and that such a communication shall be shared with the County Assembly and the public;

17. **THAT**, Section 34 of the County Government Act No.17 of 2012 provides that the county executive committee shall exercise executive power in accordance with the constitution and relevant legislation, for the well-being and benefit of the people, while taking objects and principles of devolution into consideration; I contend that this Section does not provide any measures for checking on any executive excesses or failure to adhere to the principles of equity and/or equality especially in the execution of projects within the counties.

To give effect to the spirit of the Act I propose a section be introduced to create an intercounty institution with a mandate to among other things scrutinize and analyze project Identification, distribution and execution within counties and present reports to each County Assembly two months after the lapse of each fiscal year;

18. **THAT**, Article 179 (1) of the constitution provides that the **executive authority** of the county is vested in and exercised by the county executive committee whose mandate upon taking office becomes that of carrying out a solemn duty of ensuring that the aspirations captured in the objects of devolution outlined under Article 174 of the Constitution are realized. However, the County Government Act has not provided for a **process of sourcing, the criteria for shortlisting** and arriving at the **final nominees** for presentation to the county assembly for vetting and approval in line with the national values and the values and principles of



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public service captured under Article 10 and 232 of the constitution respectively. I contend that although Section 8 of the Public Appointments (County Assemblies) Approval Act of 2017 provides that the issues to be considered during an approval hearing shall include among other things the procedure used to arrive at the nominee, the criteria for shortlisting nominees, no such provisions on the nomination of members to the County Executive Committee are contained in the County Government Act to guide the governor while sourcing for nominees.

To address these concerns, I propose that section 35 of the act be amended to provide for a procedure for sourcing nominees for appointment under Article 179 (2) (b) of the constitution outlining the process of sourcing, criteria for shortlisting and nomination. The amendment should also provide for a mandatory requirement for the governor to comply with the conditions for sourcing, shortlisting, and nomination of members and further provide that any approval by the relevant county assembly of any nomination that violates the stipulated procedure for sourcing and nomination shall be null and void;

19. **THAT,** Article 179 (2) (b) of the constitution as read with Section 30 (d) of the County Government Act provides for the nomination and appointment of county executive committee members and that Section 35 (3) (d) of the act provides that a person may be appointed as a member of the county executive committee if that person has knowledge, experience and distinguished career in the field relevant to the portfolio of the department to which the person is being appointed. This provision tallies with the requirement in Sections 7 (8) and 8 (c) of the Public Appointments (County Assemblies Approval) Act 2017 which provides that approval hearings shall focus on among other things the candidate's academic credentials, professional training, and that the issues for consideration in relation to the approval of any nomination shall include among other things suitability for appointment having regard to whether the nominees credentials, abilities, experience and qualities meet the needs of the body to which the

PETITION TO THE SENATE CONCERNING AMENDMENT OF COUNTY
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nomination is being made respectively; Section 31 (ba) of the County Government provides that the governor may re-assign a member of the county executive committee. It is my contention that since the appointment of a member of the county executive committee is to a specific portfolio, the governor becomes *functus officio* once the appointment has been made hence a re-assignment should either be considered as an appointment according to the act or a proviso should be included under section 31 (ba) requiring the governor to seek concurrence with the County Assembly before re-assignment is made setting out the issues including but not limited to competencies the Governor took into consideration when selecting the member to serve in a portfolio other than the one vetted for and appointed. I propose that a threshold of $\frac{1}{2}$ or $\frac{2}{3}$ should be pegged on such re-assignments;

20. **THAT**, Section 39 of the County Government Act provides for accountability of the members of the County Executive Committee as being individually and collectively accountable to the Governor for the exercise of their powers and performance of their duties and responsibilities and that a committee of the County Assembly may require a member of the executive committee to attend or appear before it and answer any questions relating to the members' responsibilities. I contend whereas this Section of the Act may serve some purpose it does not align itself well with the provision of **Article 183 (3)** of the constitution that obligates the **County Executive Committee** to provide the County Assembly with full and regular reports on matters relating to the county. Therefore, whereas county government act provides for members of the county executive member to appear and answer question before the assembly it is silent on who is expected to present the reports envisaged under article 183 (3) of the constitution as read together article 179 (4) which provides that the county governor and his/her deputy shall be the Chief Executive Officer and the Deputy Chief Executive Officer respectively. Notably section 30 (3) (f) the county government act provides that the county governor shall be accountable for the management and use of county



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resources. The question is to who and how? I propose that the act be amended to include a section providing that the chair of the county executive committee and in his/her absence the deputy shall be accountable to the people and shall provide full and regular reports envisaged under article 183 (3) of the constitution to the county assembly and that he/she shall attend and answer questions by the assembly when called upon to do so;

21. **THAT**, Section 45 of the County Government Act provides that whenever a vacancy arises in the office of the in the office of the County Chief Officer, the respective Governor shall within 14 days; **nominate qualified and experienced** County Chief Officers from among the persons competitively sourced and recommended by the County Public Service Board and approved by the County Assembly, appoint County Chief Officers. The Act further provides that the Governor may re-assign a Chief Officer and that the office of the Chief Officer shall become vacant in case of death, resignation, and removal from office in accordance with the terms of service or any other written law applicable to the officer. This Section of the Act does not specify if a County Chief Officer is competitively sourced, nominated and appointed to serve in a specific department for example Finance and Planning or to generally to serve in any department.

I propose that if it was the intention of parliament that such appointments are specific to a department, then this section be amended to provide that a re-assignment should either be considered an appointment or a requirement for the Governor to seek the concurrence of the County Assembly setting out the suitability of the officer to serve in a department other than the one they were vetted for be introduced;

22. **THAT**, Section 45 (6) (c) of the County Government Act provides that a County Chief Officer may be removed from office in accordance to the terms of service or any other written law applicable to the officer. I contend that this provision is not

**PETITION TO THE SENATE CONCERNING AMENDMENT OF COUNTY
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categorical on the grounds and the process through which a Chief Officer shall be removed from office. I propose that this section is amended to provide for the grounds and process of removal of County Chief Officers;

23. **THAT**, Section 58 of the County Government Act provides a County Public Service Board shall be composed of a chair, 3-5 members and a Certified Public Secretary of good professional standing and who shall be the secretary to the board. Section 58A of the Act provides that whenever a vacancy arises in a County Public Service Board, the Governor shall nominate and with the approval of the County Assembly appoint members of a selection panel for purposes of selecting suitable candidates for appointment as members of the County Public Service Board. I contend that the Act is silent on the timeline between a vacancy arising and the formation of the panel, that the Act is not clear whether it is the organizations such as the Law Society of Kenya, Institute of Certified Public Accountants, Workers' Associations and Private Sector Organization who provide the nominees to the panel or they are handpicked by the Governor and how the chairman sourced. The Act is not clear on whether the board shall always be at the maximum level of seven (7) or that it can operate at the minimum level of five (5) and if so, can the board operate for without a substantive chair and/or secretary? if so, who steps in during this period?

The following six (6) amendments to Section 58 A of the County Government At No.17 of 12 would address the issues raised above

- (a) to provide for time lines between occurrence of a vacancy in the position of chair and/or secretary, the fall of membership to less than three (3) and formation of a panel and that such a period shall not exceed 14 days;
- (b) to clarify the process of sourcing nominees to the panel;
- (c) to clarify on the minimum number of members without which the Board shall not operate in this case the minimum shall be three (3) members;



PETITION TO THE SENATE CONCERNING AMENDMENT OF COUNTY
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- (d) to provide that the positions in the board shall only be filled as provided in the Act;
- (e) to provide for express inclusion of minorities, marginalized communities and members not being residents of the county and not from the dominant ethnic community in the relevant county; and,
- (f) Provide for how members of the board can operate on part-time basis.

24. **THAT**, Governors have a penchant to make acting appointments in offices where there is a direct provision that an approval by the County Assembly is required. I propose that the county government act be amended to provide for an express requirement that any appointment falling under the description of article 259 (11) of the constitution shall not be made without following the procedure set out in law and that such appointments shall form grounds for removal of the governor from office;

25. **THAT**, reports emanating from investigative processes by a county assembly acting as a whole or through its committees including ad-hoc committees which provide incontrovertible evidence of culpability and/or breach of the constitution and the law shall not be invalidated based on voting alone without taking into consideration the merits/demerits of the report. I propose that a section be created to provide that whenever a county assembly is making decisions on the adoption or otherwise of a report emanating from an investigative process that contain incontrovertible evidence, the assembly shall not vote to reject the report without considering the evidence provided;

26. **THAT**, whereas the county assemblies go on recess from time to time to recharge and take time off where even committees are temporally suspended, the county executive members especially the county governor and his/her deputy are not legally or otherwise required or known to officially to take time off during their tenure of service! I propose that a section be introduced to provide that county

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governors, deputies and the appointed members of the county executive committees shall be required to take a minimum of 20 days and a maximum of 30 days leave every year and that during such times the affected officials shall formally handover their duties and shall not perform any official duties except under special circumstances;

27. THAT, this petition is of National importance and concerns Counties as it seeks to provide for a uniform organizational structure for all of counties, structure communication from the Governor and/or County Executive Committees to the County Assembly and the public, entrench accountability of the Governor and Deputy Governor, streamline the appointment and/or dismissal of County Executive Committee Members, provide for the removal of County Chief Officers and streamline operations of the County Public Service Board;

28. THAT, despite attempts I have made to have the matters herein addressed by the relevant entities, has not been successful; and,

29. THAT, to the best of my knowledge, none of the issues pointed out above are pending or unresolved in a Court of Law of a constitutional or other legal body.

THEREFORE, I your humble petitioner prays that the National Assembly and the Senate amends the following Sections of the County Government Act No 17 Of 2012:

1. Include in section 2 on interpretation the meaning of the term absent and what it shall entail in respect of the governor and/or deputy governor;
2. Include in section 2 on interpretation special circumstances during which a county governor, deputy governor and/or appointed members of county executive on leave shall be expected to resume work or perform official duties;

PETITION TO THE SENATE CONCERNING AMENDMENT OF COUNTY
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3. Section 30 by inserting a provision in subsection 2 (d) that the appointments contemplated under the subsection will be subject to Article 179 (2) (b) and Section 35 of the Act;
4. Section 30 by deleting subsection 2(e) and replacing it with a provision for uniform organizational structure for all counties;
5. Section 31 by deleting subsection (ba) and replacing it with a new subsection requiring the governor to seek the concurrence of the County Assembly when re-assigning a member of the executive committee to a portfolio other than the one he/she was vetted for;
6. Section 30 (2) (I) to provide for the following among others:
 - a) Meaning and scope of important formal decision;
 - b) Timelines for gazettelement and communication;
 - c) Inclusion of immutable time stamps for all such important decisions;
 - d) County expenditure decisions in the form of financial reports be included among important formal decisions to be reported under Article 183 (3) and shall include Electronic Funds Transfer Reports and certified bank statements held by the County including County Assembly;
 - e) Sanctions on failure to comply with (e) and which may include suspension and/or removal from office without the need of a vote in the assembly.
7. Section 32 by deleting subsection 3 and replacing it with a new subsection that provides that the governor may only delegate in writing any of his/her responsibilities but not as a member of the county executive committee under Article 179 (2) (b) or where the law provides otherwise;

PETITION TO THE SENATE CONCERNING AMENDMENT OF COUNTY
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8. Section 35 of to provide for a process of sourcing, shortlisting and nominating persons for vetting and appointment to the office of member of county executive committee;
9. Section 39 by inserting a provision in subsection 2 to provide for a requirement of the Governor and/or the Deputy Governor to attend and/or appear before a committee of the County Assembly for purposes of answering questions and/or giving evidence on the governor's and deputy governor's duties under Article 179 (4)&(5) and 183 (3) and Sections 30 (3) (f) and Section 39 (1) of the Act or for any other reason(s) required by law;
10. Section 45 to clarify if the competencies required for appointment of county chief officers are specific to a department or general in nature and whether they can be re-assigned to any department. If the competencies are specific to a department, then introduce a provision that the governor may re-assign a county chief officer to a department other than vetted and appointed to with concurrence of the county assembly and to provide for grounds and process of removal of county chief officers;
11. Section 58A to provide for timelines between the occurrence of a vacancy or vacancies in the County Public Service Board and to provide clarity of the thresholds below which the boards may not operate legally especially vacancies in the office of chair and/or secretary. The amendment should also provide expressly for mandatory inclusion of minorities, marginalized communities, and persons not resident in the county and not being members of the dominant community;
12. A new Section to provide for procedures to be followed by County Assemblies when considering questions prescribed expressly by the constitution, the County Government Act, or any other law and when dealing with questions that have come up through investigative processes of the assemblies especially ad-hoc

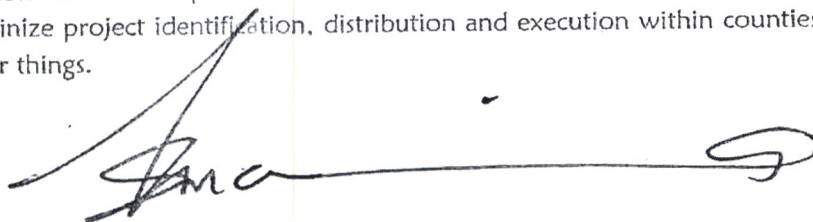


PETITION TO THE SENATE CONCERNING AMENDMENT OF COUNTY
GOVERNMENT ACT NO. 17 OF 2012

committees especially in instances where a committee returns a verdict that there are reasonable grounds to believe that gross violation of the constitution and the law has occurred. The proposed Section may provide that when dealing with questions:

- a) To which prescriptions are provided expressly in the constitution, the county government act or any other law, a county assembly shall not approve, consent, or adopt a process or decision whose net import deviates from a direct prescription of the law;
- b) Arising from an investigative process in which a committee of the house returns a verdict that there are reasonable grounds to believe that gross violation of the constitution and the law may have occurred, then the house shall consider the merits or demerits in the committee findings before voting and shall not vote to reject a report whose findings can be substantiated unequivocally

- 13. A new Section requiring the governor to strictly adhere to Article 259 (11) when exercising powers shared with the assembly;
- 14. A new section to provide for annual leave for the county governor, deputy county governor and appointed members of the county executive; and,
- 15. A new section to provide for the creation of an inter-county institution to scrutinize project identification, distribution and execution within counties among other things.



Hon. Isaian Maina
Member of County Assembly
Ol'lessos Ward

Date.....05.05.25

EMAIL : isaiahkaplelach@gmail.com

TEL: 0722510421

Annex 3:
Submissions
received in
response to the
Petition

ANNEX 3
Slovak Republic
reception of
response to the
Petition

REPUBLIC OF KENYA



COUNTY ASSEMBLIES FORUM (CAF)

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**CAF MEMORANDUM ON PETITION BY HON. ISAIAH MAINA (MCA,
OL'LESSOS WARD, NANDI COUNTY) SEEKING AMENDMENTS TO THE
COUNTY GOVERNMENTS ACT, NO. 17 OF 2012**

TO: Mr. Jeremiah Nyegenye, CBS, Clerk of the Senate, Parliament of Kenya.

FROM: The County Assemblies

Forum.DATE: 7th October 2025

1.0 INTRODUCTION

1. County Assemblies Forum (CAF) is the coordinating body for Kenya's 47 County Assemblies, promoting legislative best practice, intergovernmental coordination, and effective devolution. In keeping with our mandate, CAF submits the following views on the petition by Hon. Isaiah Maina requesting amendments to the County Governments Act (CGA), No. 17 of 2012, with emphasis on strengthening accountability, clarity of executive structures, and alignment to the objects and principles of devolution under Articles 174 and 175 of the Constitution of Kenya.

2.0. BACKGROUND

- 2.1. The petitioner anchors his proposals on Articles 10, 174, 175, 179, 183, 232, and 259(11) of the Constitution and several provisions of the CGA. Key proposals include:
 - a) Establishing a uniform organizational structure for county departments (replace s.30(2)(e); clarify s.46).
 - b) Defining "important formal decisions," setting gazettment timelines, and introducing immutable time stamps; treating financial reports/EFT/bank statements as important decisions with enforceable sanctions for non-compliance (s.30(2)(l)).
 - c) Making the Governor and Deputy Governor directly accountable to the County Assembly, including answering questions and tabling the Article 183(3) reports (s.30(3)(f), s.39).
 - d) Constraining arbitrary dismissal and reassignment of CEC Members and Chief Officers; requiring Assembly concurrence for re-assignments; clarifying grounds and process for removal (ss.31, 35, 45).
 - e) Amending s.32(3) to bar converting the Deputy Governor into a portfolio CEC and to regulate absence/delegation notifications.
 - f) Setting clearer rules for County Public Service Boards (timelines, quorum thresholds, inclusivity of minorities and non-resident members) (s.58A).
 - g) Creating an inter-county institution to scrutinize project



identification/distribution and report to Assemblies; establishing Assembly decision-making safeguards for evidence-based reports from committees.

- h) Introducing annual leave requirements for Governors, Deputies, and CECs; defining “absent” and “special circumstances” in the interpretation section.

- 2.2. The petition asserts that current ambiguities and inconsistencies in the County Government Act undermine the foundational values of devolution, including democratic accountability, equity, separation of powers, and public participation.

3.0. GENERAL COMMENTS.

- 3.1. CAF commends Hon. Isaiah Maina for his thoughtful and constitutionally grounded petition. The proposals reflect a deep understanding of the operational gaps in county governance and demonstrate a commitment to strengthening devolution as envisioned in the 2010 Constitution.
- 3.2. CAF notes that many of the petitioner’s concerns resonate with recurring challenges observed across County Assemblies, including executive overreach, lack of standardized structures, weak accountability mechanisms, and inconsistent application of public service values.
- 3.3. However, while the intent of the proposed amendments is laudable, some proposals may inadvertently conflate constitutional roles, impose impractical administrative burdens, or risk undermining the autonomy of County Assemblies and Governors if not carefully calibrated.
- 3.4. CAF notes that several of the issues raised, such as the need for transparent nomination procedures, clear grounds for removal of public officers, and standardized reporting requirements, are already partially addressed in existing legislation, including the Public Appointments (County Assemblies Approval) Act, 2017, and the Leadership and Integrity Act. The challenge lies not necessarily in the absence of law, but in enforcement and harmonization
- 3.5. CAF appreciates the opportunity to contribute to this issue and on the basis of the

REPUBLIC OF KENYA



COUNTY ASSEMBLIES' FORUM (CAF)

foregoing state as follows; -

	the selection panel under subsection (6). (11) If the county assembly rejects any or all of the subsequent nominees submitted by the Governor for approval under subsection (9), the provisions of subsections (6) and (7) shall apply. (12) The selection panel shall stand dissolved upon the appointment of the Chairperson and members under subsection (9). (13) Where the provisions of subsection (10) apply, the selection panel shall continue to exist but shall stand dissolved upon the requisite appointments being made.	
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	twenty one days of receipt of the names of the nominees from the Governor, consider each nomination received under subsection (7) and approve or reject any of them. (9)Where the county assembly approves the nominees, the Speaker of the county assembly shall, within five days, forward the names of the approved applicants to the Governor for appointment. (10)Where the county assembly rejects any nominee, the Speaker shall within five days communicate the decision of the county assembly to the Governor and request the Governor to submit fresh nominations from amongst the persons shortlisted and forwarded by	
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	and (d)submit the names of three qualified applicants for the position of Chairperson, six qualified applicants for the position of a member and two qualified applicants for the position secretary to the Governor. (7)The Governor shall, within seven days of receipt of the names forwarded under subsection (6), nominate one person, and at least three but not more than five others for appointment as Chairperson and members of the county public service board, respectively, and forward the names to the county assembly for approval. (8)The county assembly shall, within	
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		representation.
	(5) <i>The selection panel shall, within seven days of convening, invite applications from persons who qualify for nomination and appointment as Chairperson or member of the county public service board by advertisement in at least two daily newspapers of national circulation.</i> (6) <i>The selection panel shall within seven days of receipt of applications under subsection (5) – (a) consider the applications to determine their compliance with the provisions of the Constitution and this Act,</i> <i>(b) shortlist the applicants;</i> <i>(c) interview the shortlisted applicants;</i>	

	(c)an Advocate of the High Court of Kenya, who is a member of the Law Society of Kenya; (d)an accountant who is a member of the Institute of Certified Public Accountants of Kenya; and (e)one person from an association representing workers. (3)The Governor shall, in nominating members to the selection panel, ensure that not more than two-thirds of the nominees are of the same gender. (4)The Chairperson shall convene the first meeting of the selection panel within five days of his or her appointment.	community. ◦ Provide for how members of the board can operate on a part-time basis.	county is inconsistent with the principles of local accountability and contextual governance under devolution; all County Public Service Board members should be residents of the county they serve. Recommendations Amend Section 58A to require that all nominees be registered residents of the county, while expressly mandating the inclusion of representatives from minority and marginalized communities within that county to ensure both local accountability and equitable
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	Service Board (CPSB) " 58A. Procedure for nomination and appointment of members of the Board <i>(1) Whenever a vacancy arises in a county public service board, the Governor shall nominate and, with the approval of the county assembly, appoint members to a selection panel for the purpose of selecting suitable candidates for appointment as members of the county public service board.</i> <i>(2) The selection panel under subsection (1) shall consist of the following persons –</i> <i>(a) a Chairperson, not being a public officer;</i> <i>(b) one person from the private sector;</i>	occurrence of a vacancy in the position of chair and/or secretary, the fall of membership to less than three (3), and the formation of a selection panel, limiting this period to not exceed 14 days. ◦ Clarify the process for sourcing nominees to the panel. ◦ Clarify the minimum number of members (three) below which the Board shall not operate in case of a vacancy. ◦ Provide that positions on the board shall only be filled as provided in the Act. ◦ Provide for the express inclusion of minorities, marginalized communities, and persons not resident in the county and not members of the dominant ethnic	CAF supports the proposed amendments to Section 58A concerning timelines (not exceeding 14 days for panel formation), a transparent nominee sourcing process (e.g., through professional bodies, civil society, and minority groups), a minimum quorum of three members to ensure operational continuity, and the allowance for part-time board operations with clear protocols. However, while the inclusion of minorities and marginalized communities is essential, the requirement to include persons not resident in the
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	<i>appoint county chief officers.</i> <i>(2) The office of a county chief officer shall be an office in the county public service</i> <i>(3) A county chief officer shall be responsible to the respective county executive committee member for the administration of a county department as provided under section 46.</i> <i>(4) The county chief officer shall be the authorized officer in respect of exercise of delegated power.</i> <i>(5) The governor may re-assign a county chief officer.</i> <i>(6) A county chief officer may resign from office by giving notice, in writing, to the governor."</i>	process for the removal of county chief officers	Recommendations Align removal process with Public Service Commission procedures.
11.	Section 58A: County Public	Provide for time limits between the	➤ Comment

	responsibilities. 2) A committee of the county assembly may require a member of the executive committee to – (a) attend or appear before the committee; and (b) answer any question relating to the member's responsibilities."		accountable. Recommendations Amend to mandate appearance within 14 days of summons, with penalties for non-compliance (e.g., censure, budget withholding).
10.	Section 45: County Chief Officers (CCO) <i>"Appointment of county chief officers.</i> 45. (1) The governor shall – (a) nominate qualified and experienced county chief officers from among persons competitively sourced and recommended by the County Public Service Board; and (b) with the approval of the county assembly,	Amend the section to clarify the competencies required for the appointment of county chief officers (whether specific to a department or general). ◦ Introduce a provision allowing the governor to re-assign a county chief officer to a different department only with the concurrence of the county assembly. ◦ Provide for the grounds and	➤ Comment CAF supports clarifying that CCO appointments are portfolio-specific, given their technical nature. Reassignment to a different technical field should require Assembly concurrence since the current vagueness enables arbitrary dismissals.

	<i>from a university recognised in Kenya;</i> <i>(c) satisfies the requirements of Chapter Six of the Constitution; and</i> <i>(d) has knowledge, experience and a distinguished career of not less than five years in the field relevant to the portfolio of the department to which the person is being appointed.</i> <i>(4) A member of the county executive committee shall not hold any other State or public office."</i>		
9.	Section 39: Appearance Before Assembly Committees <i>"Accountability of members of the executive committee.</i> <i>39. (1) The members of the county executive committee are individually and collectively accountable to the governor in the exercise of their powers and performance of their duties and</i>	Insert a provision in subsection 2 to require the Governor and/or Deputy Governor to attend and/or appear before a committee of the County Assembly to answer questions and provide evidence regarding their duties	➤ Comment The Forum strongly supports this proposal. Article 183(3) obligates the County Executive Committee to report to the Assembly. The Governor and Deputy, as its head and deputy, must be personally

	<i>the county; and</i> <i>(b) take into account the principles of affirmative action as provided for in the Constitution. (2) The county assembly shall not approve nominations for appointment to the executive committee that do not take into account –</i> <i>(a) not more than two thirds of either gender;</i> <i>(b) representation of the minorities, marginalized groups and communities; and</i> <i>(c) community and cultural diversity within the county.</i> <i>(3) A person may be appointed as a member of the county executive committee if that person –</i> <i>(a) is a Kenyan citizen;</i> <i>(b) is a holder of at least a first degree</i>		advertisement, stakeholder input, and publication of shortlists prior to nomination.
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	<i>shall not exercise any powers of the governor, to nominate, appoint or dismiss, that are assigned to the governor under the Constitution or other written law.</i> <i>(5) The governor shall not delegate to the deputy governor any of the functions referred to in subsection (4).</i>		
8.	Section 35: Nomination Process for CEC Members “Appointment of county executive members. 35. (1) The governor shall, when nominating members of the executive committee – <i>(a) ensure that to the fullest extent possible, the composition of the executive committee reflects the community and cultural diversity of</i>	Amend Section 35 to provide a clear process for sourcing, shortlisting, and nominating persons for vetting and appointment to the office of a member of the county executive committee	➤ Comment The Forum supports, the absence of a transparent, merit- based nomination framework has led to patronage and weak vetting. codifying sourcing, shortlisting, and nomination criteria aligns with Articles 10 and 232. Recommendations Require public

	<i>necessary for the execution of the duties of the office of governor."</i>		declared area of competence.
7.	Section 32: Role of Deputy Governor "Functions of the deputy governor. 32. (1) <i>The deputy governor shall take and subscribe to the oath or affirmation as set out in the Schedule to this Act before assuming office.</i> (2) <i>The deputy governor shall deputize for the governor in the execution of the governor's functions.</i> (3) <i>The governor may assign the deputy governor any other responsibility or portfolio as a member of the county executive committee.</i> (4) <i>When acting in office as contemplated in Article 179(5) of the Constitution, the deputy governor</i>	Delete subsection 3 and replace it with a new subsection clarifying that the governor may only delegate responsibilities in writing, but not as a member of the county executive committee under Article 179 (2)(b) or where the law provides otherwise	➤ <u>Comments</u> CAF fully endorses deleting Section 32(3). Assigning the Deputy Governor a departmental portfolio undermines their constitutional status as Deputy Chief Executive under Article 179(4)–(5). The Deputy should not be subordinate to the Governor as a CEC member. <u>Recommendations</u> Section 32(3) and affirm the Deputy's role as successor-in-waiting and principal assistant to the Governor.

		which may include suspension and/or removal from office without the need for a vote by the assembly	
6.	Section 31: Reassignment of CEC Members <i>"Powers of the governor. 31. The governor –</i> <i>(a) may, despite section 40, dismiss a county executive committee member at any time, if the governor considers that it is appropriate or necessary to do so;</i> <i>(b) shall dismiss a county executive committee member, if required to do so by a resolution of the county assembly as provided under section 40;</i> <i>(c) may appoint an accounting officer for each department, entity or decentralized unit of the county government, and</i> <i>(d) shall have such powers as may be</i>	Delete subsection (ba) and replace it with a new subsection requiring the governor to seek the concurrence of the County Assembly when re-assigning a member of the executive committee to a portfolio other than the one they were vetted for	➤ <u>Comment</u> CAF supports requiring Assembly concurrence for reassignment to a materially different portfolio (e.g., Health to Finance), especially where original vetting was based on specialized expertise. However, minor portfolio adjustments should remain within executive discretion Recommendations Introduce a threshold e.g., reassignment requiring new vetting if the new portfolio falls outside the nominee's

5.	Amend Section 30(2)(l): Define "important formal decisions" <i>"sign and cause to be published in the county Gazette, notice of all important formal decisions made by the governor or by the county executive committee."</i>	Amend subsection 2(l) to provide for the following details concerning "important formal decisions": ▪ The meaning and scope of an important formal decision. ▪ Timelines for gazettelement and communication. ▪ Inclusion of immutable time stamps for all such decisions. ▪ Require county expenditure decisions in the form of financial reports (reported under Article 183 (3) of the constitution) to include Electronic Funds Transfer Reports and certified bank statements held by the County, including County Assembly reports. Provide for sanctions for failure to comply with these requirements,	➤ <u>Comment</u> CAF strongly supports this proposal_Lack of definition has enabled opacity in gubernatorial decision-making. Requiring immutable timestamps, certified financial reports, and bank statements aligns with Article 10 (transparency) and Article 232 (public service values). <u>Recommendation</u> Retain reporting and documentation requirements but link non-compliance to initiation of removal proceedings, not automatic ouster.
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		should be adopted	comparability, improve national coordination, and reduce politicization of departmental configurations. However, the template must allow for limited contextual adaptation to accommodate unique county needs (e.g., pastoralist vs. urban counties). Recommendation Adopt a minimum core structure (e.g., Finance, Health, Agriculture, Lands, Public Service) with flexibility for counties to add context-specific departments.
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			circumstances” to objectively verifiable emergencies and require public justification.
3.	Section 30 a) Subsection 2(d): Subject appointments to Article 179(2)(b) and Section 35 <i>“appoint, with the approval of the county assembly, the county executive committee in accordance with Article 179(2)(b) of the Constitution;”</i>	Amend by Insert a provision in subsection 2 (d) stipulating that appointments mentioned in that subsection are subject to Article 179 (2)(b) of the Constitution and Section 35 of the CGA	➤ <u>Comment</u> Redundant. Article 179(2)(b) and Section 35 already govern CEC appointments. This amendment adds no substantive value. <u>Recommendation</u> Not necessary
4.	Section 30(2) (e) of the County Government Act:- <i>“constitute the county executive committee portfolio structure to respond to the functions and competencies assigned to and transferred to each county;”</i>	Delete subsection 2(e) and replace it with a provision establishing a uniform organizational structure for all counties. The petitioner contends the current provision (Section 30 (2)(e)) is contradictory to other sections and that a standard national template for portfolio structure	➤ <u>Comment.</u> CAF supports the proposal to delete Section 30(2)(e) and replace it with a national template for county executive portfolio structures. Uniformity would enhance inter-county

			of the Constitution of Kenya.. <u>Recommendations</u> Define “absent” in a manner consistent with Article 182 of the constitution of (removal on grounds of incapacity) and include a requirement for written notification to the Deputy Governor and County Assembly.
2.	Section 2 (Interpretation) Definition of “special circumstances” for leave interruption	Amend to Include in the interpretation the definition of "special circumstances" under which a county governor, deputy governor, or appointed members of the county executive who are on leave must resume work or perform official duties	➤ <u>Comment</u> While well-intentioned, this may introduce subjectivity. “Special circumstances” should be narrowly defined (e.g., national disaster, security emergency, or court order) to prevent abuse. <u>Recommendations.</u> Limit “special

4.0 SUMMARY MATRIX OF THE PROPOSED AMENDMENTS.

NO.	CLAUSE	PROPOSED AMENDMENT BY THE PETITIONER	CAF COMMENT/ RECCOMENDATION
1.	Section 2 (Interpretation) a) Definition of "absent"	Amend to include in the interpretation the meaning of the term "absent" as it pertains to the governor and/or deputy governor	➤ <u>Comment</u> CAF supports this proposal. Ambiguity around what constitutes "absence" of a Governor or Deputy Governor has led to inconsistent interpretations and governance gaps. A statutory definition ,e.g., physical absence from the county for more than 72 hours, hospitalization, or legal incapacity,, would enhance clarity and ensure smooth succession under Article 179(5)

	(14) <i>The department responsible for public service shall provide secretariat services to the selection panel.</i> (15) <i>In nominating or appointing a person as a member of the Board, the selection panel and the Governor shall – (a) observe the principle of gender equity, ethnic and other diversities of the people of Kenya, and shall ensure equality of opportunity for persons with disabilities; and (b) take into account the national values and principles set out in Articles 10, 27 and 232 of the Constitution.</i> (16) <i>Despite the foregoing provisions of this section, the Governor may extend the period specified in respect of any matter under this section by a period</i>	
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	<i>not exceeding fourteen days.</i> <i>(17)Subject to this section, the selection panel may determine its own procedure.."</i>		
NEW PROPOSES TO BE INCLUDED IN THE COUNTY GOVERNMENT ACT, 2012			
12.	Procedures for Adoption of Investigative Reports A new Section to provide procedures for County Assemblies to follow when dealing with questions, especially those arising from investigative processes (such as ad-hoc committees). This section should mandate that if an investigative report returns a verdict of gross violation of the constitution or law, the assembly shall consider the merits and		➤ Comment CAF supports mandating evidentiary deliberation before rejecting investigative reports. However, the Assembly must retain final voting discretion under Article 179(2)(b) and separation of powers. <u>Recommendations</u> Make it a requirement that a substantive debate and recorded justification for rejecting reports with

	should not vote to reject a report whose findings can be substantiated unequivocally		credible evidence—not automatic adoption.
13.	Adherence to Article 259(11) Add new Section requiring the governor to strictly adhere to Article 259 (11) of the Constitution when exercising powers shared with the assembly		➤ Comments. CAF is of the view that the proposal is redundant. Article 259(11) of the Constitution is self-executing. However, a reminder clause may enhance awareness. Recommendations Include as a guiding principle in the Act's preamble or interpretation section, not as a standalone enforcement provision.
14.	Mandatory Annual Leave (20-30 days)		➤ Comments The Forum supports this

	Add new Section to provide for mandatory annual leave for the county governor, deputy county governor, and appointed members of the county executive, requiring a minimum of 20 days and a maximum of 30 days leave yearly		proposal because supports wellness and anti-burnout, however handover must be formalized to avoid power vacuums. Recommendations We recommend a requirement written handover to Deputy Governor and public notice. Limit official acts during leave to emergencies
15.	Inter-County Institution for Project Scrutiny. Add new Section providing for the creation of an inter-county institution with a mandate to scrutinize and analyze project identification, distribution, and execution within counties		➤ Comment While the proposal is well intentioned but risks duplication. The Functions overlap with Controller of Budget, Auditor-General, and Commission on Revenue Allocation (CRA).

			Reccomendations Instead of a new body, strengthen the Senate's oversight role or task the CRA with monitoring equity in project distribution.
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Yours sincerely,



HON. SETH KAMANZA,
CHAIRPERSON.

DGAC

Kindly deal

22/10/2025



REPUBLIC OF KENYA

OFFICE OF THE ATTORNEY-GENERAL

STATE DEPARTMENT FOR JUSTICE HUMAN RIGHTS AND CONSTITUTIONAL AFFAIRS

22 OCT 2025

Our Ref: DOJ/PM/9/7/VOL.1(73)

Your Ref: SEN/DGAC/DGC/JLAHRC/2025/31 (b)

Date: 14th October, 2025

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

23 OCT 2025
DIRECTOR COMMITTEE SERVICES
(DCLS)



Lead clerk
JLAHRC
please deal
23/10/2025

RE: PETITION BY HON. ISAIAH MAINA REGARDING PROPOSED AMENDMENTS TO THE COUNTY GOVERNMENTS ACT (CAP. 265).

Reference is made to your letter dated 26th September 2025, inviting this office to respond through written submissions on the proposed amendments of the County Governments Act (Cap. 265).

Having analyzed the Petition, we propose that the Standing Committee on Justice, Legal Affairs, and Human Rights consider the following observations—

1. THAT, in paragraph 4, page 14, there is the proposal of amendment/deletion of section 30 (2) (e), in ensuring uniform organizational structure. We acknowledge that while all county governments are subject to the same objectives and principles outlined in Articles 174 and 175 of the Constitution, creating a standard template may be impractical, as every county government has its own unique needs and requirements. This is further stipulated and reflected in Article 176(2) of the Constitution, which recognises that *'every county shall decentralise its functions and the provision of its services to the extent that it is efficient and practicable to do so'*.
2. THAT, in paragraph 6, page 14, on proposal to amend section 30 (2) (l), in part (e) of the proposal, there is a disconnect on what exactly the proposer intends to constitute a failure to comply, which will warrant a sanction. This requires further clarification to ensure comprehension and informed guidance on the matter.

SHERIA HOUSE, HARAMBEE AVENUE

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STATE DEPARTMENT OF JUSTICE, HUMAN RIGHTS AND CONSTITUTIONAL AFFAIRS

CO-OPERATIVE BANK HOUSE, HAILLE SELLASIE AVENUE P.O. Box 56057-00200, Nairobi-Kenya TEL: Nairobi 2224029/ 2240337

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3. THAT, in paragraph 15, page 16, which proposes the creation of an inter-county institution to scrutinize project identification, distribution and execution within counties. We acknowledge that this is not necessary as the Act establishes monitoring mechanisms within a clear governance framework and departments, where defined roles exist at the county level, which can be utilized to identify community needs and enhance project success within counties.
4. This, together with the establishment of the Council of Governors, whose functions include sharing best practices and encouraging and initiating information sharing on the performance of County Governments with regard to the execution of their functions, is sufficient when principles of good governance as provided for in Article 10 of the Constitution are adhered to and subsequent institutions are adequately empowered and properly utilized.

We respectfully submit.



Hon. Judith Pareno
PRINCIPAL SECRETARY

KENYA LAW REFORM COMMISSION



"A Vibrant Agency for Responsive Law Reform"

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When replying please quote

Ref. No. KLRC/8/86(54)
and Date



KENYA LAW REFORM COMMISSION
REINSURANCE PLAZA
3RD FLOOR
TAIFA ROAD
P.O. Box 34999-00100
NAIROBI, KENYA

15 OCT 2025



14th October, 2025

Mr. J.M. Nyegenye, CBS
Clerk of the Senate
Clerks Chambers
The Senate
Parliament Buildings
P.O. Box 41842
NAIROBI

DGAC
DLF
Note and deal.
15/10/2025

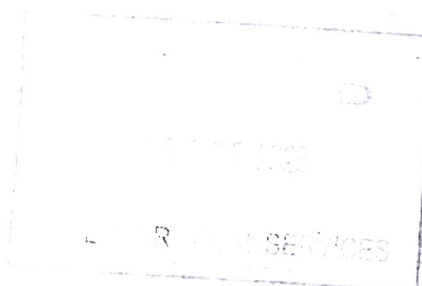
RE: SUBMISSION OF COMMENTS ON THE PETITION BY HON. ISAIAN MAINA
REGARDING PROPOSED AMENDMENTS TO THE COUNTY GOVERNMENTS
ACT (CAP. 265)

The Kenya Law Reform Commission (KLRC), pursuant to its mandate under the KLRC Act (Cap. 3), was invited by the Senate to provide an advisory opinion on the Petition by Hon. Isaian Maina seeking amendments to the County Governments Act.

The main grounds of the Petition are:

1. Ambiguity in Executive Authority.
 - a) Lack of clarity on when Governors or Deputy Governors are deemed "absent" or under "special circumstances."
 - b) Unclear rules on delegation of functions to Deputy Governors.
 - c) Gaps in defining and gazetting "important formal decisions."
2. Weak Accountability Frameworks.
 - a) Inconsistent reporting by Governors and Deputy Governors to county assemblies.
 - b) Need to strengthen oversight by requiring regular appearances and performance reports.

Hos/Lead
JLHRC
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Please see
15/10/2025



- c) Proposal for a new inter-county body to monitor county projects.
- 3. Inconsistencies in County Administrative Structures.
 - a) Differences in county government organization.
 - b) Petition suggests a uniform national template for county structures.
- 4. Appointments and Human Resource Management.
 - a) Concerns with the process of appointing County Executive Committee (CEC) members.
 - b) Need for clearer procedures on removal of county officers.
 - c) Proposal to enhance inclusion of minorities, marginalised groups, and non-residents in County Public Service Boards (CPSBs).
- 5. Administrative Matters.
 - a) Lack of statutory clarity on acting appointments and their duration.
 - b) Proposal to introduce annual leave provisions for Governors, Deputy Governors, and CECs.

KLRC has considered the Petition against the provisions of the Constitution, particularly Articles 6, 10, 174–183, 189, 232, and 259 and related statutes, including the Intergovernmental Relations Act, the Public Service (Values and Principles) Act, the Leadership and Integrity Act and the Employment Act. Based on the analysis, KLRC notes that while the Petition raises pertinent issues on executive authority, appointments, accountability and reporting, most of the challenges identified are attributable to implementation and compliance gaps rather than deficiencies in the law itself. The Constitution and existing statutes already provide a comprehensive enough framework.

KLRC therefore recommends:

- 1) That the Senate considers accepting targeted amendments that seek to strengthen devolution and accountability, for instance:
 - a) Proposal requiring Governors and Deputy Governors to present biannual reports to county assemblies, and
 - b) Proposal to provide for subsidiary legislation to ensure gazettelement of executive decisions and proper recording of delegations.
- 2) That Senate rejects proposals that risk duplicating existing structures or undermining county autonomy, including:
 - a) Defining “absence/special circumstances” in statute.
 - b) Imposing uniform county structures for all counties.
 - c) Establishing a new inter-county oversight body.
 - d) Additional procedures for CEC appointments or statutory leave provisions for Governors, Deputies and CECs.

- 3) That Senate considers redirecting certain proposals to policy or administrative action and county assembly Standing Orders.

In conclusion, KLRC advises that rather than piecemeal amendments to the County Governments Act, the proposals contained in the Petition be considered under the existing integrated reform frameworks including the Kenya Devolution Support Programme II (KDSP) and the proposed National Policy on Devolution (2025).

The full memorandum is attached.

We thank you for continued support and collaboration.



Peter Musyimi, HSC
Ag. SECRETARY /CEO

Encl.



COUNCIL OF GOVERNORS

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Our Ref: COG/6/12 Vol. 14 (16)

15th October 2025

Jeremiah Nyegenye, CBS
The Clerk of the Senate
Parliament Buildings
Nairobi

Dear Clerk,

**COMMENTS ON THE PETITION BY HON. ISAIAH MAINA REGARDING PROPOSED
AMENDMENTS TO THE COUNTY GOVERNMENTS ACT, CAP 265**

Greetings.

We refer to a letter from the Senate Ref. No. SEN/DGAC/DGC/JLAHRC/2025/31 (d) dated 22nd August 2025 inviting the Council to submit its comments on the Petition by Hon. Isaiah Maina, the Member of County Assembly for Ol'lessos Ward, Narok County regarding proposed amendments to the County Governments Act, Cap 265.

The Council has reviewed the Petition and hereby forwards its comments, attached herewith, for your consideration.

Please accept the assurance of our highest esteem and consideration.

Yours sincerely,

Mary Mwititi, EBS
Chief Executive Officer

Copy: All Excellency Governors

All County Attorneys



48 Governments 1 Nation

COMMENTS ON THE PETITION BY HON. ISAIAH MAINA REGARDING PROPOSED AMENDMENTS TO THE COUNTY
GOVERNMENTS ACT, CAP 265

TO

THE SENATE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS

FROM

THE COUNCIL OF GOVERNORS

The Council of Governors (The Council),

In recognition of Article 1(4) of the Constitution of Kenya, that sovereign power of the people is exercised at the national level and the county level;

In further recognition of Article 6 (2) that governments at the national and county levels are distinct; and

Aware of the need for coordination and consultation between the National Government and County Governments to ensure that legislation responds to the key issues facing devolution, and further reflects the spirit and objects of devolution;

Hereby notes as follows on the **Petition** by Hon. Isaiah Maina, the Member of County Assembly for Ol'lessos Ward, Narok County regarding **proposed amendments to the County Governments Act, Cap 265 (the "Petition" and "the Principal Act" respectively);**

A. SPECIFIC COMMENTS;

Specifically, the Council recommends the following with respect to the proposals in the Petition for consideration:

PROPOSAL IN THE PETITION	PROVISION IN THE PRINCIPAL ACT	COUNCIL RECOMMENDATION
Section 2 - Interpretation Include the meaning of the term 'absent' and what it shall entail in respect of the governor and deputy governor.	No definition of the term 'absent' is provided.	The Council is agreeable to this but notes that there is no similar provision at the national level as this is usually administratively managed between the president and the deputy president.
Section 2- Interpretation Include definition of 'special circumstances' during which a county governor/deputy governor or appointed members of the county executive on leave shall be expected to resume work or perform official duties.	No definition of the term 'special circumstances' is provided.	We oppose this as Governors and Deputy Governors are state officers who are not subject to the terms of office for public officers. Their proceeding on leave and when to resume duties is an administrative arrangement that does not need to be legislated upon.

Section 30- Functions and responsibilities of a county Governor Inserting a provision in subsection 2 (d) that the appointments contemplated under the subsection will be subject to Article 179 (2) (b) and Section 35 of the Act;	30. (2) Subject to the Constitution, the Governor shall— (d) appoint, with the approval of the county assembly, the county executive committee in accordance with Article 179(2)(b) of the Constitution;	This is not necessary as it is already provided in the Constitution and Section 35 (2) of the Principal Act.
Section 30- Functions and responsibilities of a county Governor Deleting subsection 2 (e) and replacing it with a provision for uniform organizational structure for all counties.	30. (2) Subject to the Constitution, the Governor shall— (e) constitute the county executive committee portfolio structure to respond to the functions and competencies assigned to and transferred to each county;	The petition gives the rationale for this proposal by citing a contradiction between Section 30 (2) (e) and Section 46 of the Principal Act. We are of the view that there is no contradiction between the two provisions. Section 30 (2) (e) provides the Governor's general mandate to appoint county executive committee members (CECM) whereas Section 46 expounds on the executive committee's mandate to determine and approve the nature of county departments. We oppose provision of a uniform organizational structure for all counties, as every county is unique in the requirements for effectiveness of its service delivery. Allowing Counties to determine how they are organized allows for efficiency in service delivery.

Section 30- Functions and responsibilities of a county Governor Amend Section 30 (2) (l) to provide for among others: (a) Meaning and scope of important formal decision; (b) Timelines for gazette and communication; (c) Inclusion of immutable time stamps for all such important decisions; (d) County expenditure decisions in the form of financial reports be included as formal decisions to be reported under Article 183 (3) and shall include Electronic Funds Transfer Reports and certified bank statements held by the County including the County Assembly; (e) Sanctions on failing to comply that may include suspension and/or removal from office without the need of a vote in the assembly.	30. (2) Subject to the Constitution, the Governor shall— (l) sign and cause to be published in the county Gazette, notice of all important formal decisions made by the Governor or by the county executive committee.	We oppose this proposal and note that the county gazette has not been operationalized and it would provide a platform for effective disclosure of county-specific decisions. We also note that incorporating these proposals will be over-prescriptive as determining what decisions to gazette can be an administrative decision in the counties. Further, we note that all citizens can access information held by the State, which includes County Governments as guaranteed under Article 35 of the Constitution. Moreover, Section 163-168 of the Principal Act already provides for quarterly and annual reporting by accounting officers in the County Government to the County Treasury and subsequently the County Assembly. In light of the foregoing, we do not require to provide for any sanctions for non-compliance.
Section 31- Powers of the Governor Deleting subsection (ba) and and replacing it with a new subsection requiring the governor to seek the concurrence of the County Assembly when re-assigning a CECM to a portfolio other than the one he/she was vetted for.	31. The Governor- (ba) may re-assign a county executive committee member;	We oppose this proposal as CECMs are state officers under Article 260 of the Constitution and are appointees who once vetted by the County Assembly at appointment, may be reassigned to ensure efficiency in service delivery. Further, there is no corresponding

Section 32- Functions of the deputy Governor Deleting subsection 3 and replacing it with a new subsection that provides that the governor may only delegate in writing any of his/her responsibilities but not as a member of the county executive committee under Article 179 (2) (b) or where the law provides otherwise;		provision of approval of re-assignments for cabinet secretaries at the national level.
	32. (3) The Governor may assign the deputy Governor any other responsibility or portfolio as a member of the county executive committee.	We oppose this proposal due to the constitutional parallel between the Governor–Deputy Governor and the President–Deputy President relationship in our governance structures. The Principal Act as is affords each Governor the flexibility to delegate responsibilities based on county needs, mirroring how the President assigns functions to the Deputy President via Executive Orders at the national level. Such assignment of responsibilities to the Deputy Governor is usually in writing through respective County Executive Orders.
Section 35- Appointment of county executive members Provide for a process of sourcing, shortlisting and nominating persons for vetting and appointment to the office of CECM.	(1)The Governor shall, when nominating members of the executive committee— (a)ensure that to the fullest extent possible, the composition of the executive committee reflects the community and cultural diversity of the county; and	This provision as drafted provides sufficient qualifications and appointment requirements for CECMs as they are state officers. Providing for sourcing, shortlisting and nomination will be over prescriptive.

	(b)take into account the principles of affirmative action as provided for in the Constitution. (2)The county assembly shall not approve nominations for appointment to the executive committee that do not take into account— (a)not more than two thirds of either gender; (b)representation of the minorities, marginalized groups and communities; and (c)community and cultural diversity within the county. (3) A person may be appointed as a member of the county executive committee if that person— (a)is a Kenyan citizen; (b)is a holder of at least a first degree from a university recognised in Kenya; (c)satisfies the requirements of Chapter Six of the Constitution; and (d)has knowledge, experience and a distinguished career of not less than five years in the field relevant to the	
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	portfolio of the department to which the person is being appointed. (4) A member of the county executive committee shall not hold any other State or public office.	
Section 39- Accountability of members of the executive committee Insert a provision in subsection 2 to provide for a requirement of the Governor and/or the Deputy Governor to attend and appear before a Committee of the County Assembly for purposes of answering questions and/or giving evidence on their duties under Article 179 (4) & (5) and 183 (3) and Sections 30 (3)(f) and Section 39 (1) of the Act or for any other reasons required by law.	39. Accountability of members of the executive committee (1)The members of the county executive committee are individually and collectively accountable to the Governor in the exercise of their powers and performance of their duties and responsibilities. (2)A committee of the county assembly may require a member of the executive committee to— (a)attend or appear before the committee; and (b)answer any question relating to the member's responsibilities.	We oppose this as subsection (2) as framed allows for the Governor or Deputy Governor, as members of the county executive, to appear before the county assembly to answer questions relating to their responsibilities.
Section 45- Appointment of county chief officers Clarify that the competencies required for appointment of county chief officers (CCOs) are specific to a department and that they can be re-assigned. Require that re-assignment be subjected to concurrence of the county assembly;	(1)Whenever a vacancy arises in the office of a county chief officer, the respective Governor shall within fourteen days— (a)nominate qualified and experienced county chief officers from among	We oppose this proposal as CCOs once vetted by the County Assembly at appointment, may be reassigned to ensure efficiency in service delivery. Moreover, there is no corresponding provision of approval of re-assignments in departments at the national level.

and provide for grounds and process for removal of CCOs.	persons competitively sourced and recommended by the County Public Service Board; and (b)with the approval of the county assembly, appoint county chief officers. (2)The office of a county chief officer shall be an office in the county public service. (3)A county chief officer shall be responsible to the respective county executive committee member for the administration of a county department as provided under section 46. (4)The county chief officer shall be the authorized officer in respect of the exercise of delegated power. (5)The Governor may re-assign a county chief officer. (6)The office of the county chief officer shall become vacant if the officer— (a)dies; (b)resigns by notice in writing addressed to the Governor; or (c)is removed from office in accordance with the terms of service	Section 45 (6) (c) provides that a CCO may be removed from office in accordance with the terms of service or any other written law applicable to the officer. This is sufficient and a procedure for removal thereof may be provided in regulations, as opposed to the Principal Act.
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Section 58A- Procedure for nomination and appointment of members of the Board Provide for timelines between the occurrences of vacancies in the County Public Service Board (CPSB) and provide thresholds below which the CPSB may not operate legally, especially vacancies in the office of chair or secretary. Provide also for inclusive representation in the membership.	or any other written law applicable to the officer. 58A (1)Whenever a vacancy arises in a county public service board, the Governor shall nominate and, with the approval of the county assembly, appoint members to a selection panel for the purpose of selecting suitable candidates for appointment as members of the county public service board. (2)The selection panel under subsection (1) shall consist of the following persons— (a)a Chairperson, not being a public officer; (b)one person from the private sector; (c)an Advocate of the High Court of Kenya, who is a member of the Law Society of Kenya; (d)an accountant who is a member of the Institute of Certified Public Accountants of Kenya; and(e)one person from an association representing workers. ...	We are agreeable to provisions on quorum, inclusive representation of certain groups and having timelines for declaration of a vacancy in the CPSB.
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A new provision requiring the Governor to adhere to Article 259 (11) when exercising powers shared with the Assembly.	N/A	We note that the Constitution ought to be read together with Acts of Parliament that state who the Governor needs to consult in making his/her decisions and hence, there is no need to restate this in the Principal Act.
A new section to provide for annual leave for the county governor, deputy governor and appointed members of the county executive.	N/A	This is an administrative arrangement as these are state officers hence there is no need to provide this in the Principal Act.
A new section to provide for the creation of an inter-county institution to scrutinize project identification, distribution and execution within counties among other things.	N/A	We are of the view that this proposal is not necessary as county planning including identification, approval and oversight of project execution is overseen by the county assembly under Part XI of the Principal Act. Nevertheless, Counties that wish to collaborate on execution of projects are allowed to form joint committees and joint authorities under Article 189 (2) of the Constitution.

B. CONCLUSION;

The Council requests the Committee to consider our proposals favourably.



RE: PETITION BY HON. ISAIAH MAINA REGARDING PROPOSED AMENDMENTS TO THE
COUNTY GOVERNMENTS ACT (CAP. 265)

1.0 INTRODUCTION

The Kenya Law Reform Commission (KLRC) is established under the Kenya Law Reform Commission Act (Cap. 3) and is mandated to keep under review all the laws of Kenya to ensure that they conform to the letter and spirit of the Constitution, to promote access to justice and to advise on the reform and systematic development of the law, at national and county government levels.

Pursuant to this mandate, the Senate invited KLRC to provide its advisory opinion on a Petition presented by Hon. Isaiah Maina, Member of the County Assembly for Ol'Lessos Ward, Nandi County. The Petition proposes amendments to the County Governments Act (Cap. 265) with a view to strengthening county governance through statutory clarification of certain powers, processes and accountability obligations.

This memorandum offers a detailed legal, policy and institutional analysis of the proposals in the Petition, arranged thematically for coherence and guided by the constitutional principles of devolution, separation of powers, good governance and public accountability.

2.0 BACKGROUND AND CONTEXT

The County Governments Act was enacted to give effect to Chapter Eleven of the Constitution, establishing the structures, powers and functions of county governments. Over the past decade, its implementation has revealed several administrative and interpretive challenges. These include ambiguity in the exercise of executive authority, inconsistencies in county administrative structures, limited clarity in accountability relationships and divergence in appointment and reporting practices across counties.

The Petition by Hon. Maina identifies these challenges and proposes legislative amendments touching on interpretation, executive conduct, appointments, inclusivity, reporting and administrative

procedures. In assessing these proposals, KLRC considered the provisions of the Constitution—particularly Articles 6, 10, 174–183, 189, 232, and 259—and related statutes, including the Intergovernmental Relations Act, the Public Service (Values and Principles) Act, the Leadership and Integrity Act and the Employment Act.

3.0 CONSTITUTIONAL FRAMEWORK

The Constitution anchors devolution on the principles of distinctness, interdependence and cooperation between the two levels of government under Article 6(2). Article 174 outlines the objects of devolution, including promoting democratic and accountable exercise of power, enhancing self-governance and ensuring equitable sharing of resources. Articles 179 and 183 establish the county executive system and its accountability obligations, while Article 185 vests legislative and oversight authority in county assemblies.

These constitutional provisions set the boundaries within which any legislative amendment to the County Governments Act must operate. They require that any change strengthens—not dilutes—the clarity of executive authority, legislative oversight and public accountability.

4.0 ANALYSIS OF THE PETITIONER'S PROPOSALS

4.1 Interpretation and Foundational Provisions

The Petitioner proposes that section 2 of the Act be amended to include definitions of the terms “absence” and “special circumstances,” particularly in relation to the Governor or Deputy Governor proceeding on leave. While these proposals are motivated by a desire to ensure continuity and transparency in governance, they raise fundamental issues about the distinction between constitutional and administrative matters.

Article 182 of the Constitution already provides for temporary incapacity and vacancy in the office of the Governor. Defining “absence” within the Act could unintentionally expand or narrow constitutional meaning. From a policy standpoint, this may be better managed through regulations that describe the administrative procedure for notifying the county assembly when the Governor or Deputy Governor is temporarily away, rather than through statutory amendment. Similarly, the proposal to define “special circumstances” for leave of the Governor or Deputy Governor touches on matters of administrative convenience, not legislative principle. State officers, unlike public officers, do not have leave entitlements prescribed in law, but operate on the basis of accountability and duty.

KLRC therefore finds that both matters are best addressed through administrative circulars or human resource guidelines developed collaboratively by the Public Service Commission (PSC), the Salaries and Remuneration Commission (SRC), and the Council of Governors (CoG), pursuant to their respective

mandates under Articles 230 and 234 of the Constitution and the Intergovernmental Relations Act, rather than by amending the principal legislation.

4.2 Executive Authority and Accountability

A series of proposals relate to the scope and exercise of executive authority under section 30 to section 34 of the Act. These include aligning appointments with section 35, developing a uniform structure for all counties, defining what constitutes an “important formal decision,” clarifying accountability of the Governor and Deputy Governor to the assembly and prescribing how functions are delegated to the Deputy Governor.

Article 179(1) of the Constitution vests executive authority of the county in the county executive committee, which is collectively accountable to the county assembly under Article 183(1). This collective responsibility means that while the Governor leads the executive, his or her authority is exercised within a system of checks both internal (among the CEC members) and external (through the county assembly).

The proposed link between section 30(2)(d) and section 35 is sound in purpose, aiming to ensure consistency between the Constitution and statute. However, the provision already reads harmoniously with Article 179(2)(b). No statutory amendment is required; instead, interpretive guidance could be issued through a circular from the State Department for Devolution to clarify that appointments of CEC members must adhere to both the Constitution and the Act.

The proposal under section 30(2)(e) for a “standard national template” for county government organisation raises constitutional and policy concerns. Article 6(2) establishes counties as distinct governments with discretion to determine their internal structures. Imposing uniformity through law would contravene that principle. The more constitutionally faithful approach is to develop a Model County Organisational Framework through the Public Service Commission (PSC), the Intergovernmental Relations Technical Committee (IGRTC) and the CoG, for adoption by counties through administrative resolutions rather than legislation.

Similarly, the call to define “important formal decisions” and introduce gazettelement timelines under section 30(2)(l) reflects the need for clarity in executive communication. From a governance perspective, the absence of clear criteria for what constitutes a formal decision sometimes leads to selective gazettelement, affecting legality and audit trails. KLRC supports defining such decisions through subsidiary legislation—for example, requiring that all executive orders, appointments, delegations and strategic plans be gazetted within fourteen days of approval. This approach maintains flexibility while reinforcing transparency.

The proposal to amend section 30(3)(f) to expressly require the Governor and Deputy Governor to report to the county assembly on resource management aligns well with Article 183(3), which obliges

county executives to provide full and regular reports to the assembly. Embedding this in the Act would institutionalise accountability cycles and create predictability for assemblies to schedule such sessions alongside budget and development reviews.

The issue that has generated the most interest is section 32(3), which concerns the delegation of functions to the Deputy Governor. Under Article 179(5) of the Constitution, the Governor may assign to the Deputy Governor, in writing, any of the functions of the office of Governor. This is distinct from Article 182(2), which provides for the Deputy Governor to act as Governor during the Governor's temporary incapacity or absence. In practice, some Governors have gone beyond administrative assistance and delegated to their Deputies substantive responsibility over specific sectors or departments—such as finance, intergovernmental relations, or special programmes. This evolving practice has raised questions as to whether such assignments effectively transform the Deputy Governor into a *de facto* County Executive Committee member and, by extension, whether such delegated functions render the Deputy Governor susceptible to censure motions under section 40 of the Act.

KLRC notes that the Deputy Governor's constitutional position is that of a principal assistant, akin to the role of the Deputy President under Article 147 of the Constitution. Delegation does not constitute appointment to a CEC position; it is a temporary and administrative assignment for efficiency. The Governor remains accountable for all delegated acts and the Deputy Governor can only be removed through the procedure in Article 181. The Commission recommends amending section 32 to explicitly require that delegation be made in writing, gazetted and filed with the county assembly, and to clarify that such delegation does not confer independent portfolio status nor alter the Deputy Governor's substantive role. This harmonises county practice with national precedent, where the Deputy President may coordinate or chair functions but does not hold a ministerial docket.

Finally, the proposal to introduce an inter-county institution under section 34 to scrutinise and report on county projects is unnecessary and constitutionally misaligned. The County Governments Act already establishes an elaborate planning and reporting framework through County Integrated Development Plans (CIDPs), Annual Development Plans (ADPs) and performance management systems that provide for monitoring, evaluation, and reporting on development projects. Further, the Public Audit Act, 2015 entrusts the oversight and audit of the use of public resources to the Office of the Auditor-General, while legislative oversight is exercised by the County Assemblies and, at the intergovernmental level, by the Senate under Article 96(3) of the Constitution.

At the national level, the Intergovernmental Relations Act, 2012 and the structures established under it — notably the Council of Governors (CoG) and the Intergovernmental Relations Technical Committee (IGRTC) — already provide for inter-county consultation, coordination and evaluation of joint programmes. Creating another institution at county level to perform similar functions would duplicate existing mandates, distort accountability, and introduce an additional layer of bureaucracy.

KLRC therefore finds that the proposed amendment is unnecessary. Strengthening the existing planning, audit and intergovernmental coordination mechanisms — rather than creating a parallel body — would more effectively enhance transparency and accountability in the management of county projects.

4.3 Appointments, Human Resource Management and Inclusion

The Petition raises several concerns around appointments and inclusion, notably amendments to sections 35, 45, 49 and 58A.

Section 35 already prescribes a merit-based, transparent and representative process for the appointment of County Executive Committee members, in conformity with Articles 27(8) and 232 of the Constitution. The provision also safeguards executive independence by leaving the discretion to nominate CEC members to the Governor, subject to vetting and approval by the county assembly under section 35(2). This arrangement reflects the constitutional design in which the Governor, as the head of the county executive, retains the prerogative to constitute the cabinet while the assembly exercises an oversight and confirmatory role to ensure that nominees meet the prescribed integrity, competence and diversity requirements.

The petitioner's proposal to introduce additional statutory or regulatory procedures for sourcing, shortlisting and nomination would therefore unduly fetter the executive function and risk transforming the appointment process into an administrative rather than a political and constitutional exercise. Questions of qualification, suitability and representativeness are already addressed comprehensively during the vetting process, as guided by the Public Appointments (County Assemblies Approval) Act.

KLRC thus finds that no further regulations or amendments are necessary. Strengthening the assembly's vetting capacity and adherence to the values in Articles 10 and 232 offers a more constitutionally sound approach than expanding procedural prescription in law

With respect to section 45/49, the proposed clarification on grounds for removal of officers is unnecessary. These sections already empower County Public Service Boards to make disciplinary decisions in accordance with national human resource laws and principles. The grounds for removal are well covered under the Public Service Commission Regulations and the Public Service (Values and Principles) Act. The Commission therefore finds no legislative gap requiring amendment.

A more substantive and progressive issue arises from the proposed amendment to section 58A, which seeks to require the inclusion of minorities, marginalised communities, and non-residents in County Public Service Boards (CPSBs). While the intention accords with Article 56 and Article 232(1)(h) of the Constitution on inclusiveness and representation of diversity, KLRC notes that these obligations are already expressly embedded in the existing law. The persistent challenge, as demonstrated by the annual diversity and inclusion audits undertaken by the Public Service Commission (PSC) and the

National Cohesion and Integration Commission (NCIC), lies not in legislative deficiency but in weak compliance and enforcement at county level.

In view of this, the focus of reform should shift from further restating constitutional values to strengthening accountability and sanctions for non-compliance. The PSC should, through regulations made under section 59 of the County Governments Act, require each County Public Service Board to submit annual diversity implementation reports. Counties that fail to meet inclusion thresholds should be subject to administrative sanctions—such as suspension of recruitment approvals or recommendation for remedial measures through the Governor and County Assembly.

Additionally, the Commission on Revenue Allocation (CRA) could be directed to incorporate adherence to diversity and inclusion standards as a performance indicator in the development of the revenue-sharing formula and in conditional grant allocations. This would introduce a tangible incentive for counties to comply with constitutional inclusion requirements.

KLRC therefore does not support a further amendment to section 58A but recommends strengthening regulatory enforcement, audit-based sanctions, and fiscal incentives to compel County Public Service Boards to implement the inclusion obligations already established in law.

4.4 Legislative Oversight, Reporting and Procedural Safeguards

The Petition also proposes that section 39 be amended to require the Governor or Deputy Governor to appear before the county assembly to answer questions and provide evidence on their duties. Although Article 183(3) and section 39 already envisage regular reporting, the proposed amendment would strengthen this obligation by institutionalising appearances as part of the accountability calendar. From a policy standpoint, this measure aligns with the spirit of Article 10 and 185(3), enhancing transparency without infringing on executive autonomy. The Commission supports a clarificatory amendment requiring Governors and deputies to present at least biannual performance reports to the assembly and to appear when summoned for clarifications.

The petitioner further suggests that assemblies should not vote or reject reports without considering evidence. While this proposal underscores the importance of evidence-based oversight, it touches on the internal workings of the legislature. Article 185(3) and the County Assemblies Powers and Privileges Act, 2017 protect assemblies' procedural autonomy. This matter is therefore best addressed through amendments to county standing orders rather than statute. The Senate may, however, issue guidance encouraging county assemblies to adopt evidence-based review standards in their rules of procedure.

4.5 Administrative and Miscellaneous Provisions

The Petition's final set of proposals concern acting appointments and annual leave. Paragraph 24 proposes to amend the Act to ensure that acting appointments conform to Article 259(11) of the Constitution. The Constitution already limits such appointments to six months and the provision is self-executing. The problem lies not in legislative deficiency but in compliance. KLRC advises that the PSC and CoG jointly issue a public service circular reinforcing the six-month limit and providing reporting obligations to ensure enforcement.

Paragraph 26 of the Petition proposes statutory provision for annual leave for Governors, deputies and county executives. While the intention may be to regularise administrative continuity, such provisions are misplaced in primary legislation. The Employment Act, 2007 and public service manuals already cover leave for employees, whereas state officers' terms are guided by leadership and integrity obligations. This issue is therefore purely administrative and should be handled through guidelines issued by specifying procedure for temporary delegation during absence.

5.0 INSTITUTIONAL AND POLICY CONSIDERATIONS

The Petition, though presented as a series of proposed statutory amendments, reflects deeper structural and policy issues concerning the practice of county governance. The pattern of its proposals points not to legislative deficiency, but to gaps in administrative guidance, institutional coordination and compliance oversight within the devolved system. Many of the challenges raised are the result of uneven implementation of existing laws rather than the absence of enabling legislation.

A more effective and sustainable response is therefore to locate these matters within the ongoing Kenya Devolution Support Programme II (KDSP II) and the emerging National Policy on Devolution (2025). Both instruments aim to consolidate the gains of devolution, clarify intergovernmental relationships and rationalise the legislative and policy environment governing counties. Embedding the issues raised by the Petition in these broader policy processes would ensure that any reform undertaken is systemic, coherent and aligned to national development and governance frameworks, rather than isolated statutory amendment.

The Commission further observes that most of the issues identified—particularly those relating to appointments, reporting and inter-county coordination—require strengthened intergovernmental collaboration rather than amendment of the principal Act. The Intergovernmental Relations Technical Committee (IGRTC), the Council of Governors (CoG) and the Public Service Commission (PSC) already have established mandates under the Intergovernmental Relations Act and the County Governments Act to issue guidelines, monitor compliance and build capacity across counties. Reinforcing their roles through clear policy instruments, joint frameworks and periodic compliance audits would achieve greater uniformity and predictability in county governance practice.

In addition, KLRC notes that the National Treasury, the Commission on Revenue Allocation (CRA) and the Office of the Auditor-General (OAG) are central to ensuring fiscal discipline and performance accountability within the devolved system. Strengthening linkages between these institutions and the oversight functions of the Senate and County Assemblies would promote vertical accountability—ensuring that executive discretion at the county level remains balanced by financial and performance oversight at both national and county levels.

The Commission also underscores the importance of capacity-building and civic literacy among county institutions. Many governance challenges arise from limited understanding of constitutional roles and statutory mandates, particularly in the application of Articles 10, 183, and 232 of the Constitution. Embedding continuous induction, peer learning and policy support mechanisms through KLRC, the CoG, IGRTC and the State Department for Devolution would address these systemic weaknesses more effectively than further amendment of the County Governments Act.

Finally, KLRC stresses that sustainable improvement in county governance demands a policy–law–practice alignment framework. Policies should first articulate governance principles; legislation should translate these principles into enforceable standards; and administrative practice should ensure compliance and feedback for further reform. This integrated approach—anchored in the National Policy on Devolution (2025), the Kenya Devolution Programme II, and Kenya’s long-term governance blueprints—offers the most coherent pathway for realising accountable, responsive and performance-oriented county governments.

6.0 CONCLUSION

The Kenya Law Reform Commission acknowledges the Petition by Hon. Isaian Maina as a constructive contribution to the continuing refinement of Kenya’s devolved governance framework. The Petition raises pertinent questions about the balance between executive authority, accountability and intergovernmental coherence within counties. However, as this analysis demonstrates, the majority of the issues identified are rooted less in legislative gaps than in the absence of coherent policy direction, administrative guidance and enforcement mechanisms.

The Commission therefore advises that most of the proposals are best addressed within the broader Devolution Policy and Law Review process under the Kenya Devolution Support Programme II and the forthcoming National Policy on Devolution (2025), rather than through piecemeal amendment of the County Governments Act. Embedding these matters within an integrated reform framework will ensure harmony between constitutional principles, statutory obligations and county-level practice.

KLRC further recommends that the Senate, working with the Intergovernmental Relations Technical Committee (IGRTC), the Council of Governors (CoG), the Public Service Commission (PSC) and other