

REPUBLIC OF KENYA

PARLIAMENT
OF KENYA
LIBRARY



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THE NATIONAL ASSEMBLY
13TH PARLIAMENT – THIRD SESSION

DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE

REPORT ON:-

THE CONSIDERATION OF THE KENYA NATIONAL LIBRARY SERVICE BILL
(NATIONAL ASSEMBLY BILL NO. 20 OF 2023).

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 25 JUL 2024	DAY: Thursday
TABLED BY:	Hon. Carol Omondi, MP Member
CLERK-AT THE TABLE:	Anne Shubuko

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Directorate of Departmental Committees		

JUNE, 2024

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LIST OF ABBREVIATIONS AND ACRONYMS

CAF	- County Assemblies Forum
CEO	- Chief Executive Officer
KNLS	- Kenya National Library Service
CoG	- Council of Governors
CoK	- Constitution of Kenya
IGRTC	- Inter-Governmental Relations Technical Committee
IFLA	- International Federation of Library Associations

ANNEXURES

- Annexure 1: Adoption Schedule
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CHAIRPERSON'S FOREWORD

The proposed amendments to the Kenya National Library Service Bill (National Assembly Bill No. 20 of 2023) sponsored by Hon. Daniel Wanyama Sitati, MP, seeks to give effect to Article 11(2)(a) of the Constitution which mandates the State to promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage.

The Bill was published on Wednesday 24th May, 2023. The Bill went through the First Reading on 8th November 2023 and was thereafter committed to the Departmental Committee on Sports and Culture for consideration and reporting to the House pursuant to the provision of Standing Order 127.

The Committee placed advertisements in the print media on 16th August 2023 seeking public views on the Bill as required by Article 118 of the Constitution of Kenya and National Assembly Standing Order 127(3). The Committee received written memoranda from three (3) stakeholders.

While considering the Bill, the Committee observed that there is a need to provide a legal framework for the Kenya National Library Service. It seeks to provide for the management of the Kenya National Library Service, and to give effect to the provisions of Article 11(2)(a) of the Constitution which mandates the State to promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage.

Further, the Committee observed that the proposed amendment seeks to delineate the functions of National and County Governments to ensure each level of government performs their distinct functions.

The Committee recommends that the Bill be proceeded with, taking into account the proposed amendments.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during the consideration of the Bill. I wish to express appreciation to the Honourable Members of the Committee and the Committee Secretariat for their resilience and commitment to duty, which made the consideration of the Bill successful. May I also on behalf of the Committee thank and appreciate the stakeholders who submitted memoranda on the Bill. Indeed, their views informed the consideration of the Bill.

On behalf of the Committee and pursuant to provisions of Standing Order 137 (1) and 199 (6), it is my pleasant privilege and honour to present to this House the report of the Committee on its consideration of the Kenya National Library Service Bill (National Assembly Bill No. 20 of 2023)



Hon. Daniel Wanyama Sitati, M.P.
Chairperson, Departmental Committee on Sports and Culture

CHAPTER ONE

1.0 PREFACE

1.1 Establishment of the Committee

1. The Departmental Committee on Sports and Culture is one of the twenty (20) Departmental Committees of the National Assembly established under *Standing Order 216* whose mandates pursuant to the *Standing Order 216 (5)* are as follows:
 - i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
 - ii. *To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;*
 - iii. *On a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
 - iv. ***To study and review all the legislation referred to it;***
 - v. *To study, access and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - vi. *To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
 - vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No. 204 (Committee on appointments);*
 - viii. *To examine treaties, agreements and conventions;*
 - ix. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
 - x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - xi. *To examine any questions raised by Members on a matter within its mandate.*

1.2 Mandate of the Committee

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider:-
 - a) Sports;
 - b) Culture;
 - c) Language;
 - d) Creative Economy including promotion of music, arts, film promotion and development;
 - e) National Heritage;
 - f) Betting and Lotteries.
3. In executing its mandate, the Committee oversees the following Ministries/Departments:
 - a) Ministry of Youth Affairs, Creative Economy and Sports; and
 - b) Ministry of Gender, Culture, the Arts & Heritage.

1.3 Committee Membership

4. The Departmental Committee on Sports and Culture was constituted by the House on 27th October 2022 and comprises of the following members:

Chairperson

Hon. Daniel Wanyama Sitati, MP
Webuye West Constituency

UDA Party

Vice-Chairperson

Hon. James Githua Wamacukuru, MP
Kabete Constituency

UDA Party

Members

Hon. Naomi Jillo Waqo, MP
Marsabit County
UDA Party

Hon. Mary Emaase Otucho, MP
Teso South Constituency
UDA Party

Hon. Stephen Mutinda Mule, MP
Matungulu Constituency
WDM-K Party

Hon. Chege Njuguna, MP
Kandara Constituency
UDA Party

Hon. Catherine Nakhabi Omanyoo, MP
Busia County
ODM Party

Hon. Paul Ekwom Nabuin, MP
Turkana North Constituency
ODM Party

Hon. BSP. (EM) Dr. Jackson Kipkemoi
Kosgei, MP
Nominated
UDA Party

Hon. Samuel Gonzi Rai, MP
Kinango Constituency
PAA Party

Hon. Charles Ngusya Nguna, MP
Mwingi West Constituency
WDM –K Party

Hon. Janet Jepkemboi Sitienei, MP
Turbo Constituency
UDA Party

Hon. Richard Kipkemoi Yegon, MP
Bomet East Constituency
UDA Party

Hon. Caroli Omondi, MP
Suba South Constituency
ODM Party

Hon. Robert Ngui Basil, MP
Yatta Constituency
WDM-K Party

1.4 Committee Secretariat

5. The Committee's secretariat comprises of the following officers:

Mr. Adan Gindicha
Principal Clerk Assistant II/Head of Secretariat

Ms Mary Kinyunye
Clerk Assistant III

Mr. V P Okech Owino
Research Officer II

Ms. Christine Odhiambo
Senior Legal Counsel

Mr. Wilson Mwangi
Fiscal Analyst III

Mr. Moses Omoit
Audio Officer III

Mr. Peter Atsiaya
Media Relations Officer III

Mr. Said Babo Wako
Serjeant-At-Arms

CHAPTER TWO

2.0 OVERVIEW OF KENYA NATIONAL LIBRARY SERVICE BILL (NATIONAL ASSEMBLY BILL NO. 20 OF 2023)

2.1 Background

6. The Kenya National Library Service Bill, sponsored by the Chairperson of the Departmental Committee on Sports and Culture, the Hon. Daniel Wanyama Sitati, MP, was published on Wednesday 24th May, 2023. The Bill was read a First Time on Wednesday 9th August 2023. Thereafter, the Bill was committed to the Departmental Committee on Sports and Culture for public participation.

2.1 Global viewpoint

7. As a global standard, the majority of countries have national libraries. The general assumption is that each country should have one. Unfortunately, many national libraries face challenges in performing the national functions which are their reason for existence. This is due to a variety of factors, chief among them; lack of funds and effective powers.
8. a) **Relationship with The State:** The first concern is to clarify the aims and functions of the national library vis-a-vis the state. A national library is too important an organ for its aims, functions and survival to be dependent on mere administrative decisions. It should be established by the legislature. If this is done, the legislature can hold the management of the national library accountable for the manner in which it pursues its enacted aim and carries out its statutory functions, while the management of the national library has a firm basis on which it can approach the legislature for the funding it needs to carry out its functions.
9. b) **Authority:** The second concern is to provide a basis for the national library's relationships with other libraries and institutions. To carry out key national functions which entail, for example, cooperation with other institutions, initiating and coordinating national library and information programmes, encouraging standardization, and carrying out national and international liaison tasks, the national library needs statutory recognition which gives it the necessary authority.
10. c) **Autonomy:** The third concern is to gain a greater degree of autonomy for the national library, with particular emphasis on the competence of its management to determine priorities and to allocate resources in a flexible way in response to changes taking place in the library's environment (Lor 1987).

11. **Countries that have National Libraries established by law include the following:**

- i. **Iceland**, National and University Library of Iceland (Landsbókasafn Íslands Háskólabókasafn)
 - ii. **India**, National Library of India
 - iii. **Indonesia**, National Library of Indonesia (Perpustakaan Nasional Republik Indonesia)
 - iv. **Iran**, National Library of Iran (Ketabkhane-ye Melli-ye Iran)
 - v. **USA**, The National Library of Congress (Est. 24TH APRIL, 1800)
 - vi. **Belgium**, Royal Library of Belgium (Koninklijke Bibliotheek van België = Bibliothèque royale de Belgique)
 - vii. **Other countries include:** Algeria, Angola, Burkina Faso, The Gambia, Lesotho, Colombia, Denmark, Germany, United Kingdom, Sao Tome and Principe, Malaysia and Philippines.
12. **NB:** USA's Library of Congress (LOC) is a research library that serves as the library and research service of the U.S. Congress and the *de facto* national library of the United States. It is the United States' oldest federal cultural institution. It is the largest library in the world. Its collection was growing at a rate of about two million items per year; it reached more than 170 million items in 2020.
13. Many national librarians believe that this situation can be remedied, at least in part, by appropriate legislation. Three underlying concerns are reflected in the various arguments that have been advanced for national library legislation.
14. Not all National Libraries are established by law. They are however, by their operations and functions, taken to be National libraries. They include the following: **Sri Lanka, Bulgaria, Mexico, Argentina, Ghana and Italy.**
15. The principal object of this Bill is to give effect to **Article 11(2)(a)** of the Constitution which mandates the State to promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage.¹
16. No amount of legislation can make up for a lack of the political will to adequately support and empower a country's national library. However, a sound legislative framework for a country's national library, which gives expression to the legislators' commitment to the institution, would

appear to be a prerequisite for the allocation of the resources and powers such an institution needs to carry out national functions in efficient and effective ways.

17. KNLS should conduct periodic information needs assessments in order to tailor their services for their clients. There is a lot of competition from the virtual / online platforms.

18. KNLS to afford the Committee their latest STRATEGIC PLAN that was set to start in 2022. The previous one covered 2017 – 2022.

2.4 General provisions

19. **Independence of the Kenya National Library Service-** the Service shall not be subject to the direction and control of any person or institution.

20. **Agreements for the management of public libraries-** the Service may enter into a written agreement with a county government on the management of a public library within that county.

21. The Bill provides that the following actions shall be deemed as offences:

- i. False declaration of certificate of registration;
- ii. False procurement of registration;
- iii. Stealing or destruction of library material;
- iv. Obstruction of a member of staff of the Service from the performance of their duties;
- v. Submission of false or misleading information;
- vi. Making of false representation.

22. The penalty for the offences is a fine not exceeding one hundred thousand shillings, or imprisonment for a term not exceeding twelve months, or both.

23. The Bill repeals The Kenya National Library Service Board Act, Cap. 225.

24. Transitional provisions-

- i. All rights, duties, obligations, assets and liabilities of the former Board shall be transferred to the new Board;
- ii. The Chairperson and members of the former Board shall continue in office for the unexpired period of their terms;
- iii. Employees of the former Board shall be deemed to be employees of the new Service.

2.5 Summary of Legal Provisions

The Constitution of Kenya, 2010

Article 11(2)(a) mandates the State to promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage.

CHAPTER THREE

3.0 PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT ON THE BILL

3.1 Legal Framework on Participation

25. Article 118 (1)(b) of the Constitution provides that:

“Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.”

26. The National Assembly Standing Orders, 127 (3) and (3A) stipulate that:

*“(3) The Departmental Committee to which a Bill is committed shall **facilitate public participation on the Bill** through an appropriate mechanism including-*

*(a) **inviting submission of memoranda;***

*(b) **holding public hearings;***

*(c) **consulting relevant stakeholders in a sector; and***

*(d) **consulting experts on technical subjects.***

(3A) The Departmental Committee shall take into account the views and recommendations of the public under paragraph (3) in its report to the House.”

3.2 Memoranda Received on Bill

27. To this end, the Departmental Committee on Sports and Culture received memoranda from the Kenya National Library Service (KNLS), Council of Governors and Kenya Library Association. The memoranda are annexed to this report as *Annexure 5*.

28. The stakeholders submitted as follows:

3.2.1 Kenya National Library Service

The KNLS officials met with the Committee on **14th October, 2023** and briefed the Committee on the policy that informed the development of the Bill.

29. The CEO, Dr. Charles Nzivo submitted that:

1. The Kenya National Library Service (KNLS) is a corporate body governed by the **KNLS Board Act 225 of 1965**. It had established **64 branch libraries in 33 counties**. These libraries

- safeguard a country's cultural heritage, collect, preserve, and make history available to citizens. They develop standards, guidelines, and best practices for service provision.
2. The Kenya National Library Service (KNLS) is responsible for managing both the National Library of Kenya and the Public Library System.
 3. However, the Constitution of Kenya 2010 positions public libraries as a devolved function. The Public Library function was a devolved function as outlined under Part 2 of Schedule 4 (f) and further outlined in **Articles 185 (2), 186 (1), 187 (2)** of the Constitution of Kenya. This was further elaborated in the Legal Notice No.142 of 19th August 2019 on the delineation of Library Functions to the County Governments.
 4. The Kenya National Library Service Bill 2023 aims to redefine the National Library of Kenya and position it as a key driver of preserving national documentary heritage.
 5. The KNLS Bill 2023 aims to **repeal the 1965 KNLS Board Act**, addressing technological advancements and the need for KNLS changes in the new constitution.
 6. Under Section 225 KNLS has a dual mandate to promote, construct, equip, manage, maintain, and develop libraries in Kenya as a National Library Service. It serves as both a public and a national library.
 7. The KNLS prepared a Bill to amend Cap 225 of the Laws of Kenya to clearly distinguish and separate the National Library function from the Public Library function.
 8. The libraries were to be left under the National Government and were then referred to as the National Library of Kenya at the Maktaba Kuu Complex in Nairobi Upper Hill with branches in Buruburu and Nakuru.
 9. The International Federation of Library Associations (**IFLA**), guides the library function and has given the distinction between the National Libraries and Public Libraries.
 10. **National Libraries** work to preserve a nation's cultural heritage by collecting, preserving, and making its history accessible to people all over the world. They were created by the government to act as **the foremost information repository** for that nation, with the library's collections primarily serving reference and research needs.
 11. **Public Libraries** act as **neighbourhood information hubs** with a focus on literacy, education, inclusivity, **civic engagement**, and culture. Providing unrestricted access to a wide range of information and ideas, promoting formal and informal education, encouraging reading habits, fostering empathy, inspiring creativity, ensuring access to community information, providing scientific knowledge, and supporting local communities with adequate information services are just a few of the specific tasks that can be performed.

12. The Constitution of Kenya, **Article 11(2)(a)** mandates the state to promote all forms of national expression through literature, the arts, traditional celebrations, science, communication, information, mass media publications, libraries and other cultural heritage.
13. The Constitution endeavours to devolve the functions of the public libraries to county level; The Public Library Function; The Constitution designates its function to the County government in order to extensively reach the end users.
14. Consequently, the 4th schedule, Part 2, of 4(0) appropriately situates Public Library Services under County Governments-article 185 4(b)The National Library Function; whereas the Public library Functions are adequately devolved to County Government the National Library Function which is a division within CAP 225 is undesignated.
15. In as much as the Constitution is silent on its functions in the new dispensation, **Article 186(3)** provides that, where an existing function is undesignated, it shall fall under the National Government in the Legal Notice no.142 of August 2019.
16. The chronological event of the **transfer of the public library function** to the 33 County Government were as follows:
 - i. **In 2013**, following recommendations by the Task Force on Parastatal Reforms that the National and County Governments hold consultations to determine the future of KNLS by June 2014, a committee was established to facilitate, oversee, and monitor the implementation of this recommendation as covered under **Article 189 (2)**.
 - ii. The Transitional Authority tasked KNLS to unbundle her functions. While unbundling the functions as stipulated in CAP 225, KNLS justification for retaining Buru Buru and Nakuru Libraries was because; Nakuru was the off-site conservation and preservation site for the National Library while Buruburu served as the host for KNLS back-up servers for various systems for automated services.
 - iii. KNLS also proposed to establish additional satellite centres of the National Library so as to bring the National Library Services closer to the people.
 - iv. **On 28th October 2015**, KNLS vide a letter Ref. TA/2/2/VOL.7 (39) dated 16th October 2015, submitted a report of the unbundled functions and financial information of KNLS in response to a request by the then Ministry of Sports, Culture and the Arts concerning all the unbundled functions and financial information of all the State Corporations under the Ministry.
 - v. **On 10th November 2015**, KNLS was invited by the then Transition Authority vide a letter Ref. TA/2/2/VOL.VII (54) to participate in a three-day retreat from 17th to 20th November 2015, to review and compile a draft report of the unbundled functions and financial

- information of the State Corporations under the then Ministry of Sports, Culture and the Arts.
- vi. **In June 2018**, during the 6th Ordinary Summit, a sub-committee on the implementation of the capacity assessment and rationalization of public service (CARPS) was formed to review reports presented before the summit. The sub-committee reviewed the status of the transfer of functions as provided for in the context of the 4th Schedule and articles 185 (2), 186 (1), and 187 (2) of the Constitution of Kenya 2010. The Sub- committee recommended the transfer of the unbundled library functions.
 - vii. **On 26th July 2018**, KNLS vide letter Ref. C/KNU/HQ/AD/706/9, wrote to IGRTC providing information on Payroll, Operations and Maintenance Budgets for the 59 public libraries. IGRTC then drafted a gazette notice for the transfer of the public library function to counties as proposed by the sub-committee of the summit. (the legal instrument to be used to transfer the libraries).
 - viii. A team, met on **26th March 2019**, to work on the delineation of functions and include it in the legal notice. The team comprised representatives from:
 - a. IGRTC (Convener)
 - b. Council of Governors
 - c. Kenya National Library Service
 - d. Kenya Law Reform Commission
 - e. Commission on Revenue Allocation
 - f. The National Treasury
 - ix. IGRTC invited KNLS together with all CECs of Education from the County Governments for a meeting scheduled for **29th April 2019** to discuss the transfer of the library function and legal notice.
 - x. **On 3 June 2019**, IGRTC vide a letter Ref. IGR/ADM/1/110/VOL 1/(29), wrote to the Attorney General and copied to the Cabinet Secretary for the then Ministry of Sports, Culture and Heritage submitting the final draft of the Legal Notice and schedule of libraries for both Counties and National Government. The final draft was also marked to the CEO, KNLS by the Cabinet Secretary seeking concurrence. The Legal Notice 142 was gazetted on 9th August 2019
 - xi. **On 31 May 2022**, the Council of Governors wrote to KNLS on the implementation of the transfer of library function where they requested, that staff files be prepared for transfer to the County Public Service Boards of the Libraries being absorbed by the 33 County

Governments. In response, KNLS affirmed that it had segregated and submitted to IGRTC and the National Treasury all the resources (PE & M) for 61 branch libraries and that the files should be transferred immediately once the transfer dates were clear from IGRTC and the National Treasury, upon legislation of the County Allocation Revenue Bill, which was discussed in Parliament at the time.

17. The current status of Libraries is that the library function has been transferred to county governments following National Treasury funding. Staff files and assets were received by 33 counties in **October 2023**. The Kenya National Library Service Bill, initiated in 2014, is undergoing stakeholder participation and validation for National Assembly scheduling.

18. **The KNLS proposed amendments to the Bill as follows:**

- a. The Long title to be amended to provide clarity in the purpose of the Bill by including the key mandates of KNLS such as collecting, preserving, making available and promoting the national documentary heritage.
- b. Amend by deleting Clause 5 (a) and replacing therefor with “establish, equip, develop, manage and maintain the Kenya National Library Service and its repository centres” this was for modification to include other repository centres.
- c. Amend by deleting Clause 5 (b) and replacing therefore with “acquire, preserve and maintain a collection of library resources including books produced within and outside Kenya and such other materials and sources of knowledge necessary for a comprehensive national bibliography” to cover all forms of information resources.
- d. Amend by deleting Clause 5 (e) and replacing therefore with “To promote information awareness and information literacy” to make it clearer and shorter
- e. Amend by deleting Clause 5 (g) and replacing therefore with “Render a national bibliographic service and act as the national replacement bibliographic agency” proposed replacement
- f. Amend by delete the word Library in Clause 5(i) to read “Provide a national library reference and referral service” 6
- g. Amend by deleting Clause 5 (k) and replacing therefore with “support establishing of referral repository centres at regional and County levels” to distinguish the role of county libraries and national library.
- h. A proposed addition to the function of the National Library as Clause 5 (p) therefore to read “to promote awareness and appreciation of the national published documentary heritage”

- i. A proposed addition to the function of the National Library to enhance the Library Profession as Clause 5(q) to read “To provide facilities for the study of, and for training in the principles, procedures and techniques of librarianship and such other related subjects”
- j. Amend and delete Clause 6(d) as this is a National Library function and the Ministry of Education will be better suited to work with the public libraries as they directly work with Schools and supplement curriculum education and in giving technical advice in the establishment of school libraries.
- k. Amend and deleting Clause 6(g) and replace therefore with “The Chairperson of County of Governors (COG) or a representative designated in writing”
- l. Amend Clause 6(h) To be in line with Mwongozo guidelines on the number of independent Board member representation and read “Three persons appointed by the Cabinet Secretary in accordance with section 7 (2)”
- m. Amend by deleting Clause 15(2) (b) and replacing therefore with “Holds a master's degree in library and Information Science, knowledge management, Information technology from a recognized institutions” in the new dispensation of devolved units, the national library requires a professional to ensure that the international standards are met.
- n. Amend by deleting Clause 15(2) (c) and replacing therefore with “Has at least fifteen cumulative years in relevant field of which at least twelve years at a senior management” as the best practice as per Public Service Commission (PSC)
- o. Amend by deleting First Schedule Clause 15 and replacing therefore with “The minutes of each meeting of the Board or of a Committee of the Board shall be kept by the Corporate Secretary and shall be confirmed by the Board or the Committee at the succeeding meeting and be duly signed by the Chairperson or the person presiding and the Director-General” to replace Director General with Corporate Secretary in line with Mwongozo.
- p. Amend by deleting First Schedule Clause 15 (c) and replacing therefore with “Submit declaration of income assets and liabilities to the body responsible for such declarations from public officers in accordance with the law” in line with existing governing laws.
- q. A proposed addition Clause 5(q) and therefore read “to provide facilities for the study of, and for training, and award of certificates and diploma in the principles, procedures and techniques of librarianship and such other related subjects” to the functions of the National Library to enhance the Library Profession

3.2.2 Council of Governors (CoG)

30. H.E. Governor Mutahi Kahiga, Nyeri County and H.E. Governor Dr. Erick Mutai, Kericho County appeared before the Committee and jointly submitted that:

19. The CoG suggests that the Kenya National Library Services Bill, 2023 should be interpreted based on constitutional provisions, particularly regarding the assignment of functions between the National Government and County Governments under the Fourth Schedule of the Constitution.

20. The Council acknowledges the principles of cooperative devolved government and respects the functional and institutional integrity of each level of government.

21. The CoG had the following specific comments on provisions of the Bill:

i. That the long title of the Bill is ambiguous and does not provide clarity on the purpose of the establishment of the Kenya National as the Bill has provided for the definition of "National Library Service" and "public library". The definition provided for National Library Service in essence is a definition of what pertains a library, which is a county function. Moreover, the definition provided for a public library has included entities that do not constitute public service such as non-governmental organizations, communities and/or private persons.

ii. On the Cause that establishment of the Kenya National Library Service, the Bill seeks to establish a National Library Service to be known as the Kenyan National Library service 3 and has provided the functions of the KNLS, the composition of the Board among other administrative provisions for KNLS. The above provision of the Bill is unconstitutional because County Governments have been assigned the library function exclusively and thus, the Bill cannot purport to establish a state corporation to manage National Libraries and/or library services offered by the National Library. These provisions contained in this section is a reproduction of the Kenya National Library Services Board Act, Cap. 225 (2012) with a few changes here and there that do not properly align the law to the Constitution and the devolved system of government. In essence, this section seeks to justify the existence of a state corporation that was established, through legislation, prior to devolution and is contrary to the clear intentions of the constitution to devolve the libraries and their related functions.

iii. On the Financial Provisions, The CoG submitted that the spirit of the Bill is unconstitutional and seeks to claw back on devolution and the full discharge of the library function by County Governments. Importantly, there was a clear constitutional provision that resources

must match and follow functions that are devolved including both financial resources, human resources and infrastructural resources including facilities. Thus, through this section, the Bill cannot seem to provide provisions for the acquiring of financial resources for a National Government State Corporation whose existence is unconstitutional and claws back on the tenets of devolution. Fundamentally, all the resources that are in possession of current Kenya National Library Service should be devolved to the relevant counties.

- iv. Under the Administrative Provisions, the Bill had set out the provisions for application for membership to the Kenya National Library Service and the determination of the registration and subscription fees chargeable to individuals and institutions. The Council reiterates that the section, just like other sections contained in the Bill, is unconstitutional and an attempt at gross infringement of the functions of the County Governments regarding the management and service delivery in Libraries. The Bill cannot give the Kenya National Library Service the powers to determine registration and subscription fees and issuance of library cards. This was squarely the mandate of each individual County Government as per the constitution and it should remain the same, and the Bill should not enable the clawing back of devolution.
 - v. Under the Provisions on Delegated Powers, a critical provision contained in the Bill was unconstitutional. Thus, the Bill cannot provide for the Cabinet Secretary to make regulations for the better carrying into effect the provisions of an unconstitutional Act. The County Executive Committee Members of the respective Counties can be able to prepare regulations to operationalize the Library Acts of the County Assemblies.
 - vi. Under Memorandum of Objects and Reasons, the Statement on how the Bill concern County Government, that the Bill concerns Counties as it contains provisions that affect the functions of County Governments as set out in the Fourth Schedule of the Constitution and may occasion additional expenditure of public funds.
22. The CoG suggested that the National Assembly should not proceed with the legislation, as it regresses on devolution.
23. They proposed the development of policies, legislation, and standards at the national level to ensure uniform service delivery across counties.

24. They also proposed revocation of Legal Notice 142 of 2019, which retained three libraries in two counties under the National Government's management, and withdraw the bill from the house for a consultative process.

3.2.3 Kenya Library Association

31. The following were the proposed amendments by Kenya Library Association:

25. The name to be changed from Kenya National Library Service to “**National Library of Kenya**”

26. Amend Clause 5 to include “preserve indigenous knowledge and promote indigenous knowledge systems” as a function of the Kenya National Library Service.

27. Amend Clause 6 to include the following as the Composition of the Board and read: “the management of the National Library of Kenya shall vest in the Board which consist of:

- i. A Chairperson appointed by the President
- ii. The Principal Secretary responsible for matters relating to Libraries or a representative designated in writing
- iii. The Principal Secretary responsible for matters relating to Finance or a representative designated in writing
- iv. The Principal Secretary responsible for matters relating to Education or a representative designated in writing
- v. The Principal Secretary responsible for matters relating to Devolution or a representative designated in writing
- vi. The Principal Secretary responsible for matters relating to Information and telecommunication technology or a representative designated in writing
- vii. Two persons nominated by Council of Governors in accordance with section 7 (2)
- viii. One person appointed by the Cabinet Secretary in accordance with section 7 (2)
- ix. The Director General who shall be the Chief Executive officer of the Bound” The Proposed amendment rationale for amendment of Clause 6 included. The bill proposes 9 members out of which 5 are Public Officers, 2 persons nominated by COG and one person appointed by the Cabinet Secretary. The independence of the Board will be compromised with only one independent member aside from the Chairperson. Secondly, matters devolution will be addressed through the Principal Secretary for Devolution and hence no need for representatives from COG

28. Proposed amendment to Clause 6 to read as “the management of the National Library of Kenya shall vest in the Board which consist of:

- i. A Chairperson appointed by the President
- ii. The Principal Secretary responsible for matters relating to Libraries or a representative designated in writing
- iii. The Principal Secretary responsible for matters relating to Finance or a representative designated in writing
- iv. The Principal Secretary responsible for matters relating to Education or a representative designated in writing
- v. The Principal Secretary responsible for matters relating to Devolution or a representative designated in writing
- vi. The Principal Secretary responsible for matters relating to Information, Communication, Technology and Digital Economy or a representative designated in writing
- vii. Delete this Two persons nominated by Council of Governors in accordance with section 7 (2) and replace with "three persons appointed by the Cabinet Secretary in accordance with section 7 (2)
- viii. A representative of the Library & Information Science Profession, such as The President of Kenya Library Association (KLA)
- ix. The Director-General who shall be the Chief Executive officer of the Board e. Amend Section 17 (1) and add Clause (c) therefore to be "ensure that professional staff are members of a professional body"

3.2.4 The 10th Ordinary Summit Resolutions

- a) In order to facilitate the formation of consensus between the two levels of government regarding the emerging sectoral concerns, the 10th Summit, which took place on December 18, 2023, decided to validate the results of the unbundling of functions exercise, which took place in April 2023, with the relevant stakeholders. Some of the key stakeholders included the Council of Governors, the Kenya National Library Service and the Inter-Governmental Relations Technical Committee.
- b) The joint stakeholders' engagement meeting discussed the functions contained in the Legal Notice No. 142 of 2019 on transfer of libraries with a view to unbundle County and National Government functions on matters of library.

- c) The Council of Governors and the Kenya National Library Service made submissions before the Committee and submitted that they had agreed on the respective functions of the national government and the county governments in regards to libraries.
- d) The functions of National and County Governments were delineated to ensure each level of government performs their distinct functions namely:
- e) The function of the National Government shall be;
 - i. Develop a national policy, legislation and set Norms and standards for the library sector;\
 - ii. Capacity building and technical assistance to the county governments;
 - iii. Carry out and promote research in the development of libraries and related services;
 - iv. Promote literacy in the country;
 - v. Domesticating international standards;
 - vi. Publish Kenya National Bibliography and Kenya Periodical Directory; and
 - vii. Establish the National WebCAT to publish catalogues for all libraries.
- f) The function of the County Government shall be:
 - i. Implementation of the library policy, legislation, standards and norms;
 - ii. Develop county specific policy and legislation in line with the national policy and legislation;
 - iii. Equip, develop, manage and maintain the libraries within the county;
 - iv. Acquire and maintain comprehensive periodic bibliography;
 - v. Establish and manage a center for books, to promote a culture of reading, writing, and publishing;
 - vi. Promote reading for knowledge, information and enjoyment through the stimulation of public interest in books and participation in campaigns for the eradication of illiteracy;
 - vii. Provide the communities with a variety of information materials, programs and services through stocking relevant learning resources for formal and informal education;
 - viii. Establish a collection section in each library holding the respective community's resources, history people, customs and traditions to promote the culture of indigenous knowledge and languages;
 - ix. Carry out sensitization in counties to promote learning;
 - x. Provide a conducive learning environment, stimulate and promote public interest in reading books and multimedia for information, knowledge and enjoyment;

- xi. Promote ICT in accessing and disseminating information;
 - xii. Provide lending, inter-library loans, outreach, specialized and homebound services;
 - xiii. Provide advisory and a library reference and referral services; and
 - xiv. Liaise with National Library, County Libraries and other relevant institutions to enhance information sharing.
29. The Council of Governors and the Kenya National Library Service proposed that clause 5 of the Bill be amended to clearly distinguish the functions of the national government and the functions of county governments in regards to libraries. This was to ensure that there would be no possibility of conflict between the two levels of government.
 30. The KNLS Board Act Cap 225 of the Laws of Kenya (1965) mandates the Board to perform the dual role of both the public library service and the national library function.
 31. The KNLS Board has successfully and seamlessly transferred 61 libraries to County Governments.
 32. In order to ensure constitutional compliance and avoid legal conflicts in the operations of National Government functions by performing the National Library function, the KNLS Bill needed to be finalized and enacted into law.
 33. During the 10th Summit, it was noted that the COG requested the Summit to direct the transfer of the three retained libraries to host county governments, that is Buru Buru, Nakuru and Maktaba Kuu. Subsequently, the Summit resolved that:
 34. The KNLS Board Act Cap 225 of the Laws of Kenya (1965) mandates the Board to perform the dual role of both the public library service and the national library function.
 35. The KNLS Board has successfully and seamlessly transferred 61 libraries to County Governments.
 36. In order to ensure constitutional compliance and avoid legal conflicts in the operations of National Government functions by performing the National Library function, the KNLS Bill needed to be finalized and enacted into law.
 37. During the 10th Summit, it was noted that the COG requested the Summit to direct the transfer of the three retained libraries to host county governments, that is Buru Buru, Nakuru and Maktaba Kuu. Subsequently, the Summit resolved that:
 - a. His Excellency the President shall institute a process leading to further consultation on allocations towards the transferred Library function with the relevant stakeholders.

- b. Similarly, IGRTC shall institute a consultative process bringing together the Kenya National Library Services (KNLS), Nairobi City County and Nakuru County on the three libraries currently under the management of KNLS.

CHAPTER FOUR

4.0 COMMITTEE OBSERVATIONS

32. Having considered the submissions on Kenya National Library Service Bill, 2023, the Committee observed that: -

1. It is prudent to take into consideration the IFLA directives and definitions of the public libraries and a national library so as to protect the country's cultural heritage by gathering, preserving and disseminating the country's history to its residents all over the world.
2. Legal Notice 142 of 2019 transferred the National Library Services functions to the national government and distinguished it from the public libraries that are under the purview of the county governments. This transfer of functions was done in conformity to the provisions of Article 187 of the Constitution.
3. The Bill seeks to provide a legal framework for the Kenya National Library Service. It seeks to provide for the management of the Kenya National Library Service, and to give effect to the provisions of Article 11(2)(a) of the Constitution which mandates the State to promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage.

CHAPTER FIVE

5.0 COMMITTEE RECOMMENDATION

33. Having considered the Bill and the submissions from stakeholders, the Committee recommends that the House **APPROVES** the Bill subject to the following amendments:

LONG TITLE

34. THAT, the Long Title to the Bill be amended by inserting the words “to give effect to Article 11(2)(a) of the Constitution;” immediately after the words “An Act of Parliament”

Justification

The amendment seeks to expressly provide that the main object of the Bill is to give effect to the provisions of Article 11(2)(a) of the Constitution which mandates the State to promote all forms of national and cultural expression through, among others, literature and libraries.

CLAUSE 5

35. **THAT**, the Bill be amended by deleting clause 5 and substituting therefor the following new clauses—

Role of the National Government.	5. The National Government shall be responsible for— (a) development of a national policy, legislation and the setting of standards for the library sector; (b) capacity building and technical assistance to the county governments; (c) carrying out and promoting research in the development of libraries and related services; (d) promotion of literacy in the country; (e) domestication of international standards relating to library services; (f) publishing the Kenya National Bibliography and the Kenya Periodicals Directory; (g) establishment of the national webcat to publish catalogues for all libraries in the country; and (h) establishment and maintenance of a national virtual library service.
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<p>Role of county governments.</p>	<p>5A. The county governments shall be responsible for—</p> <ul style="list-style-type: none"> (a) implementation of the national policy, legislation and standards for the library sector; (b) equipping, developing, managing and maintaining county libraries; (c) acquiring and maintaining comprehensive periodic bibliographies for county libraries; (d) establishing and managing county centres for books to promote reading, writing and publishing culture; (e) promotion of reading for knowledge, information and enjoyment through the stimulation of public interest in books and participation in campaigns for the eradication of illiteracy; (f) providing communities with information materials, programs and services through stocking relevant learning resources for formal and informal education; (g) carrying out sensitization in counties to promote learning; (h) providing a conducive learning environment and stimulating and promoting public interest in reading books for information, knowledge and enjoyment; (i) promoting information and communication technology in accessing and disseminating information; (j) providing lending, outreach and specialized services in relation to county libraries; (k) providing advisory, library reference and county library referral services; and (l) liaising with relevant institutions to enhance information sharing.

Justification

The amendment seeks to clearly spell out the respective roles of the national government and county governments in relation to library services, so as to avoid duplication and conflict of mandates.

CLAUSE 6

36. THAT, clause 6 of the Bill be amended in sub-clause (1)(i) by inserting the words “and an ex officio member” immediately after the words “Chief Executive Officer”

Justification

The amendment seeks to provide that the Director-General shall be an ex officio member of the Board, to allow for the Director-General to sit in the Board meetings and to implement the decisions of the Board.

CLAUSE 7

37. THAT, clause 7 of the Bill be amended—

(a) in sub-clause (1)-

(i) by deleting the word “degree” appearing in paragraph (b) and substituting therefor the words “minimum of a bachelor’s degree”

(ii) by deleting the word “seven” appearing in paragraph (c) and substituting therefor the word “five”;

(b) in sub-clause (2)—

(i) by deleting the word “degree” appearing in paragraph (b) and substituting therefor the words “minimum of a bachelors’ degree”;

(ii) by deleting the word “five” appearing in paragraph (c) and substituting therefor the word “three”

Justification

The amendment seeks to ensure that for a person to be eligible for appointment as the Chairperson or a member of the Board, the person must possess a minimum of a bachelors’ degree as well as five years and three years in management, respectively for the Chairperson and a member of the Board.

CLAUSE 8

38. THAT, clause 8 of the Bill be amended by deleting paragraph (f).

Justification

The amendment seeks to eliminate the ambiguity that may arise in the interpretation of the provision of a failure to meet tax and other statutory obligations.

CLAUSE 10

39. THAT, clause 10 of the Bill be amended in paragraph (c) by inserting the words “without the option of a fine” immediately after the words “imprisonment exceeding six months”

Justification

The amendment seeks to ensure that the vacation from office of the Chairperson or a member of the Board on account of a criminal offence shall only occur where the person is convicted of a felony that does not allow the option of payment of a fine.

CLAUSE 14

40. THAT, clause 14 of the Bill be amended by inserting the words “Salaries and Remuneration” immediately after the words “in consultation with the”.

Justification

The amendment seeks to specifically provide that the Board members shall be paid such remuneration or allowances as determined by the Cabinet Secretary in consultation with the Salaries and Remuneration Commission.

CLAUSE 15

41. THAT, clause 15 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “once” and substituting therefor the words “for one further term of three years”;

(b) in sub-clause (2)—

(i) by deleting the words “masters degree” appearing in paragraph (b) and substituting therefor the words “minimum of a masters’ degree”;

(ii) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) has at least ten years professional experience of which at least five years are at senior management level; and”

Justification

The amendment seeks to provide with clarity that the Director-General shall be eligible for re-appointment for one further term of three years, as well as to provide for a professional qualification of at least ten years’ experience with five years at senior management level.

CLAUSE 29

42. THAT, clause 29 of the Bill be amended by deleting the words “Director-General” and substituting therefor the words “Corporation Secretary”.

Justification

The amendment seeks to ensure that the responsibility of keeping the seal of the Board shall lie with the Corporation Secretary, in line with the recommendations of the Mwongozo Code of Governance for State Corporations.

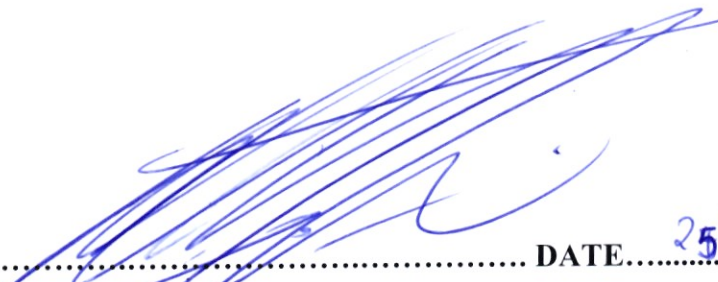
FIRST SCHEDULE

43. THAT, the First Schedule to the Bill be amended by deleting paragraph (5) and substituting therefor the following new paragraph—

“(5) The minutes of each meeting of the Board or of a committee of the Board shall be kept by the Corporation Secretary and shall be confirmed by the Board or the committee at the succeeding meeting and be duly signed by the Chairperson or the person presiding and the Director-General.”

Justification

The amendment seeks to ensure that the responsibility of keeping Board minutes shall lie with the Corporation Secretary, in line with the recommendations of the Mwongozo Code of Governance for State Corporations.

SIGNED.......... DATE.....25/5/2024.....

HON. DANIEL WANYAMA SITATI, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE



THE NATIONAL ASSEMBLY

13TH PARLIAMENT - THIRD SESSION - 2024

DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE

REPORT ADOPTION SCHEDULE

DATE: 24th May 2024 VENUE: SERENITA BEACH + SPA HOTEL

No.	NAME	SIGNATURE
1.	The Hon. Daniel Wanyama Sitati, M.P. – Chairperson	
2.	The Hon. James Githua Wamacukuru, M.P. – Vice Chairperson	
3.	The Hon. Naomi Jillo Waqo, M.P. CBS	
4.	The Hon. Samuel Gonzi Rai, M.P.	
5.	The Hon. Stephen Mutinda Mule, M.P.	
6.	The Hon. Mary Emaase Otucho, M.P.	
7.	The Hon. Janet Jepkemboi Sitienei, M.P.	
8.	The Hon. Charles Ngusya Nguna, M.P.	
9.	The Hon. Caroli Omondi, M.P.	
10.	The Hon. Catherine Nakhabi Omanyoo, M.P.	
11.	The Hon. Chege Njuguna, M.P.	
12.	The Hon. Paul Ekwom Nabuin, M.P.	
13.	The Hon. Robert Nguui Basil, M.P.	
14.	The Hon. Richard Kipkemoi Yegon, M.P.	
15.	The Hon. BSP. (EM) Dr. Jackson Kipkemoi Kosgei, M.P.	

MINUTES OF THE 26TH SITTING OF THE DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE HELD ON WEDNESDAY, 29TH MAY 2024 AT 9:30 AM IN SERENA BEACH AND SPA HOTEL

PRESENT

1. **The Hon. Daniel Wanyama Sitati, M.P** -Chairperson
2. **The Hon. Githua Wamacukuru, M.P.** - Vice Chairperson
3. The Hon. Samuel Rai Gonzi, M.P.
4. The Hon. Stephen Mule Mutinda, M.P
5. The Hon. Mary Otucho Emaase, M.P.
6. The Hon. Janet Sitienei Jepkemboi, M.P.
7. The Hon. Charles Ngusya Nguna, M.P.
8. The Hon. Caroli Omondi, M.P.
9. The Hon. Catherine Omanyo Nakhabi, M.P.
10. The Hon. Chege Njuguna, M.P
11. The Hon. Robert Ngui Basil, M.P
12. The Hon. Paul Nabuin Ekwom, M.P.
13. The Hon. Richard Yegon Kipkemoi, M.P.
14. The Hon. BSP.(EM) Dr. Jackson Kipkemoi Kosgei, M.P

APOLOGY

1. The Hon. Naomi Jillo Waqo, M.P. CBS

IN ATTENDANCE

Committee Secretariat

1. Mr. Adan Gindicha - Principal Clerk Assistant II
2. Ms. Mary Kinyunye - Clerk Assistant III
3. Ms. Christine Odhiambo - Senior Legal Counsel
4. Mr Wilson Mwangi - Fiscal Analyst III
5. Mr. Peter Atsiaya - Media Relation Officer
6. Mr. Leonard Nyapere - Protocal Officer

Stakeholders

1. Dr. Charles Nzivo - CEO, Kenya National Library Service
2. Bishop Theuri Maina - Chairman KNLS

AGENDA

1. Prayers;
2. Preliminaries;
 - i. Adoption of the Agenda;
 - ii. Communication from the Chairperson;
3. **Consideration of the Committee Work Plan for the Third Quarter 2023/2024 - 2nd part 4th June to 4th July 2024**
4. **Consideration and Adoption of a Report on the Kenya National Library Service Bill, 2023.**
5. Any Other Business; and
6. Adjournment.

MIN.NO. DC/SC/2024/141: PRAYER AND PRELIMINARIES

The meeting commenced at 9.20 a.m. with the Prayer followed with welcoming remarks from the Chairperson.

MIN.NO. DC/SC/2024/142: ADOPTION OF THE AGENDA

The Agenda was adopted with amendments, having been proposed and seconded by the Hon. Robert Ngui Basil, M.P and The Hon. Paul Nabuin Ekwom, M.P. respectively.

MIN.NO. DC/SC/2024/143: CONFIRMATION MINUTES OF THE PREVIOUS OF SITTING

Confirmation of the Minutes of the previous sitting was deferred to the next sitting.

MIN.NO. DC/SC/2024/144: MATTERS ARISING

No Matters Arose

MIN.NO.DC/SC/2024/145: COMMITTEE QUARTERLY WORK-PLAN & BUDGET 2023/24

The Committee was taken through the proposed work plan for the Third Quarter; Second from 4th June to 4th July 2024 containing the following key business:-

1. Engagement with the Cabinet Secretaries on various policy issues, Projects and Funds under their respective dockets.
2. Budget Implementation monitoring for the State Department of Sports, the State Department of Culture, the Arts and Heritage and State Department for Youth Affairs and Creative Economy
3. Inspection visits to Stadia in the following regions:
 - i. Nairobi and Mount Kenya
 - ii. North Rift
 - iii. Western
 - iv. Theatre (Main Auditorium)
 - v. Ukumbi Mdogo (concert hall)
 - vi. Cheche Gallery
 - vii. The Dance Studio
4. Preparation and submission of Quarterly Committee Report.

MIN.NO.DC/SC/2024/146: COMMITTEE OBSERVATIONS

In order to enrich the Work Plan, Members proposed the inclusion of the following:

5. Meeting on the Cabinet Secretary for Youth Affairs, Creative Economy and Sports regarding implementation of the proposal to build Sports Academies in each Constituency and implementation of Corporate Social Responsibility (CSR) in Constituencies.
6. Meeting with the Olympic Committee on preparation of Olympics in Paris
7. The Cabinet Secretary and the Principal Secretary to vanish the Committee with a comprehensive report on the cost and current status of Talanta City Stadium
8. The Cabinet Secretary and Principal Secretary State Department of Sports to give a report on the funding structure for the African Nations Championship (CHAN) fees for hosting CHAN in 2024, since the money had not been appropriated within the financial year.

MIN.NO. DC/SC/2024/147: CONSIDERATION AND ADOPTION OF A REPORT ON THE KENYA NATIONAL LIBRARY SERVICE BILL, 2023.

The Committee considered and adopted the report on the consideration of the Culture Bill 2024 and made the following recommendations having been proposed by the Hon. BSP.(EM) Dr. Jackson Kipkemoi Kosgei, MP and Seconded by the Hon. Janet Sitienei Jepkemboi, M.P:-

MIN.NO. DC/SC/2024/148: COMMITTEE OBSERVATIONS

1. It is prudent to take into consideration the IFLA directives and definitions of the public libraries and a national library so as to protect the country's cultural heritage by gathering, preserving and disseminating the country's history to its residents all over the world.
2. Legal Notice 142 of 2019 transferred the National Library Services functions to the national government and distinguished it from the public libraries that are under the purview of the county governments. This transfer of functions was done in conformity to the provisions of Article 187 of the Constitution.
3. The Bill seeks to provide a legal framework for the Kenya National Library Service. It seeks to provide for the management of the Kenya National Library Service, and to give effect to the provisions of Article 11(2)(a) of the Constitution which mandates the State to promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage.

MIN.NO. DC/SC/2024/149: COMMITTEE RECOMMENDATION

Having considered the Bill and the submissions from stakeholders, the Committee recommends that the House APPROVES the Bill subject to the following amendments:

1. THAT, the Long Title to the Bill be amended by inserting the words “to give effect to Article 11(2)(a) of the Constitution;” immediately after the words “An Act of Parliament”
 Justification
The amendment seeks to expressly provide that the main object of the Bill is to give effect to the provisions of Article 11(2)(a) of the Constitution which mandates the State to promote all forms of national and cultural expression through, among others, literature and libraries.
2. THAT, the Bill be amended by deleting clause 5 and substituting therefor the following new clauses—

Role of the National Government.	<p>5. The National Government shall be responsible for—</p> <p>(a) development of a national policy, legislation and the setting of standards for the library sector;</p>
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	<ul style="list-style-type: none"> (b) capacity building and technical assistance to the county governments; (c) carrying out and promoting research in the development of libraries and related services; (d) promotion of literacy in the country; (e) domestication of international standards relating to library services; (f) publishing the Kenya National Bibliography and the Kenya Periodicals Directory; (g) establishment of the national weecat to publish catalogues for all libraries in the country; and (h) establishment and maintenance of a national virtual library service.
<p>Role of county governments.</p>	<p>5A. The county governments shall be responsible for—</p> <ul style="list-style-type: none"> (a) implementation of the national policy, legislation and standards for the library sector; (b) equipping, developing, managing and maintaining county libraries; (c) acquiring and maintaining comprehensive periodic bibliographies for county libraries; (d) establishing and managing county centres for books to promote reading, writing and publishing culture; (e) promotion of reading for knowledge, information and enjoyment through the stimulation of public interest in books and participation in campaigns for the eradication of illiteracy; (f) providing communities with information materials, programs and services through stocking

	<p>relevant learning resources for formal and informal education;</p> <p>(g) carrying out sensitization in counties to promote learning;</p> <p>(h) providing a conducive learning environment and stimulating and promoting public interest in reading books for information, knowledge and enjoyment;</p> <p>(i) promoting information and communication technology in accessing and disseminating information;</p> <p>(j) providing lending, outreach and specialized services in relation to county libraries;</p> <p>(k) providing advisory, library reference and county library referral services; and</p> <p>(l) liaising with relevant institutions to enhance information sharing.</p>
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Justification

The amendment seeks to clearly spell out the respective roles of the national government and county governments in relation to library services, so as to avoid duplication and conflict of mandates.

3. THAT, clause 6 of the Bill be amended in sub-clause (1)(i) by inserting the words “and an ex officio member” immediately after the words “Chief Executive Officer”

Justification

The amendment seeks to provide that the Director-General shall be an ex officio member of the Board, to allow for the Director-General to sit in the Board meetings and to implement the decisions of the Board.

4. THAT, clause 7 of the Bill be amended—

- (a) in sub-clause (1)-

- (i) by deleting the word “degree” appearing in paragraph (b) and substituting therefor the words “minimum of a bachelor’s degree”
- (ii) by deleting the word “seven” appearing in paragraph (c) and substituting therefor the word “five”;

- (b) in sub-clause (2)—

- (i) by deleting the word “degree” appearing in paragraph (b) and substituting therefor the words “minimum of a bachelors’ degree”;

- (ii) by deleting the word “five” appearing in paragraph (c) and substituting therefor the word “three”

Justification

The amendment seeks to ensure that for a person to be eligible for appointment as the Chairperson or a member of the Board, the person must possess a minimum of a bachelors’ degree as well as five years and three years in management, respectively for the Chairperson and a member of the Board.

5. THAT, clause 8 of the Bill be amended by deleting paragraph (f).

Justification

The amendment seeks to eliminate the ambiguity that may arise in the interpretation of the provision of a failure to meet tax and other statutory obligations.

6. THAT, clause 10 of the Bill be amended in paragraph (c) by inserting the words “without the option of a fine” immediately after the words “imprisonment exceeding six months”

Justification

The amendment seeks to ensure that the vacation from office of the Chairperson or a member of the Board on account of a criminal offence shall only occur where the person is convicted of a felony that does not allow the option of payment of a fine.

7. THAT, clause 14 of the Bill be amended by inserting the words “Salaries and Remuneration” immediately after the words “in consultation with the”.

Justification

The amendment seeks to specifically provide that the Board members shall be paid such remuneration or allowances as determined by the Cabinet Secretary in consultation with the Salaries and Remuneration Commission.

8. THAT, clause 15 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “once” and substituting therefor the words “for one further term of three years”;
- (b) in sub-clause (2)—
- (i) by deleting the words “masters degree” appearing in paragraph (b) and substituting therefor the words “minimum of a masters’ degree”;
- (ii) by deleting paragraph (c) and substituting therefor the following new paragraph—“(c) has at least ten years professional experience of which at least five years are at senior management level; and”

Justification

The amendment seeks to provide with clarity that the Director-General shall be eligible for re-appointment for one further term of three years, as well as to provide for a professional qualification of at least ten years’ experience with five years at senior management level.

9. THAT, clause 29 of the Bill be amended by deleting the words “Director-General” and substituting therefor the words “Corporation Secretary”.

Justification

The amendment seeks to ensure that the responsibility of keeping the seal of the Board shall lie with the Corporation Secretary, in line with the recommendations of the Mwongozo Code of Governance for State Corporations.

10. THAT, the First Schedule to the Bill be amended by deleting paragraph (5) and substituting therefor the following new paragraph—“(5) The minutes of each meeting of the Board or of a committee of the Board shall be kept by the Corporation Secretary and shall be confirmed by the Board or the committee at the succeeding meeting and be duly signed by the Chairperson or the person presiding and the Director-General.”

Justification

The amendment seeks to ensure that the responsibility of keeping Board minutes shall lie with the Corporation Secretary, in line with the recommendations of the Mwongozo Code of Governance for State Corporations.

MIN.NO. DC/SC/2024/150: ADJOURNMENT/DATE OF THE NEXT SITTING

There being no other business, the meeting was adjourned at 12.30 pm until 2.00 p.m, same day, same venue.

SIGNED:


THE HON. DANIEL WANYAMA SIATATI, M.P.
(CHAIRPERSON)

DATE: 25th June 2024.

MINUTES OF THE 18TH SITTING OF THE DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE HELD ON SATURDAY, 20TH APRIL, 2024 AT 09:43 AM IN ACACIA B CONFERENCE ROOM, HILTON GARDEN INN HOTEL, MACHAKOS.

PRESENT

1. **The Hon. Daniel Wanyama Sitati, M.P** -Chairperson
2. The Hon. Samuel Rai Gonzi, M.P.
3. The Hon. Charles Ngusya Nguna, M.P.
4. The Hon. Caroli Omondi, M.P.
5. The Hon. Catherine Omanyo Nakhabi, M.P.
6. The Hon. Chege Njuguna, M.P
7. The Hon. Richard Yegon Kipkemoi, M.P.
8. The Hon. BSP.(EM) Dr. Jackson Kipkemoi Kosgei, M.P

APOLOGY

1. **The Hon. Githua Wamacukuru, M.P.** - Vice Chairperson
2. The Hon. Naomi Jillo Waqo, M.P. CBS
3. The Hon. Mary Otucho Emaase, M.P.
4. The Hon. Janet Sitienei Jepkemboi, M.P.
5. The Hon. Stephen Mule Mutinda, M.P
6. The Hon. Robert Ngui Basil, M.P
7. The Hon. Paul Nabuin Ekwom, M.P.

Committee Secretariat

1. Ms. Mary Kinyunye - Clerk Assistant III
2. Ms. Christine Odhiambo - Senior Legal Counsel
3. Mr. Vitus Okech - Research Officer
4. Mr Wilson Mwangi - Fiscal Analyst III
5. Ms. Josephine Osiba - Hansard Reporter III
6. Mr. Moses Esamai - Audio Officer
7. Mr. Said wako - Serjeant-At-Arm

AGENDA

1. Prayers;
2. Preliminaries;
 - i. Introductions & Adoption of the Agenda;
 - ii. Communication from the Chairperson;
 - iii. Confirmation of Committee Minutes and Matters Arising
3. **Submissions by the Sports, Arts and the Social Development Fund**
4. **Clause by clause discussion of the KNLS Bill 2023**
5. Any Other Business; and
6. Adjournment.

MIN.NO. DC/SC/2024/097: PRAYER AND PRELIMINARIES

The meeting commenced at 9.43 a.m. with the Prayer followed by introductions. The Ag. Chairperson welcomed the stakeholders to the Committee meeting.

MIN.NO. DC/SC/2024/098: ADOPTION OF THE AGENDA

The Agenda was adopted without amendments, having been proposed and seconded by the Hon. Samuel Rai Gonzi, M.P. and the Hon. Richard Yegon Kipkemoi, M.P. respectively.

MIN.NO.DC/SC/2024/099: CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTINGS

Confirmation of the Minutes of the previous sitting was deferred to the next sitting.

MIN.NO. DC/SC/2024/100: SUBMISSIONS BY THE SPORTS, ARTS AND THE SOCIAL DEVELOPMENT FUND

The Committee Members raised concerns regarding the absence of the CEO SASDF and stressed on the need for the aforementioned to attend Committee meetings and in instances where the Ministry officials were held up on other work-related exigencies, a written apology should be conveyed on time to the Committee through the office of the Clerk.

MIN.NO.DC/SC/2024/101: SUBMISSION OF MEMORANDA

To give effect to the functions of the national government and the functions of county governments in relation to library services, the County of Governors, the Kenya National Library Service and the Inter-Governmental Relations Technical Committee presented to the Committee an agreed position as follows:

The stakeholders proposed amendments to the Bill as follows:

- a. The Long title to amended to provide clarity in the purpose of the Bill by including the key mandates of KNLS such as collecting, preserving, making available and promoting the national documentary heritage.
- b. Amend by deleting Clause 5 (a) and replacing therefor with “*establish, equip, develop, manage and maintain the Kenya National Library Service and its repository centres*” this was for modification to include other repository centres.
- c. Amend by deleting Clause 5 (b) and replacing therefore with “*acquire, preserve and maintain a collection of library resources including books produced within and outside Kenya and such other materials and sources of knowledge necessary for a comprehensive national bibliography*” to cover all forms of information resources.
- d. Amend by deleting Clause 5 (e) and replacing therefore with “*To promote information awareness and information literacy*” to make it clearer and shorter
- e. Amend by deleting Clause 5 (g) and replacing therefore with “Render a national bibliographic service and act as the national replacement bibliographic agency” proposed replacement
- f. Amend Clause 5 (h) to Capitalize the word cat. webCAT-web catalogue, is a tool to extract metadata and generate RDF description from existing web document.

- g. Amend by delete the word *Library* in Clause 5(i) to read “*Provide a national library reference and referral service*”
- h. Amend by deleting Clause 5 (k) and replacing therefore with “*support establishing of referral repository centers at regional and County levels*” to distinguish the role of county libraries and national library.
- i. A proposed addition to the function of the National Library as Clause 5 (p) therefore to read “*to promote awareness and appreciation of the national published documentary heritage*”
- j. A proposed addition to the function of the National Library to enhance the Library Profession as Clause 5(q) to read “*To provide facilities for the study of, and for training in the principles, procedures and techniques of librarianship and such other related subjects*”
- k. Amend and delete Clause 6(d) as This is a National Library function and the Ministry of Education will better suited to work with the public libraries as they directly work with Schools and supplement curriculum education and in giving technical advice in the establishment of school libraries.
- l. Amend and deleting Clause 6(g) and replace therefore with “*The Chairperson of County of Governors (COG) or a representative designated in writing*”
- m. Amend Clause 6(h) To be in line with Mwongozo guidelines on the number of independent Board member representation and read “*Three persons appointed by the Cabinet Secretary in accordance with section 7 (2)*”
- n. Amend by deleting Clause 15(2) (b) and replacing therefore with “*Holds a master's degree in library and Information Science, knowledge management, Information technology from a recognized institutions*” in the new dispensation of devolved units, the national library requires a professional to ensure that the international standards are met.
- o. Amend by deleting Clause 15(2) (c) and replacing therefore with “*Has at least fifteen cumulative years in relevant field of which at least twelve years at a senior management*” as the best practice as per Public Service Commission (PSC)
- p. Amend by deleting First Schedule Clause 15 and replacing therefore with “*The minutes of each meeting of the Board or of a Committee of the Board shall be kept by the Corporate Secretary and shall be confirmed by the Board or the Committee at the succeeding meeting and be duly signed by the Chairperson or the person presiding and the Director-General*” to replace Director General with Corporate Secretary in line with Mwongozo.
- q. Amend by deleting First Schedule Clause 15 (c) and replacing therefore with “*Submit declaration of income assets and liabilities to the body responsible for such declarations from public officers in accordance with the law*” in line with existing governing laws.
- r. A proposed addition Clause 5(q) and therefore read “*to provide facilities for the study of , and for training, and award of certificates and diploma in the principles, procedures and techniques of librarianship and such other related subjects*” to the functions of the National Library to enhance the Library Profession

COMMITTEE OBSERVATIONS

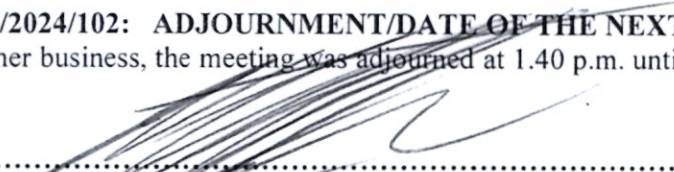
Having considered the submission on Kenya National Library Services, the Committee observed that:-

Having considered the submission on Kenya National Library Services, the Committee observed that there was need to amend clause 5 of the Bill by separating the role of the national government from the role of county governments in relation to library services. A distinction in the Bill was therefore necessary, to include a clause on the role of the national government, which would be the functions of the Kenya National Library Service, and the insertion of a new clause providing for the role of county governments.

MIN.NO. DC/SC/2024/102: ADJOURNMENT/DATE OF THE NEXT SITTING

There being no other business, the meeting was adjourned at 1.40 p.m. until 2.43 p.m, same day, same venue.

SIGNED:



THE HON. DANIEL WANYAMA SITATI, M.P.
(CHAIRPERSON)

DATE: 17/5/2024

MINUTES OF THE 17TH SITTING OF THE DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE HELD ON FRIDAY, 19TH APRIL, 2024 AT 02:40 PM IN ACACIA B CONFERENCE ROOM, HILTON GARDEN INN HOTEL, MACHAKOS.

PRESENT

1. The Hon. Samuel Rai Gonzi, M.P.
2. The Hon. Mary Otucho Emaase, M.P. - Chairing
3. The Hon. Janet Sitienei Jepkemboi, M.P.
4. The Hon. Charles Ngusya Nguna, M.P.
5. The Hon. Caroli Omondi, M.P.
6. The Hon. Stephen Mule Mutinda, M.P.
7. The Hon. Catherine Omanyo Nakhabi, M.P.
8. The Hon. Paul Nabuin Ekwom, M.P.
9. The Hon. Richard Yegon Kipkemoi, M.P.

APOLOGY

1. **The Hon. Daniel Wanyama Sitati, M.P** -Chairperson
2. **The Hon. Githua Wamacukuru, M.P.** - Vice Chairperson
3. The Hon. Naomi Jillo Waqo, M.P. CBS
4. The Hon. Chege Njuguna, M.P
5. The Hon. Robert Ngui Basil, M.P
6. The Hon. BSP.(EM) Dr. Jackson Kipkemoi Kosgei, M.P

Committee Secretariat

1. Mr. Adan Gindicha - Principal Clerk Assistant II
2. Ms. Mary Kinyunye - Clerk Assistant III
3. Ms. Christine Odhiambo - Senior Legal Counsel
4. Mr. Calvin Karung'o - Media Relations III
5. Mr. Moses Esamai - Audio Officer
6. Mr. Said wako - Serjeant-At-Arm

Stakeholders

1. Dr. Charles Nzivo - CEO, Kenya National Library Service
2. Ms. Irene Muroka - Legal Council COG
3. Ms. Julie Musandu - AG Deputy Director Finance and Administration
4. Ms. Nancy Ngugi - Principal Public Relations Officer
5. Mr. Cyrus Ndogo - Principal Planning Officer
6. Mr. Alex Ombongi - Principal ICT Officer
7. Ms. Juliana Muchai - Principal Resource Mobilization Officer
8. Ms. Mary Kinyanjui - Research Officer
9. Representatives - Inter-Governmental Relation Technical Committee

AGENDA

1. Prayers;
2. Preliminaries;
 - i. Introductions & Adoption of the Agenda;
 - ii. Communication from the Chairperson;

- iii. Confirmation of Committee Minutes and Matters Arising
3. **The 10th ordinary summit resolutions**
4. Any Other Business; and
5. Adjournment.

MIN.NO. DC/SC/2024/091: PRAYER AND PRELIMINARIES

The meeting commenced at 2.40 p.m. with the Prayer followed by introductions. The Ag. Chairperson welcomed the stakeholders to the Committee meeting.

MIN.NO. DC/SC/2024/092: ADOPTION OF THE AGENDA

The Agenda was adopted without amendments, having been proposed and seconded by the Hon. Charles Ngusya Nguna, M.P. and the Hon. Stephen Mule Mutinda, M.P. respectively.

MIN.NO.DC/SC/2024/093: CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTINGS

Confirmation of the Minutes of the previous sitting was deferred to the next sitting.

MIN.NO.DC/SC/2024/094: THE 10TH ORDINARY SUMMIT RESOLUTIONS

- 1) In order to facilitate the formation of consensus between the two levels of government regarding the emerging sectoral concerns, the 10th Summit, which took place on December 18, 2023, decided to validate the results of the unbundling of functions exercise, which took place in April 2023, with the relevant stakeholders. Some of the key stakeholders included the Council of Governors, the Kenya National Library Service and the
- 2) The joint stakeholders' engagement meeting discussed the functions contained in the legal notice No. 142 of 2019 on transfer of libraries with a view to unbundle County and National Government functions on matters of library.
- 3) The functions of National and County Governments were delineated to ensure each level of government performs their distinct functions namely:
 - a) National Government functions, the joint meeting resolved the following will be the functions of National government;
 - i. Develop a national policy, legislation and set Norms and standards for the library sector.
 - ii. Capacity building and technical assistance to the county governments.
 - iii. Carry out and promote research in the development of libraries and related services
 - iv. Promote literacy in the country
 - v. Domesticating international standards.
 - vi. Publish Kenya National Bibliography and Kenya Periodical Directory
 - vii. Establish the National WebCAT to publish catalogues for all libraries
 - b) County Government Functions
 - i. Implementation of the library policy, legislation, standards and norms.
 - ii. Develop county specific policy and legislation in line with the national policy and legislation
 - iii. Equip, develop, manage and maintain the libraries within the county
 - iv. Acquire and maintain comprehensive periodic bibliography
 - v. Establish and manage a center for books, to promote a culture of reading, writing, and publishing

- vi. Promote reading for knowledge, information and enjoyment through the stimulation of public interest in books and participation in campaigns for the eradication of illiteracy.
- vii. Provide the communities with a variety of information materials, programs and services through stocking relevant learning resources for formal and informal education.
- viii. Establish a collection section in each library holding the respective community's resources, history people, customs and traditions to promote the culture of indigenous knowledge and languages.
- ix. Carry out sensitization in counties to promote learning.
- x. Provide a conducive learning environment, stimulate and promote public interest in reading books and multimedia for information, knowledge and enjoyment.
- xi. Promote ICT in accessing and disseminating information.
- xii. Provide lending, inter-library loans, outreach, specialized and homebound services
- xiii. Provide advisory and a library reference and referral services
- xiv. Liaise with National Library, County Libraries and other relevant institutions to enhance information sharing

**MIN.NO.DC/SC/2024/095: THE STATUS ON THE TRANSFER OF THE LIBRARY
FUNCTION**

- 4) The KNLS Board Act Cap 225 of the Laws of Kenya (1965) mandates the Board to perform the dual role of both the public library service and the national library function.
- 5) The KNLS Board has successfully and seamlessly transferred 61 libraries to County Governments.
- 6) In order to ensure constitutional compliance and avoid legal conflicts in the operations of National Government functions by performing the National Library function, the KNLS Bill needed to be finalized and enacted into law.
- 7) During the 10th Summit, it was noted that the COG requested the Summit to direct the transfer of the three retained libraries to host county governments, that is Buru Buru, Nakuru and Maktaba Kuu. Subsequently, the Summit resolved that:
 - a. His Excellency the President shall institute a process leading to further consultation on allocations towards the transferred Library function with the relevant stakeholders.
 - b. Similarly, IGRTC shall institute a consultative process bringing together the Kenya National Library Services (KNLS), Nairobi City County and Nakuru County on the three libraries currently under the management of KNLS.

COMMITTEE OBSERVATIONS

Having considered the submissions on Kenya National Library Services, the Committee observed that there was need to amend clause 5 of the Bill, which provides for the functions of the Kenya National Library Service, so as to provide distinct roles for the national and county governments. This would ensure that there would be no duplication or conflict of roles between the two levels of government in regards to the library function.

MIN.NO. DC/SC/2024/096: ADJOURNMENT/DATE OF THE NEXT SITTING

There being no other business, the meeting was adjourned at 4.00 p.m. the next day, same venue.

SIGNED:

~~THE HON. DANIEL WANYAMA SITATI, M.P.~~
(CHAIRPERSON)

DATE:

MINUTES OF THE 16TH SITTING OF THE DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE HELD ON FRIDAY, 19TH APRIL, 2024 AT 09:43 AM IN ACACIA B CONFERENCE ROOM, HILTON GARDEN INN HOTEL, MACHAKOS.

PRESENT

1. The Hon. Samuel Rai Gonzi, M.P.
2. The Hon. Mary Otucho Emaase, M.P. - Chairing
3. The Hon. Janet Sitienei Jepkemboi, M.P.
4. The Hon. Charles Ngusya Nguna, M.P.
5. The Hon. Caroli Omondi, M.P.
6. The Hon. Stephen Mule Mutinda, M.P.
7. The Hon. Catherine Omanyo Nakhabi, M.P.
8. The Hon. Paul Nabuin Ekwom, M.P.
9. The Hon. Richard Yegon Kipkemoi, M.P.

APOLOGY

1. **The Hon. Daniel Wanyama Sitati, M.P** -Chairperson
2. **The Hon. Githua Wamacukuru, M.P.** - Vice Chairperson
3. The Hon. Naomi Jillo Waqo, M.P. CBS
4. The Hon. Chege Njuguna, M.P
5. The Hon. Robert Ngui Basil, M.P
6. The Hon. BSP.(EM) Dr. Jackson Kipkemoi Kosgei, M.P

Committee Secretariat

1. Mr. Adan Gindicha - Principal Clerk Assistant II
2. Ms. Mary Kinyunye - Clerk Assistant III
3. Ms. Christine Odhiambo - Senior Legal Counsel
4. Mr. Calvin Karung'o - Media Relations III
5. Mr. Moses Esamai - Audio Officer
6. Mr. Said wako - Serjeant-At-Arm

AGENDA

1. Prayers;
2. Preliminaries;
 - i. Introductions & Adoption of the Agenda;
 - ii. Communication from the Chairperson;
 - iii. Confirmation of Committee Minutes and Matters Arising
3. **Briefing on the KNLS Bill 2023 by the Legal Counsel**
4. Any Other Business; and
5. Adjournment.

MIN.NO. DC/SC/2024/086: PRAYER AND PRELIMINARIES

The meeting commenced at 9.43 a.m. with the Prayer followed by introductions. The Ag. Chairperson welcomed the stakeholders to the Committee meeting.

MIN.NO. DC/SC/2024/087: ADOPTION OF THE AGENDA

The Agenda was adopted without amendments, having been proposed and seconded by the Hon. Catherine Omanyo Nakhabi, M.P. and the Hon. Paul Nabuin Ekwom, M.P. respectively.

MIN.NO.DC/SC/2024/088: CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTINGS

Confirmation of the Minutes of the previous sitting was deferred to the next sitting.

MIN.NO.DC/SC/2024/089: THE BRIEFING BY LEGAL COUNSEL

- 1) The principal object of the Kenya National Library Service Bill is to establish the Kenya National Library Service and to provide for the management of the Kenya National Library Service.
- 2) The Bill seeks to give effect to the provisions of Article 11(2)(a) of the Constitution which mandates the State to promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage.
- 3) The Bill establishes the Kenya National Library Service as a body corporate with perpetual succession.
- 4) The functions of the Service include acquiring, preserving and maintaining a collection of library resources, carrying out and encouraging research in the development of libraries and related services and providing a national library reference and referral service among others. The Bill also provides for the Board and staff of the Kenya National Library Service.
- 5) Pursuant to the provisions of Article 118 of the Constitution, the Committee conducted public participation and received submissions from various stakeholders.

COMMITTEE OBSERVATIONS AND RECOMMENDATION

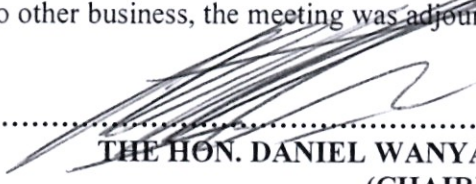
Having considered the submission on Kenya National Library Services, the Committee observed that:-

1. During the public participation process, it emerged that there were contentions in regards to the proposed functions of the Kenya National Library Service, noting that library services is a function devolved to county governments.
2. On the other hand, it was noted that there are distinct functions that can only be performed by a national library at the national government level.
3. The Committee resolved that it was necessary to engage the Kenya National Library Service, the Council of Governors and the Inter-governmental Relations Technical Committee with a view to deliberating on the functions of the Kenya National Library Service, the role of the national government and the role of county governments in relation to library services.

MIN.NO. DC/SC/2024/090: ADJOURNMENT/DATE OF THE NEXT SITTING

There being no other business, the meeting was adjourned at 1.40 p.m. until 2.43 p.m, same day, same venue.

SIGNED:



**THE HON. DANIEL WANYAMA SITATI, M.P.
(CHAIRPERSON)**

DATE: 17/5/2024

MINUTES OF THE 10TH SITTING OF THE DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE HELD ON SUNDAY, 3RD MARCH, 2024 AT 10:30 AM IN FUSCHIE CONFERENCE ROOM, LAKE NAIVASHA RESORT.

PRESENT

1. **The Hon. Daniel Wanyama Sitati, M.P** -Chairperson
2. **The Hon. Githua Wamacukuru, M.P.** - Vice Chairperson
3. The Hon. Samuel Rai Gonzi, M.P.
4. The Hon. Mary Otucho Emaase, M.P.
5. The Hon. Janet Sitienei Jepkemboi, M.P.
6. The Hon. Charles Ngusya Nguna, M.P.
7. The Hon. Caroli Omondi, M.P.
8. The Hon. Chege Njuguna, M.P
9. The Hon. Catherine Omanyo Nakhabi, M.P.
10. The Hon. Stephen Mule Mutinda, M.P
11. The Hon. Paul Nabuin Ekwom, M.P.
12. The Hon. Richard Yegon Kipkemoi, M.P.
13. The Hon. Robert Ngui Basil, M.P
14. The Hon. BSP.(EM) Dr. Jackson Kipkemoi Kosgei, M.P

APOLOGY

1. The Hon. Naomi Jillo Waqo, M.P. CBS

Committee Secretariat

1. Mr. George Gazemba - Ag Deputy Director
2. Mr. Adan Gindicha - Principal Clerk Assistant II
3. Ms. Mary Kinyunye - Clerk Assistant III
4. Mr. Gerald Kadede - Legal Counsel II
5. Mr. Vitus Okech - Research Officer
6. Mr. Said Wako - Serjeant-At-Arm

Stakeholders

(The List of the Stakeholders from the Ministry of Gender, Culture, the Arts and Heritage who attend the meetings is attached herein)

AGENDA

1. Prayers;
2. Preliminaries;
 - i. Introductions & Adoption of the Agenda;
 - ii. Communication from the Chairperson;
 - iii. Confirmation of Committee Minutes and Matters Arising
3. **Submissions by the the Kenya National Library Services regarding the pending issues on the KNLS Bill, 2023 arising from the engagement with the Council of Governors and Inter Governmental Relations Technical Committee (IGRTC)**
4. Any Other Business; and
5. Adjournment.

MIN.NO. DC/SC/2024/051: PRAYER AND PRELIMINARIES

The meeting commenced at 2.43 p.m. with the Prayer followed by introductions. The Chairperson welcomed the stakeholders to the Committee meeting.

MIN.NO. DC/SC/2024/052: ADOPTION OF THE AGENDA

The Agenda was adopted without amendments, having been proposed and seconded by the Hon. Catherine Omanyo Nakhabi, M.P. and the Hon. Samuel Rai Gonzi, M.P. respectively.

MIN.NO.DC/SC/2024/053: CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTINGS

Confirmation of the Minutes of the previous sitting was deferred to the next sitting.

MIN.NO.DC/SC/2024/054: SUBMISSIONS BY THE THE KENYA NATIONAL LIBRARY SERVICES REGARDING THE PENDING ISSUES ON THE KNLS BILL, 2023 ARISING FROM THE ENGAGEMENT WITH THE COUNCIL OF GOVERNORS AND INTER GOVERNMENTAL RELATIONS TECHNICAL COMMITTEE (IGRTC)

The CEO, Dr. Charles Nzivo submitted that:

- 1) The Kenya National Library Service Bill 2023 No. 20 Bill has been a National government Bill with the specific aim of prospering and entrenching the very necessary and critical function of a National Library.
- 2) The bill upon becoming an act will assign the KNLS Board with the mandate:
 - a) to preserve national documentary heritage; and
 - b) to distinguish the functions of the Kenya National Library Service from the other public libraries.
 - c) Overallly, perform national government functions among others.
- 3) Since 2019 the KNLS in conjunction with the Parent Ministry of Sports, Culture and Heritage embarked on the development of the KNLS Bill, in compliance with the Constitution of Kenya, 2010. The Bill went through various stages at the National Assembly in 2023.
- 4) The proposed KNLS Bill 2023, and in adherence to the international standards, the National Library functions will include the following:
 - i. Liaise with national library, county libraries and other relevant institutions to enhance information sharing as contained in the amended CAP 225 of 2012
 - ii. National library functions
 - a. to promote, establish, equip, manage, maintain and develop National Library Service;
 - b. to advise the Government and other public bodies on all matters relating to library, documentation and related services;
 - c. to provide facilities for the study of, and for training in the principles, procedures and techniques of librarianship and such other related subjects as the Board may from time to time decide;
 - d. to advise the Government on library education and training needs for library, documentation and related services;
 - e. to sponsor, arrange or provide facilities for conferences and seminars for discussion

- of matters in connection with library and related services;
 - f. to carry out and to encourage research in the development of library and related services;
 - g. to acquire books produced in and outside Kenya and such other materials and sources of knowledge necessary for a comprehensive national library;
 - h. to publish the national bibliography of Kenya and to provide a bibliographical and references service. This is done through the provision of CAP 111 that requires all publishers to deposit 2 books of every publication with the Director of the National Library.
- iii. Develop National Library policy legislation and set norms and standards for the library sector
 - iv. Establish and maintain the National WebCat
 - v. National Agency for international standard numbers for books and other information materials
- 5) That the KNLS Bill 2023 has undergone the First reading at the National Assembly. The committee organized a validation meeting on the bill which was held at Sewala in Naivasha on 14th October 2023 between the Council of Governors, Kenya Library Association and the KNLS Board.
 - 6) The Board has so far provided to the committee three memoranda on Kenya National Library Service Bill 2023 No. 20 (Copies attached)
 - 7) The proposed Amendments to the Kenya National Library Service (KNLS) Bill by KLA are as below:
 1. The name to be changed from Kenya National Library Service to National Library of Kenya
 2. National Library to be headed by a professional who has undertaken training in
 3. Library and Information Science (LIS)
 4. The bill proposes 9 members out of which 5 are Public Officers, 2 persons nominated by COG and one person appointed by the Cabinet Secretary. The independence of the Board will be compromised with only one independent member aside from the Chairperson. Secondly, matters devolution will be addressed through the Principal Secretary for Devolution and hence no need for representatives from COG.
 5. To the Composition of the Board: The Bill reads: Clause 6: the management of the National Library of Kenya shall vest in the Board which consist of –
 - a. A Chairperson appointed by the President
 - b. The principal secretary responsible for matters relating to Libraries or a representative designated in writing
 - c. The principal secretary responsible for matters relating to Finance or a representative designated in writing
 - d. The principal secretary responsible for matters relating to Education or a representative designated in writing
 - e. The principal secretary responsible for matters relating to Devolution or a representative designated in writing
 - f. The principal secretary responsible for matters relating to Information and telecommunication technology or a representative designated in writing
 - g. Two persons nominated by council of Governors in accordance with section 7 (2)
 - h. One person appointed by the Cabinet Secretary in accordance with section 7 (2) (i)

- i. The Director-General who shall be the Chief Executive officer of the Board
Proposed amendment rationale
- 8) After the National Government seamlessly devolved 61 branch libraries and delineated the National and Public libraries among the two levels of Governments, the Council of Governors on 14th October 2023 and vide Council of Governors ref. COG/6/11 VOL.3 (76) dated 3rd November 2023 alleged that; -
 - (a) National Assembly should not proceed with the KNLS Bill 2023.
 - (b) Revoke Legal Notice 142 of 2019 which retained 3 amenities under the management of the national government.
 - (c) Withdraw KNLS Bill 2023 No. 20.
 - (d) The National government should not create a SAGA through the ongoing bill.
- 9) On February 5–6, 2024, at Sawela, the IGRTC invited KNLS, the Council of Governors, and representatives from county governments to discuss the resolutions from the 18th Ordinary Summit on December 18, 2023, regarding the transfer of library functions. This invitation was sent via letter, IGR/ADM/1/40/Vol.II(224), dated February 2, 2024.
- 10) The goal of the joint stakeholders consultative conference was to unbundle/delineate county and national government functions by discussing the functions outlined in legal notice No. 142 of 2019 on library transfers.
- 11) The roles of the national and county governments are defined to guarantee that each level of government carries out its specific duties, which include:
 - i. Develop a national policy, legislation and set Norms and standards for the library
 - ii. sector.
 - iii. Capacity building and technical assistance to the county governments.
 - iv. Carry out and promote research in the development of libraries and related services
 - v. Promote literacy in the country
 - vi. Domestic international standards.
 - vii. Publish Kenya National Bibliography and Kenya Periodical Directory
 - viii. Establish the National WebCAT to publish catalogues for all libraries
- 12) The delineated facilities can only be implemented in a facility and therefore the three amenities will remain to perform National government functions and help to safeguard the National resources: -
 - i. KNLS Maktaba Kuu building continues to act as the Headquarters for KNLS Board and Preservation for National documentary heritage of Kenya
 - ii. KNLS Nakuru facility will continue as facility for the preservation and conservation of Kenya's national documentary heritage
 - iii. KNLS Buruburu facility will continue as the central a capacity building and Research facility on library services and documentary matters
- 13) The knls Bill must be completed and signed into law in order to guarantee constitutional conformity and prevent legal conflicts in the National Library role performed by the National Government.
- 14) That on July 1, 2023, the public libraries were transferred to the counties (starting with this FY 2022/2023).
- 15) A delay in the KNLS Bill's finalisation could cause legal ambiguity in the management of the National Library function after the libraries were turned over to the County Governments. This is due to the fact that the KNLS Board Act, Cap. 225 of the Laws of Kenya (1965), as it currently exists, requires the Board to perform the dual duties of the national library function

and the public library system.

- 16) The knls Bill must be completed and signed into law in order to guarantee constitutional conformity and prevent legal conflicts in the National Library role performed by the National Government.

COMMITTEE OBSERVATION

Having considered the submission on Proposed Kenya National Library Services Bill, the Committee observed that:-

1. That there was need to hold a joint meeting with the KNLS, the Council of Governors, Kenya Library Association and the IGRTC to consider the agreements on the Kenya National Library Services Bill

MIN.NO. DC/SC/2024/055: ANY OTHER BUSINESS

MIN.NO. DC/SC/2024/056: ADJOURNMENT/DATE OF THE NEXT SITTING

There being no other business, the meeting was adjourned at 12.30 p.m. The date of the next meeting to be communicated by notice.

SIGNED:

**THE HON. DANIEL WANYAMA SITATI, M.P.
(CHAIRPERSON)**

DATE: 11/3/2024

MINUTES OF THE 67TH SITTING OF THE DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE HELD ON SATURDAY, 14TH OCTOBER, 2023 AT 09:43 AM IN ACACIA B CONFERENCE ROOM, SAWELA HOTEL, NAIVASHA.

PRESENT

1. **The Hon. Mary Otucho Emaase, M.P.** - Chairing
2. The Hon. Naomi Jillo Waqo, M.P. CBS
3. The Hon. Samuel Rai Gonzi, M.P.
4. The Hon. Janet Sitienei Jepkemboi, M.P.
5. The Hon. Chege Njuguna, M.P
6. The Hon. Catherine Omanyo Nakhabi, M.P.
7. The Hon. Robert Ngui Basil, M.P

APOLOGY

1. **The Hon. Daniel Wanyama Sitati, M.P** -Chairperson
2. **The Hon. Githua Wamacukuru, M.P.** - Vice Chairperson
3. The Hon. Charles Ngusya Nguna, M.P.
4. The Hon. Caroli Omondi, M.P.
5. The Hon. Stephen Mule Mutinda, M.P
6. The Hon. Paul Nabuin Ekwom, M.P.
7. The Hon. Richard Yegon Kipkemoi, M.P.
8. The Hon. BSP.(EM) Dr. Jackson Kipkemoi Kosgei, M.P

Committee Secretariat

1. Mr. George Gazemba - Ag Deputy Director
2. Mr. Mugoma John - Clerk Assistant I
3. Ms. Mary Kinyunye - Clerk Assistant III
4. Ms. Christine Odhiambo - Senior Legal Counsel
5. Mr. Calvin Karung'o - Media Relations III
6. Mr. Stephen Otieno - Serjeant-At-Arm

Stakeholders

1. H.E. Governor Mutahi Kahiga - Nyeri County
2. H.E. Governor Dr. Erick Mutai - Kericho County
3. Dr. Charles Nzivo - CEO, Kenya National Library Service
4. Bishop Theuri Maina - Chairman KNLS
5. Ms. Irene Muroka - Legal Counsel COG
6. Ms. Julie Musandu - AG Deputy Director Finance and Administration
7. Ms. Nancy Ngugi - Principal Public Relations Officer
8. Mr. Cyrus Ndogo - Principal Planning Officer
9. Mr. Alex Ombongi - Principal ICT Officer
10. Ms. Juliana Muchai - Principal Resource Mobilization Officer
11. Ms. Mary Kinyanjui - Research Officer
12. Representatives Kenya Library Association

AGENDA

1. Prayers;
2. Preliminaries;
 - i. Introductions & Adoption of the Agenda;
 - ii. Communication from the Chairperson;
 - iii. Confirmation of Committee Minutes and Matters Arising
3. **Validation of the KNLS Bill 2023**
4. Any Other Business; and
5. Adjournment.

MIN.NO. DC/SC/2023/349: PRAYER AND PRELIMINARIES

The meeting commenced at 9.43 a.m. with the Prayer followed by introductions. The Session Chairperson welcomed the stakeholders to the Morning Session of the Committee meeting.

MIN.NO. DC/SC/2023/350: ADOPTION OF THE AGENDA

The Agenda was adopted without amendments, having been proposed and seconded by the Hon. Catherine Omanyo Nakhabi, M.P. and the Hon. Chege Njuguna, M.P. respectively.

MIN.NO.DC/SC/2023/351: CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTINGS

Confirmation of the Minutes of the previous sitting was deferred to the next sitting.

MIN.NO.DC/SC/2023/352: SUBMISSION OF MEMORANDA ON THE KNLS BILL

The CEO, Dr. Charles Nzivo submitted that:

- 1) The Kenya National Library Service (KNLS) is a corporate body governed by the KNLS Board Act 225 of 1965. It has established 64 branch libraries in 33 counties. These libraries safeguard a country's cultural heritage, collect, preserve, and make history available to citizens. They develop standards, guidelines, and best practices for service provision.
- 2) The Kenya National Library Service (KNLS) was responsible for managing both the National Library of Kenya and the Public Library System.
- 3) However, the Constitution of Kenya 2010 positions public libraries as a devolved function. The Public Library function was a devolved function as outlined under Part 2 of Schedule 4 (f) and further outlined in articles 185 (2), 186 (1), 187 (2) of the Constitution of Kenya 2010 (CoK 2010) This was further elaborated in the Legal Notice No.142 of 19th August 2019 on the delineation of Library Functions to the County Governments.
- 4) The Kenya National Library Service Bill 2023 aims to redefine the National Library of Kenya and position it as a key driver of preserving national documentary heritage.
- 5) The KNLS Bill 2023 aims to repeal the 1965 KNLS Board Act, addressing technological advancements and the need for KNLS changes in the new constitution.

- 6) Under Section 225 KNLS has a dual mandate to promote, construct, equip, manage, maintain, and develop libraries in Kenya as a National Library Service. It serves as both a public and a national library.
- 7) The KNLS prepared a Bill to amend Cap 225 of the Laws of Kenya to clearly distinguish and separate the National Library function from the Public Library function.
- 8) The Libraries were to be left under the National Government and were then referred to as the National Library of Kenya at the Maktaba Kuu Complex in Nairobi Upper Hill with branches in Buruburu and Nakuru.
- 9)
- 10) The International Federation of Library Associations (IFLA), guides the library function and has given the distribution between the National Libraries and Public Library.
- 11) National Libraries work to preserve a nation's cultural heritage by collecting, preserving, and making its history accessible to people all over the world. They were created by the government to act as the foremost information repository for that nation, with the library's collections primarily serving reference and research needs.
- 12) Public Libraries act as neighborhood information hubs with a focus on literacy, education, inclusivity, civic engagement, and culture. Providing unrestricted access to a wide range of information and ideas, promoting formal and informal education, encouraging reading habits, fostering empathy, inspiring creativity, ensuring access to community information, providing scientific knowledge, and supporting local communities with adequate information services are just a few of the specific tasks that can be performed.
- 13) With the promulgation of the Constitution of Kenya 2010, Article 11(2)(a), mandates the state to promote all forms national expression through literature, the arts, traditional celebrations, science, communication, information, mass media publications, libraries and other cultural heritage.
- 14) The Constitution endeavors to devolve the functions of the public libraries to county level; The Public Library Function; The Constitution designates its function to the County government in order to extensively reach the end users.
- 15) Consequently, the 4th schedule, Part 2, of 4(0) appropriately situates Public Library Services under County Governments-article 185 4(b) The National Library Function; whereas the Public library Functions are adequately devolved to County Government the National Library Function which is a division within CAP 225 is undesignated.
- 16) In as much as the Constitution is silent on its functions in the new dispensation, Article 186 Sub Article (3) provides where an existing function is undesignated, it shall fall under the National Government in the Legal Notice no.142 of August 2019.
- 17) The chronological event of the transfer of the public library function to the 33 County Government were as follows:
 - i. In 2013, following recommendations by the Task Force on Parastatal Reforms that the National and County Governments hold consultations to determine the future of KNLS

by June 2014, a committee was established to facilitate, oversee, and monitor the implementation of this recommendation as covered under Article 189 (2).

- ii. The Transitional Authority tasked knls to unbundle her functions. While unbundling the functions as stipulated in CAP 225, KNLS justification for retaining Buru Buru and Nakuru Libraries was because; Nakuru was the off-site conservation and preservation site for the National Library while Buruburu served as the host for KNLS back-up servers for various systems for automated services.
- iii. KNLS also proposed to establish additional satellite center of the National Library so as to bring the National Library Service closer to the people.
- iv. On 28th October 2015, KNLS vide a letter Ref. TA/2/2/VOL.7 (39) dated 16th October 2015, submitted a report of the unbundled functions and financial information of knis in response to a request by the then Ministry of Sports, Culture and the Arts concerning all the unbundled functions and financial information of all the State Corporations under the Ministry.
- v. On 10th November 2015, KNLS was invited by the then Transition Authority vide a letter Ref. TA/2/2/VOL.VII (54) to participate in a three-day retreat from 17th to 20th November 2015, to review and compile a draft report of the unbundled functions and financial information of the State Corporations under the then Ministry of Sports, Culture and the Arts.
- vi. In June 2018, during the 6th Ordinary Summit, a sub-committee on the implementation of the capacity assessment and rationalization of public service (CARPS) was formed to review reports presented before the summit. The sub-committee reviewed the status of the transfer of functions as provided for in the context of the 4th Schedule and articles 185 (2), 186 (1), and 187 (2) of the Constitution of Kenya 2010. The Sub- committee recommended the transfer of the unbundled library functions.
- vii. On 26th July 2018, knls vide letter Ref. C/KNU/HQ/AD/706/9, wrote to IGRTC providing information on Payroll, Operations and Maintenance Budgets for the 59 public libraries. IGRTC then drafted a gazette notice for the transfer of the public library function to counties as proposed by the sub-committee of the summit. (the legal instrument to be used to transfer the libraries).
- viii. A team, met on 26th March 2019, to work on the delineation of functions and include it in the legal notice. The team comprised representatives from:
 - a) IGRTC (Convener)
 - b) Council of Governors
 - c) Kenya National Library Service
 - d) Kenya Law Reform Commission
 - e) Commission on Revenue Allocation
 - f) The National Treasury

- ix. IGRTC invited KNLS together with all CECs of Education from the County Governments for a meeting scheduled for 29th April 2019 to discuss the transfer of the library function and legal notice.
 - x. On 3 June 2019, IGRTC vide a letter Ref. IGR/ADM/1/110/VOL 1/(29), wrote to the Attorney General and copied to the Cabinet Secretary for the then Ministry of Sports, Culture and Heritage (MOSCAH) submitting the final draft of the Legal Notice and schedule of libraries for both Counties and National Government. The final draft was also marked to CEO knls by CS seeking concurrence. The legal notice 142 was gazetted on 9th August 2019
 - xi. On 31 May 2022, the Council of Governors wrote to KNLS on the implementation of the transfer of library function where they requested, that staff files be prepared for transfer to the County Public Service Boards of the Libraries being absorbed by the 33 County Governments. In response, knis affirmed that it had segregated and submitted to IGRTC and the National Treasury all the resources (PE & M) for 61 branch libraries and that the files should be transferred immediately once the transfer dates were clear from IGRTC and the National Treasury, upon legislation of the County Allocation Revenue Bill, which was CA order discussion in Parliament at the time.
- 18) The current status of Libraries is that the library function has been transferred to county governments following National Treasury funding. Staff files and assets were received by 33 counties in October 2023. The Kenya National Library Service Bill, initiated in 2014, is undergoing stakeholder participation and validation for National Assembly scheduling.
- 19) The KNLS proposed amendments to the Bill as follows:
- a. The Long title to be amended to provide clarity in the purpose of the Bill by including the key mandates of KNLS such as collecting, preserving, making available and promoting the national documentary heritage.
 - b. Amend by deleting Clause 5 (a) and replacing therefor with “*establish, equip, develop, manage and maintain the Kenya National Library Service and its repository centres*” this was for modification to include other repository centres.
 - c. Amend by deleting Clause 5 (b) and replacing therefore with “*acquire, preserve and maintain a collection of library resources including books produced within and outside Kenya and such other materials and sources of knowledge necessary for a comprehensive national bibliography*” to cover all forms of information resources.
 - d. Amend by deleting Clause 5 (e) and replacing therefore with “*To promote information awareness and information literacy*” to make it clearer and shorter
 - e. Amend by deleting Clause 5 (g) and replacing therefore with “Render a national bibliographic service and act as the national replacement bibliographic agency” proposed replacement
 - f. Amend Clause 5 (h) to Capitalize the word cat. webCAT-web catalogue, is a tool to extract metadata and generate RDF description from existing web document.
 - g. Amend by delete the word *Library* in Clause 5(i) to read “*Provide a national library reference and referral service*”

- h. Amend by deleting Clause 5 (k) and replacing therefore with “*support establishing of referral repository centers at regional and County levels*” to distinguish the role of county libraries and national library.
- i. A proposed addition to the function of the National Library as Clause 5 (p) therefore to read “*to promote awareness and appreciation of the national published documentary heritage*”
- j. A proposed addition to the function of the National Library to enhance the Library Profession as Clause 5(q) to read “*To provide facilities for the study of, and for training in the principles, procedures and techniques of librarianship and such other related subjects*”
- k. Amend and delete Clause 6(d) as This is a National Library function and the Ministry of Education will better suited to work with the public libraries as they directly work with Schools and supplement curriculum education and in giving technical advice in the establishment of school libraries.
- l. Amend and deleting Clause 6(g) and replace therefore with “*The Chairperson of County of Governors (COG) or a representative designated in writing*”
- m. Amend Clause 6(h) To be in line with Mwongozo guidelines on the number of independent Board member representation and read “*Three persons appointed by the Cabinet Secretary in accordance with section 7 (2)*”
- n. Amend by deleting Clause 15(2) (b) and replacing therefore with “*Holds a master's degree in library and Information Science, knowledge management, Information technology from a recognized institutions*” in the new dispensation of devolved units, the national library requires a professional to ensure that the international standards are met.
- o. Amend by deleting Clause 15(2) (c) and replacing therefore with “*Has at least fifteen cumulative years in relevant field of which at least twelve years at a senior management*” as the best practice as per Public Service Commission (PSC)
- p. Amend by deleting First Schedule Clause 15 and replacing therefore with “*The minutes of each meeting of the Board or of a Committee of the Board shall be kept by the Corporate Secretary and shall be confirmed by the Board or the Committee at the succeeding meeting and be duly signed by the Chairperson or the person presiding and the Director-General*” to replace Director General with Corporate Secretary in line with Mwongozo.
- q. Amend by deleting First Schedule Clause 15 (c) and replacing therefore with “*Submit declaration of income assets and liabilities to the body responsible for such declarations from public officers in accordance with the law*” in line with existing governing laws.
- r. A proposed addition Clause 5(q) and therefore read “*to provide facilities for the study of , and for training, and award of certificates and diploma in the principles, procedures and techniques of librarianship and such other related subjects*” to the functions of the National Library to enhance the Library Profession

COMMITTEE OBSERVATIONS

Having considered the submission on Kenya National Library Services, the Committee observed that:-

- i. There was need to take inconsideration the IFLA directives and definitions of the public libraries and a national library so as to protect the country's cultural heritage by gathering, preserving and disseminating the country's history to its residents all over the world
- ii. Legal Notice 142 of 219 transferred the National Library Services functions to the national government and distinguished it from the public libraries that are under the purview of the county governments. This transfer of functions was done in conformity with the provisions of Article 187 of the Constitution.
- iii. The Kenya National Library Service Bill, 2023 seeks to provide a legal framework for the Kenya National Library Service. It seeks to provide for the management of the Kenya National Library Service, and to give effect to the provisions of Article 11(2)(a) of the Constitution which mandates the State to promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage.

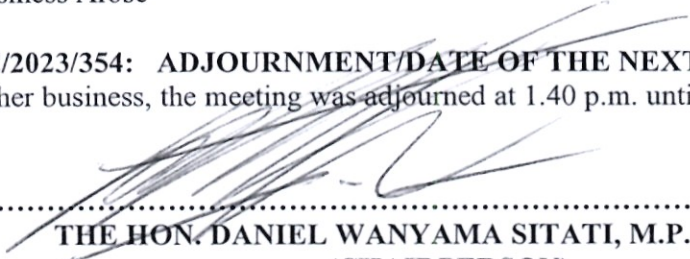
MIN.NO. DC/SC/2023/353: ANY OTHER BUSINESS

No Any Other Business Arose

MIN.NO. DC/SC/2023/354: ADJOURNMENT/DATE OF THE NEXT SITTING

There being no other business, the meeting was adjourned at 1.40 p.m. until 2.43 p.m, same day, same venue.

SIGNED:



THE HON. DANIEL WANYAMA SITATI, M.P.
(CHAIRPERSON)

DATE:

20/11/2023

MINUTES OF THE 66TH SITTING OF THE DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE HELD ON FRIDAY, 13TH OCTOBER, 2023 AT 02:30 PM AT THE SAWELA LODGE HOTEL, NAIVASHA.

PRESENT

1. **The Hon. Janet Sitienci Jepkemboi, M.P.** - Chairing
2. The Hon. Naomi Jillo Waqo, M.P. CBS
3. The Hon. Samuel Rai Gonzi, M.P.
4. The Hon. Mary Otucho Emaase, M.P.
5. The Hon. Chege Njuguna, M.P
6. The Hon. Catherine Omanyo Nakhabi, M.P.
7. The Hon. Robert Ngui Basil, M.P

APOLOGY

1. **The Hon. Daniel Wanyama Sitati, M.P** -Chairperson
2. **The Hon. Githua Wamacukuru, M.P.** - Vice Chairperson
3. The Hon. Charles Ngusya Nguna, M.P.
4. The Hon. Caroli Omondi, M.P.
5. The Hon. Stephen Mule Mutinda, M.P
6. The Hon. Paul Nabuin Ekwom, M.P.
7. The Hon. Richard Yegon Kipkemoi, M.P.
8. The Hon. BSP.(EM) Dr. Jackson Kipkemoi Kosgei, M.P

Committee Secretariat

1. Mr. George Gazemba - Ag. Deputy Director
2. Mr. Mugoma John - Clerk Assistant I
3. Ms. Mary Kinyunye - Clerk Assistant III
4. Ms. Christine Odhiambo - Senior Legal Counsel
5. Mr. Calvin Karung'o - Media Relations III
6. Mr. Stephen Otieno - Serjeant-At-Arm

Stakeholders

1. Dr. Charles Nzivo - CEO, Kenya National Library Service
2. Bishop Theuri Maina - Chairman, Kenya National Library Service
3. Ms. Julie Musandu - AG. Deputy Director Finance and Administration
4. Ms. Nancy Ngugi - Principal Public Relations Officer
5. Mr. Cyrus Ndogo - Principal Planning Officer
6. Mr. Alex Ombongi - Principal ICT Officer
7. Ms. Juliana Muchai - Principal Resource Mobilization Officer
8. Ms. Mary Kinyanjui - Research Officer

AGENDA

1. Prayers;
2. Preliminaries;
 - i. Introductions & Adoption of the Agenda;
 - ii. Communication from the Chairperson;
 - iii. Confirmation of Committee Minutes and Matters Arising

3. **Sensitization Workshop on Virtual Library and Consideration of Kenya National Library Service Bill, 2023**
4. Any Other Business; and
5. Adjournment.

MIN.NO. DC/SC/2023/343: PRAYER AND PRELIMINARIES

The meeting commenced at 2.43p.m. with the Prayer followed by introductions. The Session Chairperson welcomed the stakeholders to the afternoon session.

MIN.NO. DC/SC/2023/344: ADOPTION OF THE AGENDA

The Agenda was adopted without amendments, having been proposed and seconded by the Hon. Catherine Omanyo Nakhabi, M.P. and the Hon. Chege Njuguna, M.P. respectively.

MIN.NO.DC/SC/2023/345: CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTINGS

Confirmation of the Minutes of the previous sitting was deferred to the next sitting.

MIN.NO.DC/SC/2023/346: SENSITIZATION WORKSHOP ON VIRTUAL LIBRARY

The CEO, Dr. Charles Nzivo submitted that:

- 1) National libraries are responsible for safeguarding a country's cultural heritage, collecting, preserving, and making available its history to its citizens. They develop standards, guidelines, and best practices for service provision, and serve as a forum for discussing international programs and projects. National libraries are usually copyrighted and are responsible for acquiring and conserving copies of significant publications, coordinating with other libraries, developing bibliographic databases, and providing training for library professionals.
- 2) The Public Library function was a devolved function as outlined under Part 2 of Schedule 4 (f) and further outlined in articles 185 (2),186 (1),187 (2) of the Constitution of Kenya 2010 (CoK 2010). This was further elaborated in the Legal Notice No.142 of 19th August 2019 on the delineation of Library Functions to the County Governments.
- 3) The Libraries were to be left under the National Government and were then referred to as the National Library of Kenya at the Maktaba Kuu Complex in Nairobi Upper Hill with branches in Buruburu and Nakuru.
- 4) The KNLS in conjunction with the parent Ministry of Sports, Culture and Heritage had embarked on the development of the KNLS Bill (2020) in 2014, in compliance with the Constitution of Kenya, 2010. The Bill went through various stages at the National Assembly and was forwarded to the Senate for consideration on 5th August 2021.
- 5) The Act gives the Board the responsibility to manage both the National Library of Kenya and the Public Library System. However, the Constitution of Kenya 2010 positions the public libraries as a devolved function. The following reasons to support the amendments:

Constitutional Order

- 6) The Kenyan Constitution of 2010 allocates County Governments with responsibility for libraries without making a distinction between Public and National Libraries.
- 7) According to Article 186 (3), where a function or power not assigned by the constitution or national legislation to a county is a function or power of the national government and (4) states that for greater certainty, Parliament may legislate for the Republic on any matter.
- 8) KNLS in consultation with the relevant government agencies prepared a Bill with a view to amend/repeal Cap 225 of the Laws of Kenya in order to clearly distinguish and separate the National Library function from the Public Library function, which had been assigned as a function of the county governments.

The dual function of KNLS

- 9) CAP 225 gives KNLS a dual role of Public and National Library and mandated to undertake the followings function:
 - i. to promote, establish, equip, manage, maintain and develop libraries in Kenya as a National Library Service;
 - ii. to plan and co-ordinate library, documentation and related services in Kenya;
 - iii. to advise the Government, local authorities and other public bodies on all matters relating to library, documentation and related services;
 - iv. to provide facilities for the study of, and for training in the principles, procedures and techniques of librarianship and such other related subjects as the Board may from time to time decide;
 - v. to advise the Government on library education and training needs for library, documentation and related services;
 - vi. to sponsor, arrange or provide facilities for conferences and seminars for discussion of matters in connection with library and related services;
 - vii. to carry out and to encourage research in the development of library and related services;
 - viii. to participate and assist in campaigns for the eradication of illiteracy;
 - ix. to stimulate public interest in books and to promote reading for knowledge, information and enjoyment;
 - x. to acquire books produced in and outside Kenya and such other materials and sources of knowledge necessary for a comprehensive national library;
 - xi. to publish the national bibliography of Kenya and to provide a bibliographical and references service. This is done through the provision of CAP 111 that requires all publishers to deposit 2 books of every publication with the Director of the National Library.

The Current and Proposed Global Outlook

- 10) National libraries, according to IFLA, protect a country's cultural heritage by gathering, preserving, and disseminating that country's history to its residents all over the world.
- 11) IFLA specific functions of National Libraries include:

- i. Collection of Legal deposits;
 - ii. Cataloging and preservation;
 - iii. Digitization and digital services;
 - iv. Data dissemination and data mining;
 - v. The provision of common central services (e.g., reference, bibliography, preservation, circulation, and research services) to authorized users and libraries on their national territory; and
 - vi. The promotion of national cultural policy.
- 12) A National Library is established by the Government of a nation to serve as the pre-eminent repository of information for that country. Unlike public libraries which allow citizens to borrow books, national libraries' collections are mainly for reference and research purposes within the library. In addition, the National Library is the National Agency for the International Standards Book Number and International Standards Music Number.
- 13) The British Library preserves and makes available at least one copy of every book and periodical of domestic origin and as many overseas publications as possible. The National Library of Singapore focuses on acquiring, preserving, and providing access to materials published in or related to the nation, promoting its national cultural heritage. The National Library of Sweden collects and preserves all domestic printed and audio-visual materials in Swedish, contributing to socio-economic, cultural, educational, scientific, and innovative development.
- 14) The National Library of South Africa builds a complete collection of published documents, renders a national bibliographic service, provides reference and information services, undertakes research and development, and publishes national bibliography. The National Library of Uganda was established in 2003 and serves as the legal deposit library for Uganda.
- 15) However, Public libraries serves as local information centers, focusing on literacy, education, inclusivity, civic participation, and culture, with a core mission of providing accessible knowledge.
- 16) Some specific functions included:
- i. Providing access to a broad range of information and ideas free from censorship, supporting formal and informal education at all levels as well as lifelong learning enabling the ongoing, voluntary and self-conducted pursuit of knowledge for people at all stages of life;
 - ii. Providing opportunities for personal creative development, and stimulating imagination, creativity, curiosity, and empathy;
 - iii. Creating and strengthening reading habits in children from birth to adulthood;
 - iv. Initiating, supporting and participating in literacy activities and programmes to build reading and writing skills, and facilitating the development of media and information literacy and digital literacy skills for all people at all ages, in the spirit of equipping an informed, democratic society;
 - v. Providing services to their communities both in-person and remotely through digital technologies allowing access to information, collections, and programmes whenever possible;

- vi. Ensuring access for all people to all sorts of community information and opportunities for community organising, in recognition of the library's role at the core of the social fabric;
- vii. Providing their communities with access to scientific knowledge, such as research results and health information that can impact the lives of their users, as well as enabling participation in scientific progress;
- viii. Providing adequate information services to local enterprises, associations, and interest groups

Proposed functions not captured by Cap 225 of the laws of Kenya, 1965.

- 17) The National Library functions as proposed in the KNLS Bill 2023 in adherence to the international standards included:
- i. Equip, develop, manage and maintain the Kenya National Library Service;
 - ii. Acquire, preserve and maintain a collection of library resources including books produced within and outside Kenya and such other materials and sources of knowledge necessary for a comprehensive national bibliography;
 - iii. Liaise with other government agencies to ensure compliance by publishers with the Books and Newspapers Act;
 - iv. Promote and support research for development of libraries and related services;
 - v. Promote reading for knowledge, information and enjoyment through the stimulation of public interest in books and participation in campaigns for the eradication of illiteracy;
 - vi. Establish and maintain a national agency for administering international standard numbers for library resources including books, serials and music;
 - vii. Publish the Kenya National Bibliography and the Kenya Periodicals Directory;
 - viii. Establish the national Webcat to publish catalogues for all libraries; provide a national library reference and referral service;
 - ix. Establish and maintain a national virtual library service;
 - x. Support the establishment of referral libraries at the regional or county levels;
 - xi. Establish a center for books to promote reading, writing and publishing in local languages, traditional knowledge and culture, information and advice, advocacy, book development and easy access to books;
 - xii. Provide advisory services and related support for libraries;
 - xiii. Set standards for the establishment and operations of libraries; and
 - xiv. To perform any other function necessary for the attainment of the objectives of this Act.
- 18) Proposed functions not in Cap 225 of the laws of Kenya, 1965.
- i. Establish and maintain a national agency for administering international standard numbers for library resources including books, serials and music;
 - ii. Establish the national Webcat to publish catalogues for all libraries; provide a national library reference and referral service;
 - iii. Establish and maintain a national virtual library service;

COMMITTEE OBSERVATION

Having considered the submission on Kenya National Library Services, the Committee observed that:-

- 1. There is a need to develop a domestic referencing number to be used in Public Library.

2. There is a need to collaborate with digital hubs to link it with Virtual Library so as to create awareness and get more users.
3. There is a need to create visibility of the Virtual Library and Library in general so as to improve reading culture and preservation of Kenyan literature.
4. That since 1965, KNLS has been performing the dual functions of Public and National Library and it was high time to separate the functions.
5. That there is an urgent need to enact the National Library Bill, 2023 for KNLS to perform its National Roles of a library and have the Virtual Library role.
6. There is a need to collaborate and integrate with schools as CAP 225 gives KNLS a dual role of performing national literacy role.
7. There is a need to benchmark and have comparative learning with other libraries on ways to better the Virtual Library.
8. There is need to create a repository of indigenous information from all communities so to preserve our Kenya culture.
9. The management of the KNLS should lobby for the exemption of VAT and other charges on the shipment of books and information materials.

COMMITTEE RECOMMENDATIONS

The Committee recommended that the Kenya National Library Service Bill should be prioritized to facilitate the transition of KNLS into the National Library of Kenya.

MIN.NO. DC/SC/2023/347: ANY OTHER BUSINESS

No Any Other Business Arose


MIN.NO. DC/SC/2023/348: ADJOURNMENT/DATE OF THE NEXT SITTING

There being no other business, the meeting was adjourned at 4.07 p.m. until Saturday 14th October 2023 at 9.30 a.m. at the same venue.

SIGNED:

THE HON. DANIEL WANYAMA SITATI, M.P.
(CHAIRPERSON)

DATE: *30/11/2023*

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 25 JUL 2024 DAY: <i>Thursday</i>	
TABLED BY:	<i>Hon. Carol Omondi, MP</i>
CLERK-AT-THE-TABLE:	<i>Anne Shibuko</i>

MINUTES OF THE 65TH SITTING OF THE DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE HELD ON FRIDAY, 13TH OCTOBER, 2023 AT 10:43 AM AT THE SAWELA LODGE HOTEL, NAIVASHA.

PRESENT

1. The Hon. Janet Sitienei Jepkemboi, M.P. - Chairing
2. The Hon. Naomi Jillo Waqo, M.P. CBS
3. The Hon. Samuel Rai Gonzi, M.P.
4. The Hon. Mary Otucho Emaase, M.P.
5. The Hon. Chege Njuguna, M.P
6. The Hon. Catherine Omanyo Nakhabi, M.P.
7. The Hon. Robert Ngui Basil, M.P

APOLOGY

1. **The Hon. Daniel Wanyama Sitati, M.P -Chairperson**
2. **The Hon. Githua Wamacukuru, M.P. -Vice Chairperson**
3. The Hon. Charles Ngusya Nguna, M.P.
4. The Hon. Caroli Omondi, M.P.
5. The Hon. Stephen Mule Mutinda, M.P
6. The Hon. Paul Nabuin Ekwom, M.P.
7. The Hon. Richard Yegon Kipkemoi, M.P.
8. The Hon. BSP.(EM) Dr. Jackson Kipkemoi Kosgei, M.P

Committee Secretariat

1. Mr. George Gazemba - Ag Deputy Director
2. Mr. Mugoma John - Clerk Assistant I
3. Ms. Mary Kinyunye - Clerk Assistant III
4. Ms. Christine Odhiambo - Senior Legal Counsel
5. Mr. Calvin Karung'o - Media Relations III
6. Mr. Stephen Otieno - Serjeant-At-Arm

Stakeholders

1. Dr. Charles Nzivo - CEO, Kenya National Library Service
2. Bishop Theuri Maina - Chairman, Kenya National Library Service
3. Ms. Julie Musandu - AG. Deputy Director Finance and Administration
4. Ms. Nancy Ngugi - Principal Public Relations Officer
5. Mr. Cyrus Ndogo - Principal Planning Officer
6. Mr. Alex Ombongi - Principal ICT Officer
7. Ms. Juliana Muchai - Principal Resource Mobilization Officer
8. Ms. Mary Kinyanjui - Research Officer

AGENDA

1. Prayers;
2. Preliminaries;
 - i. Introductions & Adoption of the Agenda;
 - ii. Communication from the Chairperson;
 - iii. Confirmation of Committee Minutes and Matters Arising
3. **Sensitization Workshop on Virtual Library**

4. Any Other Business; and
5. Adjournment.

MIN.NO. DC/SC/2023/337: PRAYER AND PRELIMINARIES

The meeting commenced at 10.43 a.m. with the Prayer followed by introductions. The Ag. Chairperson welcomed the stakeholders to the Committee meeting. She conveyed the apologies from the Hon. Chairperson of Sports and Culture committee. Further informed meeting that the Committee is in-support of the fast-tracking KNL Bill and the virtual library initiative as this will improve the country reading culture.

MIN.NO. DC/SC/2023/338: ADOPTION OF THE AGENDA

The Agenda was adopted without amendments, having been proposed and seconded by the Hon. Catherine Omanyo Nakhabi, M.P. and the Hon. Chege Njuguna, M.P. respectively.

MIN.NO.DC/SC/2023/339: CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTINGS

Confirmation of the Minutes of the previous sitting was deferred to the next sitting.

MIN.NO.DC/SC/2023/340: SENSITIZATION WORKSHOP ON VIRTUAL LIBRARY

Bishop Theuri Maina, the Chairperson of Kenya National Library Services welcomed the Committee Member to the retreat and informed them that the Virtual Library was launched by KNLS as a digital content and education initiative, that aimed at promoting a lifelong learning and preserve Kenya's National Documentary heritage, with a robust ICT infrastructure and online marketplace.

That the main aim of the retreat was to engage the Committee and stakeholders to raise awareness and support its sustainability.

The CEO, Dr. Charles Nzivo submitted that:

- 1) The Virtual Library, launched on July 12, 2023 and it was funded by the Sports, Arts and Social Development Fund and it aims to provide affordable library services to Kenyan communities.
- 2) That the Virtual Library is part of the Vision 2033 flagship project that facilitated the construction of a new library building (Maktaba Kuu) at a cost of Ksh. 2.891 Billion. It comprises of the Library, auditorium halls for meetings and events, administration offices, and a commercial wing for income generation.
- 3) The project commenced in 2012 and was officially opened on 13th November 2020. The Government of Kenya through the then Ministry of Sports, Culture and Heritage funded the building.
- 4) The Virtual Library as game changer aims at increasing information literacy and improving reading culture in Kenya.

- 5) The vision of Virtual Library is to be an Information Hub for Knowledge. The digital content was designed to educate, entertain, inform, change ones perception or persuade readers into something.
- 6) It contains lots of rich content that cannot be easily accessed anywhere else. The content is available in different formats like; documents, videos, infographics, photo galleries, memes, how to guides, case studies, research data and podcasts.
- 7) It brings together digital content originating from authors, publishers, artists, entertainers, bloggers, vloggers, film producers, music producers and many more.
- 8) E-vitabu is a digital library platform that revolutionizes information access, fosters intellectual growth in Kenya, and serves as a transformative resource hub for enhancing digital literacy.
- 9) The virtual library offers various key features such as anytime access, multi-format support, self-publishing, intuitive user interface, content categorization, and personalized recommendations.
- 10) E-Vitabu offers seamless access to its extensive library resources, ensuring uninterrupted access for users of all lifestyles. It is compatible with any device with an internet connection, allowing convenient information retrieval.
- 11) Future improvements to virtual libraries will include gamified interactive learning resources, community forums for knowledge sharing, and AI integration for improved search and discovery features.
- 12) KNL has put measures to ensure security of content by putting in the Security Operation Centre (SOC) and the Network Operation Centre (NOC).

COMMITTEE OBSERVATION

Having considered the submission on Kenya National Library Services, the Committee observed that:-

1. That there a is need to develop public sensitization on reading culture through virtual libraries, E-Vitabu app, essays competition, reading clubs, and extravaganzas across schools.
2. Virtual content can be accessed through content owners portal, content consumer portal and mobile apps. E-Vitabu can be accessed via [https/vtabu.knls.ac.ke](https://vtabu.knls.ac.ke).
3. That there is a need to sensitize more government agencies to utilize the Uvumbuzi centre to promote its revenue generation and utilize government initiative so as to save on cost.
4. That more efforts is needed in collection of content and marketing of Uvumbuzi Centre products to promote KNL revenue collection.

5. There is a need to expand linkages with other government agencies such as Ministry of Education and ICT when rolling out programs ie free laptops/tablets and free wifi respectively to create awareness of the virtual library.
6. Further, there is a need to find more ways of advocacy, establish a presence, set a blue print in the digital library space.
7. That there is a need to ensure Data Protection and Privacy Laws are enforced when implementing the Virtual Libraries to prevent hacking of content.
8. That there is a need safeguard the children from content they will consume as content should adhere to the Sexual Offenses Act No. 3 of 2006 Section (16) (a) *states that any person who knowingly displays, shows, exposes or exhibits obscene images, words or sounds by means of print, audio-visual or any other media to a child with intention of encouraging or enabling a child to engage in sexual acts is guilty.*

MIN.NO. DC/SC/2023/341: ANY OTHER BUSINESS

No Any Other Business Arose

MIN.NO. DC/SC/2023/342: ADJOURNMENT/DATE OF THE NEXT SITTING

There being no other business, the meeting was adjourned at 1.40 p.m. untill 2.30 p.m, same day, same venue.

SIGNED:


THE HON. DANIEL WANYAMA SITATI, M.P.
(CHAIRPERSON)

DATE: 30/11/2023

MINUTES OF THE 58TH SITTING OF THE DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE HELD ON WEDNESDAY, 13TH SEPTEMBER, 2023 AT 2.10 P.M. IN THE PELICAN CONFERENCE ROOM, FLAMINGO HOTEL, MOMBASA

PRESENT

1. The Hon. Daniel Wanyama Sitati, M.P -Chairperson
2. The Hon. Githua Wamacukuru, M.P. -Vice Chairperson
3. The Hon. Naomi Jillo Waqo, M.P. CBS
4. The Hon. Samuel Rai Gonzi, M.P.
5. The Hon. Mary Otucho Emaase, M.P.
6. The Hon. Janet Sitienei Jepkemboi, M.P.
7. The Hon. Stephen Mule Mutinda, M.P
8. The Hon. Caroli Omondi, M.P.
9. The Hon. Charles Ngusya Nguna, M.P.
10. The Hon. Catherine Omanyo Nakhabi, M.P.
11. The Hon. Paul Nabuin Ekwom, M.P.
12. The Hon. Robert Ngui Basil, M.P
13. The Hon. BSP.(EM) Dr. Jackson Kipkemoi Kosgei, M.P

APOLOGY

1. The Hon. Richard Yegon Kipkemoi, M.P.
2. The Hon. Chege Njuguna, M.P

Committee Secretariat

1. Mr. John Mugoma - Clerk Assistant I
2. Ms. Christine Odhiambo - Senior Legal Counsel
3. Mr. Vitus Oketch - Research Officer II
4. Mr. Wilson Mwangi - Fiscal Analyst II
5. Mr. Calvin Karung'o - Media Relations III
6. Mr. Moses Esamai Omoit - Audio Officer III
7. Mr. Stephen Otieno - Serjeant-At-Arm

AGENDA

1. Prayers;
2. Preliminaries;
 - i. Introductions;
 - ii. Adoption of the Agenda;
 - iii. Communication from the Chairperson;
3. **Consideration of Memoranda on the Kenya National Library Service Bill, 2023**
4. Any Other Business; and
5. Adjournment.

MIN.NO. DC/SC/2023/294: PRAYER AND PRELIMINARIES

The meeting commenced at 2.10 p.m. with the Prayer followed by introductions.

MIN.NO. DC/SC/2023/295: ADOPTION OF THE AGENDA

The Agenda was adopted without amendments, having been proposed and seconded by the Hon. Githua Wamacukuru, M.P. and the Hon. Robert Ngui Basil, M.P. respectively.

MIN.NO. DC/SC/2023/296: CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTINGS

Confirmation of the Minutes of the previous sitting was deferred to the next sitting.

MIN.NO. DC/SC/2023/297: CONSIDERATION OF MEMORANDA ON THE KENYA NATIONAL LIBRARY SERVICE BILL, 2023

The Legal Counsel submitted to the Committee as follows:

LONG TITLE

Stakeholder: Kenya National Library Service

Amend Long Title to read-

An Act of Parliament to establish the Kenya National Library Service, to provide for the management of the National Library Service **by collecting, preserving, making available and promoting the national documentary heritage** and for connected purposes

Justification- For clarity of the Act and to distinguish between the National Library and other libraries.

Committee Comments – Agreed to with the following amendment, *“An Act of Parliament to give effect to Article 11(2)(a) of the Constitution; to establish the Kenya National Library Service, to provide for the management of the Kenya National Library Services and for connected purposes”*

Part I- Preliminary - Short title and interpretation

Stakeholder: Kenya Library Association

Change the name to National Library of Kenya

Committee Comments – Rejected. Retain the name as the Kenya National Library Service

No justification given, the Committee may consider the suitability or otherwise of the proposed name.

PART II- ESTABLISHMENT OF THE KENYA NATIONAL LIBRARY SERVICE

Stakeholder: Kenya National Library Service

Functions of the Kenya National Library Service

(a) **establish, equip, develop, manage and maintain the Kenya National Library Service and its repository centres;**

Justification- modification to include other repository centres.

Committee Comment: Agreed to with the following amendment, *“equip, develop, manage and maintain the Kenya National Library Service and its subsidiary centre”*

Clause 4 of the Bill establishes the Kenya National Library Service, therefore the establishment cannot be restated in its functions.

Further, it is not necessary to provide for the management of the repository centres of the Kenya National Library Service since the Service represents the collectivity of the National Library and any branches it may have.

(b) acquire, preserve and maintain a collection of ~~library~~ **information** resources including books produced within and outside Kenya and such other materials and sources of knowledge necessary for a comprehensive national bibliography;

Justification- to cover all forms of information resources

Committee Comment: Agreed to

A library may contain other information resources in addition to books, eg. Journals, media and internet sources.

(e) promote information awareness and information literacy

Justification- to make it clearer and shorter

Committee Comment: Agreed to with the following amendment, *“promote reading, information awareness and information literacy;”*

(g) render a national bibliographic service and act as the national bibliographic agency;

Committee Comment: Rejected

The proposed amendment is vague as it does not clearly set out that one of the roles of the Kenya National Library Service is to publish the Kenya National Bibliography.

(h) establish the national **webCAT** to publish catalogs for all libraries;

Justification- web catalogue is a tool to extract metadata and generate RDF descriptions from existing web documents.

Committee Comment: Agreed to with the following amendment, *“establish the national website catalog for the publication of inventory for all libraries”*

(i) provide a national reference and referral service;

Justification- to delete the word library

Committee Comment: Rejected

The deletion of the word “library” is not necessary as it would amount to the ambiguity of the paragraph.

(k) support establishing of referral repository centres at the regional or county levels;

Justification- to distinguish the role of county libraries and national library

Committee Comment: Agreed to with the following amendment, “*subsidiary centers at the regional and constituency levels*”

(p) promote awareness and appreciation of the national published documentary heritage;

Justification- an addition to the functions of the National Library

Committee Comment: Agreed to

It aligns the functions of the National Library Service with the purpose of the Bill as set out in clause 3.

(q) provide facilities for the study of, and for training in the principles, procedures and techniques of librarianship and such other related subjects.

Justification- an addition to enhance the library profession

Committee Comment: Agreed to with the following amendment, “*provide facilities for training of the principles and procedures of library information science and management.*”

Stakeholder: Kenya National Library Service

Composition of the Board-

Delete (d)- “the Principal Secretary responsible for matters relating to education or a representative designated in writing;”

Justification- This is a national library function and the Ministry of Education can work directly with schools in giving technical advice in the establishment of school libraries

Committee Comment: Rejected

Delete (g)- “two persons nominated by the Council of County Governors in accordance with section 7 (2);” and replace with “the Chairperson of the County of Governors or a representative designated in writing”

Justification- The Chairperson’s representation will suffice

Committee Comment: Rejected

The Chairperson of the County of Governors is a Governor

Amend (h)- “one person appointed by the Cabinet Secretary in accordance with section 7 (2);” and provide for three persons appointed by the Cabinet Secretary

Justification- To be in line with the Mwongozo Guidelines on the number of independent Board member representation

Committee Comment: Rejected

The Mwongozo Code of Governance for State Corporations recommends that at least one-third of the Board members shall be independent upon appointment and maintain their independence during their term of service in the Board.

Stakeholder: Kenya National Library Service

Appointment of Director-General

Amend (b)-

“holds a masters degree in library and information science, knowledge management, information technology, from a university recognized in Kenya;”

Justification- the national library requires a professional to ensure international standards.

Committee Comment: Rejected

The Director General is a manager and not a technocrat. Development Studies involves information science.

Delete (c)-

“has at least seven years professional experience of which at least five years are at senior management level;”

Replace with-

“has at least fifteen cumulative years in the relevant field of which at least twelve years are at a senior management level”

Justification- This is the best practice as per the Public Service Commission

Committee Comment: Agreed with the following amendment, *“has at least five years cumulative years in the relevant field of which at least three years are at a senior management level”*

Stakeholder: Kenya Library Association

National Library to be headed by a professional who has undertaken training in Library and Information Science

Committee Comment: Rejected

Clause 7(1)(d) of the Bill already provides that a person shall qualify for appointment as a Chairperson if the person has had a distinguished career in library and information science, knowledge management, information technology, development studies, management or any related field.

Composition of the Board- Delete (g)- “two persons nominated by CoG” and replace with “three persons appointed by the Cabinet Secretary in accordance with section 7(2)”

Committee Comment: Rejected

Composition of the Board- Delete (h)- “one person appointed by the Cabinet Secretary” and replace with “a representative of the Library and Information Science Profession, such as the President of the Kenya Library Association”

Committee Comment: Agreed to with amendment, *“a representative of the Library and Information Science Profession”*

Justification- The independence of the Board will be compromised with only one independent member appointed by the Cabinet Secretary, aside from the Chairperson.

Further, matters devolution will be addressed by the Principal Secretary responsible for matter relating to devolution, therefore there is no need for persons nominated by CoG.

Committee Comment: Agreed

FIRST SCHEDULE

Stakeholder: Kenya National Library Service

Amend paragraph 5-

The minutes of each meeting of the Board or of a Committee of the Board shall be kept by the **Corporation Secretary** and shall be confirmed by the Board or the Committee at the succeeding meeting and be duly signed by the Chairperson or the person presiding and the Director-General.

Committee Comment: Agreed to

To align it with the provisions of section 16(3)(c) of the Bill which provides that the Corporation Secretary shall be responsible for ensuring safe custody of the minutes, decisions and documents of the Board.

SECOND SCHEDULE

Stakeholder: Kenya National Library Service

Amend paragraph 5(c)-

A member or employee of the Service shall submit an annual declaration of income, assets and liabilities to the body responsible for such declarations from public officers **in accordance with the law;**

Justification- this is in line with the existing governing laws.

Committee Comment: Agreed to

MIN.NO. DC/SC/2023/298: ANY OTHER BUSINESS

No Any Other Business Arose

MIN.NO. DC/SC/2023/299: ADJOURNMENT/DATE OF THE NEXT SITTING

There being no other business, the meeting was adjourned at 3.20 p.m. until Thursday 14th September 2023 at 10.00 a.m

SIGNED:


THE HON. DANIEL WANYAMA SITATI, M.P.
(CHAIRPERSON)

DATE: 19th Oct 2023

MINUTES OF THE 56TH SITTING OF THE DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE HELD ON TUESDAY, 12TH SEPTEMBER, 2023 AT 3.30 P.M IN THE PELICAN CONFERENCE ROOM, FLAMINGO HOTEL, MOMBASA

PRESENT

1. **The Hon. Daniel Wanyama Sitati, M.P** -Chairperson
2. **The Hon. Githua Wamacukuru, M.P.** -Vice Chairperson
3. The Hon. Naomi Jillo Waqo, M.P. CBS
4. The Hon. Samuel Rai Gonzi, M.P.
5. The Hon. Mary Otucho Emaase, M.P.
6. The Hon. Janet Sitienei Jepkemboi, M.P.
7. The Hon. Stephen Mule Mutinda, M.P
8. The Hon. Caroli Omondi, M.P.
9. The Hon. Charles Ngusya Nguna, M.P.
10. The Hon. Catherine Omanyo Nakhabi, M.P.
11. The Hon. Paul Nabuin Ekwom, M.P.
12. The Hon. Robert Ngui Basil, M.P
13. The Hon. BSP.(EM) Dr. Jackson Kipkemoi Kosgei, M.P

APOLOGY

1. The Hon. Richard Yegon Kipkemoi, M.P.
2. The Hon. Chege Njuguna, M.P

Committee Secretariat

1. Mr. John Mugoma - Clerk Assistant I
2. Ms. Christine Odhiambo - Senior Legal Counsel
3. Mr. Vitus Oketch - Research Officer II
4. Mr. Wilson Mwangi - Fiscal Analyst II
5. Mr. Calvin Karung'o - Media Relations III
6. Mr. Moses Esamai Omoit - Audio Officer III
7. Mr. Stephen Otieno - Serjeant-At-Arm

AGENDA

1. Prayers;
2. Preliminaries;
 - i. Introductions;
 - ii. Adoption of the Agenda;
 - iii. Communication from the Chairperson;
3. **Consideration of the Kenya National Library Service Bill, 2023**
4. Any Other Business; and
5. Adjournment.

MIN.NO. DC/SC/2023/282: PRAYER AND PRELIMINARIES

The meeting commenced at 3.30 p.m. with the Prayer.

MIN.NO. DC/SC/2023/283: ADOPTION OF THE AGENDA

The Agenda was adopted without amendments, having been proposed and seconded by the Hon. Naomi Jillo Waqo, M.P. and the Hon. Paul Nabuin Ekwom, M.P. respectively.

MIN.NO. DC/SC/2023/284: CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTINGS

Confirmation of the Minutes of the previous sitting was deferred to the next sitting.

MIN.NO. DC/SC/2023/285: COMPARATIVE ANALYSIS OF THE KENYA NATIONAL LIBRARY BILL, 2023

The policy analyst submitted that:-

1. National libraries occur almost universally. However, while national libraries can be distinguished as a particular type of library, they differ greatly from one another in respect of their origins, functions and status in their respective countries. This diversity is underlined by the emergence of the term “national library service”.
2. The Kenya National Library Service Bill, 2023 seeks to give effect to Article 11(2)(a) of the Constitution which mandates the State to promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage.
3. The purpose of the Act is to preserve national documentary heritage; and to distinguish the functions of the Kenya National Library Service from other Public Libraries. This is also in line with the definition of a National Library by UNESCO.
4. The Bill proposes the following:
 - i. Provides that the Service can be found to be liable for damages.
 - ii. Provides that the accounts of the Service shall be audited and reported upon in accordance with the provision of the Public Audit Act, 2015.
 - iii. Provides for the appointment of 2 persons nominated by the Council of County Governors. This acknowledges the 2 levels of government and the need for them to work better for the same citizenry.
 - iv. Provides for the functions of the Kenya National Library Service. These include: acquiring, preserving and maintaining a collection of library resources, carrying out and encouraging research in the development of libraries and related services and providing a national library reference and referral service among others.
5. Regulations related to the Bill will be made by the Cabinet Secretary.

Situational Analysis

The Committee was informed that:-

6. The Kenya National Library Service shall be in line with the provisions of the Constitution in Article 11(2)(a). The operations are set to improve and the majority of Kenyans shall indeed benefit.

7. With the development of a policy framework for National and Public Libraries, the Public and County Governments shall engage with the Board to ensure Service that is both efficient and effective. This is especially so due to the aspect of custody of **heritage, infrastructure** required and a **comprehensive national service**.

Legal and Policy Framework on Library Services

8. The Constitution of Kenya, 2010, Article 11(2)(a) mandates the State to promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage.

Comparative Analysis

9. The majority of countries have national libraries and it is quite generally assumed that each country should have one. Unfortunately, in many countries with a national library, it is prevented from performing the national functions that are assumed to be its *raison d'être* (reason for being). This is due to a variety of factors including lack of funds and effective powers.

- a) The first concern is to clarify the aims and functions of the national library *vis-a-vis* the state. A national library is too important an organ for its aims, functions and survival to be dependent on mere administrative decisions. It should be established by the legislature. If this is done, the legislature can hold the management of the national library accountable for the manner in which it pursues its enacted aim and carries out its statutory functions, while the management of the national library has a firm basis on which it can approach the legislature for the funding it needs to carry out its functions.
- b) The second concern is to provide a basis for the national library's relationships with other libraries and institutions. To carry out key national functions which entail, for example, cooperation with other institutions, initiating and coordinating national library and information programmes, encouraging standardization, and carrying out national and international liaison tasks, the national library needs statutory recognition which gives it the necessary authority.
- c) The third concern is to gain a greater degree of autonomy for the national library, with particular emphasis on the competence of its management to determine priorities and to allocate resources in a flexible way in response to changes taking place in the library's environment (Lor 1987).

10. Countries that have National Libraries established by law include the following:

	Country	Library	Legal Deposit
1	Iceland	National and University Library of Iceland (Landsbókasafn Íslands Háskólabókasafn)	YES
2	India	National Library of India	YES
3	Indonesia	National Library of Indonesia (Perpustakaan Nasional Republik Indonesia)	YES

4	Iran	National Library of Iran (Ketabkhane-ye Melli-ye Iran)	YES
5	Usa	The National Library of Congress (Est. 24 TH APRIL, 1800)	YES
6	Belgium	<u>Royal Library of Belgium</u> (<i>Koninklijke Bibliotheek van België = Bibliothèque royale de Belgique</i>)	YES

11. USA's Library of Congress (**LOC**) is a research library that serves as the library and research service of the U.S. Congress and the de facto national library of the United States. It is the United States' oldest federal cultural institution. It is the largest library in the world. Its collection was growing at a rate of about two million items per year; it reached more than 170 million items in 2020.
12. Many national librarians believe that this situation can be remedied at least in part, by appropriate legislation. Three underlying concerns are reflected in the various arguments that have been advanced for national library legislation.
13. Other countries include Colombia, Denmark, Germany, the United Kingdom, Sao Tome and Principe, Malaysia and the Philippines.
14. Not all National Libraries are established by law. They are, however, by their operations and functions, taken to be National libraries. They include the following: Sri Lanka, Bulgaria, Mexico, Argentina, Ghana and Italy.

In conclusion, the policy analyst submitted that:-

15. The principal object of this Bill is to give effect to **Article 11(2)(a)** of the Constitution which mandates the State to promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage.¹
16. No amount of legislation can make up for a lack of the political will to adequately support and empower a country's national library. However, a sound legislative framework for a country's national library, which gives expression to the legislators' commitment to the institution, would appear to be a prerequisite for the allocation of the resources and powers such an institution needs to carry out national functions in a reliable and effective way.
17. KNLS should conduct periodic information needs assessments in order to tailor their services for their clients. There is a lot of competition from the virtual/online platforms.
18. KNLS to afford the Committee their latest strategic plan that was set to start in 2022. The previous one covered 2017 – 2022.

MIN.NO. DC/SC/2023/286: ANY OTHER BUSINESS

No Any Other Business Arose

MIN.NO. DC/SC/2023/287: ADJOURNMENT/DATE OF THE NEXT SITTING

There being no other business, the meeting was adjourned at 5.50 p.m. until Wednesday 13th September 2023 at 10.00 a.m.

SIGNED:


THE HON. DANIEL WANYAMA SITATI, M.P.
(CHAIRPERSON)

DATE: 19th Oct 2023



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION (2023)

IN THE MATTER OF ARTICLE 118 (1) (b) OF THE CONSTITUTION
AND
IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF:

- 1. THE HIGHER EDUCATION LOANS BOARD (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 10 OF 2023);**
- 2. THE KENYA NATIONAL LIBRARY SERVICES BILL (NATIONAL ASSEMBLY BILL NO. 20 OF 2023);**
- 3. THE NATIONAL DISASTER RISK MANAGEMENT BILL (NATIONAL ASSEMBLY BILL NO. 24 OF 2023);**
- 4. THE CLIMATE CHANGE (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 42 OF 2023); AND**
- 5. KENYA INFORMATION AND COMMUNICATIONS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 52 OF 2022)**

INVITATION TO SUBMIT MEMORANDA

WHEREAS, Article 118(1) (b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees and Standing Order 127(3) of the National Assembly Standing Orders requires House Committees considering Bills to facilitate public participation;

WHEREAS, the Higher Education Loans Board (Amendment) Bill (National Assembly Bill No. 10 of 2023); the Kenya National Library Services Bill (National Assembly Bill No. 20 of 2023); the National Disaster Risk Management Bill (National Assembly Bill No. 24 of 2023); the Climate Change (Amendment) Bill (National Assembly Bill No. 42 of 2023) and the Kenya Information and Communications (Amendment) Bill (National Assembly Bill No. 52 of 2022) were read a First Time on **Wednesday 9th August, 2023** and referred to the relevant Departmental Committees for consideration and reporting to the House;

IT IS NOTIFIED that:

- 1. The Higher Education Loans Board (Amendment) Bill (National Assembly Bill No. 10 of 2023)** is a Bill sponsored by **Hon. Joyce Kamene, MP** which seeks to amend the Higher Education Loans Board Act, No. 3 of 1995 to waive the imposition of interest on the principal amount of a loan advanced to the youth and person with disabilities until such time as they have secured their first employment. The Bill further sets the percentage of interest that may be charged on the loan advanced at 3% and provides that the penalty charged on defaulting of the loan shall be charged after securing employment or five (5) years after completion of studies. The aim of these proposals is to reduce the financial burden on recent graduates who are expected to pay large sums of money to the Higher Education Loans Board even before securing employment or becoming financially stable.
- 2. The Kenya National Library Services Bill (National Assembly Bill No. 20 of 2023)** is a Bill sponsored by **Hon Danial Wanyama Sitati, MP** which seeks to give effect to Article 11 (2) (a) of the Constitution which mandates the State to promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage.
- 3. The National Disaster Risk Management Bill (National Assembly Bill No. 24 of 2023)** is a Bill sponsored by **Hon. Kimani Ichung'wah, MGH, MP, the Leader of the Majority Party** which seeks to provide a legal framework for the co-ordination of disaster risk management activities in both levels of government by establishing an intergovernmental Council on Disaster Risk Management and the National Disaster Management Authority to ensure co-ordination of disaster risk management issues. The Bill approaches disaster risk management in a manner that seeks first to respond effectively in a timely manner to any disaster and prevent the adverse effect of a disaster.
- 4. The Climate Change (Amendment) Bill (National Assembly Bill No. 42 of 2023)** is a Bill sponsored by **Hon. Kimani Ichung'wah, MGH, MP, the Leader of the Majority Party** which seeks to amend the Climate Change Act, 2016 to provide for the regulation of the carbon markets.
- 5. Kenya Information and Communications (Amendment) Bill (National Assembly Bill No. 52 of 2022)** is a Bill sponsored by **Hon. Elisha Odhiambo, MP** which seeks to amend the Kenya Information and Communication Act, 1998 to enable persons operating a telecommunication system or providing a telecommunication service to engage in any other business and provide for separation of such other business from telecommunication business. The amendments introduce a regulatory framework that requires licensed entities to report their compliance to the Communication Authority and prescribe a penalty for non-compliance. The amendment will aid in control of anti-competitive practice within the telecommunications sector.

NOW THEREFORE, in compliance with Article 118(1) (b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly hereby invites the public and stakeholders to submit memoranda on the Bills to the respective Departmental Committees listed below:

BILL	COMMITTEE
1. The Higher Education Loans Board (Amendment) Bill (National Assembly Bill No. 10 of 2023)	Education
2. The Kenya National Library Services Bill (National Assembly Bill No. 20 of 2023)	Sports and Culture
3. The National Disaster Risk Management Bill (National Assembly Bill No. 24 of 2023)	Regional Development
4. The Climate Change (Amendment) Bill (National Assembly Bill No. 42 of 2023)	Environment, Forestry and Mining
5. Kenya Information and Communications (Amendment) Bill (National Assembly Bill No. 52 of 2022)	Communication, Information & Innovation

Copies of the Bills are available at the National Assembly Table Office, Main Parliament Buildings or on www.parliament.go.ke/the-national-assembly/house-business/bills.

The memoranda may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi**; hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi**; or emailed to cna@parliament.go.ke to be received on or before **Tuesday 22nd August, 2023** at **5.00 p.m.**

S. NJOROGE
CLERK OF THE NATIONAL ASSEMBLY
 16th August, 2023

"For the Welfare of Society and the Just Government of the People"



THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: NA/DDC/S&C/2023/062

2nd October, 2023

Dr. Charles Nzivo
Director/CEO
Kenya National Library Service (KNLS)
P.O. Box 30573-00100
NAIROBI

Dear Dr. Nzivo

REF: INVITATION TO A SENSITIZATION RETREAT ON KNLS VIRTUAL LIBRARY FOR THE NATIONAL ASSEMBLY COMMITTEE ON SPORTS AND CULTURE COMMITTEE

Reference is made to your letter dated 25th September 2023 on the above subject.

This is to confirm that the Departmental Committee on Sports and Culture will attend the virtual library sensitization retreat scheduled for 13th to 14th October 2023 in Nakuru County.

The Committee proposes to undertake stakeholder consultations on the Kenya National Library Service Bill (National Assembly Bill No. 20 of 2023) on 14th October 2023 at the same venue.

Among the key stakeholders that the Committee proposes to engage are the Kenya National Library Service, the Council of Governors and the Kenya Library Association.

The Committee's liaison officers for this activity are Mr. John Mugoma who may be contacted on tel. no. 0724 330 358 or email: john.mugoma@parliament.go.ke, and Ms. Mary Kinyunye, tel. no. 0723 179 346 or email: mary.kinyunye@parliament.go.ke.

Yours

JEREMIAH NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY



THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

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Main Parliament Buildings

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www.parliament.go.ke/the-national-assembly

When replying, please quote

REF: NA/DDC/S&C/2023/063

2nd October, 2023

Ms. Mary Mwiti
Chief Executive Officer
The Council of Governors
Delta House, Rhapta Road
NAIROBI.

Mr. Isaac M. N. Nyarigoti
Executive Officer
Kenya Library Association
NAIROBI

Dear *Ms Mwiti*

**RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON SPORTS AND
CULTURE TO CONSIDER THE KENYA NATIONAL LIBRARY SERVICE
BILL (NATIONAL ASSEMBLY BILL NO. 20 OF 2023)**

The Departmental Committee on Sports and Culture is established pursuant to Standing Order 216 of the National Assembly Standing Orders, and is mandated inter alia: 'to study and review all legislation referred to it'.

Pursuant to the cited mandate, the Committee is in the process of considering the Kenya National Library Service Bill (National Assembly Bill No. 20 of 2023) (copy attached). The Bill gives effect to Article 11(2)(a) of the Constitution which mandates the State to promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage.

In compliance with the provisions of Article 118(1)(b) of the Constitution, the Committee invites you for a meeting to deliberate on the Bill. The meeting will be held on **Saturday, 14th October 2023 at 9.30 am** at a venue in **Nakuru County** to be communicated in due course.

You are requested to submit electronic copies of your submissions to the Committee through the email addresses provided in this letter by Wednesday 11th October 2023 and appear before the Committee with twenty (20) hard copies.

The liaison officers for this meeting are **Mr. John Mugoma**, Tel No. 0724330358 or email: john.mugoma@parliament.go.ke and **Ms. Mary Njeri Kinyunye**, Tel No. 0723179346 or email: mary.kinyunye@parliament.go.ke.

Yours



JEREMIAH NDOMBI, MBS
FOR: CLERK OF THE NATIONAL ASSEMBLY

Copy to:

H.E. Anne Waiguru, EGH, OGW
Chairperson
Council of Governors
Delta House, Rhapta Road
NAIROBI

Prof. Peter Gatiti
President
Kenya Library Association &
Associate Vice Provost & University Librarian
Aga Khan University
NAIROBI



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When replying, please quote

REF: NA/DDC/S&C/2023/070

27th October, 2023

Ms. Mary Mwiti
Chief Executive Officer
The Council of Governors
Delta House, Rhapta Road
NAIROBI.

Dear *Ms Mwiti*:

**RE: SUBMISSION OF MEMORANDUM ON THE KENYA NATIONAL LIBRARY
SERVICE BILL (NATIONAL ASSEMBLY BILL NO. 20 OF 2023)**

Reference is made to the consultative meeting held between the Departmental Committee on Sports and Culture, the Kenya National Library Service and the Council of Governors on the Kenya National Library Service Bill (National Assembly Bill No. 20 of 2023), on 14th October 2023 at Lake Naivasha Sawela Lodge in Nakuru County.

You will recall that during the meeting, it was resolved that you submit to the Committee, within two weeks, a comprehensive memorandum on the Bill stating the specific provisions in the Bill that you would want to be amended.

This is therefore to request you to submit your submissions to the Committee through the email addresses provided in this letter by Friday 3rd November 2023 to enable the Committee to conclude on the matter.

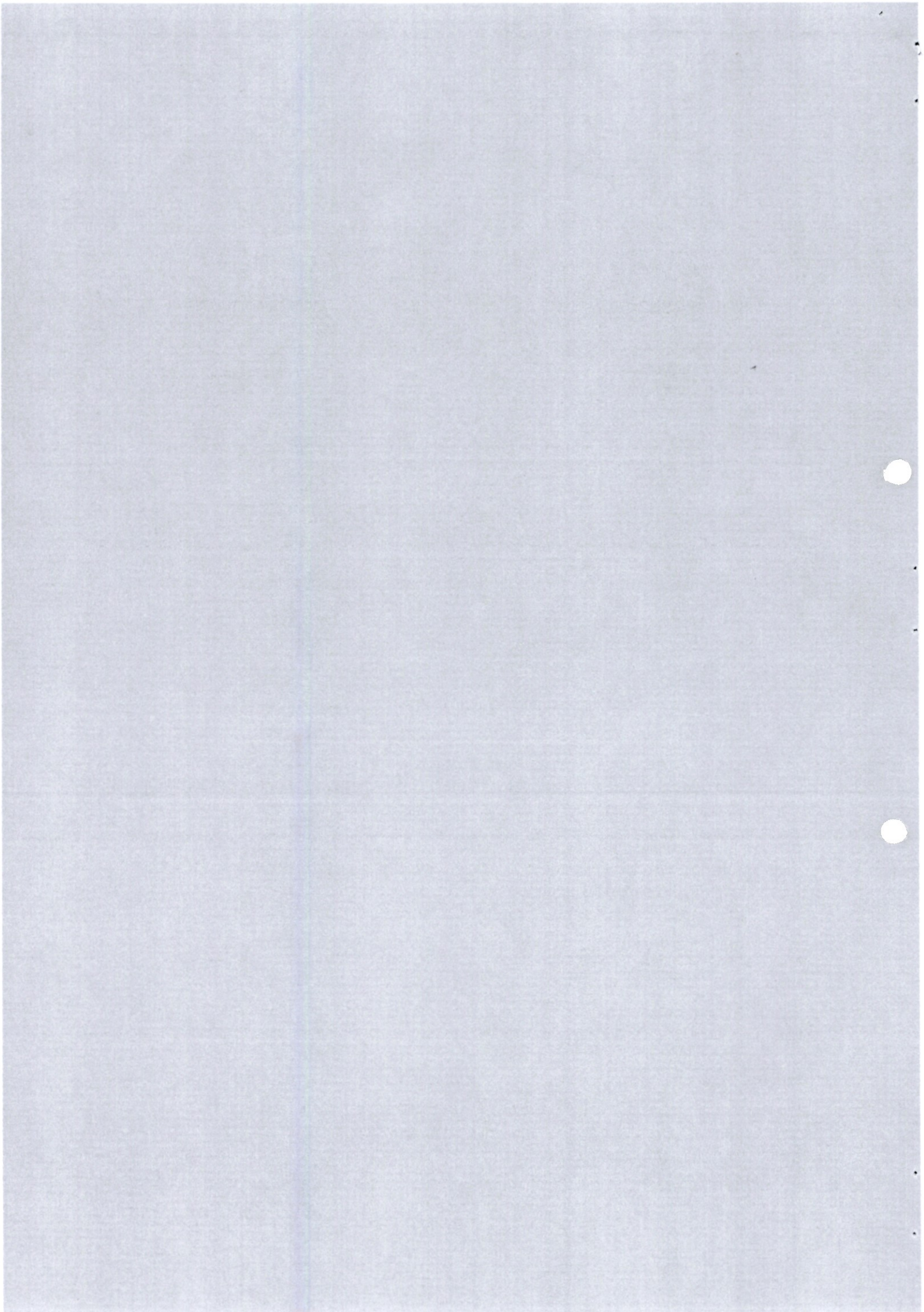
The Committee liaison officers are **Mr. John Mugoma**, Tel No. 0724330358 or email: john.mugoma@parliament.go.ke and **Ms. Mary Njeri Kinyunye**, Tel No. 0723179346 or email: mary.kinyunye@parliament.go.ke.

Yours

JEREMIAH NDOMBI, MBS
FOR: CLERK OF THE NATIONAL ASSEMBLY

Copy to:

H.E. Anne Waiguru, EGH, OGW
Chairperson
Council of Governors
Delta House, Rhapta Road
NAIROBI





kenya national
library service

STATUS OF KENYA NATIONAL LIBRARY SERVICE BILL 2023 No. 20

**LAKE NAIVASHA RESORT, NAIVASHA
1st -2nd March 2024**

DR. CHARLES NZIVO

CEO, KNLS

1.0 INTRODUCTION

The Kenya National Library Service Bill 2023 no. 20 Bill is not a County Bill from inception. It is a National government Bill with the specific aim of prospering and entrenching the very necessary and critical function of a National Library.

The bill upon becoming an act will assign the Knls Board with the mandate:

- a) to preserve national documentary heritage; and
- b) to distinguish the functions of the Kenya National Library Service from the other public libraries.
- c) Overallly, perform national government functions among others.

2.0 BACKGROUND

The 4th Cabinet meeting held on 1st August 2019 allowed the Cabinet Secretary for Sports, Culture & Heritage, jointly with the Cabinet Secretary for National Treasury & planning and the Attorney-General to brief cabinet on proposed bill 2019.

Since 2019 the KNLS in conjunction with the Parent Ministry of Sports, Culture and Heritage embarked on the development of the KNLS Bill, in compliance with the Constitution of Kenya, 2010. The Bill went through various stages at the National Assembly in 2023.

3.0 KENYA NATIONAL LIBRARY SERVICE Bill 2023 No. 20

With respect to the proposed KNLS Bill 2023, and in adherence to the international standards, the National Library functions will include:

3.1 As lifted from Cap 225 revised edition 2012 (1986)

The functions contained in the amended CAP 225 of 2012 entailed functions of a National Library apart from just one function namely:

“Liaise with national library, county libraries and other relevant institutions to enhance information sharing”.

3.1.1. National library functions

- a. to promote, establish, equip, manage, maintain and develop National Library Service;
- b. to advise the Government and other public bodies on all matters relating to library, documentation and related services;

- c. to provide facilities for the study of, and for training in the principles, procedures and techniques of librarianship and such other related subjects as the Board may from time to time decide;
- d. to advise the Government on library education and training needs for library, documentation and related services;
- e. to sponsor, arrange or provide facilities for conferences and seminars for discussion of matters in connection with library and related services;
- f. to carry out and to encourage research in the development of library and related services;
- g. to acquire books produced in and outside Kenya and such other materials and sources of knowledge necessary for a comprehensive national library;
- h. to publish the national bibliography of Kenya and to provide a bibliographical and references service. This is done through the provision of CAP 111 that requires all publishers to deposit 2 books of every publication with the Director of the National Library.

3.2 Addition functions

- a) Develop National Library policy legislation and set norms and standards for the library sector
- b) Establish and maintain the National WebCat
- c) National Agency for international standard numbers for books and other information materials

3.3 National Library functions lifted from Kenya National Library Service Bill 2023

- a) equip, develop, manage and maintain the Kenya National Library Service;
- b) acquire, preserve and maintain a collection of library resources including books produced within and outside Kenya and such other materials and sources of knowledge necessary for a comprehensive national bibliography;
- c) liaise with other government agencies to ensure compliance by publishers with the Books and Newspapers Act;
- d) carry out and encourage research in the development of libraries and related services;
- e) promote reading for knowledge, information and enjoyment through the stimulation of public interest in books and participation in campaigns for the eradication of illiteracy;

- f) establish and maintain a national agency for administering international standard numbers for library resources including books, serials and music;
- g) publish the Kenya National Bibliography and the Kenya Periodicals Directory;
- h) establish the national WebCat to publish catalogues for all libraries; provide a national library reference and referral service;
- i) establish and maintain a national Virtual library service;
- j) support the establishment of referral libraries at the regional or county levels;

4.0 CURRENT STATUS OF KNLS BILL 2023

The current status is that the KNLS Bill 2023 which is spearheaded by the National Parliamentary Committee on Sport and Culture has undergone the First reading at the National Assembly. The committee organized a validation meeting on the bill which was held at Sewala in Naivasha on 14th October 2023 between the Council of Governors, Kenya Library Association and the KNLS Board.

The committee had requested Council of Governors, Kenya Library Association and the KNLS Board to submit various memoranda as follows:

4.1 Kenya National Library Service Bill 2023 memoranda

4.1.1 KNLS Board memoranda

The Board has so far provided to the committee three memoranda on Kenya National Library Service Bill 2023 No. 20.

a) First memoranda submission

The first memoranda was submitted to the Clerk National Assembly on 23rd August 2023 as follows:

Bill No. 20 of 2023 (Supplement No. 74)			
Reference	Current Bill Presentation	Proposed Amendments	Justification
Long Title	AN ACT of Parliament to establish the Kenya National Library Service, to provide for the management of the Kenya National Library Service and for connected purposes.	AN ACT of Parliament to establish the Kenya National Library Service, to provide for the management of the National Library service by collecting, preserving, making available and promoting the national documentary heritage and for connected purposes.	For clarity of the act and to distinguish between National Library and other libraries

Functions of the Kenya National Library Service			
Clause 5 (a)	(a) equip, develop, manage and maintain the Kenya National Library Service;	Replace with: Establish, equip, develop, manage and maintain the Kenya National library service and its repository centres;	Modification to include other repository centres
Clause 5(b)	(b) acquire, preserve and maintain a collection of library resources including books produced within and outside Kenya and such other materials and sources of knowledge necessary for a comprehensive national bibliography;	Replace with: (b) acquire, preserve and maintain a collection of information resources including books produced within and outside Kenya and such other materials and sources of knowledge necessary for a comprehensive national bibliography;	To cover all forms of information resources
Clause 5(e)	(e) promote reading for knowledge, information and enjoyment through the stimulation of public interest in books and participation in campaigns for the eradication of illiteracy;	Replace with (e) 'To promote information awareness and information literacy'	To make it clearer and shorter
Clause 5(g)	(g) publish the Kenya National Bibliography and the Kenya Periodicals Directory;	Render a national bibliographic service and act as the national bibliographic agency	Proposed replacement
Clause 5(h)	(h) establish the national webcat to publish catalogues for all libraries;	(h) establish the national webCAT to publish catalogues for all libraries;	Capitalize the word cat. webCAT – web catalogue, is a tool to extract metadata and generate Resource Description Framework(RDF) description

			from existing web document.
Clause 5(i)	(i) Provide a national library reference and referral service;	Provide a national reference and referral service	Delete the word library
Clause 5(k)	(k) support the establishment of referral libraries at the regional or county levels;	Replace with: (k) support establishing of referral repository centers at regional and County levels	To distinguish the role of county libraries and National library
Clause 5(p)	None	to promote awareness and appreciation of the national published documentary heritage	A proposed addition to the function of the National Library
Clause 5(q)	None	To provide facilities for the study of, and for training in the principles, procedures and techniques of librarianship and such other related subjects	A proposed addition to the functions of the National Library to enhance the Library profession.
Composition of the Board			
Clause 6(d)	(d) the Principal Secretary responsible for matters relating to education or a representative designated in writing;	Remove	This is a National Library function and the Ministry of Education will better suited to work with the public libraries as they directly work with Schools and supplement curriculum education and in giving technical advice in the establishment of school libraries.
Clause 6(g)	(g) two persons nominated by the Council of County Governors in accordance	Replace with: The Chairperson of County	The Chair representation will suffice.

	with section 7 (2);	of Governors (CoG) or a representative designated in writing	
Clause 6(h)	h) one person appointed by the Cabinet Secretary in accordance with section 7 (2); and	Three persons appointed by the Cabinet Secretary in accordance with section 7 (2)	To be in line with Mwongozo guidelines on the number of independent Board member representation.
Appointment of Director General			
Clause 15(2) (b)	) holds a masters degree in library and information science, knowledge management, information technology, development studies, management or any related field from a University recognized in Kenya	Holds a master's degree in library and Information Science, knowledge management, Information technology from a recognized institutions	In the new dispensation of devolved units, the national library requires a professional to ensure that the international standards
Clause 15 (2) (c)	) has at least seven years professional experience of which at least five years are at senior management level; and	Has at least fifteen cumulative years in relevant field of which at least twelve years at a senior management	The best practice as per Public Service Commission (PSC).
Minutes of the Board			
First Schedule Clause (5)	The minutes of each meeting of the Board or of a Committee of the Board shall be kept by the Director-General and shall be confirmed by the Board or the Committee at the succeeding meeting and be duly signed by the Chairperson or the person presiding and the Director-General.	The minutes of each meeting of the Board or of a Committee of the Board shall be kept by the Corporate Secretary and shall be confirmed by the Board or the Committee at the succeeding meeting and be duly signed by the Chairperson or the person presiding and the Director-General.	Replace Director General with Corporate Secretary in line with Mwongozo
Integrity in Private Affairs			
Second	(c) submit an annual	Submit declaration of income	In line with

Schedule Clause 5 (c)	declaration of income, assets and liabilities to the body responsible for such declarations from public officers;	assets and liabilities to the body responsible for such declarations from public officers in accordance with the law	existing governing laws
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b) Second memoranda submission

The second memoranda on Kenya National Library Service Bill 2023 No. 20 was submitted to the Clerk National Assembly on 26th October 2023 as below:

Bill No. 20 of 2023 (Supplement No. 74)			
Reference	Current Bill Presentation	Proposed Amendments	Justification
Long Title	AN ACT of Parliament to establish the Kenya National Library Service, to provide for the management of the Kenya National Library Service and for connected purposes.	AN ACT of Parliament to establish the Kenya National Library Service, to provide for the management of the National Library service by collecting, preserving, making available and promoting the national documentary heritage and for connected purposes.	For clarity of the act and to distinguish between National Library and other libraries
Functions of the Kenya National Library Service			
Clause 5 (a)	(a) equip, develop, manage and maintain the Kenya National Library Service;	Replace with: Establish, equip, develop, manage and maintain the Kenya National library service and its facilities;	In addition to the main office, the Second Schedule of the Legal Notice included the Nakuru and Buruburu Branches as facilities for the KNLS. This is because: a. the Buru Buru branch serves as the host for the KNLS back up servers

	libraries;		catalogue, is a tool to extract metadata and generate RDF description from existing web document.
Clause 5(i)	(i) Provide a national library reference and referral service;	Provide a national reference and referral service	Delete the word library
Clause 5(k)	(k) support the establishment of referral libraries at the regional or county levels;	Replace with: (k) support establishing of referral facilities at regional and County levels.	To distinguish the role of county libraries and National library
Clause 5(p)	None	to promote awareness and appreciation of the national published documentary heritage	A proposed addition to the function of the National Library
Composition of the Board			
Clause 6(d)	(d) the Principal Secretary responsible for matters relating to education or a representative designated in writing;	Remove	This is a National Library function and the Ministry of Education will better suited to work with the public libraries as they directly work with Schools and supplement curriculum education and in giving technical advice in the establishment of school libraries.
Clause	(g) two persons	Replace Clause 6 (g) with	This is not a

			for various systems for automated services; and b. the Nakuru branch serves as the off-site conservation and preservation site for the KNLS.
Clause 5(b)	(b) acquire, preserve and maintain a collection of library resources including books produced within and outside Kenya and such other materials and sources of knowledge necessary for a comprehensive national bibliography;	Replace with: (b) acquire, preserve and maintain a collection of information resources including books produced within and outside Kenya and such other materials and sources of knowledge necessary for a comprehensive national bibliography;	To cover all forms of information resources
Clause 5(e)	(e) promote reading for knowledge, information and enjoyment through the stimulation of public interest in books and participation in campaigns for the eradication of illiteracy;	Replace with (e) 'To promote information awareness and information literacy'	To make it clearer and shorter
Clause 5(g)	(g) publish the Kenya National Bibliography and the Kenya Periodicals Directory;	Render a national bibliographic service and act as the national bibliographic agency	Proposed replacement
Clause 5(h)	(h) establish the national WebCat to publish catalogues for all	(h) establish the national webCAT to publish catalogues for all libraries;	Capitalize the word cat. webCAT – web

6(g)	nominated by the Council of County Governors in accordance with section 7 (2);	one representative from the professional body, Kenya Library Association	County Bill besides matters relating to Counties be addressed by P.S devolution - clause 6(e). KLA is the professional body for librarians and Information Science professionals.
Clause 6(h)	h) one person appointed by the Cabinet Secretary in accordance with section 7 (2); and	Three persons appointed by the Cabinet Secretary in accordance with section 7 (2)	To be in line with Mwangozo guidelines on the number of independent Board member representation.
Appointment of Director General			
Clause 15(2) (b)	Holds a master's degree in library and information science, knowledge management, information technology, development studies, management or any related field from a University recognized in Kenya	Holds a master's degree in library and Information Science, knowledge management, Information technology from a recognized institutions	In the new dispensation of devolved units, the national library requires a professional to ensure that the international standards
Clause 15 (2) (c)	) has at least seven years professional experience of which at least five years are at senior	Has at least fifteen cumulative years in relevant field of which at least twelve years at a senior	The best practice as per Public Service Commission (PSC).

	management level; and	management	
Minutes of the Board			
First Schedule Clause (5)	The minutes of each meeting of the Board or of a Committee of the Board shall be kept by the Director-General and shall be confirmed by the Board or the Committee at the succeeding meeting and be duly signed by the Chairperson or the person presiding and the Director-General.	The minutes of each meeting of the Board or of a Committee of the Board shall be kept by the Corporate Secretary and shall be confirmed by the Board or the Committee at the succeeding meeting and be duly signed by the Chairperson or the person presiding and the Director-General.	Replace Director General with Corporate Secretary in line with Mwongozo
Integrity in Private Affairs			
Second Schedule Clause 5 (c)	(c) submit an annual declaration of income, assets and liabilities to the body responsible for such declarations from public officers;	Submit declaration of income assets and liabilities to the body responsible for such declarations from public officers in accordance with the law	In line with existing governing laws
Clause 5(q)	None	To provide facilities for the study of, and for training , and award of certificates and diploma in the principles, procedures and techniques of librarianship and such other related subjects	A proposed addition to the functions of the National Library to enhance the Library profession.

Additional amendments:

Functions of the Kenya National Library Service			
Clause 1 (short title)	Kenya National Library Service	Replace with National Library of Kenya	Reflective of the functions
Clause 5(n)	set standards for the establishment and operations of libraries; and	Replace with Develop policies and standards for the Set the	To include development of policies

		establishment and operations of libraries.	
Clause 5(r)		To sponsor and arrange for conferences, exhibitions and seminars for discussion of matters in connections to information and related services	Additional function derived from cap 225.
Clause 5(l)	(l) establish a center for books to promote reading, writing and publishing in local languages, traditional knowledge and culture, information and advice, advocacy, book development and easy access to books;	Remove	Legal notice no. 142 of August 2019 placed it as a function of public library
Clause 5(q)	None	To provide facilities for the study, assessment, and award of certificates for professional development courses in the principles, procedures and techniques of librarianship and such other subjects	A proposed addition to the functions of the National Library to enhance the Library profession.

c) Other submitted memoranda

Functions of the Kenya National Library Service			
Clause 5(n)	set standards for the establishment and operations of libraries; and	Replace with Develop policies and Set standards for the establishment and operations of libraries and repository centers	To include development of policies To include repository centers

Clause 5(r)		To sponsor and arrange for conferences, exhibitions and seminars for discussion of matters in connections to information and related services	Additional function derived from cap 225.
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4.2 Kenya Library Association

The proposed Amendments to the Kenya National Library Service (KNLS) Bill by KLA are as below:

1. The name to be changed from Kenya National Library Service to National Library of Kenya
 2. National Library to be headed by a professional who has undertaken training in Library and Information Science (LIS)
 3. Composition of the Board: The Bill reads: Clause 6: the management of the National Library of Kenya shall vest in the Board which consist of –
 - (a) A Chairperson appointed by the President
 - (b) The principal secretary responsible for matters relating to Libraries or a representative designated in writing
 - (c) The principal secretary responsible for matters relating to Finance or a representative designated in writing
 - (d) The principal secretary responsible for matters relating to Education or a representative designated in writing
 - (e) The principal secretary responsible for matters relating to Devolution or a representative designated in writing
 - (f) The principal secretary responsible for matters relating to Information and telecommunication technology or a representative designated in writing
 - (g) Two persons nominated by council of Governors in accordance with section 7 (2)
 - (h) One person appointed by the Cabinet Secretary in accordance with section 7 (2) (i)
- The Director-General who shall be the Chief Executive officer of the Board Proposed amendment rationale

The bill proposes 9 members out of which 5 are Public Officers, 2 persons nominated by COG and one person appointed by the Cabinet Secretary. The independence of the Board will be compromised with only one independent member aside from the Chairperson. Secondly, matters devolution will be addressed through the Principal Secretary for Devolution and hence no need for representatives from COG.

Proposed amendment to Clause 6 are as follows: Clause 6: the management of the National Library of Kenya shall vest in the Board which consist of –

- (a) A Chairperson appointed by the President
- (b) The principal secretary responsible for matters relating to Libraries or a representative designated in writing
- (c) The principal secretary responsible for matters relating to Finance or a representative designated in writing
- (d) The principal secretary responsible for matters relating to Education or a representative designated in writing
- (e) The principal secretary responsible for matters relating to Devolution or a representative designated in writing
- (f) The principal secretary responsible for matters relating to Information, Communication, Technology and Digital Economy or a representative designated in writing
- (g) Delete this 'Two persons nominated by council of Governors in accordance with section 7 (2)' and replace with "three persons appointed by the Cabinet Secretary in accordance with section 7 (2)'
- (h) A representative of the Library & Information Science Profession, such as The President of Kenya Library Association (KLA)
- (i) The Director-General who shall be the Chief Executive officer of the Board

4.3 Council of Governors submission

After the National Government seamlessly devolved 61 branch libraries and delineated the National and Public libraries among the two levels of Governments, the Council of Governors on 14th October 2023 and vide Council of Governors ref. COG/6/11 VOL.3 (76) dated 3rd November 2023 alleged that; -

- (a) National Assembly should not proceed with the KNLS Bill 2023.
- (b) Revoke Legal Notice 142 of 2019 which retained 3 amenities under the management of the national government.
- (c) Withdraw KNLS Bill 2023 No. 20.
- (d) The National government should not create a SAGA through the ongoing bill.

5.0 OBLIGATIONS IMPOSED ON THE NATIONAL GOVERNMENT BY LEGAL NOTICE NO. 142 of 2019

The IGRTC vide letter IGR/ADM/1/40/Vol.II(224) dated 2nd February 2024 invited KNLS jointly with Council of Governors and representatives from County governments to discuss the 18th December 2023 resolutions of the 10th Ordinary summit resolutions on the transfer of libraries functions on 5th-6th February 2024 at Sawela.

The joint stakeholders consultative meeting discussed the functions contained in the legal notice No. 142 of 2019 on transfer of libraries with a view to unbundle county and national government functions.

The functions of the County and National Governments are delineated to ensure each level of government performs their distinct functions namely:

5.1 National Government functions

The joint meeting resolved the following as the functions of National government are:

- a) Develop a national policy, legislation and set Norms and standards for the library sector.
- b) Capacity building and technical assistance to the county governments.
- c) Carry out and promote research in the development of libraries and related services
- d) Promote literacy in the country
- e) Domesticating international standards.
- f) Publish Kenya National Bibliography and Kenya Periodical Directory
- g) Establish the National WebCAT to publish catalogues for all libraries

The delineated facilities can only be implemented in a facility and therefore the three amenities will remain to perform National government functions and help to protect the National resources: -

KNLS Maktaba Kuu building continues to act as the Headquarters for KNLS Board and Preservation for National documentary heritage of Kenya

KNLS Nakuru amenity will continue as facility for the preservation and conservation of Kenya's national documentary heritage

KNLS Buruburu amenity will continue as the central a capacity building and Research facility on library services and documentary matters.

Conclusion

It should be appreciated that transfer of the public libraries to the counties was implemented on 1st July 2023 (beginning of this FY 2022/2023). After the libraries were transferred to the County Governments, delay in the finalization of the KNLS Bill may throw the running of the National Library function into legal confusion. This is because the existing KNLS Board Act Cap 225 of the Laws of Kenya (1965), mandates the Board to carry out the dual role of both the public library system and the national library function.

In order to ensure constitutional compliance and avoid legal conflicts in the operations of National government functions by performing the National Library function, there is need for the knls Bill to be finalized and assented into law.

We appreciate the good work being done by this esteemed committee. It is very clear that the Constitution of Kenya, 2010 allows for the interventions of the National Assembly to perform the legislative role of actualizing the aspirations of the Constitution. Article 186 (3) provides that where an existing function is undesignated, it shall fall under the National Government and Article 186 (4) allows for greater certainty and empowers Parliament to legislate for the Republic on any matter. The KNLS Act (Cap 225) was created by an Act of Parliament and it is therefore justifiable and proper to repeal the said Act to allow the KNLS board to continue performing the distinct role of the National Library function.

County governments should be encouraged to initiate County Public Library Bills to address the Public Library needs and functions. Kenya should avoid becoming the first Country in the world to exist without a national library that promotes national library functions on behalf of the state.

It is to the discretion of this committee that if the Bill does not meet the threshold of Article 110(3) of Kenya's 2010 Constitution to pass it under Article 122, i.e.

"Before either House considers a Bill, the Speakers of the National Assembly and Senate shall jointly resolve any question as to whether it is a Bill concerning counties and, if it is, whether it is a special or an ordinary Bill". The Bill should therefore not be taken to the Senate for first reading based on Article 109 (3) which stipulates that *"A Bill not concerning county government is considered only in the National Assembly, and passed in accordance with Article 122 and the Standing Orders of the Assembly."*



COUNCIL OF GOVERNORS

LEGISLATIVE MEMORANDUM ON THE

THE KENYA NATIONAL LIBRARY SERVICES BILL, 2023

A. INTRODUCTION

The Council of Governors reiterates its submission made on the 14th of October 2023 to the Departmental Committee on Sports and Culture at Sawela Lodges in Nakuru County. Further, the Council of Governors notes that the interpretation of the provisions of the Kenya National Library Services Bill, 2023 ought to be undertaken based on the constitutional provisions especially on the assignment of functions between the National Government and County Governments under the Fourth Schedule.

Pursuant to the resolutions of the 10th Ordinary Coordinating Summit of the National and County Governments, the Intergovernmental Technical Relations Committee convened stakeholders including the Council of Governors, County Governments, and the Kenya National Library Services from the 5th to 7th of February 2023, the to facilitate the completion of the unbundling and transfer of functions between the National and County Governments, among them the Library Function. During the meeting all the identified contentious issues in the libraries function were identified, discussed, and documented and have formed part of the draft legal notices (attached).

Accordingly, and further to the earlier submission by CoG on the Bill, below are further submissions regarding the **Kenya National Library Services Bill, 2023** in relation to the draft Legal Notice:

Section	Provision of Section in the Bill	Proposed Amendment	Provision in the Legal Notice
Long Title	AN ACT of Parliament to establish the Kenya National Library Service, to provide for the management of the Kenya	AN ACT of Parliament to provide for the establishment and management of libraries, provide for mechanisms for promoting a culture of reading and knowledge sharing, and quality standards and for connected purposes	To align to the unbundled functions in the Legal Notice.

3; Purpose of the Act	National Library Service and for connected purposes The purpose of this Act is— (a) to preserve national documentary heritage; and (b) to distinguish the functions of the Kenya National Library Service from the other public libraries.	Delete part (b): to distinguish the functions of the Kenya National Library Service from the other public libraries.	The legal notice assigns the entire implementation role for the library function to the County Governments, without distinction or classification of the libraries.
4:	Establishment of the National Library Service. 4 (1) There is established a National Library to be known as the Kenya National Library Service.	Delete section and introduce new provisions: Guiding Principles	Part C of the Legal Notice Assigns this function to County Governments as below: Thus there is need for guiding principles to guide the establishment and management of the libraries.
5: Functions of the National Library Service	The functions of the Kenya National Library Service shall be to-	Delete Section and introduce new provisions as below: Obligations of National Government Obligations of County Governments	To be guided and aligned to the delineated functions between the two levels of government

B. Conclusion and recommendation

It is on the basis of the above fundamental objects and principles and the unbundled function that the County Governments oppose the Bill as is, on the ground that it contravenes the Constitution of Kenya and is a flagrant claw back on devolution. Importantly, the functions assigned to the National and County Governments as per the draft legal notice should be the basis for the drafting of the Kenya Libraries Bill.

Therefore, it is the submission of the Council of Governors that the National Assembly should initiate steps towards recasting the Bill to the Kenya Libraries Bill which will provide for a comprehensive framework on the management of Libraries and their services while respecting the functional and institutional integrity of the two levels of government.

<p>Libraries</p>	<ul style="list-style-type: none"> a) Implementation of the library policy, legislation, standards and norms. b) Develop county specific policy and legislation in line with the national policy and legislation c) Equip, develop, manage and maintain the libraries within the county d) Acquire and maintain comprehensive periodic bibliography e) Establish and manage a center for books, to promote a culture of reading, writing, and publishing f) Promote reading for knowledge, information and enjoyment through the stimulation of public interest in books and participation in campaigns for the eradication of illiteracy. g) Provide the communities with a variety of information materials, programs and services through stocking relevant learning resources 	<ul style="list-style-type: none"> a) Develop a national policy, legislation and set norms and standards for the library sector. b) Capacity building and technical assistance to the county governments. c) Carry out and promote research in the development of libraries and related services. d) Promote literacy in the country e) Domestic international standards f) Publish the Kenya National Bibliography and the Kenya Periodicals Directory. g) Establish the national webcast to publish catalogues for all libraries.
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	<p>for formal and informal education.</p> <p>h) Establish a collection section in each library holding the respective community's resources, history people, customs and traditions to promote the culture of indigenous knowledge and languages.</p> <p>i) Carry out sensitization in counties to promote learning.</p> <p>j) Provide a conducive learning environment, stimulate and promote public interest in reading books and multimedia for information, knowledge and enjoyment.</p> <p>k) Promote ICT in accessing and disseminating information.</p> <p>l) Provide lending, inter-library loans, outreach, specialized and homebound services</p> <p>m) Provide advisory and a library reference and referral services</p> <p>n) Liaise with relevant institutions to enhance information sharing.</p>	
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COUNCIL OF GOVERNORS

LEGISLATIVE MEMORANDUM ON THE

THE KENYA NATIONAL LIBRARY SERVICES BILL, 2023

A. INTRODUCTION

The Council of Governors notes that the interpretation of the provisions of the Kenya National Library Services Bill, 2023 ought to be undertaken based on the constitutional provisions especially on the assignment of functions between the National Government and County Governments under the Fourth Schedule. In the assignment of functions and powers, the Fourth Schedule to the Constitution sometimes assigns functions and powers by describing them as national or county. In the circumstances, a common functional area is assigned to both levels of government but differentiated by referring to certain aspects of the functional area as national while other aspects are referred to as county. Those differentiated aspects are assigned exclusively to each of the two levels of government. For instance, in the functional area of health the Fourth Schedule assigns to national government **‘National referral health facilities’**, while it assigns to county governments **‘County health services’**. Importantly, in constitutional functional interpretation, when the constitution assigns a function to a level of government without using the prefix of national or county, the whole function is deemed as having been assigned to that level of government. Thus, Part 2 of the Fourth schedule under 4(f) assigns to county governments the function of **libraries** without prefixing it as county libraries and without a corresponding section assigning any libraries to the national government. Hence, the whole library function is exclusively assigned to County Governments.

It is also critical to note that Article 11 of the Constitution obligates the state to *promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries, and other cultural heritage; recognize the role of science and indigenous technologies in the development of the nation; and promote the intellectual property rights of the people of Kenya*. In this case the State is an inference to the Republic of Kenya that is constituted of the **TWO LEVELS OF GOVERNMENT**.

Furthermore, the constitution is very clear under schedule four in the assignment of functions aimed at cultural history and expression of the people of Kenya. County governments have the functional area of ‘**Cultural activities, public entertainment, and public amenities, including (a) betting, casinos and other forms of gambling; (b) racing; (c) liquor licensing; (d) cinemas; (e) video shows and hiring; (f) libraries; (g) museums; (h) sports and cultural activities and facilities; and (j) county parks, beaches and recreation facilities.** Therefore, the National Government cannot ride on the provisions of Article 11 of the Constitution to assign themselves unconstitutional roles.

The Council notes that here might arise the need for policies, legislations and standards setting at the National level to enable uniform service delivery across the counties regarding the Library Function. These obligations would require County Governments to cooperate with National Government which may lead to national legislation and standards in accordance with principles and obligations of cooperative devolved government and this should be done at the Ministerial level.

The Council is cognizant of the principles and obligations of cooperative devolved government, and respect for the functional and institutional integrity of each level of government. Accordingly, below are specific submissions regarding the *Kenya National Library Services Bill, 2023*:

B. SPECIFIC COMMENTS ON PROVISIONS OF THE BILL

Section of the Bill	Provision of Section in the Bill	Proposed Amendment	Rationale/Justification for Amendment
Long Title	AN ACT of Parliament to establish the Kenya National Library Service, to provide for the management of the Kenya		The long title of the Bill is ambiguous and does not provide clarity on the purpose of the establishment of the Kenya National Library Service

	National Library Service and for connected purposes		
Interpretation	<p>Interpretations:</p> <p>National Library Service- means a repository and access point for print, audio, audio-visual, braille and digital materials and documents in braille that serves as the preeminent repository of information for the country and as the official depository for printed works, a general public access library, and information and bibliographic centre.</p> <p>Public library- means a library established, maintained, and managed by a county, non-governmental organization, community, or private person which is open to members of the public.</p>	<p>Library: means a repository and access point for print, audio, audio-visual, braille and digital materials and documents in braille that serves as the preeminent repository of information for the country and as the official depository for printed works, a general public access library, and information and bibliographic centre.</p> <p>Public Library- Means a library established, maintained, and managed by a County Government which is open to members of the public.</p> <p>Private Library- Means a library established, maintained, and managed by a non-governmental organization, community or private person which is open to members of the public.</p>	<p>The Bill has provided for the definition of “National Library Service” and “public library”. The definition provided for National Library Service in essence is a definition of what pertains a library, which is a county function. Moreover, the definition provided for a public library has included entities that do not constitute public service such as non-governmental organizations, communities and/or private persons</p>

3; Purpose of the Act	The purpose of this Act is— (a) to preserve national documentary heritage; and (b) to distinguish the functions of the Kenya National Library Service from the other public libraries.	Delete part (b): to distinguish the functions of the Kenya National Library Service from the other public libraries.	The Fourth Schedule is very clear in the assignment of roles between the National Government and County Governments. Thus this legislation cannot usurp the functions of County Governments in the guise of setting up functions for the KNLS.
4: Establishment of the National Library Service.	4 (1) There is established a National Library to be known as the Kenya National Library Service.	Delete Provision	This provision is unconstitutional. Libraries is a fully devolved function thus the Bill cannot claw back on devolution by establishing National Libraries
5: Functions of the Kenya National Library Service	The functions of the Kenya National Library Service shall be to- equip, develop, manage, and maintain the Kenya National Library Service;	Delete Provision and amend to read as follows: Role of the National Government	As noted in the preceding sections, the definition provided for the National Library Service is ambiguous and basically entails the definition of libraries in general. Additionally, the assignment or function in the Function in the Fourth Schedule is between the two levels of Government and not institutions.
	Introduce a new provision:	Subject to the principles and obligations of cooperative devolved government, develop national policy and legislations on libraries and set norms and standards for the library sector.	It is important to include provisions on the development of national legislation regarding the discharge of the Library Function. This is subject to the principles of cooperative government which require coordination, collaboration, consultation, and cooperation

		between the National and County Governments.
carry out and encourage research in the development of libraries and related services;	Delete and recast to: Capacity building and technical assistance to the county governments in relation to Library function subject to the principles and obligations of cooperative devolved government	Rather than carrying out research on the development and libraries and related services, the National Government should offer technical assistance to County Governments to be able to effectively discharge the library function.
acquire, preserve and maintain a collection of library resources including books produced within and outside Kenya and such other materials and sources of knowledge necessary for a comprehensive national bibliography;	Delete Provision	The acquisition, preservation and maintenance of a collection of library resources is a prerogative of each County Government as per the Fourth Schedule, as this the essence of establishment of libraries .
promote reading for knowledge, information, and enjoyment through the stimulation of public interest in books and participation in campaigns for the eradication of illiteracy;	In Collaboration with County Governments, promote reading for knowledge, information, and enjoyment through the stimulation of public interest in books and participation in campaigns for the eradication of illiteracy;	The principle of subsidiarity holds that functional responsibility is best placed closest to where the actions will be taken that will produce the outcomes. Thus, the promotion of a reading culture and eradication of illiteracy and by the design of devolution is a responsibility of County Governments. The National Government can support Counties in this endeavour, but the

			functional integrity of Counties should be respected.
	establish and maintain a national agency for administering international standard numbers for library resources including books, serials and music;	Recast to: Ratify, advise and coordinate the implementation of international conventions on heritage	
	establish and maintain a national virtual library service;	Delete provision	The provision is unconstitutional. There is no mention of referral libraries in the Constitution, and this is an effort to usurp the functions of the County Governments. Furthermore, this is an establishment of a new path in the library landscape that will have a claw back effect to devolution
	support the establishment of referral libraries at the regional or county levels;	Delete provision	
	Establish a center for books to promote reading, writing and publishing in local languages, traditional knowledge and culture, information and advice, advocacy, book development and easy access to books;	Delete Provision	This is in essence the purpose of a library. Which is a devolved function.
	27. The operations of the Kenya National Library Service shall be in accordance with the standards set out in the Third Schedule.	The operations of the Kenya Library Service shall be in accordance with the standards set out in the Third Schedule and respect for the functional	The Constitution of Kenya 2010 is the supreme law in the Country, and it has set out the functions of the two levels of government under Schedule Four and Principles of Cooperative Devolved Governments under Article 189

		and institutional integrity of each level of government.	
	<p>28. (1) Any person who or institution which wishes to become a member of the Kenya National Library Service shall make an application in the manner prescribed in the regulations.</p> <p>(2) The Kenya National Library Service shall determine the registration and subscription fees chargeable to individuals and institutions which shall be set out in the regulations.</p> <p>(3) The Kenya National Library Service shall on receipt of an application made under subsection (1) and on satisfying itself that the applicant has complied with the conditions set out in the Regulations, cause the applicant to be registered as a member of the Kenya National Library Service and issue a library card to that effect</p>	<p>Delete</p>	<p>Under this section, the Bill has set out the provisions for application for membership to the Kenya National Library Service and the determination of the registration and subscription fees chargeable to individuals and institutions.</p> <p>These provisions are and usurps the functions of County Governments regarding the management and service delivery in Libraries.</p> <p>The determination registration and subscription fees and issuance of library cards. This is squarely the mandate of each individual County Government as per the constitution and it should remain the same, and the Bill should not enable the clawing back of devolution.</p>

	The library card issued under subsection (3) remains the property of the Kenya National Library Service and shall be surrendered when the person or institution ceases to be a member		
	30. The Kenya National Library Service shall maintain records of— (b) all persons and institutions registered as members of the Kenya National Library Service; and	Delete	
	The Kenya National Library Service shall determine the fees to be paid for services it renders to its clients.	Delete	
General Provisions	(34) Except as provided for under this Act, the Kenya National Library Service shall not, in the performance of its functions, be subject to the direction or control of any person or institution		The functional mandate
	(35) The Kenya National Library Service may enter into a written agreement with a County Government on the management of a public library within that county.		

C. COUNCIL OF GOVERNOR'S POSITION

The Council notes that the **Kenya National Library Services Bill, 2023** mirrors provisions contained in the **Kenya National Library Services Board Act Cap 225 (2012)** and the **Kenya National Library Services Bill 2020**. Critically, the mentioned Bill together with the current Bill do not properly align the law to the constitution of 2010 and the devolved system of government. Significantly, the Statement on how the Bill concern County Government, it is recognized that the Bill concerns Counties as it contains provisions that affect the functions of County Governments as set out in the Fourth Schedule of the Constitution thus its provisions should reflect this.

Accordingly, it is the position of the Council of Governors that:

1. The National Assembly should not proceed with this legislation as contained as it claws back on devolution. Libraries are fully devolved, and a national state corporation should not embolden through legislation to continue performing a devolved function. However, the National Assembly can instead proceed with steps towards legislative a Kenya Libraries Bill that provides for a comprehensive framework on the management of Libraries and their services while respecting the functional and institutional integrity of the two levels of government.
2. The revocation of Legal Notice 142 of 2019 that retained 3 libraries in two counties under the management of the National Government, a clear violation of the provisions of the Constitution. All the libraries and their resources including the human resources managing them ought to follow the function and be transferred to County Governments.
3. Lastly given the functions the Bill seeks to assign to the Kenya National Libraries Services and its implication on the fourth schedule of the constitution, such institution ought to be established as a joint entity of both national and county government as per Article 189 (2). Indeed, it cannot be referred to as the Kenya National Library Services but instead, if established as a joint entity it should be referred to as the Kenya Library Services.



kenya national
library service

STATUS OF KENYA NATIONAL LIBRARY SERVICE BILL 2023 No. 20

**A paper to the Sports and Culture Parliamentary Committee, Council of Governors
and Intergovernmental Relations Technical Committee (IGRTC) by**

KENYA NATIONAL LIBRARY SERVICE BOARD

Presented by

**DR. CHARLES NZIVO
CEO, KNLS**

19th – 20th April 2024

1.0 INTRODUCTION

The Kenya National Library Service Bill 2023 no. 20 is a National Government Bill with the specific aim of developing and entrenching function of the National Government in the establishment and management of libraries in Kenya.

The Bill upon becoming an Act will assign the National Government the mandate:

- a) to manage the National Library Service and connected purposes
- b) to preserve national documentary heritage; and
- c) to clarify the functions of the National Library from that of the County and other public libraries.

2.0 BACKGROUND

2.1 HISTORICAL BACKGROUND OF LIBRARY IN KENYA

In 1944, the Governors of East African colonies (Tanganyika, Kenya and Uganda) during their annual meeting in Nairobi were concerned about the lack of literature to sustain acquired literacies. They resolved that appropriate reading materials would play a great developmental function in the lives of the Africans. Hence the need was a lack of appropriate reading materials for the African population. The resolution was to have in place a mechanism for the production of the appropriate reading materials and an institution through which such reading materials could be made available to the African population.

Lady Elspeth (Elizabeth) Huxley was commissioned to do a needs analysis and to report by way of recommendations. In 1946, she faithfully presented her report recommending the establishment of East African Literature Bureau (EALB) with mandate to:

1. Encourage African authorship
2. Publish books in vernacular
3. Establish lending libraries

The report was accepted and adopted in 1947. Mr. Charles Richardson was asked to prepare an implementation plan in view of the recommendations.

Consequently, in 1948, the East African Literature Bureau (EALB) was established to publish books that were deemed appropriate for African readership. Mr. Charles Richards was appointed as the Director, while Mr. George Annesley was appointed as the Librarian. He designated Nairobi as the headquarters to serve Uganda and Tanganyika. To reach out to African readers in the East African Region (Tanganyika, Uganda, and Kenya), he opted for three approaches:

1. Lending
2. Postal
3. Book boxes

This worked well for initial years but the growing demand for reading materials and related services brought the services to a halt due to a lack of sufficient funds by the British government.

Consequently, in 1958, Sydney Hockey, a British Librarian was commissioned to conduct a further need analysis. The report was ready in 1960. Hockey recommended the establishment of independent public library services in Tanganyika, Uganda and Kenya through the Acts of Parliament.

1. Tanzania was the first to establish public library services in 1963
2. Followed by Uganda in 1964
3. And lastly, Kenya in 1965 but the Board established in 1967.

Sydney Hockey held a brief to the newly established Kenya National Library Service Board established under Cap 225.

2.2 The establishment of Libraries in Kenya

Since the enactment of the Act of Parliament, Cap 225 of 1965, with various amendments and revisions, 64 libraries were established by the Government of Kenya and some in partnership with other funding agencies to perform the dual role of National and Public library function.

The development and growth of libraries have been gradual since independence. Initially, knls had a network of 15 libraries in the former Provinces and Districts funded by the Government of Kenya and development partners. The advent of cost-sharing strategies in government services in the 1990s led to the establishment of community-supported libraries under the Community Based Library Policy (2015 Rev). Community-based initiatives alone resulted in the establishment of 49 libraries by 30th t June 2023. A total of 61 out of the 64 libraries were transferred to 33 Counties effective 1st July 2023.

3.0 Establishment of the Kenya National Library Service Board ACT, CAP 225 of 1965

The Kenya National Library Service Board was enacted through an Act of Parliament CAP 225 of 17th August 1965, assented in 1967 and commenced on 1st April 1967 to undertake the followings functions;

3.1 Functions ACT No. 23 of 1965

- a) to promote, establish, equip, manage, maintain and develop libraries in Kenya;
- b) to do all such acts as appear to it to be necessary, desirable, advantageous or convenient for or in connexion with the carrying out of its functions or to be incidental or conducive to their proper discharge, and may carry on any activities in that behalf either alone or in association with any other person or body (including the Government or a local authority)
- c) For avoidance of doubt it is hereby declared that the provisions of subsection (2) of this section with respect to the powers of the Board relate only to its capacity as a body corporate and nothing in that subsection shall authorize the disregard by the Board of any rule of law.

Since the commencement of the CAP 225 in 1967 when the Board was established, it has gone through several amendments and revisions;

3.2 Amendments and Revisions

3.2.1 Functions CAP 225 No 12 of 1984

The functions in section 4 which were enacted in 1965, (sec. 4 a-c) were deleted and replaced with;

- a) to promote, establish, equip, manage, maintain and develop libraries in Kenya as a National Library Service;
- b) to plan and co-ordinate library, documentation and related services in Kenya;
- c) to advise the Government, local authorities and other public bodies on all matters relating to library, documentation and related services;

- d) to provide facilities for the study of, and for training in the principles, procedures and techniques of librarianship and such other related subjects as the Board may from time to time decide;
- e) to advise the Government on library education and training needs for library, documentation and related services;
- f) to sponsor, arrange or provide facilities for conferences and seminars for discussion of matters in connection with library and related services;
- g) to carry out and to encourage research in the development of library and related services;
- h) to participate and assist in campaigns for the eradication of illiteracy;
- i) to stimulate public interest in books and to promote reading for knowledge, information and enjoyment;
- j) to acquire books produced in and outside Kenya and such other materials and sources of knowledge necessary for a comprehensive national library;
- k) to publish the national bibliography of Kenya and to provide a bibliographical and references service. This is done through the provision of CAP 111 that requires all publishers to deposit 2 books of every publication with the Director of the National Library.

3.2.2 Legal Notice 184 of 1967 – establishment of the Board to manage the Kenya National Library Service

3.2.3 Legal Notice 73 of 1969 – amendment of the schedule on the constitution of the Board

3.2.4 Legal Notice 86 of 1970 – amendment of the schedule to the Act on the composition and appointment of the Board

3.2.5 Cap 225 1986 Revision

3.2.6 Act No. 13 of 1988 – amendment of s.9(2) on report on audited accounts

3.2.7 Act No. 7 of 2007

3.2.8 Legal Notice 142 of 2012 – Delineation of functions of national and Public Libraries

3.2.9 Cap 225 Rev. 2014 – Retained the functions same as the one in Act No 12 of 1984

3.3 National Government functions as lifted from Cap 225 revised edition 2012 (1986)

The functions contained in the amended CAP 225 of 2012 included functions of a National Library namely;

- a. to promote, establish, equip, manage, maintain and develop National Library Service;
- b. to advise the Government and other public bodies on all matters relating to library, documentation and related services;
- c. to provide facilities for the study of, and for training in the principles, procedures and techniques of librarianship and such other related subjects as the Board may from time to time decide;
- d. to advise the Government on library education and training needs for library, documentation and related services;
- e. to sponsor, arrange or provide facilities for conferences and seminars for discussion of matters in connection with library and related services;
- f. to carry out and to encourage research in the development of library and related services;
- g. to acquire books produced in and outside Kenya and such other materials and sources of knowledge necessary for a comprehensive national library;
- h. to publish the national bibliography of Kenya and to provide a bibliographical and references service.

4.0 KENYA NATIONAL LIBRARY SERVICE Bill 2023 No. 20

4.1 Background of KNLS Bill 2023

Since 2019 the KNLS in conjunction with the Parent Ministry of Sports, Culture and Heritage and now Ministry of Gender, Culture, The Arts and Heritage embarked on the development of the KNLS Bill, in compliance with the Constitution of Kenya, 2010.

The 4th Cabinet meeting held on 1st August 2019 allowed the Cabinet Secretary for Sports, Culture & Heritage, jointly with the Cabinet Secretary for National Treasury & planning and the Attorney-General to brief cabinet on proposed bill 2019.

With respect to the proposed KNLS Bill 2023, and in adherence to the international standards, the National Library functions will include:

4.2 National Library functions lifted from Kenya National Library Service Bill 2023 No. 20

- a) equip, develop, manage and maintain the Kenya National Library Service;
- b) acquire, preserve and maintain a collection of library resources including books produced within and outside Kenya and such other materials and sources of knowledge necessary for a comprehensive national bibliography;
- c) liaise with other government agencies to ensure compliance by publishers with the Books and Newspapers Act;
- d) carry out and encourage research in the development of libraries and related services;
- e) promote reading for knowledge, information and enjoyment through the stimulation of public interest in books and participation in campaigns for the eradication of illiteracy;
- f) establish and maintain a national agency for administering international standard numbers for library resources including books, serials and music;
- g) publish the Kenya National Bibliography and the Kenya Periodicals Directory;
- h) establish the national WebCat to publish catalogues for all libraries;
- i) provide a national library reference and referral service;
- j) establish and maintain a national Virtual library service;
- k) support the establishment of referral libraries at the regional or county levels;
- l) establish the centre for books to promote reading, writing and publishing in local languages, traditional knowledge and culture, information and advice, advocacy, book development and easy access to books;
- m) Provide advisory services and related support for libraries
- n) Set standards for the establishment and operations of libraries; and
- o) To perform any other function necessary for the attainment of the objectives of the Act.

4.3 Current status of KNLS Bill 2023

The current status of the KNLS Bill 2023 which is spearheaded by the National Parliamentary Committee on Sport and Culture has undergone the First reading at the National Assembly.

The committee organized a validation meeting on the bill which was held at Sawela in Naivasha on 14th October 2023 between the Council of Governors (CoG), Kenya Library Association (KLA) and the Kenya National Library Service (KNLS).

The committee had requested CoG, KLA and KNLS to submit various memoranda regarding the KNLS Bill 2023. The Knls memoranda were presented as follows:

4.3.1. Kenya National Library Service Bill 2023 memoranda

The Board provided to the committee three memoranda on Kenya National Library Service Bill 2023 No. 20.

4.3.1.1. First memoranda submission

The first memoranda was submitted to the Clerk of the National Assembly on 23rd August 2023 as follows:

Bill No. 20 of 2023 (Supplement No. 74)			
Reference	Current Bill Presentation	Proposed Amendments	Justification
Long Title	AN ACT of Parliament to establish the Kenya National Library Service, to provide for the management of the Kenya National Library Service and for connected purposes.	AN ACT of Parliament to establish the Kenya National Library Service, to provide for the management of the National Library service by collecting, preserving, making available and promoting the national documentary heritage and for connected purposes.	For clarity of the act and to distinguish between National Library and other libraries
Functions of the Kenya National Library Service			
Clause 5 (a)	(a) equip, develop, manage and maintain the Kenya National Library Service;	Replace with: Establish, equip, develop, manage and maintain the Kenya National library service and its repository centres;	Modification to include other repository centres
Clause 5(b)	(b) acquire, preserve and maintain a collection of library resources including books produced within and outside Kenya and such other materials and sources of knowledge necessary for a comprehensive national bibliography;	Replace with: (b) acquire, preserve and maintain a collection of information resources including books produced within and outside Kenya and such other materials and sources of knowledge necessary for a comprehensive national bibliography;	To cover all forms of information resources

Clause 5(e)	(e) promote reading for knowledge, information and enjoyment through the stimulation of public interest in books and participation in campaigns for the eradication of illiteracy;	Replace with (e) 'To promote information awareness and information literacy'	To make it clearer and shorter
Clause 5(g)	(g) publish the Kenya National Bibliography and the Kenya Periodicals Directory;	Render a national bibliographic service and act as the national bibliographic agency	Proposed replacement
Clause 5(h)	(h) establish the national webcat to publish catalogues for all libraries;	(h) establish the national webCAT to publish catalogues for all libraries;	Capitalize the word cat. webCAT – web catalogue, is a tool to extract metadata and generate Resource Description Framework (RDF) description from existing web document.
Clause 5(i)	(i) Provide a national library reference and referral service;	Provide a national reference and referral service	Delete the word library
Clause 5(k)	(k) support the establishment of referral libraries at the regional or county levels;	Replace with: (k) support establishing of referral repository centers at regional and County levels	To distinguish the role of county libraries and National library
Clause 5(p)	None	to promote awareness and appreciation of the national published documentary heritage	A proposed addition to the function of the National Library
Clause 5(q)	None	To provide facilities for the study of, and for training in the principles, procedures and techniques of librarianship and such other related subjects	A proposed addition to the functions of the National Library to enhance the Library profession.
Composition of the Board			
Clause 6(d)	(d) the Principal Secretary responsible for matters relating to education or a representative designated in writing;	Remove	This is a National Library function and the Ministry of Education will better suited to work with the public libraries as they directly work with Schools and supplement curriculum education and in giving technical advice in the establishment of school libraries.

Clause 6(g)	(g) two persons nominated by the Council of County Governors in accordance with section 7 (2);	Replace with: The Chairperson of County of Governors (CoG) or a representative designated in writing	The Chair representation will suffice.
Clause 6(h)	h) one person appointed by the Cabinet Secretary in accordance with section 7 (2); and	Three persons appointed by the Cabinet Secretary in accordance with section 7 (2)	To be in line with Mwongozo guidelines on the number of independent Board member representation.
Appointment of Director General			
Clause 15(2) (b)	b) holds a masters degree in library and information science, knowledge management, information technology, development studies, management or any related field from a University recognized in Kenya	Holds a master's degree in library and Information Science, knowledge management, Information technology from a recognized institutions	In the new dispensation of devolved units, the national library requires a professional to ensure compliance to international standards
Clause 15 (2) (c)	c) has at least seven years professional experience of which at least five years are at senior management level; and	Has at least fifteen cumulative years in relevant field of which at least twelve years at a senior management	The best practice as per Public Service Commission (PSC).
Minutes of the Board			
First Schedule Clause (5)	The minutes of each meeting of the Board or of a Committee of the Board shall be kept by the Director-General and shall be confirmed by the Board or the Committee at the succeeding meeting and be duly signed by the Chairperson or the person presiding and the Director-General.	The minutes of each meeting of the Board or of a Committee of the Board shall be kept by the Corporate Secretary and shall be confirmed by the Board or the Committee at the succeeding meeting and be duly signed by the Chairperson or the person presiding and the Director-General.	Replace Director General with Corporate Secretary in line with Mwongozo
Integrity in Private Affairs			
Second Schedule Clause 5 (c)	(c) submit an annual declaration of income, assets and liabilities to the body responsible for such declarations from public officers;	Submit declaration of income assets and liabilities to the body responsible for such declarations from public officers in accordance with the law	In line with existing governing laws

4.3.1.2 .Second memoranda submission

The second memoranda on Kenya National Library Service Bill 2023 No. 20 was submitted to the Clerk National Assembly on 26th October 2023 as below:

Bill No. 20 of 2023 (Supplement No. 74)			
Reference	Current Bill Presentation	Proposed Amendments	Justification
Clause 1 (short title)	Kenya National Library Service	Replace with National Library of Kenya	Reflective of the functions
Clause 5(n)	set standards for the establishment and operations of libraries; and	Replace with Develop policies and Set standards for the establishment and operations of libraries.	To include development of policies
Clause 5(r)		To sponsor and arrange for conferences, exhibitions and seminars for discussion of matters in connections to information and related services	Additional function derived from cap 225.
Clause 5(l)	(l) establish a center for books to promote reading, writing and publishing in local languages, traditional knowledge and culture, information and advice, advocacy, book development and easy access to books;	Remove	Legal notice no. 142 of August 2019 placed it as a function of public library
Clause 5(q)	None	To provide facilities for the study, assessment, and award of certificates for professional development courses in the principles, procedures and techniques of librarianship and such other subjects	A proposed addition to the functions of the National Library to enhance the Library profession.

4.3.1.3 Third memoranda Submission

Functions of the Kenya National Library Service

Reference	Current Bill Presentation	Proposed amendment	Justification
Clause 1 (short title)	Kenya National Library Service	Replace with National Library of Kenya	Reflective of the functions
Clause 5(n)	set standards for the establishment and operations of libraries; and	Replace with Develop policies and Set standards for the establishment and operations of libraries	To include development of policies

Clause 5(r)		To sponsor and arrange for conferences, exhibitions and seminars for discussion of matters in connections to information and related services	Additional function derived from cap 225.
Clause 5 (a)	(a) equip, develop, manage and maintain the Kenya National Library Service	Replace with: Establish, equip, develop, manage and maintain the National library of Kenya and its Satellite centres;	Modification to include National library of Kenya and its Satellite centres
Clause 5(k)	(k) support the establishment of referral libraries at the regional or county levels;	Replace with: (k) support establishing of referral satellite centers at regional level	To distinguish the role of county libraries and National library
Clause 5(l)	(l) establish a center for books to promote reading, writing and publishing in local languages, traditional knowledge and culture, information and advice, advocacy, book development and easy access to books;	Remove	Legal notice no. 142 of August 2019 placed it as a function of public library
Clause 5(q)	None	To provide facilities for the study, assessment, and award of certificates for professional development courses in the principles, procedures and techniques of librarianship and such other subjects	A proposed addition to the functions of the National Library to enhance the Library profession.
Clause 6 (1) g	two persons nominated by the Council of County Governors in accordance with section 7 (2)	Replace with i. one representative from the professional body, Kenya Library association ii. one independent member appointed by the Cabinet Secretary responsible for the National Library	The National Library is not a matter of the County Governments.

5.0 RESOLUTIONS OF THE 10TH ORDINARY SUMMIT

The IGRTC vide letter IGR/ADM/1/40/Vol.II (224) dated 2nd February 2024 invited KNLS jointly with Council of Governors and representatives from County governments to discuss the 18th December 2023 resolutions of the 10th Ordinary summit resolutions on the transfer of libraries functions on **5th-6th February 2024 at Sawela** Lodges in Naivasha.

The joint stakeholders' engagement meeting discussed the functions contained in the legal notice No. 142 of 2019 on transfer of libraries with a view to unbundle/delineate County and National Government functions on matters of library.

The functions of National and County Governments were delineated to ensure each level of government performs their distinct functions namely:

5.1 National Government functions

The joint meeting resolved the following will be the functions of National government;

- a) Develop a national policy, legislation and set Norms and standards for the library sector.
- b) Capacity building and technical assistance to the county governments.
- c) Carry out and promote research in the development of libraries and related services
- d) Promote literacy in the country
- e) Domesticated international standards.
- f) Publish Kenya National Bibliography and Kenya Periodical Directory
- g) Establish the National WebCAT to publish catalogues for all libraries

5.2 County Government Functions

- a) Implementation of the library policy, legislation, standards and norms.
- b) Develop county specific policy and legislation in line with the national policy and legislation
- c) Equip, develop, manage and maintain the libraries within the county
- d) Acquire and maintain comprehensive periodic bibliography
- e) Establish and manage a center for books, to promote a culture of reading, writing, and publishing
- f) Promote reading for knowledge, information and enjoyment through the stimulation of public interest in books and participation in campaigns for the eradication of illiteracy.
- g) Provide the communities with a variety of information materials, programs and services through stocking relevant learning resources for formal and informal education.
- h) Establish a collection section in each library holding the respective community's resources, history people, customs and traditions to promote the culture of indigenous knowledge and languages.
- i) Carry out sensitization in counties to promote learning.
- j) Provide a conducive learning environment, stimulate and promote public interest in reading books and multimedia for information, knowledge and enjoyment.
- k) Promote ICT in accessing and disseminating information.
- l) Provide lending, inter-library loans, outreach, specialized and homebound services
- m) Provide advisory and a library reference and referral services
- n) Liaise with National Library, County Libraries and other relevant institutions to enhance information sharing

In the foregoing knls wishes to submit the following 4th memoranda to this committee for consideration.

5.3 Proposed 4th Memorandum

Bill No. 20 of 2023 (Supplement No. 74)			
Reference	Current Bill Presentation	Proposed Amendments	Justification
Clause 1 (short title)	Kenya National Library Service	Replace with The Kenya Libraries Service	As agreed in the sector forum
Long Title	AN ACT of Parliament to establish the Kenya National Library Service, to provide for the management of the Kenya National Library Service and for connected purposes.	An ACT of Parliament to establish the National Library and the Public Library Service	As agreed in the sector forum
Clause 3	a) to preserve national documentary heritage; and b) to distinguish the functions of the Kenya National Library Service from the other public libraries	Replace with a) to manage the National Library Service and connected purposes b) to preserve national documentary heritage; and c) to clarify the functions of the National Library Service from the County and other public libraries.	As agreed in the sector forum
Clause 5(1) Functions of the National Library of Kenya	a) equip, develop, manage and maintain the Kenya National Library Service;	a) Develop a national policy, legislation and set norms and standards for the library sector	As agreed in the sector forum
	b) acquire, preserve and maintain a collection of library resources including books produced within and outside Kenya and such other materials and sources of knowledge necessary for a comprehensive national bibliography;	b) Publish the Kenya National Bibliography and Kenya Periodicals Directory	As agreed in the sector forum
	c) liaise with other government agencies to ensure compliance by publishers with the Books and Newspapers Act;	Delete	As agreed in the sector forum
	d) carry out and encourage research in the development of libraries and related services;	c) Carry out and promote research in the development of libraries and related services	As agreed in the sector forum
	e) promote reading for knowledge, information and	d) Promote literacy in the Country	As agreed in the sector forum

	enjoyment through the stimulation of public interest in books and participation in campaigns for the eradication of illiteracy;		
	f) establish and maintain a national agency for administering international standard numbers for library resources including books, serials and music;	e) Domestic international standards	As agreed in the sector forum
	g) Publish the Kenya National Bibliography and the Kenya Periodicals Directory;	Delete	See 5(b)
	h) Establish the national WebCat to publish catalogues for all libraries;	f) Establish the National Web-Cat to publish catalogues for all libraries	As agreed in the sector forum
	i) Provide a national library reference and referral service	g) Provide Capacity and technical assistance to the County Governments	As agreed in the sector forum
	j) establish and maintain a national Virtual library service	Delete	As agreed in the sector forum
	k) support the establishment of referral libraries at the regional or county levels;	Delete	As agreed in the sector forum
	l) establish the center for books to promote reading, writing and publishing in local languages, traditional knowledge and culture, information and advice, advocacy, book development and easy access to books;	Delete	As agreed in the sector forum
	m) Provide advisory services and related support for libraries	Delete	As agreed in the sector forum
	n) Set standards for the establishment and operations of libraries; and	Delete	As agreed in the sector forum
	o) To perform any other function necessary for the attainment of the objectives of the Act.	Delete	As agreed in the sector forum

Clause 5(2) Functions of the County Libraries	a) Implementation of the library policy, legislation, standards and norms.	Insert	As agreed in the sector forum
	b) Develop county specific policy and legislation in line with the national policy and legislation	Insert	As agreed in the sector forum
	c) Equip, develop, manage and maintain the libraries within the county	Insert	As agreed in the sector forum
	d) Acquire and maintain comprehensive periodic bibliography	Insert	As agreed in the sector forum
	e) Establish and manage a center for books, to promote a culture of reading, writing, and publishing	Insert	As agreed in the sector forum
	f) Promote reading for knowledge, information and enjoyment through the stimulation of public interest in books and participation in campaigns for the eradication of illiteracy.	Insert	As agreed in the sector forum
	g) Provide the communities with a variety of information materials, programs and services through stocking relevant learning resources for formal and informal education.	Insert	As agreed in the sector forum
	h) Establish a collection section in each library holding the respective community's resources, history people, customs and traditions to promote the culture of indigenous knowledge and languages.	Insert	As agreed in the sector forum
	i) Carry out sensitization in counties to promote learning.	Insert	As agreed in the sector forum
	j) Provide a conducive learning environment, stimulate and promote public interest in	Insert	As agreed in the sector forum

	reading books and multimedia for information, knowledge and enjoyment.		
	k) Promote ICT in accessing and disseminating information	Insert	As agreed in the sector forum
	l) Provide lending, inter-library loans, outreach, specialized and homebound services	Insert	As agreed in the sector forum
	m) Provide advisory and a library reference and referral services	Insert	As agreed in the sector forum
	n) Liaise with National Library, County Libraries and other relevant institutions to enhance information sharing	Insert	As agreed in the sector forum

6.0 CONCLUSION

The knls Board successfully and seamlessly transferred 61 libraries to County Governments; thus, in order to ensure constitutional compliance and avoid legal conflicts in the operations of National Government functions by performing the National Library function, the knls Bill needs to be finalized and enacted into law as it has been a National Library bill spearheaded by the parent Ministry. This is because the current KNLS Board Act Cap 225 of the Laws of Kenya (1965) mandates the Board to perform the dual role of both the public library service and the national library function.

The Sports and Culture Parliamentary committee's good work is greatly appreciated. It is very clear that the Constitution of Kenya, 2010 allows for the interventions of the National Assembly to perform the legislative role of actualizing the aspirations of the Constitution. Article 186 (3) provides that where an existing function is undesignated, it shall fall under the National Government and Article 186 (4) allows for greater certainty and empowers Parliament to legislate for the Republic on any matter. The KNLS Act (Cap 225) was created by an Act of Parliament and it is therefore justifiable and proper to repeal the said Act to allow the KNLS board to continue performing the distinct role of the National Library.

It is to the discretion of this committee that if the knls Bill does not meet the threshold of Article 110(3) of Kenya's 2010 Constitution, this committee has the power to pass it under Article 122 (1)

Signed:



DR. CHARLES NZIVO



KENYA LIBRARY ASSOCIATION
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Proposed Amendments to the Kenya National Library Service (KNLS) Bill

1. The name to be changed from Kenya National Library Service to **National Library of Kenya**
2. **Clause 5: The functions of the Kenya National Library Service shall be to—**
To include:

preserve indigenous knowledge and promote indigenous knowledge systems
3. Clause 6: Composition of the Board:

The Bill reads:

Clause 6: the management of the National Library of Kenya shall vest in the Board which consist of –

- (a) A Chairperson appointed by the President
- (b) The principal secretary responsible for matters relating to Libraries or a representative designated in writing
- (c) The principal secretary responsible for matters relating to Finance or a representative designated in writing
- (d) The principal secretary responsible for matters relating to Education or a representative designated in writing
- (e) The principal secretary responsible for matters relating to Devolution or a representative designated in writing
- (f) The principal secretary responsible for matters relating to Information and telecommunication technology or a representative designated in writing
- (g) Two persons nominated by council of Governors in accordance with section 7 (2)
- (h) One person appointed by the Cabinet Secretary in accordance with section 7 (2)
- (i) The Director-General who shall be the Chief Executive officer of the Board

Proposed amendment rationale

The bill proposes 9 members out of which 5 are Public Officers, 2 persons nominated by COG and one person appointed by the Cabinet Secretary. The independence of the Board will be compromised with only one independent member aside from the Chairperson. Secondly, matters devolution will be addressed through the Principal Secretary for Devolution and hence no need for representatives from COG.

Proposed amendment to Clause 6 are as follows:

Clause 6: the management of the National Library of Kenya shall vest in the Board which consist of –

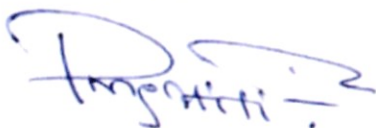
- (a) A Chairperson appointed by the President
- (b) The principal secretary responsible for matters relating to Libraries or a representative designated in writing
- (c) The principal secretary responsible for matters relating to Finance or a representative designated in writing
- (d) The principal secretary responsible for matters relating to Education or a representative designated in writing
- (e) The principal secretary responsible for matters relating to Devolution or a representative designated in writing
- (f) The principal secretary responsible for matters relating to Information, Communication, Technology and Digital Economy or a representative designated in writing
- (g) Delete this 'Two persons nominated by council of Governors in accordance with section 7 (2)' and replace with "three persons appointed by the Cabinet Secretary in accordance with section 7 (2)'
- (h) A representative of the Library & Information Science Profession, such as The President of Kenya Library Association (KLA)
- (i) The Director-General who shall be the Chief Executive officer of the Board

4. Section 17 (1) – Page 446

Add clause (c)

ensure that professional staff are members of a professional body.

Yours sincerely,



Prof. Peter Gatiti
Chairperson
Kenya Library Association
Tel: 0702672435



kenya national
library service

**FUNCTIONS OF THE NATIONAL LIBRARY OF KENYA AND THE
TRANSFER OF THE PUBLIC LIBRARY FUNCTION TO THE
COUNTY GOVERNMENT**

CHRONOLOGY OF EVENTS

**Dr. Charles Nzivo
CEO, KNLS**

4.0 CHRONOLOGICAL EVENTS PRECEDING TRANSFER OF THE PUBLIC LIBRARY FUNCTION TO 33 COUNTY GOVERNMENTS

In 2013, following recommendations by the Task Force on Parastatal Reforms that the National and County Governments hold consultations to determine the future of knls by June 2014, a committee was established to facilitate, oversee, and monitor the implementation of this recommendation as covered under Article 189 (2). The committee comprised of representatives from SCAC, Inspectorate of State Corporations, National Treasury, AG, KIPPRA, and Parliament.

The Transitional Authority tasked knls to unbundle her functions. While unbundling the functions as stipulated in CAP 225, knls justification for retaining Buru Buru and Nakuru Libraries was because;

- a. Buru Buru served as the host for knls Back up Servers for various systems for automated services.
- b. Nakuru was the off-site conservation and preservation site for the National Library.

Knls was cognizant of other provisions of the Constitution including Section 11 (2) (a), which states that the state shall promote all forms of National and cultural expressions through literature, the Arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage. Knls also proposed to establish additional satellite center of the National Library so as to bring the National Library Service closer to the people. Section (6) (3) states that 'a National state organ shall ensure reasonable access to its services in all parts of the Republic, so far as it is appropriate to do so having regard to the nature of the service.'

On 28th October 2015, knls vide a letter Ref. TA/2/2/VOL.7 (39) dated 16th October 2015, submitted a report of the unbundled functions and financial information of knls in response to a request by the then Ministry of Sports, Culture and the Arts concerning all the unbundled functions and financial information of all the State Corporations under the Ministry.

On 10th November 2015, knls was invited by the then Transition Authority vide a letter Ref. TA/2/2/VOL.VII (54) to participate in a three-day retreat from 17th to 20th November 2015, to review and compile a draft report of the unbundled functions and financial information of the State Corporations under the then Ministry of Sports, Culture and the Arts.

In June 2018, during the 6th Ordinary Summit, a sub-committee on the implementation of the capacity assessment and rationalization of public service (CARPS) was formed to review reports presented before the summit. The sub-committee comprised:

1. Prof. M. Kobia (co-chair)
2. Gov. J. Nanok (co-chair)
3. Gov. J. Ongwae
4. Gov. W. Wamangati
5. Gov. S. Kiptis
6. Hon. E. Wamalwa
7. Hon. U. Yatani

8. Prof. K. Mutahi
9. Dr. P. Omutia
10. Ms. A. Gitau

The sub-committee reviewed the status of the transfer of functions as provided for in the context of the 4th Schedule and articles 185 (2), 186 (1), and 187 (2) of the Constitution of Kenya 2010. The Sub-committee recommended the transfer of the unbundled library functions.

On 26th July 2018, knls vide letter Ref. C/KNL/HQ/AD/706/9, wrote to IGRTC providing information on Payroll, Operations and Maintenance Budgets for the 59 public libraries. IGRTC then drafted a gazette notice for the transfer of the public library function to counties as proposed by the sub-committee of the summit. (the legal instrument to be used to transfer the libraries).

A team, met on 26th March 2019, to work on the delineation of functions and include it in the legal notice. The team comprised representatives from:

1. IGRTC (Convener)
2. Council of Governors
3. Kenya National Library Service
4. Kenya Law Reform Commission
5. Commission on Revenue Allocation
6. The National Treasury

IGRTC invited KNLS together with all CECs of Education from the County Governments for a meeting scheduled for 29th April 2019 to discuss the transfer of the library function and legal notice.

On 3rd June 2019, IGRTC vide a letter Ref. IGR/ADM/1/110/VOL.1/ (29), wrote to the Attorney General and copied to the Cabinet Secretary for the then Ministry of Sports, Culture and Heritage (MOSCAH), submitting the final draft of the Legal Notice and schedule of libraries for both Counties and National Government. The final draft was also marked to CEO knls by CS seeking concurrence. The legal notice 142 was gazetted on 9th August 2019

On 31 May 2022, the Council of Governors wrote to KNLS on the implementation of the transfer of library function where they requested, that staff files be prepared for transfer to the County Public Service Boards of the Libraries being absorbed by the 33 County Governments. In response, knls affirmed that it had segregated and submitted to IGRTC and the National Treasury all the resources (PE &O&M) for 61 branch libraries and that the files should be transferred immediately once the transfer dates were clear from IGRTC and the National Treasury, upon legislation of the County Allocation Revenue Bill, which was under discussion in Parliament at the time.

5.0 CURRENT STATUS

5.1 Transfer of the Library Function

The library function has since been taken over by the county governments following the release of funds by the National Treasury effective 1st July 2023. By the first week of October 2023, all the staff personal

files, and physical and movable assets had been received by the 33 county governments. This has been a collaborative exercise comprising KNLS, IGRTC, and the respective county government.

5.2 KNLS BILL 2023

The Bill, referred to as the Kenya National Library Service Bill, which was initiated in 2014, has undergone various stages, and is currently undergoing stake holder participation and validation to await scheduling at the National Assembly for the 2nd and 3rd readings.

The Kenya National Library Service Bill 2023

The Proposed Amendments By The Kenya National Library Service

Preamble

a. The Context

The Kenya National Library Service (KNLS) is a body corporate mandated to promote, establish, equip, manage, maintain and develop libraries in Kenya.

KNLS is established and governed by the KNLS Board Act 225 of 1965 and is currently under the Ministry of Youth Affairs, The Arts and Sports.

The KNLS Bill 2023 is an essential legislation that intends to repeal the KNLS Board Act of 1965. A lot has changed since its enactment hence the need to overhaul the Act. With technological enhancements as well as a new constitution there seems to be an increasing need to have changes in KNLS.

KNLS has played a dual role in managing both a National Library and the Public Library System. The current Act CAP 225 of 1965 encapsulates;

1. Public Library function enacted in 1965
2. National library function, a division of the Board created by CAP 225 in 1978.

The Bill seeks to repeal CAP 225 of 1965 to avoid having two regimes addressing the same matters (Clause 40 and 41)

With the promulgation of the Constitution of Kenya 2010, Article 11(2)(a), mandates the state to promote all forms national expression through literature, the arts, traditional celebrations, science, communication, information, mass media publications, libraries and other cultural heritage.

The Constitution endeavors to devolve the functions of the public libraries to county level;

The Public Library Function; The Constitution designates its function to the County government in order to extensively reach the end users. Consequently, the 4th schedule, Part 2, of 4(f) appropriately situates Public Library Services under County Governments- article 185 4(b)

The National Library Function; whereas the Public library Functions are adequately devolved to County Government the National Library Function which is a division within CAP 225 is undesignated. In as much as the Constitution is silent on its functions in the new dispensation, Article 186 Sub Article (3) provides where an existing function is undesignated, it shall fall under the National Government in the Legal Notice no. 142 of August 2019.

Proposed Amendments

The matrix in the table below indicates proposed amendments in light of the members of Kenya National Library Service (KNLS) who are professionals and technical practitioners of the National library services.

KNLS Proposed Amendments to the Bill No. 20 of 2023.

Bill No. 20 of 2023 (Supplement No. 74)			
Reference	Current Bill Presentation	Proposed Amendments	Justification
Long Title	AN ACT of Parliament to establish the Kenya National Library Service, to provide for the management of the Kenya National Library Service and for connected purposes.	AN ACT of Parliament to establish the Kenya National Library Service, to provide for the management of the National Library service by collecting, preserving, making available and promoting the national documentary heritage and for connected purposes.	For clarity of the act and to distinguish between National Library and other libraries
Functions of the Kenya National Library Service			
Clause 5 (a)	(a) equip, develop, manage and maintain the Kenya National Library Service;	Replace with: Establish, equip, develop, manage and maintain the Kenya National library service and its repository centres;	Modification to include other repository centres
Clause 5(b)	(b) acquire, preserve and maintain a collection of library resources including books produced within and outside Kenya and such other materials and sources of knowledge necessary for a comprehensive national bibliography;	Replace with: (b) acquire, preserve and maintain a collection of information resources including books produced within and outside Kenya and such other materials and sources of knowledge necessary for a comprehensive national bibliography;	To cover all forms of information resources
Clause 5(e)	(e) promote reading for knowledge, information and enjoyment through the stimulation of public interest in books and participation in campaigns for the eradication of illiteracy;	Replace with (e) 'To promote information awareness and information literacy'	To make it clearer and shorter
Clause 5(g)	(g) publish the Kenya National Bibliography and the Kenya Periodicals Directory;	Render a national bibliographic service and act as the national bibliographic agency	Proposed replacement

Clause 5(h)	(h) establish the national webcat to publish catalogues for all libraries;	(h) establish the national webCAT to publish catalogues for all libraries;	Capitalize the word cat. webCAT – web catalogue, is a tool to extract metadata and generate RDF description from existing web document.
Clause 5(i)	(i) Provide a national library reference and referral service;	Provide a national reference and referral service	Delete the word library
Clause 5(k)	(k) support the establishment of referral libraries at the regional or county levels;	Replace with: (k) support establishing of referral repository centers at regional and County levels	To distinguish the role of county libraries and National library
Clause 5(p)	None	to promote awareness and appreciation of the national published documentary heritage	A proposed addition to the function of the National Library
Clause 5(q)	None	To provide facilities for the study of, and for training in the principles, procedures and techniques of librarianship and such other related subjects	A proposed addition to the functions of the National Library to enhance the Library profession.
Composition of the Board			
Clause 6(d)	(d) the Principal Secretary responsible for matters relating to education or a representative designated in writing;	Remove	This is a National Library function and the Ministry of Education will better suited to work with the public libraries as they directly work with Schools and supplement curriculum education and in giving technical advice in the establishment of school libraries.
Clause 6(g)	(g) two persons nominated by the Council of County Governors in accordance with section 7 (2);	Replace with: The Chairperson of County of Governors (CoG) or a representative designated in writing	The Chair representation will suffice.

Clause 6(h)	h) one person appointed by the Cabinet Secretary in accordance with section 7 (2); and	Three persons appointed by the Cabinet Secretary in accordance with section 7 (2)	To be in line with Mwongozo guidelines on the number of independent Board member representation.
Appointment of Director General			
Clause 15(2) (b)	) holds a masters degree in library and information science, knowledge management, information technology, development studies, management or any related field from a University recognized in Kenya	Holds a master's degree in library and Information Science, knowledge management, Information technology from a recognized institutions	In the new dispensation of devolved units, the national library requires a professional to ensure that the international standards
Clause 15 (2) (c)	) has at least seven years professional experience of which at least five years are at senior management level; and	Has at least fifteen cumulative years in relevant field of which at least twelve years at a senior management	The best practice as per Public Service Commission (PSC).
Minutes of the Board			
First Schedule Clause (5)	The minutes of each meeting of the Board or of a Committee of the Board shall be kept by the Director-General and shall be confirmed by the Board or the Committee at the succeeding meeting and be duly signed by the Chairperson or the person presiding and the Director-General.	The minutes of each meeting of the Board or of a Committee of the Board shall be kept by the Corporate Secretary and shall be confirmed by the Board or the Committee at the succeeding meeting and be duly signed by the Chairperson or the person presiding and the Director-General.	Replace Director General with Corporate Secretary in line with Mwongozo
Integrity in Private Affairs			
Second Schedule Clause 5 (c)	(c) submit an annual declaration of income, assets and liabilities to the body responsible for such declarations from public officers;	Submit declaration of income assets and liabilities to the body responsible for such declarations from public officers in accordance with the law	In line with existing governing laws

Clause 5(q)	None	To provide facilities for the study of, and for training , and award of certificates and diploma in the principles, procedures and techniques of librarianship and such other related subjects	A proposed addition to the functions of the National Library to enhance the Library profession.
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The Kenya National Library Service Bill 2023

2nd Proposed Amendments By The Kenya National Library Service

Functions of the Kenya National Library Service			
Reference	Current Bill Presentation	Proposed amendment	Justification
Clause 1 (short title)	Kenya National Library Service	Replace with National Library of Kenya	Reflective of the functions
Clause 5(n)	set standards for the establishment and operations of libraries; and	Replace with Develop policies and Set standards for the establishment and operations of libraries	To include development of policies
Clause 5(r)		To sponsor and arrange for conferences, exhibitions and seminars for discussion of matters in connections to information and related services	Additional function derived from cap 225.
Clause 5 (a)	(a) equip, develop, manage and maintain the Kenya National Library Service	Replace with: Establish, equip, develop, manage and maintain the National library of Kenya and its Satellite centres;	Modification to include National library of Kenya and its Satellite centres
Clause 5(k)	(k) support the establishment of referral libraries at the regional or county levels;	Replace with: (k) support establishing of referral satellite centers at regional level	To distinguish the role of county libraries and National library
Clause 5(l)	(l) establish a center for books to promote reading, writing and publishing in local languages, traditional knowledge and culture, information and advice, advocacy, book development and easy access to books;	Remove	Legal notice no. 142 of August 2019 placed it as a function of public library
Clause 5(q)	None	To provide facilities for the study, assessment, and award of certificates for professional development courses in the principles, procedures and	A proposed addition to the functions of the National Library to enhance the Library profession.

		techniques of librarianship and such other subjects	
Clause 6 (1) g	two persons nominated by the Council of County Governors in accordance with section 7 (2)	Replace with <ul style="list-style-type: none"> i. one representative from the professional body, Kenya Library association ii. one independent member appointed by the Cabinet Secretary responsible for the National Library 	The National Library is not a matter of the County Governments.



IGRTC
INTERGOVERNMENTAL
RELATIONS TECHNICAL
COMMITTEE

Consultation, Cooperation & Coordination in Devolution

SEPTEMBER, 2021

THE 6TH SUMMIT HELD AT STATE HOUSE, NAIROBI ON 22ND JUNE 2018.

MINUTE	RESOLUTION	STATUS	ACTORS	REMARKS
<p>MIN. NO.5/06/2018 : REPORTS FROM SECRETARI AT</p>	<p>1) The sub-Committee was established to consider the institutional reports presented by the IGRTC and give recommendations to the next Summit meeting</p>	<p>The sub-Committee concluded its assignment and recommended that the Summit adopts the following reports as presented by IGRTC on the 22nd of June 2018 as follows:</p> <ul style="list-style-type: none"> i. IGRTC institutional report ii. The National and County Government Coordinating Summit report to National Assembly, Senate and the 47 County Assemblies. iii. Cost of litigation in inter/intra government litigation in Kenya iv. The status of public participation in national and county government. v. Emerging issues in transfer of functions to National and County Governments. 	<p>Cabinet Secretary, Ministry of Public Service Youth & Gender Affairs.</p>	<p>DONE</p>

MINUTE	RESOLUTION	STATUS	ACTORS	REMARKS
<p>MIN. NO.6/06/2018: CAPACITY ASSESSMENT AND RATIONALIZ ATION OF PUBLIC SERVICE (CARPS)</p>	<p>2) The sub-committee established to deal with the CARPS Report comprised of:</p> <p>Prof. Margaret Kobia, (Co-Chair)</p> <p>Gov. Josphat Nanok, (Co-chair) Gov. James Ongwae</p> <p>Hon. Eugene Wamalwa</p> <p>Hon. Amb. Ukur Yatani</p> <p>Gov. Wycliffe W. Wangamati</p> <p>Gov. Stanley K. Kiptis</p> <p>Prof. Karega Mutahi</p> <p>Ms. Ann Gitau</p> <p>Dr. Patrick Omutia</p>	<p>The sub- committee deliberated on its assignment and makes the following recommendations:</p> <p>a) Voluntary Early Retirement Separation(VERS);</p> <p>The committee observed that the cost of implementing this option is estimated to be KES.185 billion. The Early Voluntary Exit Retirement Programme proposes exit of staff of the following categories:</p> <p>i) Limited Skills and Education ii) Rationalization of Functions and Efficiency iii) Over 50 years not Ring-Fenced iv) Special Circumstances</p>		

MINUTE	RESOLUTION	STATUS	ACTORS	REMARKS
		<p>b) Norms and Standards for management of the human resource for the public service.</p> <p>The Committee noted that the Human Resource Management Norms and Standards for the Public Service were launched in December 2017</p>		
		<p>c) Adoption of a unified human resource and payroll number generating system for the Public Service linked to National Registration Bureau, KRA, and IFMIS Systems among others;</p> <p>The issue is being addressed through the Governance for Enabling Service Delivery in Kenya (GESDEK) which</p>	<p>KRA GESDEK GOK</p>	

MINUTE	RESOLUTION	STATUS	ACTORS	REMARKS
		is a GOK program supported by the World Bank.		
		<p>d) National Master Plan for high priority and scarce skills;</p> <p>Development of a National Master Plan for High Priority and Scarce Skills.</p>		
		<p>Transfer of Libraries: The library function was transferred vide I.egal Notice no. 142 of 9th August 2019. This was published in Kenya Gazette.</p>		
		<p>Transfer of museums:</p> <p>Consultations between the State Department for Culture and Heritage, National Museums of Kenya, CoG</p>	<p>The State Department of Culture and Heritage ,National</p>	

MINUTE	RESOLUTION	STATUS	ACTORS	REMARKS
		and IGRTC are currently ongoing on unbundling and transfer of the museums function	Museums of Kenya CoG IGRTC	
		Cooperatives: The National Cooperative Policy was developed and approved by the Cabinet		
		Statistics: The County Statistics Bill, 2018 is pending before the Senate		
		Land Survey, Mapping and Housing: The above functions were delineated vide Gazette Notice number 2238 dated 1 st April, 2016.		

MINUTE	RESOLUTION	STATUS	ACTORS	REMARKS
		County Roads: The Kenya Roads Bill, 2017 is still before the National Assembly		
MIN. NO.7/06/2018: PENSION FOR EMPLOYEES OF COUNTY GOVERNMENTS	3) The CARPS sub-committee was charged with discussing pension for employees of county government	The County Governments Retirement Scheme Act of 2019 was enacted. However, following several petitions in court, the High Court issued orders to stay the implementation of the Act pending the determination of the petitions.	SRC The National Treasury CoG MoDA Cabinet Secretary, Ministry of Public Service.	
MIN. NO.8/06/2018: PENSION FOR GOVERNORS	4) A technical committee to discuss pension for governors was established. The technical committee was chaired by the Hon. Attorney General	The technical committee is in the final stages of its report. This subject requires further consultations.		

MINUTE	RESOLUTION	STATUS	ACTORS	REMARKS
MIN.NO.10/06 /2018: REPORT OF THE INTERGOVERNMENTAL BUDGET AND ECONOMIC COUNCIL (IBEC)	5) Following the presentation by the Cabinet Secretary of National Treasury on issues deliberated by IBEC, the Summit noted the following issues affecting counties to be addressed: a) Borrowing framework b) Own-Source Revenue c) Guidelines on conditional grants	a. The framework for short-term borrowing by county governments has been developed. b. A policy framework for own source revenue has been developed to guide revenue Collection in counties. c. The National Treasury has issued a circular to guide on flow of conditional grants to county governments.		
MIN.NO.11/06 /2018: BIG FOUR AGENDA.	A sub-Committee was established to develop a harmonized implementation framework for the Big Four Agenda. The sub- Committee was chaired by the Cabinet	The Ministry of Devolution and ASALs has developed an Intergovernmental Framework for Implementation of National Government Programs and Projects in Counties, which has taken into	MODA	

MINUTE	RESOLUTION	STATUS	ACTORS	REMARKS
	<p>Secretary for Devolution & ASAL, Hon. E. Wamalwa. The other members were:</p> <p>Gov. J. Nanok</p> <p>Hon. A. Duale</p> <p>Hon. K. Murkomen</p> <p>Gov. S. Sang</p> <p>Prof. Karega Mutahi</p>	<p>account the implementation framework for the Big Four Agenda. This is awaiting Cabinet approval.</p>		
<p>MIN. NO.12/6/2018 : TENURE OF OFFICE OF IGRTC MEMBERS AND ANCHORING</p>	<p>6) A sub-Committee was established to consider the tenure of the IGRTC members and anchoring of the CoG secretariat in law</p> <p>Members of the Committee</p> <p>Gov. Hon. J. Nanok, Co- Chair</p> <p>Hon. E. Wamalwa, Co-Chair</p>	<p>The sub-Committee recommended a one year extension in office for the current members, during which a Review on intergovernmental relations structures would be carried out by IGRTC to guide on the necessary changes to be undertaken.</p>		

MINUTE	RESOLUTION	STATUS	ACTORS	REMARKS
COG SECRETARIAT IN LAW	Hon. A. Duale Hon. K. Murkomen Gov. Hon S. Sang Prof. Karega Mutahi	Phase One of the review, covering sector forums has been done. Further discussions are in IGRTC's institutional report. The sub- Committee recommended anchoring of the COG secretariat in law. A draft Intergovernmental Relations Bill, 2019 has been developed by MoDA to address these matters.		

THE 7TH SUMMIT HELD ON 4TH MARCH, 2019 AT STATE LODGE, SAGANA.

MINUTE	RESOLUTION	STATUS	ACTORS	REMARKS
<p>MIN 8/03/2019: ENGAGEMENT OF AGITATING CADRES AND RATIONALIZ ATION OF LABOR LAWS</p>	<p>1)The Summit resolved that the National Government, through the Ministry of Labour and Social Protection, reviews the law in order to identify existing gaps with regard to provision of health care services across both levels of Government.</p>	<p>1) The Ministry of Labour and Social Protection is currently at various stages of reviewing 6 labour related laws to align it with the Constitution and to provide for health as an essential service.</p> <p>2) Reconstitution of the Conciliation Committee has been done. The Committee will assist parties to negotiate, finalize and sign a Collective Bargaining Agreement.</p>		

MINUTE	RESOLUTION	STATUS	ACTORS	REMARKS
	<p>i. The Summit further resolved that the Ministry engages nurses on matters of industrial action with a view to finding avenues of consultation and cooperation in delivery of services.</p>			
<p>MIN. NO.9/03/2019: DISCIPLINARY ACTION AND PREVENTION OF HEALTH SERVICE DELIVERY DISRUPTIONS</p>	<p>i. The Summit resolved that disciplinary proceedings be instituted in accordance with the existing regulations by both levels of government where nurses failed to report on duty by Friday, 15th February, 2019 as directed, through stoppage of salaries as well as recovery of monies not worked for.</p>	<p>i. The Ministry of Health implemented the Summit resolution</p> <p>ii. The Ministry of Health has put in place a system to ensure that issuance of personal numbers for suitable candidates for appointments is done through a centralized IPPD</p>	<p>The Ministry of Health</p>	<p>Done</p>

MINUTE	RESOLUTION	STATUS	ACTORS	REMARKS
	<p>ii. The Ministry of Health and COG were tasked with establishing mechanisms to ensure that dismissed officers are not able to secure employment in other government facilities.</p>	<p>system administered by the PSC. This would allow the Ministry of Health to establish whether the candidate had a previous personal number, after which a report is made available to establish candidate's past record.</p>		
<p>MIN. NO.10/03/2019: RECRUITMENT AND SUSTENANCE OF UNINTERRUPTED SERVICE DELIVERY</p>	<p>1) The Summit resolved that any vacancies for recruitment of nurses arising from natural attrition or dismissal in both levels of government be filled on contract terms. The Public Service Commission was tasked to develop;</p> <p>a. Standardized Contract Framework for Short-Term Employment.</p> <p>b. Standardized framework for</p>	<p>a. The Public Service Commission has developed a Framework for Short Term Contracts for employment and this has been rolled out for implementation by the two levels of government.</p> <p>b. An inter-agency team has been constituted to</p>		

MINUTE	RESOLUTION	STATUS	ACTORS	REMARKS
	outsourcing nursing services	prepare a draft standardized framework for outsourcing nursing services		
MIN.NO.11/03/2019: NATIONAL DIALOGUE TO DISCUSS GROWING WAGE BILL	i. The Summit resolved that the Salaries and Remuneration Commission organizes a national dialogue on the growing wage bill.	i. The SRC organized a National Conference on Wage Bill Sustainability which was held on 26 th November 2019.	SRC	Done





COUNCIL OF GOVERNORS

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11th October 2023

Mr. Samuel Njoroge
The Clerk of the National Assembly
Clerk's Chambers
Main Parliament Buildings
NAIROBI

Dear Mr. Njoroge

**SUBMISSION OF MEMORANDA ON THE KENYA NATIONAL LIBRARY SERVICE BILL
(NATIONAL ASSEMBLY BILL NO. 20 OF 2023).**

Greetings.

The Council is in receipt of your letter NA/DDC/S&C/2023/063 requesting for submission in regard to the aforementioned Bill.

The purpose of this letter is to submit the legislative memorandum on The Kenya National Library Service Bill (National Assembly Bill No. 20 of 2023).

Please accept the assurances of our highest esteem and consideration.

Yours sincerely,

Mary Mwiti
Chief Executive Officer



COUNCIL OF GOVERNORS

LEGISLATIVE MEMORANDUM ON THE KENYA NATIONAL LIBRARY SERVICES BILL, 2023

OCTOBER 2023

A. INTRODUCTION

The Council of Governors notes that the interpretation of the provisions of the Kenya National Library Services Bill, 2023 ought to be undertaken based on the constitutional provisions especially on the assignment of functions between the National Government and County Governments under the Fourth Schedule. Importantly, in constitutional functional interpretation, when the constitution assigns a function to a level of government without using the prefix of national or county, the whole function is deemed as having been assigned to that level of government. Thus, Part 2 of the Fourth schedule under 4(f) assigns to county governments the function of **libraries** without prefixing it as county libraries and without a corresponding section assigning any libraries to the national government. Hence, the whole library function is exclusively assigned to County Governments.

The Council is cognizant of the principles and obligations of cooperative devolved government, and respect for the functional and institutional integrity of each level of government. Accordingly, below are specific submissions regarding the **Kenya National Library Services Bill, 2023**:

B. SPECIFIC COMMENTS ON PROVISIONS OF THE BILL

1. Part 1- Preliminary

The long title of the Bill is ambiguous and does not provide clarity on the purpose of the establishment of the Kenya National Library Service.

Additionally, the Bill has provided for the definition of “**National Library Service**” and “**public library**”. The definition provided for National Library Service in essence is a definition of what pertains a library, which is a county function. Moreover, the definition provided for a public library has included entities that do not constitute public service such as non-governmental organizations, communities and/or private persons.

2. Part 2- Establishment of the Kenya National Library Service

Under this section, the Bill seeks to establish a National Library Service to be known as the Kenyan National Library service and has provides the functions of the KNLS, the Composition of the Board among other administrative provisions for KNLS.

The above provision of the Bill is unconstitutional because County Governments have been assigned the library function exclusively and thus, the Bill cannot purport to establish a state corporation to manage National Libraries and/or library services offered by the National Library.

These provisions contained in this section is a reproduction of the **Kenya National Library Services Board Act Cap 225 (2012)** with

a few changes here and there that do not properly align the law to the constitution of 2010 and the devolved system of government. In essence, this section seeks to justify the existence of a state corporation that was established, through legislation, prior to devolution and is contrary to the clear intentions of the constitution to devolve the libraries and their related functions.

3. Part 3- Financial Provisions

The submissions above have established that the spirit of the Bill is unconstitutional and seeks to claw back on devolution and the full discharge of the library function by County Governments. Importantly, there is a clear constitutional provision that resources must match and follow functions that are devolved including both financial resources, human resources and infrastructural resources including facilities. Thus, through this section, the Bill cannot seem to provide provisions for the acquiring of financial resources for a National Government State Corporation whose existence is unconstitutional and claws back on the tenets of devolution. Fundamentally, all the resources that are in possession of current Kenya National Library Service should be devolved to the relevant Counties.

4. Part 4- Administrative Provisions

Under this section, the Bill has set out the provisions for application for membership to the Kenya National Library Service and the determination of the registration and subscription fees chargeable to individuals and institutions.

The Council reiterates that this section, just like other sections contained in the Bill, is unconstitutional and an attempt at gross infringement of the functions of the County Governments regarding the management and service delivery in Libraries.

The Bill cannot give the Kenya National Library Service the powers to determine registration and subscription fees and issuance of library cards. This is squarely the mandate of each individual County Government as per the constitution and it should remain the same, and the Bill should not enable the clawing back of devolution.

5. Part 5- Provisions on Delegated Powers

As established above, critical provisions contained in the Bill are unconstitutional. Thus, the Bill cannot provide for the Cabinet Secretary to make regulations for the better carrying into effect the provisions of an unconstitutional Act. The County Executive Committee Members of the respective Counties can be able to prepare regulations to operationalize the Library Acts of the County Assemblies.

6. Memorandum of Objects and Reasons

Under the Statement on how the Bill concern County Government, it is recognized that the Bill concerns Counties as it contains provisions that affect the functions of County Governments as set out in the Fourth Schedule of the Constitution and may occasion additional expenditure of public funds.

C. COUNCIL OF GOVERNOR'S POSITION

The Council notes that the **Kenya National Library Services Bill, 2023** mirrors provisions contained in the **Kenya National Library Services Board Act Cap 225 (2012)** and the **Kenya National Library Services Bill 2020**. Critically, the mentioned Bill (2020) together with the current Bill (2023) do not properly align the law to the constitution of 2010 and the devolved system of government. Accordingly, it is the position of the Council of Governors that:

1. The National Assembly should not proceed with this legislation as it claws back on devolution. Libraries are fully devolved, and a national state corporation should not be emboldened through national legislation to continue performing a devolved function.
2. There is need for development of policies, legislation and standards setting at the National level to enable uniform service delivery across the counties. These obligations would require County Governments to cooperate with National Government which may lead to national legislation and standards in accordance with principles and obligations of cooperative devolved government.

This should be done at the Ministerial level and a state corporation should not be established to undertake this.

3. The Council proposes for revocation of Legal Notice 142 of 2019 that retained 3 libraries in two counties under the management of the National Government, a clear violation of assignment of functions under the fourth schedule of the Constitution. All the libraries and the resources including the human resources ought to be transferred to County Governments in fulfilment of the provisions of Article 187(2) (a) of the Constitution.
4. Finally, we propose that the Bill is ~~withdrawn~~ from the house and a consultative process is put in place to enable a multi-agency team prepare a bill that complies with the constitutionally assigned functions under the fourth schedule of the Constitution.

