

REPUBLIC OF KENYA



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THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – THIRD SESSION – 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

|                                      |  |
|--------------------------------------|--|
| THE NATIONAL ASSEMBLY<br>PAPERS LAID |  |
| DATE: 06 AUG 2024                    | DAY:<br>TUESDAY                          |
| TABLED BY:                           | HON. GITIRIGA MURUGIARA<br>(CHAIRPERSON) |
| CLERK-AT THE TABLE:                  | IMZOFU MWALE                             |

REPORT ON:

THE CONSIDERATION OF THE ETHICS AND ANTI-CORRUPTION COMMISSION (AMENDMENT) BILL, 2024  
(NATIONAL ASSEMBLY BILL NO. 11 OF 2024)

NATIONAL ASSEMBLY  
RECEIVED  
06 AUG 2024  
SPEAKER'S OFFICE  
P. O. Box 41842, NAIROBI.

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DIRECTORATE OF DEPARTMENTAL COMMITTEES  
PARLIAMENT BUILDINGS  
NAIROBI

AUGUST 2024

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## List of Abbreviations and Acronyms

|       |   |   |
|-------|---|---|
| EACC  | - | Ethics and Anti-Corruption Commission         |
| FORD  | - | Forum for the Restoration of Democracy        |
| KLRC  | - | Kenya Law Reform Commission                   |
| LSK   | - | Law Society of Kenya                          |
| MCCP  | - | Maendeleo Chap Chap Party                     |
| NADCO | - | National Dialogue Committee                   |
| ODPP  | - | Office of the Director of Public Prosecutions |
| ODM   | - | Orange Democratic Movement                    |
| UDA   | - | United Democratic Alliance                    |
| WDM   | - | Wiper Democratic Movement                     |

## **Annexures**

- Annexure 1: Adoption Schedule
- Annexure 2: Adoption Minutes
- Annexure 3: Ethics and Anti-Corruption Commission (Amendment) Bill, 2024
- Annexure 4: Advertisement inviting the public to submit memoranda on the Bill
- Annexure 5: Letter from the Clerk of the National Assembly inviting stakeholders to attend the public participation forums
- Annexure 6: Memoranda by Stakeholders



## Chairperson's Foreword

This report contains the proceedings of the Departmental Committee on Justice and Legal Affairs on its consideration of the Ethics and Anti-Corruption Commission (Amendment) Bill (*National Assembly Bill No. 11 of 2024*) which was published on 4<sup>th</sup> March 2024.

The Bill seeks to give effect to some of the recommendations and views of the public as submitted to the National Dialogue Committee (NADCO) on the Issues of Electoral Justice and Related Matters; Outstanding Constitutional Matters; Fidelity to Political Parties/Coalitions and the law on multiparty democracy; Entrenchment of the National Government Constituencies Development Fund; the Senate Oversight Fund and the National Government Affirmative Action Fund and Establishment and Entrenchment of State Offices. The Bill aims to amend the EACC Act (Cap 7H) to prescribe the qualifications for appointment of a Chairperson of the Commission. Under the amendment, the Chairperson of the Commission is proposed to be a person qualified for appointment as a judge of the High Court.

In compliance with Article 118(b) of the Constitution and Standing Order 127(3), the Committee placed an advertisement in the print media on Friday 5<sup>th</sup> July 2024 inviting the public to submit memoranda by way of written statements on the Bill. In addition, the Committee vide letter Ref. No. NA/DDC/JLAC/2024/065 dated Wednesday 19<sup>th</sup> July 2024 invited key stakeholders to submit views on the Bill and attend a public participation forum on Wednesday 31<sup>st</sup> July 2024. The memoranda were to be received on or before Friday 26<sup>th</sup> July 2024 at 5.00 pm (East African Time). By the close of the submission deadline, the Committee had received seven (7) memoranda. The EACC, ODPP, LSK, KLRC, County Governance Watch, Levine K. Njau and Antony Mulili gave their views on the Bill which the Committee considered in the preparation of this report.

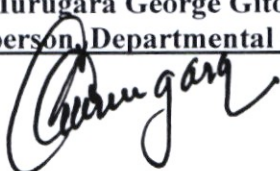
While considering the Bill, the Committee observed that the Bill seeks to give effect to some of the recommendations and views of the public that were submitted to the NADCO which was established to facilitate dialogue and consensus building and thereafter recommend appropriate constitutional, legal and policy reforms on issues of concern to the people of Kenya as framed by NADCO. One of the recommendations by NADCO was to enhance the capacity of the Commission to fight corruption.

The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its consideration of the Bill. The Committee further wishes to thank the EACC, ODPP, LSK, KLRC, County Governance Watch, Levine K. Njau and Antony Mulili for submitting memoranda on the Bill. Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made useful contributions towards the preparation and production of this report.

On behalf of the Departmental Committee on Justice and Legal Affairs and pursuant to the provisions of Standing Order 199(6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its Consideration of the Ethics and Anti-Corruption Commission (Amendment) Bill (*National Assembly Bill No. 11 of 2024*).

It is my pleasure to report that the Committee has considered the Ethics and Anti-Corruption Commission (Amendment) Bill (*National Assembly Bill No. 11 of 2024*) and have the honour to report back to the National Assembly with the recommendation that **the House approves the Bill** with amendments.

**Hon. Murugara George Gitonga, MP**  
**Chairperson, Departmental Committee on Justice and Legal Affairs**



## CHAPTER ONE

### 1 Preface

#### 1.1 Establishment of the Committee

1. The Departmental Committee on Justice and Legal Affairs is one of twenty departmental committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is 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 the implementation;*
  - iii. *To, 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 legislation referred to it;*
  - v. *To study, assess 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 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 recommendations 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) The Judiciary;
  - b) Tribunals;
  - c) Access to Justice;
  - d) Public prosecutions;
  - e) Ethics, Integrity and Anti-corruption;
  - f) Correctional services;
  - g) Community service orders and witness protection;
  - h) Constitutional Affairs;
  - i) Sovereign immunity;
  - j) Elections including referenda;
  - k) Human rights;
  - l) Political parties; and
  - m) The State Law Office' including insolvency, law reform, public trusteeship, marriages and legal education.

3. In executing its mandate, the Committee oversees the following Ministries, Departments and Agencies:

- a) State Department of Correctional Services;
- b) State Law Office and Department of Justice;
- c) The Judiciary;
- d) Judicial Service Commission;
- e) Office of the Director of Public Prosecutions,
- f) Ethics and Anti-Corruption Commission;
- g) Independent Electoral and Boundaries Commission;
- h) Commission on Administrative Justice;
- i) Office of the Registrar of Political Parties,
- j) Witness Protection Agency;
- k) Kenya National Commission on Human Rights;
- l) Kenya Law Reform Commission, and
- m) Council of Legal Education.



### 1.3 Committee Membership

4. The Committee was constituted by the House on 27<sup>th</sup> October 2022 and comprises the following Members:

#### **Chairperson**

Hon. Murugara George Gitonga, MP  
Tharaka Constituency

**UDA Party**

#### **Vice-Chairperson**

Hon. Mutuse Eckomas Mwengi, OGW, MP  
Kibwezi West Constituency

**MCCP Party**

#### **Members**

Hon. Maalim Farah, MP  
Dadaab Constituency

**WDM-Kenya**

Hon. Muriu Wakili Edward, MP  
Gatanga Constituency

**UDA Party**

Hon. Francis Kajwang' Tom Joseph, MP  
Ruaraka Constituency

**ODM Party**

Hon. Maina Jane Njeri, MP  
Kirinyaga (CWR)

**UDA Party**

Hon. Junet Mohamed, CBS, MP  
Suna East Constituency

**ODM Party**

Hon. Gichohi Kaguchia John Philip, MP  
Mukurweini Constituency

**UDA Party**

Hon. (Dr.) Otiende Amollo, SC, MP  
Rarieda Constituency

**ODM Party**

Hon. Mogaka Stephen M, MP  
West Mugirango Constituency

**Jubilee Party**

Hon. Onyiego Silvanus Osoro, CBS, MP  
South Mugirango Constituency

**UDA Party**

Hon. Aden Daud, EBS, MP  
Wajir East Constituency

**Jubilee Party**

Hon. Muchira Michael Mwangi, MP  
Ol Jorok Constituency

**UDA Party**

Hon. Siyad Amina Udgoon, MP  
Garissa Township (CWR)

**Jubilee Party**

Hon. Makali John Okwisia, MP  
Kanduyi Constituency

**FORD-Kenya**

#### 1.4 Committee Secretariat

5. The Committee is well-resourced and facilitated by the following staff:

Mr. Ahmed Salim Abdalla  
**Clerk Assistant I / Head of Secretariat**

Mr. Ronald Walala  
**Senior Legal Counsel**

Mr. Abdikafar Abdi  
**Clerk Assistant III**

Ms. Jael Ayiego  
**Clerk Assistant III**

Mr. Isaac Nabiswa  
**Legal Counsel II**

Mr. Omar Abdirahim  
**Fiscal Analyst II**

Ms. Vivienne Ogega  
**Research Officer III**

Mr. John Nduaci  
**Serjeant-At-Arms**

Mr. Peter Mutethia  
**Audio Officer III**

Ms. Mary Kamande  
**Public Communications Officer III**

Mr. Calvin Karung'o  
**Media Relations Officer III**

Mr. Silas Opanga  
**Hansard Reporter III**



## CHAPTER TWO

### **2 Overview of the Ethics and Anti-Corruption Commission (Amendment) Bill (*National Assembly Bill No. 11 of 2024*)**

#### **2.1 Background**

6. The Bill is co-sponsored by the Leader of the Majority Party and the Leader of the Minority Party. The Bill seeks to give effect to some of the recommendations and views of the public that were submitted to the **National Dialogue Committee (NADCO)** on the Issues of *Electoral Justice and Related Matters; Outstanding Constitutional Matters; Fidelity to Political Parties/Coalitions and the law on multiparty democracy; Entrenchment of the National Government Constituencies Development Fund; the Senate Oversight Fund and the National Government Affirmative Action Fund and Establishment and Entrenchment of State Offices.*
7. The Bill was published on 4<sup>th</sup> March 2024 and read a First Time in the House on 25<sup>th</sup> June 2024. It was thereafter committed to the Committee in line with the provision of Standing Order 127 (3).

#### **2.2 Summary of Legal Provisions**

8. The Bill seeks to amend the Ethics and Anti-Corruption Commission Act, Cap. 7H to amend the qualifications for appointment of a Chairperson of the Commission. Under the amendment, the Chairperson of the Commission is proposed to be a person qualified for appointment as a Judge of the High Court.
9. In particular, —
  - (a) **Clause 1 of the Bill** provides for the short title of the Act;
  - (b) **Clause 2 of the Bill** provides for an amendment to section 5(1) of the Act on the qualifications for appointment of the chairperson of the Commission to be a person who is qualified to be a Judge of the High Court of Kenya; and
  - (c) **Clause 3 of the Bill** provides for a saving provision where the change in qualifications for appointment shall not apply to the chairperson appointed before the commencement of the Act.

## CHAPTER THREE

### 3 Public Participation and Stakeholder Engagement on the Bill

#### 3.1 Legal Framework on Public Participation

10. 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.”*

11. The National Assembly Standing Order 127 (3) and (3A) stipulates 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 the Bill

12. Pursuant to the aforementioned provisions of the law, the Committee placed an advertisement in the print media on Friday, 5<sup>th</sup> July, 2024 inviting the public to submit memoranda by way of written statements on the Bill. Further, the Committee vide letter Ref. No. NA/DDC/JLAC/2024/065 dated Wednesday, 19<sup>th</sup> July 2024 invited key stakeholders to submit views on the Bill and attend a public participation forum on Friday, 31<sup>st</sup> July 2024.

13. To this end, the Committee received seven (7) memoranda from the EACC, ODPP, LSK, KLRC, County Governance Watch, Levine K. Njau and Antony Mulili. The memoranda are annexed to this report as *Annexure 6*.

14. The Committee received memoranda from the EACC opposing the Bill on the following grounds—

- (a) the Commission has a fully established Directorate of Legal Services with some of its officers’ holding qualifications of a Judge of a superior court. The function of the Directorate includes reviewing evidence in the course of investigations to ascertain that it meets the legal threshold.
- (b) restricting the role to the legal profession may limit diversity in the leadership of the Commission which could result in a lack of diverse competencies and expertise;
- (c) candidates from non-legal background may bring in fresh ideas and diverse skill sets; and
- (d) legal professionals may possess strong legal expertise but may lack skills and experience in leadership other areas relevant to anti-corruption work, such as investigation techniques, financial analysis, corruption prevention and advocacy.

15. **ODPP** submitted that the proposed amendment will ensure competence and familiarity with legal matters. It is prudent that the Chairperson appreciates the workings of the Kenya Legal System which can only be realized by someone who has undergone the Kenya Legal Education System. They noted that the proposal raises the perceived quality of the decisions made by the EACC thereby adding to the legitimacy of the decisions thereof.
16. **LSK** submitted that the Law Society of Kenya had no objection to the Ethic and Anti-Corruption Commission (Amendment) Bill as published.
17. **KLRC** proposed amending clause 2 of the Bill to provide that the qualifications for appointment of the chairperson of the Commission to be a person who qualifies to be appointed as a judge of the High Court. The Committee however noted that the effect of the proposed amendment by KLRC was same as the published text.
18. **The County Governance Watch** submitted memorandum in support of the proposed amendment stating that, if implemented, it would significantly enhance the effectiveness and credibility of the Ethic and Anti-Corruption Commission.
19. **Levine K Njau** via [levinenjau@gmail.com](mailto:levinenjau@gmail.com) was of the opinion that while the proposed amendments present a significant opportunity to strengthen Kenya's fight against corruption, the Bill ought to have addressed strengthen oversight mechanisms, develop a comprehensive implementation plan, enhance public engagement and clarify legal provisions and incorporate the recommended changes.
20. **Anthony Mulili** via [mulilianthony@gmail.com](mailto:mulilianthony@gmail.com) was of the opinion that while the Chairperson of the Commission is proposed to be a person qualified for appointment as a judge of the High Court, the Commission be granted power to prosecute.



## CHAPTER FOUR

### 4 Determination on whether or not to amend the Bill

21. Upon reviewing the Bill and the submissions received, the Committee made the following observations:


- (1) The Bill seeks to give effect to some of the recommendations and views of the public that were submitted to the National Dialogue Committee (NADCO) which was established to facilitate dialogue and consensus building, and thereafter recommend appropriate constitutional, legal and policy reforms on issues of concern to the people of Kenya framed by NADCO. One of the recommendations on the issue was the proposed amendments to the EACC Act (Cap. 7H) as provided in the Bill;
- (2) Despite the fact that the Bill is a politically negotiated document, pursuant to the mandate of the Committee and the requirements of Article 118 of the Constitution and Standing Order 127(3), the Committee is at liberty to propose necessary amendments to the Bill in its report to the House. This is informed by the Communication from the Chair (No. 006 of 2024) which directed the respective committees to ensure strict adherence to the due process in the enactment of legislation; and
- (3) The Bill is a timely and suitable amendment as the need for the Chairperson of the EACC to have a background in law provides the much needed and essential knowledge and understanding of the intricate legal frameworks in dealing with corruption and economic crimes.

22. In light of the foregoing, the Committee resolved to recommend to the House to approve the Bill.


CHAPTER FIVE

5 Committee Recommendations

23. The Committee, having considered the Ethics and Anti-Corruption Commission (Amendment) Bill (*National Assembly No. 11 of 2024*) recommends that **the House approves the Bill** with the amendments contained in the SCHEDULE OF AMENDMENTS forming CHAPTER SIX of this report.

SIGNED.......... DATE..... **6.8.2024**.....

HON. GEORGE GITONGA MURUGARA, CBS, MP  
CHAIRPERSON  
DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

|   |  |
|---|--|
| <br>THE NATIONAL ASSEMBLY<br>PAPERS LAID |  |
| DATE: <b>06 AUG 2024</b>  |  |
| DAY:<br><b>TUESDAY</b>  |  |
| TABLED BY:  | HON. GITONGA MURUGARA<br>(CHAIRPERSON) |
| CLERK-AT-THE-TABLE:   | INDRU MWALLI                           |



## CHAPTER SIX

### 6 Schedule of Amendments

24. In view of the observations made, the Committee proposed the following amendment to the Bill:

#### **CLAUSE 3**

**THAT** Clause 3 of the Bill be deleted.

**Rationale:** There is need to ensure that, after the commencement of the Act, the Commission benefits immediately from a Chairperson, who is a person qualified to be a judge of the High Court.

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*Annexure* **1**

**Adoption Schedule**



**DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS**

**ADOPTION OF THE COMMITTEE REPORT ON ITS CONSIDERATION OF  
THE ETHICS AND ANTI-CORRUPTION COMMISSION (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILL NO. 11 OF 2024)**

We, the Members of the Departmental Committee on Justice and Legal Affairs have, pursuant to Standing Order 199, adopted this Report of the Committee on its Consideration of the Ethics and Anti-Corruption Commission (Amendment) Bill (National Assembly Bill No. 11 of 2024) and affixed our signatures to affirm our approval and confirm its accuracy, validity and authenticity:

1. Hon. Murugara George Gitonga, CBS, MP - Chairperson

2. Hon. Mutuse Eckomas Mwengi, OGW, MP - Vice Chair

3. Hon. Maalim Farah, EGH, MP

.....

4. Hon. Francis Kajwang' Tom Joseph, MP

.....

5. Hon. Junet Mohamed, CBS, MP

.....

6. Hon. Onyiego Silvanus Osoro, CBS, MP

.....

7. Hon. (Dr.) Otiende Amollo, SC, MP

.....

8. Hon. Muchira Michael Mwangi, MP

.....

9. Hon. Makali John Okwisia, MP

10. Hon. Muriu Wakili Edward, MP

.....

11. Hon. Maina Jane Njeri, MP

12. Hon. Gichohi Kaguchia John Philip, MP

13. Hon. Mogaka Stephen M., MP

14. Hon. Aden Daud, EBS, MP

15. Hon. Siyad Amina Udgoon, MP

.....

*Annexure* **2**

**Adoption Minutes**

**MINUTES OF THE FORTY EIGHTH (48<sup>TH</sup>) SITTING OF THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS HELD ON WEDNESDAY, 31<sup>ST</sup> JULY 2024 AT 10.20 A.M. IN ROOM 18, 3<sup>RD</sup> FLOOR, BUNGE TOWER, PARLIAMENT BUILDINGS, NAIROBI**

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**MEMBERS PRESENT**

1. Hon. Murugara George Gitonga, CBS, MP - *Chairperson*
2. Hon. Mutuse Eckomas Mwengi, OGW, MP - *Vice Chairperson*
3. Hon. Makali John Okwisia, MP
4. Hon. Muriu Wakili Edward, MP
5. Hon. Maina Jane Njeri, MP
6. Hon. Gichohi Kaguchia John Philip, MP
7. Hon. Mogaka Stephen M., MP
8. Hon. Aden Daud, EBS, MP

**MEMBERS ABSENT WITH APOLOGIES**

1. Hon. Farah Maalim, EGH, MP
2. Hon. Francis Kajwang' Tom Joseph, MP
3. Hon. Junet Mohamed, CBS, MP
4. Hon. (Dr.) Otiende Amollo, SC, MP
5. Hon. Onyiego Silvanus Osoro, CBS, MP
6. Hon. Muchira Michael Mwangi, MP
7. Hon. Siyad Amina Udgoon, MP

**SECRETARIAT**

- |                            |   |                                |
|----------------------------|---|--------------------------------|
| 1. Mr. Ahmed Salim Abdalla | - | Clerk Assistant I / Lead Clerk |
| 2. Ms. Jael Ayiego Kilaka  | - | Clerk Assistant III            |
| 3. Mr. Abdikafar Abdi      | - | Clerk Assistant III            |
| 4. Mr. Omar Abdirahim      | - | Fiscal Analyst II              |
| 5. Mr. Isaac Nabiswa       | - | Legal Counsel II               |
| 6. Mr. Calvin Karungo      | - | Media Relations Officer        |
| 7. Mr. Dennis Kamau        | - | Audio Officer                  |
| 8. Mr. John Nduaci         | - | Serjeant-at-Arms               |

**IN ATTENDANCE**

***Ethics and Anti-Corruption Commission***

- |                          |   |                                    |
|--------------------------|---|------------------------------------|
| 1. Mr. Abdi Mohamud      | - | Deputy Chief Executive Officer     |
| 2. Ms. Faith Ngethe      | - | Assistant Director, Asset Recovery |
| 3. Mr. Wycliff Nyang'ate | - | Coordination Officer               |

***Office of the Director of Public Prosecutions***

- |                       |   |      |
|-----------------------|---|------|
| 1. Mr. Geoffrey Obiri | - | ADPP |
|-----------------------|---|------|

***Law Society of Kenya***

- |                         |   |                   |
|-------------------------|---|-------------------|
| 1. Mr. Collins Odhiambo | - | Deputy CEO, LSK   |
| 2. Ms. Sarah Agong'     | - | Programme Officer |



## **AGENDA**

1. Prayers
2. Preliminaries
3. Confirmation of the previous minutes
4. Meeting with Stakeholders on the Ethics and Anti-Corruption Commission (Amendment) Bill, 2024 (National Assembly Bill No. 11 of 2024)
5. Consideration and Adoption of the report on Ethics and Anti-Corruption Commission (amendment) Bill, 2024 (National Assembly Bill No. 11 of 2024)
6. Consideration and Adoption of the report on the consideration of the President's memorandum on Penal Code (amendment) Bill, 2022 (National Assembly Bill No. 56 of 2022)
7. Any Other Business
8. Adjournment / Date of the Next Meeting

### **MIN. NO. DDC/JLAC/247/2024:**

### **PRELIMINARIES**

The meeting was called to order at twenty minutes past ten o'clock by the Chairperson, followed by a word of prayer and thereafter Members introduced themselves. The agenda of the meeting was adopted, having been proposed by Hon. Makali John Okwisia, MP and seconded by Hon. Aden Daud, EBS, MP.

### **MIN. NO. DDC/JLAC/248/2024:**

### **CONFIRMATION OF MINUTES**

The agenda was deferred.

### **MIN. NO. DDC/JLAC/249/2024:**

### **MEETING WITH STAKEHOLDERS ON THE ETHICS AND ANTI-CORRUPTION COMMISSION (AMENDMENT) BILL, 2024**

The following Stakeholders appeared before the Committee to make their submissions on the Ethics and Anti-Corruption Commission (Amendment) Bill, 2024 (National Assembly Bill No. 11 of 2024): -

#### **1. Ethics and Anti-Corruption Commission**

The Deputy Chief Executive Officer appeared before the Committee and submitted that the Commission, having carefully considered the proposed amendment opposed the Bill for the following reasons:

- (a) the Commission had a fully established Directorate of Legal Services with some of its officers holding qualifications of a judge of a superior court. The function of the Directorate includes reviewing evidence in the course of investigations to ascertain that it meets the legal threshold;
- (b) restricting the role to the legal profession may limit diversity in the leadership of the Commission, which could result in a lack of diverse competencies and expertise;
- (c) candidates from non-legal background may bring in fresh ideas and diverse skill sets; and
- (d) legal professionals may possess strong legal expertise but may lack skills and experience in leadership or other areas relevant to anti-corruption work, such as investigation techniques, financial analysis, corruption prevention and advocacy.

#### **2. Office of the Director of Public Prosecutions**

The Office of the Director of Public Prosecutions supported the amendments in the Bill on the following grounds:

- i. it was vital that the persons appointed to the position of Chairperson of the Commission be a person qualified to be a high court judge. This will ensure

competence and familiarity with legal matters. The ODPP submitted that it was prudent that the Chairperson appreciates the workings of the Kenyan legal systems and this can only be realized by someone who has undergone the Kenyan Legal Education System;

- ii. the proposal was acceptable as it raises the perceived quality of the decisions made by the EACC, thereby adding to the legitimacy of the decisions thereof.
- iii. the proposal was further acceptable as it neither interfered with the mandate of the DPP nor affects the independence of the Office of the DPP as stipulated under Article 157 of the Constitution of Kenya, 2010.

### **3. The Law Society of Kenya**

The Law Society of Kenya appeared before the Committee and submitted that they were in support of the Bill. They however explained that they were still receiving views from their members and undertook to share any more feedback that they may receive from the members of the Law Society of Kenya.

### **MIN. NO. DDC/JLAC/250/2024: CONSIDERATION AND ADOPTION OF THE REPORT ON ETHICS AND ANTI-CORRUPTION COMMISSION (AMENDMENT) BILL, 2024 (NATIONAL ASSEMBLY BILL NO. 11 OF 2024)**

The Committee considered the Bill and took into account the submissions from the Ethics and Anti-Corruption Commission, Office of the Director of Public Prosecutions and the Law Society of Kenya. The Committee also considered written submissions received from the Kenya Law Reform Commission, the County Governance Watch, one Mr. Levine K. Njau and one Mr. Anthony Mulili. The Committee observed that:

- i. Except for the Ethics and Anti-Corruption Commission, all other stakeholders and members of the public were in support of the Bill.
- ii. It was necessary that the persons appointed to the position of the Chairperson of the Commission be a person qualified to hold the position of a judge of the High Court because this would ensure the holder was more familiar with legal matters; an aspect which was very important in light of the nature of the operations of the Commission.
- iii. The proposed qualification would raise the perceived quality of the decisions made by the Commission.

### **Committee Recommendation**

The Committee resolved to recommend to the House the approval of the Ethics and Anti-Corruption Commission (Amendment) Bill (National Assembly Bill No. 11 of 2024), with an amendment to delete Clause 3 which was a saving provision. The Committee noted that there was need to ensure that, after the commencement of the Act, the Commission benefits immediately from a Chairperson who is a person qualified to be a judge of the High Court, hence the proposed amendment.

### **Adoption of the report**

The report was therefore adopted, having been proposed by Hon. Stephen Mogaka, MP and seconded by Hon. Aden Daud, MP.



**MIN. NO. DDC/JLAC/251/2024: CONSIDERATION AND ADOPTION OF THE REPORT ON THE CONSIDERATION OF THE PRESIDENT'S MEMORANDUM ON THE PENAL CODE (AMENDMENT) BILL, 2022 (NATIONAL ASSEMBLY BILL NO. 56 OF 2022)**

The Committee considered H.E. the President's reservations on the Penal Code (Amendment) Bill, 2022 (National Assembly Bill No. 56 of 2022). The Committee concurred with the President's findings and observed that: -

- i. The repeal may encourage the commission of the acts covered under Section 182. As submitted by the President, this likelihood was a disturbing prospect, especially when the conduct in question is still viewed as criminally delinquent by the public.
- ii. The repeal of Section 182 may undermine the credibility of criminal law and may promote public disorder and disobedience.
- iii. There was likely to be a general decrease in compliance with the law, increased resistance to and subversion of the law, and potential vigilantism where the public shall seek to enforce its own decency and moral code without recourse to the legal system.

**Committee recommendation**

The Committee, having considered the President's reservations to the Penal Code (Amendment) Bill (National Assembly Bill No. 56 of 2022) and pursuant to Article 115(2) (a) of the Constitution, resolved to recommend to the House to adopt the President's reservations to the Bill by deleting Clause 2 of the Bill. The Committee noted that the effect of this proposal is that the Bill cease to exist.

**Adoption of the report**

The report was therefore adopted, having been proposed by Hon. Stephen Mogaka, MP and seconded by Hon. Aden Daud, MP.

**MIN. NO. DDC/JLAC/252/2024: ADJOURNMENT**

There being no other business, the meeting was adjourned at ten minutes past twelve o'clock. Next sitting to be held on notice.

SIGNED:  ..... DATE: *6.8.024* .....  
(CHAIRPERSON: HON. MURUGARA GEORGE GITONGA, CBS, MP)

*Annexure* 3

**Ethics and**  
**Anti-Corruption**  
**Commission**  
**(Amendment)**  
**Bill, 2024**  
N.A. Bill No. 11 of 2024



**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 47 (National Assembly Bills No. 11)*

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REPUBLIC OF KENYA

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***KENYA GAZETTE SUPPLEMENT***

**NATIONAL ASSEMBLY BILLS, 2024**

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**NAIROBI, 4th March, 2024**

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CONTENT

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**THE ETHICS AND ANTI-CORRUPTION  
COMMISSION (AMENDMENT) BILL, 2024**

**A Bill for**

**AN ACT of Parliament to amend the Ethics and Anti-Corruption Commission Act**

**ENACTED** by the Parliament of Kenya, as follows—

1. This Act may be cited as the Ethics and Anti-Corruption Commission (Amendment) Act, 2024.

Short title.

2. Section 5 of the Ethics and Anti-Corruption Commission Act, 2011 (in this Act referred to as the "principal Act") is amended by deleting sub-section (1) and substituting therefor the following new subsection—

Amendment of section 5 of No. 22 of 2011.

“(1) The chairperson of the Commission shall be a person who is qualified to hold the office of a judge of the High Court under the Constitution.”

3. Sections 2 of this Act shall not apply to a person who immediately before the commencement of this Act was serving as a Chairperson of the Commission.

Saving provision.



## **MEMORANDUM OF OBJECTS AND REASONS**

### **Statement of objects and reasons**

The principal object of this Bill is to amend the Ethics and Anti-Corruption Commission Act No. 22 of 2011 to prescribe the qualifications for appointment of a Chairperson of the Commission. The Bill seeks to give effect to some of the recommendations and views of the public that were submitted during the national dialogue discourse on the Issues of Electoral Justice and Related Matters; Outstanding Constitutional Matters; Fidelity to Political Parties/Coalitions and the law on multiparty democracy; Entrenchment of the National Government Constituencies Development Fund; the Senate Oversight Fund and the National Government Affirmative Action Fund and Establishment and Entrenchment of State Offices.

**Clause 1 of the Bill** sets out the short title of the Bill.

**Clause 2 of the Bill** amends section 5 of the Act to prescribe the qualifications for appointment of a Chairperson of the Commission. The clause provides that the Chairperson of the Commission shall be a person who is qualified to hold the office of judge of the High Court under the Constitution.

**Clause 3 of the Bill** is a saving provision and provides that the Act shall not apply to a person who immediately before the commencement of the Act was serving as a Chairperson of the Commission.

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

The Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

### **Statement that the Bill does not concern county governments.**

The Bill does not concern county governments in terms of Article 110 (1) (a) of the Constitution and it does not affect the functions and powers of county governments recognized in the Fourth Schedule to the Constitution.

### **Statement that the Bill is a money Bill within the meaning of Article 114 of the Constitution**

The enactment of this Bill may not occasion additional expenditure of public funds.

Dated the 29th February, 2024.

**KIMANI ICHUNG'WAH,**  
*Leader of the Majority Party.*

**OPIYO WANDAYI,**  
*Leader of the Minority Party.*



*Section 5 of No. 22 of 2011 which it is proposed to be amend—*

**5. Qualifications for appointment as chairperson or member**

(1) A person shall be qualified for appointment as the chairperson if that person—

- (a) meets the requirements of Chapter Six of the Constitution;
- (b) holds a degree from a university recognised in Kenya;
- (c) has knowledge and experience of not less than fifteen years in any of the following fields—
  - (i) ethics and governance;
  - (ii) law;
  - (iii) public administration;
  - (iv) leadership;
  - (v) economics;
  - (vi) social studies;
  - (vii) audit;
  - (viii) accounting;
  - (ix) fraud investigation;
  - (x) public relations and media; or
  - (xi) religious studies or philosophy; and
- (d) has had a distinguished career in their respective field.

(2) A person shall be qualified for appointment as a member of the Commission if that person—

- (a) meets the requirements of Chapter Six of the Constitution.
- (b) holds a degree from a University recognized in Kenya;
- (c) has knowledge and experience of not less than ten years in any of the following fields—
  - (i) ethics and governance;
  - (ii) law;
  - (iii) public administration;
  - (iv) leadership;
  - (v) economics;



- (vi) social studies;
- (vii) audit;
- (viii) accounting;
- (ix) fraud investigation;
- (x) public relations and media; or
- (xi) religious studies or philosophy; and

(d) has had a distinguished career in their respective field.

(3) A person shall not be qualified for appointment as a chairperson or as a member if the person—

- (a) is a member of a governing body of a political party;
- (b) is an undischarged bankrupt;
- (c) has been convicted of a felony; or
- (d) has been removed from public office for contravening the provisions of the Constitution or any other law.

(4) Subsection (3)(a) shall cease to apply to a person after two general elections have been held since the person ceased to hold such office.



*Annexure* **4**

**Advertisement**  
**inviting the public to submit**  
**memoranda on the Bill**



## National News

# Change Young Kenyans encouraged not to give up fighting for what rightly belongs to them Muslims urge the President to address demands of protesters

They said some reorganisations do not require constitutional amendments and should be effected without any delay

BY CECIL ODONGO

Muslim leaders now want President William Ruto to make changes via an Executive Order.

National Muslim Leaders Forum Chairman, Sheikh Abdullahi Abdi, said some reorganisations do not require constitutional amendments or review and should be effected without any delay.

"We want peace and stability in Kenya. The biggest issue at present is that a majority of people no longer trust the President. To bring back the trust, some of the demands being made by protesters should be addressed immediately,"



Supkem Chairman Hassan ole Naado (second right), Namfem Chairman Sheikh Abdullahi Abdi (right) and other Muslim leaders during a press briefing yesterday. WILFRED NYANGARES | NATION

You represent the feelings, the spirit, the rage and the aspirations of an overwhelming majority of our people

Hassan ole Naado, Supkem Chairman

”

Sheikh Abdi said yesterday

He spoke at a Nairobi Hotel where Muslim leaders held a consultative meeting on the state of the nation.

Among the issues Sheikh Abdi said President Ruto should enforce is trimming his Cabinet from 22 to 14 and doing away with the post of Prime Cabinet Secretary.

Supreme Council of Kenya Muslims (Supkem) Chairperson Hassan ole Naado said the problems bedevilling Kenya need to be addressed with urgency.

Mr Naado also urged the government to order the release of protesters being held by police.

He advised the government to settle the medical bills of demonstrators and meet the expenses of those killed officers.

"We urge you to reinstate police officers and rest from harming, arresting and punishing peaceful protesters."

**Answerable to voters**

The Muslim leaders urged aged young Kenyans to not to give up fighting for their rights, adding that the government is answerable to those who elected it.

"You represent the feelings, the spirit, the rage and the aspirations of an overwhelming majority of our people," Mr Naado stated.

"We share your frustration and pain and will continue supporting you in agitating you rightly deserve."

The declaration by the leadership came at a time when the government has been on the verge of their dalliance with the current government, with young Kenyans now sensitive and insensitive to the government.

Sheikh Abdi was clear that the Muslim community has been neutral on alms and has never intervened with the government.

newsdesk@ka.nation



REPUBLIC OF KENYA  
THIRTEENTH PARLIAMENT - THIRD SESSION (2024)  
THE NATIONAL ASSEMBLY

IN THE MATTER OF ARTICLE 118(1) (b) OF THE CONSTITUTION  
AND

IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF:  
THE ETHICS AND ANTI-CORRUPTION COMMISSION (AMENDMENT) BILL (NATIONAL ASSEMBLY  
BILL NO. 11 OF 2024)

**INVITATION TO SUBMIT MEMORANDA**

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

AND WHEREAS, The Ethics and Anti-Corruption Commission (Amendment) Bill (National Assembly Bill No. 11 of 2024) was read a First Time on 25<sup>th</sup> June 2024 and referred to the Departmental Committee on Justice and Legal Affairs for consideration and reporting to the House.

IT IS NOTIFIED that the Ethics and Anti-Corruption Commission (Amendment) Bill (National Assembly Bill No. 11 of 2024) is a Bill co-sponsored by the Leader of the Majority Party and the Leader of the Minority Party which seeks to amend the Ethics and Anti-Corruption Commission Act, Cap. 7H to prescribe the qualifications for appointment of a Chairperson of the Commission. Under the amendment, the Chairperson of the Commission is proposed to be a person qualified for appointment as a Judge of the High Court.

The Bill seeks to give effect to some of the recommendations and views of the public as submitted to the National Dialogue Committee (NADCO) on the issues of Electoral Justice and Related Matters; Outstanding Constitutional Matters; Fidelity to Political Parties/Coalitions and the Law on Multiparty Democracy; Entrenchment of the National Government Constituencies Development Fund; the Senate Oversight Fund and the National Government Affirmative Action Fund; and Establishment and Entrenchment of State Offices.

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 Bill to the Departmental Committee on Justice and Legal Affairs.

Copies of the Bill are available at the National Assembly Table Office, Main Parliament Buildings and on [www.parliament.go.ke/the-national-assembly/house-business/bills](http://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 [ca@parliament.go.ke](mailto:ca@parliament.go.ke) to be received on or before Thursday, 18<sup>th</sup> July 2024 at 5.00 p.m.

S. NJOROGE, CBS  
CLERK OF THE NATIONAL ASSEMBLY  
5<sup>th</sup> July 2024

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



## CAREER OPPORTUNITIES

Habitat for Humanity Kenya (HFH Kenya) is a national non-profit organization begun its operations in 1982 as an affiliate of Habitat for Humanity International. The affiliation is guided by a National Affiliation Agreement (NA Memorandum of Understanding (MOU)). HFH Kenya's vision is: "A place where every family has a decent place to live." Mission: "Seeking to put people into action, Habitat for Humanity Kenya brings people together to build communities and hope". Our overarching goal is: "Enabling low income access decent and affordable shelter". Habitat for Humanity Kenya seeks suitable candidates to fill the following positions.

1. Social Housing Manager
2. Policy and Advocacy Manager
3. Basic Services Manager
4. MEAL Manager
5. Senior Finance Officer
6. Senior Procurement Officer

To apply, download the full job description available at <https://hfhkenya.org/careers/>

### Application Procedure:

If your background, experience and competence match the job please submit your CV & motivation letter as a single file to [hr@hfhkenya.org](mailto:hr@hfhkenya.org) Thursday 18 July 2024 with the position applied for in the subject

Please do not send certificates at this stage. Kindly note that only shortlisted candidates will be contacted. HFH Kenya is an equal opportunities employer and will never ask for the recruitment process. Habitat for Humanity is committed to safeguarding policy of "zero sexual exploitation, abuse, and harassment"

Report fraud at [www.mysafeworkplace.com](http://www.mysafeworkplace.com)





**REPUBLIC OF KENYA  
THIRTEENTH PARLIAMENT - THIRD SESSION (2024)  
THE NATIONAL ASSEMBLY**

**IN THE MATTER OF ARTICLE 118(1) (b) OF THE CONSTITUTION  
AND  
IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF:  
THE ETHICS AND ANTI-CORRUPTION COMMISSION (AMENDMENT) BILL (NATIONAL ASSEMBLY  
BILL No. 11 OF 2024)**

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**AND WHEREAS**, The Ethics and Anti-Corruption Commission (Amendment) Bill (National Assembly Bill No. 11 of 2024) was read a First Time on 25<sup>th</sup> June 2024 and referred to the **Departmental Committee on Justice and Legal Affairs** for consideration and reporting to the House.

**IT IS NOTIFIED** that the **Ethics and Anti-Corruption Commission (Amendment) Bill (National Assembly Bill No. 11 of 2024)** is a Bill co-sponsored by the **Leader of the Majority Party** and the **Leader of the Minority Party** which seeks to amend the Ethics and Anti-Corruption Commission Act, Cap. 7H to prescribe the qualifications for appointment of a Chairperson of the Commission. Under the amendment, the Chairperson of the Commission is proposed to be a person qualified for appointment as a judge of the High Court.

The Bill seeks to give effect to some of the recommendations and views of the public as submitted to the **National Dialogue Committee (NADCO)** on the issues of *Electoral Justice and Related Matters; Outstanding Constitutional Matters; Fidelity to Political Parties/Coalitions and the law on Multiparty Democracy; Entrenchment of the National Government Constituencies Development Fund; the Senate Oversight Fund and the National Government Affirmative Action Fund; and Establishment and Entrenchment of State Offices.*

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**S. NJOROGE, CBS  
CLERK OF THE NATIONAL ASSEMBLY  
5<sup>th</sup> July 2024**

*"For the Welfare of Society and the just Government of the People"*

*Annexure* **5**

**Letter from the Clerk  
of the National Assembly  
inviting stakeholders  
to attend the public participation forums**





**THE NATIONAL ASSEMBLY  
OFFICE OF THE CLERK**

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

Telephone: +254202848000 ext. 3300  
Email: [ena@parliament.go.ke](mailto:ena@parliament.go.ke)  
[www.parliament.go.ke/the-national-assembly](http://www.parliament.go.ke/the-national-assembly)

*When replying, please quote*

Ref: NA/DDC/JLAC/2024/065

24<sup>th</sup> July, 2024

**Mr. Amos N. Gathecha, EBS, NDC (K)**  
Principal Secretary  
State Department for Public Service  
Ministry of Public Service, Performance and Delivery Management  
Office of the President, Harambee Avenue  
NAIROBI

**Hon. Winfridah Boyani Mokaya**  
Chief Registrar Judiciary of Kenya / Secretary  
Judicial Service Commission  
Supreme Court Building  
NAIROBI

**Hon. Shadrack John Mose**  
Solicitor General  
The State Law Office and Department of Justice  
Sheria House, Harambee Avenue  
NAIROBI

**Mr. Renson Mulele Ingonga, OGW**  
The Director of Public Prosecutions  
ODPP House, Ragati Road, Upper Hill  
NAIROBI

**Maj. (Rtd) Twalib Mbarak, CBS**  
Chief Executive Officer / Commission Secretary  
Ethics and Anti-Corruption Commission  
Integrity Centre,  
Jakaya Kikwete / Valley Road Junction  
NAIROBI

**Dr. Moses Wambugu Marang'a, MBS**  
Executive Director  
National Council on the Administrative of Justice  
Mayfair Center, 5<sup>th</sup> Floor, Upperhill  
NAIROBI



**Mr. Joash Dache, MBS**

Chief Executive Officer / Commission Secretary  
Kenya Law Reform Commission,  
Reinsurance Plaza, 3<sup>rd</sup> Floor, Taifa Road,  
NAIROBI

**Dr. Simon K. Rotich, CBS**

Chief Executive Officer / Commission Secretary  
Public Service Commission  
Commission House  
Harambee Avenue  
NAIROBI

**Mrs. Anne R. Gitau, MBS**

Chief Executive Officer / Commission Secretary  
Salaries and Remuneration Commission  
Williamson House, 6<sup>th</sup> Floor, 4<sup>th</sup> Ngong Avenue  
NAIROBI

**Ms. Florence W. Muturi**

Secretary / Chief Executive Officer  
Law Society of Kenya (LSK)  
Lavington, Opposite Valley Arcade, Gitanga Road  
NAIROBI

**Ms. Christine Gakii Nkonge**

Executive Director  
Katiba Institute  
House No.5, The Crescent, Off Parklands Road  
NAIROBI

**Dr. Mshai Mwangola**

Chairperson  
Uraia Trust  
Jacaranda Avenue, Off Gitanga Road  
NAIROBI

**Ms. Caroline Gaita**

Executive Director  
Mzalendo Trust  
ACK Garden House, 2<sup>nd</sup> Floor, Wing A  
1<sup>st</sup> Ngong Avenue  
NAIROBI

**Dr. Annette Mbogoh**

Executive Director  
Kituo cha Sheria  
Ole Odume Rd, Off Argwings Kodhek Rd  
NAIROBI



**Ms. Sheila Masinde**  
Executive Director  
Transparency International  
Kindaruma Road, Off Ring Road, Kilimani  
Next to Commodore Office Suites  
**NAIROBI**

Dear

**RE: INVITATION BY THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS TO SUBMIT VIEWS ON THE ETHICS AND ANTI-CORRUPTION COMMISSION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 11 OF 2024) CO-SPONSORED BY THE LEADER OF THE MAJORITY PARTY AND THE LEADER OF THE MINORITY PARTY**

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The Departmental Committee on Justice and Legal Affairs is established pursuant to Standing Order 216 of the National Assembly Standing Orders, and are mandated to *inter alia*, 'study and review all legislation referred to it.'

The Ethics and Anti-Corruption Commission (Amendment) Bill, 2024 co-sponsored by the Leader of the Majority Party, Hon. Kimani Ichung'wah, EGH, MP and the Leader of the Minority Party, Hon. Opiyo Wandayi, MGH, CBS, MP is before the Committee for consideration and reporting back to the House. The Bill seeks to amend the Ethics and Anti-Corruption Commission Act, Cap. 7H to prescribe the qualifications for appointment of a Chairperson of the Commission. Under the amendment, the Chairperson of the Commission is proposed to be a person qualified for appointment as a Judge of the High Court.

The Bill seeks to give effect to some of the recommendations and views of the public as submitted to the National Dialogue Committee (NADCO) on the issues of Electoral Justice and Related Matters; Outstanding Constitutional Matters; Fidelity to Political Parties/Coalitions and the law on Multiparty Democracy; Entrenchment of the National Government Constituencies Development Fund; the Senate Oversight Fund and the National Government Affirmative Action Fund; and Establishment and Entrenchment of State Offices.

Article 118(1)(b) of the Constitution of Kenya and National Assembly Standing Order 127(3) require Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees. Due to the great public interest in the Bill, the Committee has resolved to meet critical stakeholders to make submissions on the Bill.

In this regard, the Committee has scheduled to meet you on **Wednesday, 31<sup>st</sup> July, 2024 at 10:00 am** in the **Mini Chamber, 1<sup>st</sup> Floor, County Hall, Parliament Buildings** to discuss the Bill and the purpose of this letter is to invite you to the meeting.

You are requested to prepare your written submissions in a matrix format that indicates the section of the Act, specific clause, proposed amendment and justification. Twenty-two (22) hard copies of the submissions to be availed to the meeting, a soft copy of which may be sent to the Committee through the Office of the Clerk of the National Assembly via email: [cna@parliament.go.ke](mailto:cna@parliament.go.ke) by Monday, 29<sup>th</sup> July, 2024.

Hard copies of the Bill are available at the National Assembly Table Office, Main Parliament Building while an electronic copy may be accessed on the Parliament website: [www.parliament.go.ke/the-national-assembly/house-bills](http://www.parliament.go.ke/the-national-assembly/house-bills) for reference.



Our Liaison Officers on this matter are Mr. Ahmed Salim who may be contacted on tel. no. 0710204056 or email: [ahmed.salim@parliament.go.ke](mailto:ahmed.salim@parliament.go.ke) or Ms. Jael Ayiego Kilaka on tel. no. 0725385945 or email: [jael.kilaka@parliament.go.ke](mailto:jael.kilaka@parliament.go.ke) or Mr. Abdikafar Abdi Sheikh on tel. no. 0715456503 or email: [abdikafar.sheikh@parliament.go.ke](mailto:abdikafar.sheikh@parliament.go.ke).

Yours



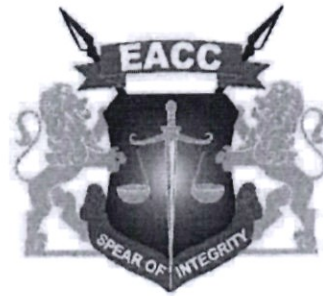
JEREMIAH W. NDOMBI, MBS  
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to: - **Hon. Wycliffe Musalia Mudavadi, EGH**  
Prime Cabinet Secretary of the Republic of Kenya  
Office of the Prime Cabinet Secretary  
Kenya Railways Headquarters  
Off Haile Selassie Avenue  
NAIROBI



*Annexure* **6**

**Memoranda by**  
**Stakeholders**



**REPORT BY THE ETHICS AND ANTI-CORRUPTION COMMISSION (EACC) TO  
THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS IN  
RESPECT TO THE ETHICS AND ANTI-CORRUPTION COMMISSION  
(AMENDMENT) BILL, 2024**

=====  
*Presented to JLAC on  
Wednesday  
31<sup>st</sup> July 2024*  
=====

**REPORT BY THE ETHICS AND ANTI-CORRUPTION COMMISSION (EACC) TO THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS IN RESPECT TO THE ETHICS AND ANTI-CORRUPTION COMMISSION (AMENDMENT) BILL, 2024**

**Introduction**

- The Ethics and Anti-Corruption Commission (EACC) is a statutory body established under the Ethics and Anti-Corruption Commission Act, 2011. The Act was enacted pursuant to the requirement under Article 79 of the Constitution of Kenya, 2010.
- The mandate of the Commission is to combat corruption and economic crime in Kenya through law enforcement, prevention, public education and promotion of standards and practices of integrity, ethics and anti-corruption.
- The Commission also derives its statutory mandate from a number of other statutes namely, the Anti-Corruption and Economic Crimes Act, 2003, the Leadership and Integrity Act, 2012, the Public Officer Ethics Act, 2003 and the Bribery Act, 2016 among others.
- This is a report to the Departmental Committee on Justice and Legal Affairs of the National Assembly in relation to the proposed Ethics and Anti-Corruption Commission (Amendment) Bill, 2024
- The report is submitted pursuant to a written request by the aforementioned Committee vide a letter **Ref: NA/DDC/JLAC/2024/065** dated **24<sup>th</sup> July, 2024**.

**1. Proposed Amendment**

The EACC (Amendment) Bill, 2024 seeks to amend Section 5 (1) of the EACC Act 2011 as follows:

| <b>Proposed Amendment</b>  | <b>Current Provision</b>   |
|--|--|
| <b>"The Chairperson of the Commission shall be a person who is qualified to hold the office of a judge of the High Court under the Constitution."</b>      | A person shall be qualified for appointment as the chairperson if that person—<br>a) meets the requirements of Chapter Six of the Constitution;<br>b) holds a degree from a university recognized in Kenya;<br>c) has knowledge and experience of not less than <b>fifteen years</b> in any of the following fields—<br>(i) ethics and governance;<br><b>(ii) law;</b><br>(iii) public administration; |
| <b><i>Saving provision:</i></b><br>The amendment does not apply to a person serving as a Chairperson of the Commission before the commencement of the Act. |  |



|  |  |
|--|--|
|  | (iv) leadership;<br>(v) economics;<br>(vi) social studies;<br>(vii) audit;<br>(viii) accounting;<br>(ix) fraud investigation;<br>(x) public relations and media; or<br>(xi) religious studies or philosophy;<br>and<br>d) has had a distinguished career in their respective field |
|--|--|

## 2. Justification

The Commission having carefully considered the proposed amendment **opposes** the Bill for the following reasons:

1. **Fully-fledged Legal Services Directorate:** The Commission has a fully established Directorate of Legal Services with some of its officers holding qualifications of a Judge of a superior court. The functions of the Directorate include reviewing evidence in the course of investigation to ascertain it meets the legal threshold and advising the Commission on any legal issue before it.
2. **Limited Diversity:** Restricting the role to the legal profession may limit diversity in the leadership of the Commission. Excluding candidates from other professions or backgrounds could result in a lack of diverse competencies and expertise.
3. **Narrow Skill Set:** Legal professionals may possess strong legal expertise but may lack skills and experience in leadership other areas relevant to anti-corruption work, such as investigation techniques, financial analysis, corruption prevention and advocacy.
4. **Missed Opportunities for Innovation:** Candidates from non-legal backgrounds may bring fresh ideas, innovative approaches, and diverse skill sets to the role of chairperson. Restricting the position to the legal profession could result in missed opportunities for innovation and improvement within the Commission.

Section 5 (1) of the EACC Act currently lists law as one of the professions from which a Chairperson may be appointed. The objective of the Bill may well be realized as an **issue of selection** as opposed to an amendment of the said provision.

It is noteworthy that the position of Chairperson has previously been filled by various professionals including a lawyer **qualified to hold the office of a judge of the High Court**. Based on our experience, there is no added advantage of having a lawyer over

the other professions. This is attributed to elaborate internal structures which have been established to review and advise on sufficiency of the evidence upon conclusion of investigations.

Further, the term of service for the EACC Chairperson is on **part time basis** with functions related to strategy and policy, and not operational in nature to warrant a legal mind.

**Dated this Wednesday, 31<sup>st</sup> day of July 2024.**



=====

**Twalib Mbarak, MGH, CBS**  
**Secretary/Chief Executive Officer**  
**Ethics and Anti-Corruption Commission (EACC)**





## OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

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ODPP House,  
Ragati Road, Upperhill  
P.O. Box 30701 – 00100  
Nairobi, Kenya.

When Replying please quote

**Ref.: ODPP/CONF/2/18A**

**Date: 26<sup>th</sup> July, 2024**

**Mr. Samuel Njoroge**  
**Clerk of the National Assembly**  
Parliament Building,  
P.O. Box 41842-00200  
**NAIROBI**

Dear *Njoroge,*

**RE: INVITATION BY THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS TO SUBMIT VIEWS ON THE ETHICS AND ANTICORRUPTION COMMISSION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 11 OF 2024) CO-SPONSORED BY THE LEADER OF THE MAJORITY PARTY AND THE LEADER OF THE MINORITY PARTY**

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I acknowledge the receipt of your letter **Ref: NA/DDC/JLAC/2024/065**, dated **24th July 2024**, regarding the above subject matter.

On behalf of the Office of the Director of Public Prosecutions (ODPP) I forward herewith the written memoranda containing comments on the Ethics and Anticorruption Commission (Amendment) Bill (National Assembly Bill no. 11 of 2024) for your consideration.

Thank you for your unwavering support and cooperation

Yours

*Sincerely*  
*RM*

**RENSON M. INGONGA, OGW**  
**DIRECTOR OF PUBLIC PROSECUTIONS**





**OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS**

**COMMENTS ON**

**THE ETHICS AND ANTI-CORRUPTION COMMISSION  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 11 OF  
2024)**

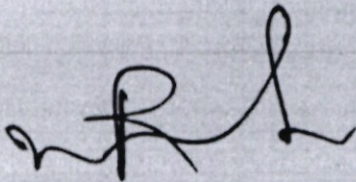
**29<sup>TH</sup> JULY 2024**



| Provision to be Amended  | Proposed Amendment   | Comments/Proposals   |
|--|--|--|
| <p>Section 5 of the Ethics and Anti-Corruption Commission Act, No. 22 of 2011</p> <p>1. Enhancing Decision Quality:</p> <ul style="list-style-type: none"> <li>o The proposed amendment, which emphasizes qualifications, contributes to the perceived quality of decisions made by the Ethics and Anti-Corruption Commission (EACC). A well-qualified chairperson enhances the legitimacy of the Commission's decisions.</li> </ul> | <p>(1) The chairperson of the Commission shall be appointed from among persons qualified to hold the office of a Judge of the High Court to wit:</p> <p>(a) At least ten years' experience as a superior court judge or a professionally qualified magistrate; or</p> <p>(b) At least ten years' experience as a distinguished academic or legal practitioner, or relevant experience in another legal field; or</p> <p>(c) Holding the qualifications specified in paragraphs (a) and (b) for a cumulative period of ten years.</p> | <p>Qualifications for Chairperson:</p> <ul style="list-style-type: none"> <li>▪ It is therefore vital that persons appointed to the position of chairperson of the Commission be a person qualified to hold the position of a Judge of the High Court. This ensures competence and familiarity with legal matters.</li> <li>▪ It is prudent that the Chairperson appreciates the workings of the Kenyan Legal System and this can only be realized by someone who has undergone the Kenyan Legal Education System.</li> </ul> <p>Enhancing Decision Quality:</p> <ul style="list-style-type: none"> <li>▪ The proposal is acceptable as it raises the perceived quality of the decisions made by the EACC thereby adding to the legitimacy of the decisions thereof.</li> </ul> <p>Preserving Independence:</p> <ul style="list-style-type: none"> <li>▪ The proposal is further acceptable</li> </ul> |



| Provision to be Amended | Proposed Amendment | Comments/Proposals   |
|-------------------------|--------------------|--|
|                         |                    | as it neither interferes with the mandate of the Director of Public Prosecutions (DPP) nor affects the independence of the Office of the Director of Public Prosecutions (ODPP), as stipulated under Article 157 of the Constitution of Kenya, 2010. |



**RENSON M. INGONGA, OGW**  
**DIRECTOR OF PUBLIC PROSECUTIONS**





LAW SOCIETY OF KENYA  
Lavington, Opposite Valley Arcade  
Gitanga Road  
P.O. Box 72219-00200  
NAIROBI  
Tel. +254 111 045 300

MEMORANDUM  
TO  
THE NATIONAL ASSEMBLY  
ON  
ETHICS AND ANTI-CORRUPTION COMMISSION (AMENDMENT BILL), 2024  
JULY, 2024

Faith Mony Odhiambo, President Law Society of Kenya  
Lavington, opp Valley Arcade,  
Gitanga Road P.O Box 72219 - 00200 Nairobi | Kenya  
Tel: +254 111 045 300  
Email: [president@lsk.or.ke](mailto:president@lsk.or.ke)  
Website: [www.lsk.or.ke](http://www.lsk.or.ke)

## Introduction

The Law Society of Kenya is a professional statutory body established under the Law Society of Kenya Act, No. 21 of 2014 with a mandatory membership of all Advocates in Kenya. The organs of the Society are the General Membership, the Council, the Branches and the Secretariat. The Council is the governing body of the Law Society of Kenya. It comprises a President, a Vice-President and eleven other members, all of whom must be members of the Law Society of Kenya. Council members are elected every two years by the members of the Society by means of a secret ballot conducted in accordance with the Law Society of Kenya Act.

Currently, the Council is comprised of The President, The Vice-president and 11 Council members namely:

- President, Faith Mony Odhiambo
- Vice President, Mwaura Kabata
- General Membership Representatives, Tom K'opere, Teresia Wavinya, Hosea Manwa
- Nairobi Representatives, Gloria Kimani, Irene Otto, Stephen Mbugua
- Up-country Representatives, Vincent Githaiga, Linda Kiome, Hezekiah Areso, Zulfa Roble
- Coast Representative, Elizabeth Wanjeri
- Secretary/CEO, Florence W. Muturi

One of the Law Society of Kenya statutory objects as provided in section 4(a) of the Act is to assist the Government and the courts in all matters affecting legislation and the administration and practice of law in Kenya. Pursuant to the statutory mandate, the Law Society of Kenya makes presentations on the Ethics and Anti-Corruption Commission (Amendment) Bill, 2024.

## GENERAL COMMENTS

The Bill was proposed with the aim of amending section 5 of the Ethics and Anti-corruption Commission Act No. 22 of 2011 to provide for the qualifications of the chairperson of the Commission. It is also submitted that the Bill seeks give effect to some of the recommendations and views of the public that were submitted during the national dialogue discourse.

## SPECIFIC COMMENTS

| NO. | Provision of the Bill | Issue | Proposal | Justification |
|-----|-----------------------|-------|----------|---------------|
|-----|-----------------------|-------|----------|---------------|

Faith Odhiambo (President), Mwaura Kabata (Vice-President)  
Tom K'opere, Teresia Wavinya, Hosea Manwa, (General Membership Representatives)  
Gloria Kimani, Irene Otto, Stephen Mbugua (Nairobi Representatives)  
Vincent Githaiga, Linda Kiome, Hezekiah Areso, Zulfa Roble (Upcountry Representatives)  
Elizabeth Wanjeri (Coast Representative)



|  |           |   |  |  |
|--|-----------|---|--|--|
|  | Section 5 | This section narrows down the qualifications necessary for the Chairperson of the Ethics and Anti-corruption Commission ('EACC') to seemingly only those who <i>"are qualified to hold the office of a judge of the High Court under the Constitution."</i> | The proposed clause 5 can be expanded to:<br>1) Specifically reproduce <b>Article 166 subsection 2(c)</b> of the Constitutional requirement for superior court judges, to state that one <b>must</b> <i>"have a high moral character, integrity and impartiality."</i> | Noting that Kenya has for years been plagued with corruption, which has led not only to massive loss of public funds but also erosion of public confidence in the Government's ability to tackle and eradicate corruption, the challenges that have been experienced in the investigations and prosecution of corruption offences, it is of critical importance that the office be held by a person who not only posses legal expertise but one of a high moral character, integrity and impartiality. |
|--|-----------|---|--|--|

Based on the foregoing, the Law Society of Kenya submits its comments on the Ethics and Anti-Corruption Commission (Amendment) Bill for your consideration.

Yours faithfully,



Faith Odhiambo  
President Law Society of Kenya

Faith Odhiambo (President), Mwaura Kabata (Vice-President)  
Tom K'opere, Teresia Wavinya, Hosea Manwa, (General Membership Representatives)  
Gloria Kimani, Irene Otto, Stephen Mbugua (Nairobi Representatives)  
Vincent Githaiga, Lindah Kiome, Hezekiah Aseso, Zulfa Roble (Upcountry Representatives)  
Elizabeth Wanjeri (Coast Representative)



**THE PROPOSED ETHICS AND ANTI-CORRUPTION COMMISSION (AMENDMENT)  
BILL, 2024 (NATIONAL ASSEMBLY BILL, NO. 11 OF 2024)**

The Kenya Law Reform Commission, hereinafter referred to as “KLRC”, *Vide* a letter dated 24<sup>th</sup> July, 2024 and referenced as NA/DDC/JLAC/2024(065), received a request from the National Assembly, for comments on the proposed Ethics and Anti-Corruption Commission (Amendment) Bill, 2024.

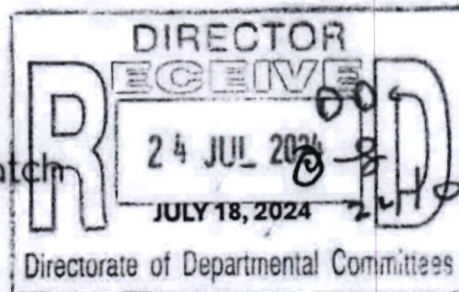
While the KLRC agrees with the proposed amendment as explained in the Bill’s memorandum of objects and reasons, the KLRC makes the following proposed amendment—

**THAT** clause 2 of the Bill be amended by deleting the phrase “is qualified to hold the office of a judge of the High Court under the Constitution” and substituting therefor the phrase “qualifies to be appointed as a judge of the High Court”.



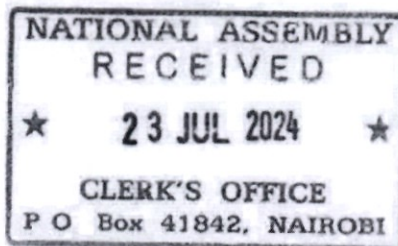
② Ahmed Salim  
Desl  
29/7/24

County Governance Watch



CGW/ MEMO/NA/003/07/2024

THE CLERK OF THE NATIONAL ASSEMBLY,  
P.O. BOX 41842-00100,  
MAIN PARLIAMENT BUILDINGS,  
NAIROBI.  
Email: cna@parliament.go.ke;



Dear Sir,

S. Njoroge, CBS

**MEMORANDUM – ETHICS AND ANTI-CORRUPTION COMMISSION (AMMENDMENT)BILL,  
NATIONAL ASSEMBLY BILL No. 11 OF 2024**

Greetings from County Governance Watch!

We have received the gazettelement towards the submission of public memoranda on the above-mentioned subject matter.

Pursuant to the provision of Article 118 of the Constitution of Kenya (2010) and Standing Order 127 (3) of the National Assembly Standing Orders, we take note of the Committee invitation for interested members of the public to submit any representation that they may have on the Bills published by way of written memoranda. County Governance Watch (CGW) hereby, therefore; make this submission with regards to the Ethics and Anti-Corruption Commission (Amendment) Bill, National Assembly Bill No. 11 of 2024.

County Governance Watch (CGW) is a registered Non- Governmental Organization (NGO) in Kenya, whose purpose is to provide solutions for socio-economic and sustainable development processes in the counties of Kenya. CGW facilitates open dialogue between the county leadership and citizens with a vision for an empowered citizenry enjoying high-quality, efficient and transparent service delivery. CGW programmatic interests are geared towards ensuring that devolution works and that citizens, including **special interest and minority groups** (women, youth and persons with disability) are **adequately empowered to demand sound delivery of services by holding their leaders accountable and preventing instances of graft**. This we do by offering platforms for engagement in strengthening the county governance processes and enhancing opportunities for the public to participate in the governance, leadership and decision-making processes of their affairs.

County Governance Watch (CGW) exists to promote transparent, accountable, effective service delivery and more responsive governance in Kenya's devolved governance units. CGW has made significant strides in strengthening the pillars of good governance in Kenya by enhancing public participation processes in the Counties of Kenya. CGW has taken lead in the creation of the **County Governance Index (CGI)** which assesses the performance of Counties by measuring the governance and service delivery levels of the devolved services that are closest to the heart of the citizen. These include health, water, education, agriculture and infrastructure among others. Climate Governance (mitigation, adaptation and means of implementation), elections, peace and security (**prevention of**

Page 1 of 4



violent extremism), gender and inclusion of the marginalized community groups form critical aspects of our programmatic interventions.

County Governance Watch (CGW) has been engaging with various citizenry groups since the beginning of the National Dialogue Committee processes, given the circumstances within which we found ourselves here. The organization has been engaged, was and still is engaged through the Kenya Electoral Conflicts Mitigation and Civic/Voter Education Support (ECCES) Program – Kenya Electoral County Dialogue Forums dubbed *Kiongozi Bora, Jukumu Langu* in its initial phase and *Elimu mashinani, amani endelevu* in its current phase. This phase is geared towards ensuring that citizens effectively participate in democratic governance and constitutional processes through independent and informed decisions; Women, Youth, and PWDs are included in democratic governance and decision-making processes, and that electoral and governance institutions are more accessible, accountable, and effective. This is what CGW is aiming at through the **AMKA - Stay Woke: Citizen Voices for Action in the National Dialogue Committee process. The ECESS program is supported by USAID through Act Change Transform (Act!).**

We remain dedicated to our vision of an empowered citizenry enjoying high-quality, efficient, and transparent service delivery, and stand ready to engage further on these crucial matters of national importance and hereby submit this memorandum regarding the proposed amendments to the Ethics and Anti-Corruption Commission Act No. 22 of 2011.

The principal object of the proposed Bill is to amend the Ethics and Anti-Corruption Commission Act No. 22 of 2011 to prescribe the qualifications for appointment of a Chairperson of the Commission. This amendment is part of the broader national dialogue on issues of Electoral Justice and Related Matters, Outstanding Constitutional Matters, and the Establishment and Entrenchment of State Offices.

As an organization committed to strengthening good governance and public participation in Kenya, CGW believes that these recommendations, if implemented, would significantly enhance the effectiveness and credibility of the Ethics and Anti-Corruption Commission. We urge the relevant authorities to consider these proposals in the spirit of strengthening Kenya's anti-corruption efforts and promoting good governance. CGW, therefore, offers the following annexed recommendations on the proposed amendments.

It is on our belief that these recommendations are aimed at strengthening the EACC's capacity to fight corruption effectively. By granting prosecutorial powers, enhancing qualification requirements, and implementing rigorous integrity checks, the EACC will be better equipped to fulfill its mandate and contribute to improved governance in Kenya.

Looking forward to your positive response and consideration.

Thank you in advance.

Yours faithfully,

  
Kevin Qaido,  
Executive Director,  
County Governance Watch (CGW)  
Email: [kosido@cgwkenya.org](mailto:kosido@cgwkenya.org); [kevinosido@gmail.com](mailto:kevinosido@gmail.com)  
Tel: +254 720 576 696 / 20 440 41 40





**This memorandum is submitted for consideration on behalf of Kenyans engaged by the organization through several networks in the Counties.**

The contents of this memorandum are however the sole responsibility of CGW and do not necessarily reflect the views of USAID, the United States Government, or Act!.

**Annex: SUMMARY OF SUBMISSION**

| RECOMMENDATIONS                       | JUSTIFICATION  |
|---------------------------------------|--|
| Prosecutorial Powers                  | We strongly recommend that the Ethics and Anti-Corruption Commission (EACC) be granted prosecutorial powers. This would significantly enhance the Commission's ability to combat corruption effectively by allowing it to directly prosecute cases without relying on other agencies. This change would streamline the anti-corruption process and potentially lead to more successful prosecutions.   |
| Timely completion of corruption cases | Despite the challenges in the justice system, we recommend that there be established a maximum number of time that cases related to corruption will take. This is aimed at addressing the delays in dispensing cases which in most cases affect the quest for justice of in some, allows for perpetrators to take public or state office, even when they may not be liable to do so. Allocating time for such cases will ensure that cases provide resolutions which would enhance accountability and effectiveness of such offices, including bosting public confidence and trust in the judicial process, including the Commission.  |
| Qualification Requirements            | We propose the inclusion of Article 166(2) requirements in the qualifications for the EACC Chairperson. This would align the appointment criteria with Chapter 6 of the Constitution, ensuring that the Chairperson meets the high standards of integrity and professional competence required for such a crucial position. We recommend the consideration of lifestyle audits and lifestyle reports as part of the requirements for EACC officials, including the Chairperson. This would ensure a higher standard of integrity and transparency within the Commission itself. Regular lifestyle audits would serve as a deterrent to corruption within the EACC and enhance public trust in the institution. |





# County Governance Watch Public Participation List

| Name                  | Inst                                 | Signature   |
|-----------------------|--------------------------------------|-------------|
| Caleb Wangu           | Umalawa Forum                        | [Signature] |
| Friedrick Amuro       | TOSWA Network                        | [Signature] |
| Chalanga Hannington   | Unga Tumwira CBO                     | [Signature] |
| Georgina Kwarira      | Shimo la ghe CBO                     | [Signature] |
| Elizabeth Kaura       | Woodly youth forum                   | [Signature] |
| BEN MAWASI            | WOODLY YOUTH FORUM                   | [Signature] |
| Felix Ochieng         | Support Marginalized Community-Kenya | [Signature] |
| JOSEPH CHWADA         | Mlang'ari Kubwa boxing club          | [Signature] |
| Dominick Olyu         | Nzumburi Arts/ungu calabash          | [Signature] |
| Lucas Othman          | Mathare peace & justice              | [Signature] |
| Rev. Davies O. Musigo | New Hope Centre                      | [Signature] |
| Ann Wanjiku           | MLAURA organization                  | [Signature] |
| HAMZA HARIB           | BAWAKI                               | [Signature] |
| John Nthiga K.        | Walibika Trust                       | [Signature] |
| Pius Othman OTENO     | PSC LTD                              | [Signature] |
| Abigail Nalaku        | Freelancer                           | [Signature] |
| Wendy Gitau           | MYWO Mathare                         | [Signature] |
| STEPHEN K. OMALO      | Kijili Party                         | [Signature] |
| Edwin Ombi            | Khariani Sanga                       | [Signature] |
| UMAZ JUMBI            | GO-PEACE                             | [Signature] |
| FRANCISCO MILLER K    | RELATIONSHIP HAVEN ORG               | [Signature] |

Subject Fwd: Ethics and anti corruption commission(amendment) bill2024

From Clerk of the National Assembly <cna@parliament.go.ke>

To Ahmed Salim <asadamnan@gmail.com>, Justice and Legal Affairs Committee <dc.jlac@parliament.go.ke>

Date Thursday July 11, 2024 1:16:03 PM

*Kind Regards*

**OFFICE OF THE CLERK**

**THE NATIONAL ASSEMBLY**

**P . O. Box 41842-00100**

**NAIROBI.**

**Tel: +254202848000 ext 3300 / +254790494055**

**Email: [cna@parliament.go.ke](mailto:cna@parliament.go.ke)**

**website: [www.parliament.go.ke/the-national-assembly](http://www.parliament.go.ke/the-national-assembly)**

**X: [@NASsemblyKE](#)**

**Facebook: [Parliament of Kenya](#)**



**From:** Anthony <mulilianthony@gmail.com>

**To:** cna <cna@parliament.go.ke>

**Date:** Tuesday, 9 July 2024 2:59 PM EAT

**Subject:** Ethics and anti corruption commission(amendment) bill2024

CAUTION: This Mail Originated from outside of the Organization. Do not click links or open attachments unless you can confirm the sender and know the content is safe.

Hello,

Having read through the bill, since the chairperson is required to be a judge why not grant the whole commission power to prosecute .

Regards .



Subject Fwd: Submission of Memoranda on the Ethics and Anti-Corruption Commission (Amendment) Bill, 2024

From Clerk of the National Assembly <cna@parliament.go.ke>

To Ahmed Salim <asadamnan@gmail.com>, Justice and Legal Affairs Committee <dc.jlac@parliament.go.ke>

Date Thursday July 11, 2024 12:20:11 PM

*Kind Regards*

**OFFICE OF THE CLERK**

**THE NATIONAL ASSEMBLY**

**P . O. Box 41842-00100**

**NAIROBI.**

**Tel: +254202848000 ext 3300 / +254790494055**

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**website: [www.parliament.go.ke/the-national-assembly](http://www.parliament.go.ke/the-national-assembly)**

**X: [@NAssemblyKE](#)**

**Facebook: [Parliament of Kenya](#)**



**From:** Levine <levinenjau@gmail.com>

**To:** cna <cna@parliament.go.ke>

**Date:** Saturday, 6 July 2024 6:31 PM EAT

**Subject:** Submission of Memoranda on the Ethics and Anti-Corruption Commission (Amendment) Bill, 2024

CAUTION: This Mail Originated from outside of the Organization. Do not click links or open attachments unless you can confirm the sender and know the content is safe.

#### **Introduction:**

The Ethics and Anti-Corruption Commission (Amendment) Bill, 2024, aims to amend the existing legislation to improve the operations and effectiveness of the Ethics and Anti-Corruption Commission (EACC). While the intent of the bill is commendable, there are several aspects that require thorough examination to ensure that the amendments serve the best interests of the public and enhance the fight against corruption in Kenya.

#### **Positive Aspects of the Bill:**

- Enhanced Autonomy:** The bill proposes to grant the EACC greater autonomy in its operations, which is crucial for the commission to operate without undue influence from other arms of the government. This could enhance the independence of the EACC, allowing it to investigate and prosecute corruption cases more effectively.
- Increased Funding:** Provisions in the bill that ensure consistent and adequate funding for the EACC are vital. Adequate resources are necessary for the commission to carry out its mandate, including investigations, public awareness campaigns, and the implementation of anti-corruption measures.
- Public Participation:** The bill encourages public participation in the fight against corruption by introducing mechanisms for whistleblowers and enhancing transparency in the commission's activities. This can foster a culture of accountability and vigilance among citizens.

#### **Areas of Concern:**

1. **Accountability Measures:** While the bill aims to enhance the EACC's autonomy, it must also include robust accountability measures to ensure that the commission itself does not become susceptible to corruption or abuse of power. Clear guidelines on the oversight of the EACC should be established to maintain checks and balances.
2. **Implementation Framework:** The bill lacks a detailed implementation framework outlining how the proposed changes will be actualized. This includes specific timelines, responsible parties, and mechanisms for monitoring and evaluation. Without this, there is a risk that the amendments may not be effectively implemented.
3. **Public Awareness and Education:** The bill should place a stronger emphasis on public education and awareness regarding anti-corruption laws and the role of the EACC. Empowering citizens with knowledge about their rights and the mechanisms available to report corruption is essential for the success of anti-corruption efforts.
4. **Legal and Procedural Clarity:** Certain provisions in the bill are ambiguous and could lead to misinterpretation. For example, the criteria for appointing EACC commissioners and the processes for their removal should be clearly defined to avoid potential legal challenges and ensure transparency.

#### **Recommendations:**

1. **Strengthen Oversight Mechanisms:** Introduce clear and detailed oversight mechanisms to monitor the EACC's activities and ensure its accountability. This could include regular audits, performance evaluations, and the establishment of an independent review body.
2. **Develop a Comprehensive Implementation Plan:** The bill should include a comprehensive implementation plan with specific timelines, responsible entities, and clear objectives. This will facilitate effective and timely execution of the amendments.
3. **Enhance Public Engagement:** Increase efforts to educate the public about anti-corruption measures and the role of the EACC. This can be achieved through nationwide awareness campaigns, educational programs in schools, and community engagement initiatives.
4. **Clarify Legal Provisions:** Review and refine the legal provisions in the bill to ensure clarity and avoid ambiguities. This includes clearly defining the appointment and removal processes for EACC commissioners and specifying the roles and responsibilities of various stakeholders.

#### **Conclusion:**

The Ethics and Anti-Corruption Commission (Amendment) Bill, 2024, presents a significant opportunity to strengthen Kenya's fight against corruption. However, to ensure its success, it is essential to address the concerns outlined above and incorporate the recommended changes. By doing so, we can create a robust and effective legal framework that empowers the EACC to fulfill its mandate and foster a culture of integrity and accountability in Kenya.

Levine K Njau

Founder

Oasis Of Hope Foundation



END