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REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – SECOND SESSION

COMMITTEE ON ADMINISTRATION AND INTERNAL SECURITY

R E P O R T O N:-

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO.2) BILL,
(NATIONAL ASSEMBLY BILL NO. 68 OF 2023)

| | | |
|---|--|-------------|
|  THE NATIONAL ASSEMBLY PAPERS LAID | | |
| DATE: | 21 FEB 2024 | DAY: WED |
| TABLED BY: | Hon George Munugara, MP Chairperson, JLAC | |
| CLERK AT THE TABLE: | Miriam mudo | |

Published by: -
The Directorate of Committee Services
Clerk's Chambers
Parliament Buildings

December, 2023

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PART I

1.0 PREFACE

1.1 Introduction

This is the report of the Departmental Committee on Administration and Internal Security on the Statute Law (Miscellaneous Amendments) (No. 2) National Assembly Bill No. 68 of 2023 The Bill is an omnibus Bill sponsored by the Leader of Majority Party Hon. Kimani Ichung'wah, CBS, MP. The Bill was published on 30th October, 2023 and read first time on Wednesday 15th November, 2023 and thereafter committed to Departmental Committees pursuant to Standing Order 127.

The Bill seeks to amend various statutes in keeping with practice of making minor amendments to several laws which do not merit the publication of separate Bills.

The Committee held its meeting on 6th December, 2023 to consider the proposed amendment to the Public Holidays Act (Cap 110) as referred to the Committee in the Statute Law (Miscellaneous Amendments) (No. 2) National Assembly Bill No. 68 of 2023.

1.2 Mandate of the Committee

The Departmental Committee on Administration and Internal Security of the National Assembly is established under Standing Order 216 whose functions pursuant to the Standing Order 216 (5) are as follows: -

- (a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- (b) study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
- (c) on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate
- (d) study and review all legislation referred to it;
- (e) study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
- (f) 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;
- (g) 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);
- (h) examine treaties, agreements and conventions;
- (i) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - (j) consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
 - (k) Examine any questions raised by Members on a matter within its mandate.

1.3 Subjects of the Committee

In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider the following subjects: -

- (i) Home affairs, internal security – including police services and coast guard services,
- (ii) Public administration,
- (iii) Immigration and citizenship.

In terms of budget oversight, the Committee oversees the following Offices, Ministry and Agencies:

- (i) Executive Office of the President,
- (ii) Office of the Deputy President,
- (iii) Office of the Prime Cabinet Secretary,
- (iv) Ministry of Interior and Administration comprising of the State Department for Internal Security and Administration and State Department for Immigration and Citizen Services,
- (v) National Police Service,
- (vi) National Police Service Commission, and
- (vii) Independent Policing Oversight Authority.
- (viii) The Semi-Autonomous Government Institutions under the Committee include Crime Research, Government Chemist, NGO Regulatory Services, Private Security Regulatory Service Board, Kenya Coast Guard, National Campaign against Drug and Substance Abuse (NACADA).

1.4 Committee Membership

The Departmental Committee on Administration and Internal Security was constituted by the House on Thursday 28th October, 2022 and comprises of the following Members:

Hon. Gabriel Tongoyo, MP – **Chairperson**
MP Narok West Constituency

Hon. Col (Rtd) Dido Rasso, MBS, MP - **Vice Chairperson**
MP for Saku Constituency

Hon. Kaluma George Peter, MP
MP for Homa Bay Town Constituency

Hon. Protus Ewesit Akujah, MP
MP for Loima Constituency

Hon. Aduma Owuor, MP
MP for Nyakach Constituency

Hon. Rozaah Akinyi Buyu, MP
MP for Kisumu West Constituency

Hon. Fred C. Kapondi, MP
MP for Mt. Elgon Constituency

Hon. Caroline Ng'elechei, MP
MP Elgeyo-Marakwet County

Hon. Liza Chepkorir Chelule, M
MP for Nakuru County

Hon. Fatuma Jehow, MP
MP for Wajir County

Hon. Sarah Paulata Korere, MP
MP for Laikipia North Constituency

Hon. Francis Sigei, EBS, MP
MP for Sotik Constituency

Hon. Oku Kaunya, MP
MP for Teso North Constituency

Hon. Hussein Weytan Mohammed, MP
MP for Mandera East Constituency

Hon. Mburu Kahangara
MP for Lari Constituency

1.5 Committee Secretariat

The Committee Secretariat consist of the following

| | | |
|---|--|--|
| | Mr. Philip Lekarkar Clerk Assistant I | |
| Mr. Gideon Kipkosgei Clerk Assistant III | | Mr. Edison Odhiambo Fiscal Analyst I |
| Mr. Benard Njeru Clerk Assistant III | | Ms. Delvin Onyanha Research Officer III |
| Ms. Judith Kanyoko Legal Counsel II | | Mr James Macharia Media Relations Officer |
| Catherine Mukunyi Sergeant At Arms | | Rogers Kilungya Audio Officer |

1.6 Acknowledgement

The Committee is thankful to the Office of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee is also thankful to Members of the Committee and the Secretariat for their dedication and useful expertise and insights during the deliberations of the Statute Law.

On behalf of the Departmental Committee on Administration and Internal Affairs, it is my pleasant privilege and honor to present the report on the Statute Law (Miscellaneous Amendments) (No. 2) National Assembly Bill No 68 of 2023 with the intention to amend the Public Holidays Act.

HON. GABRIEL TONGOYO, MP - CHAIRPERSON, DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND INTERNAL SECURITY

PART II

2.0 CONSIDERATION OF THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO.2) BILL, (NATIONAL ASSEMBLY BILL NO. 68 OF 2023)

Summary of **the Bill**

1. The Statute Law (Miscellaneous Amendments) Bill is an omnibus Bill sponsored by the Leader of the Majority Party Hon. Kimani Ichung'wa (CBS), MP. The Bill was published on 30th October 2023 and was read a first time on 15th November, 2023 and thereafter committed to various Departmental Committees pursuant to Standing Order 127. The Bill seeks to amend various statutes in keeping with the practice of making minor amendments to several laws which do not merit the publication of separate Bills.
2. In relation to the Act relevant to this Committee, the Bill intends to amend the Public Holidays Acts (Cap 110).

3.1 ANALYSIS OF THE PROPOSED AMENDMENT

3. The following is an analysis of the proposed amendment and the submissions made by the Stakeholders, for the proposed amendment:

The Public Holidays Act Cap 10

4. The Bill proposes to amend the Schedule to the Public Holidays Act to remove the holiday celebrated on the 10th of October.

Historical Background

5. The History of the principal Act dates back to the Public Holidays Ordinance 1912 and was intended to provide for Public Holidays within the East African Protectorate. The 10th of October was included into statute by the Public Holidays (Amendment) Act 1990 and was known as Moi Day. In 2010, the Constitution of Kenya set out three national days under Article 9(3) as Madaraka Day, Mashujaa Day and Jamuhuri Day. Article 9(5) of the Constitution further mandates Parliament to enact legislation to provide for other Public Holidays.
6. The day was not observed in the subsequent years after the promulgation of the Constitution. This was the subject of *Republic v Cabinet Secretary for Internal Security ex parte Gragory Oriaro Nyauchi & 4 others [2017] eKLR*. In a Judgement dated 6th November 2017, the Court held the omission to have the 10th of October observed as a public holiday was an illegality and in contravention of section 2(1) as read with part 1 of the Schedule to the Public Holidays Act. The Court further held that unless and until Parliament amended the First Schedule of the said Act or the Cabinet Secretary substituted the same for another date, the 10th of October in each year was to continue being a public holiday. The Court noted that it was not for it to prescribe the manner in which the same is to be celebrated.
7. Following this Judgment, the day was celebrated in 2019 and was officially renamed from Moi Day to Utamaduni Day vide the Statute Law (Miscellaneous Amendments) Act, 2020.

PART III

3.0 PUBLIC PARTICIPATION AND STAKEHOLDERS CONSULTATION

3.1 Public Participation

8. Article 118(1) (b) of the Constitution and Standing Order 127(3) require Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees. In compliance with the foregoing, the Committee, through the placement of adverts in the print media on 22nd November, 2023 inviting the public and interested stakeholders to submit memoranda on the proposed amendment. Submission was received from Mr. Gragory Nyauchi
9. Further, vide a letter NA/DDC/AIA/2023/118 dated 1st December, 2023, the Committee requested the Cabinet Secretary for Interior and National Administration to provide written submissions on the proposed amendment to the said Act.
10. The analysis of the submissions made are contained in Part IV of this Chapter.

3.2 Submissions by Stakeholders

3.2.1 Submission from the Cabinet Secretary for the Ministry of Interior and National Administration

11. Through Letter Ref. MOINA/SEC.2/12 dated 5th December, 2023 the Ministry of Interior and National Administration submitted that the day is meant to celebrate cultural diversity and heritage.
12. The Ministry cited Article 44 of the Constitution, which provides that every person has the right to participate in the cultural life of his/her choice, to enjoy that culture and join and maintain cultural associations.
13. The Ministry submitted that considering the significance of the day and the fact that its abolishment contradicts the Constitution; it does not support the amendment of the Public Holidays Act as sought as the Bill seeks to amend the schedule to the Act to abolish Utamaduni Day as a public holiday.

3.2.2 Submission from Mr. Gragory Nyauchi

14. The Committee received comments from Mr. Gragory Nyauchi vide memorandum dated 1st December 2023, who proposed that Utamaduni Day be re-designated as “National Tree Planting Day”.

Justification

15. Mr. Nyauchi’s justification for the re-designation is that the recent celebration of National Tree Planting Day on 13th November 2023 was a resounding success, underscoring Kenya's commitment to environmental stewardship. Communities, organizations, and individuals came together to actively participate in tree planting activities, demonstrating a collective dedication to addressing environmental challenges. According to him, building on this success, designating

Utamaduni Day as the National Tree Planting Day ensures a seamless continuation of this momentum, allowing Kenyans to celebrate and build upon the positive impact achieved on during the Tree Planting Day.

16. He submitted that Utamaduni Day seeks to celebrate the richness and cultural heritage of the Country. One of the most important features of the country that has had role to play in our culture, economy and national psyche is our environment. The Government has recognized this in various ways by hosting the inaugural African Climate Summit and celebrating the aforementioned tree planting day. By ensuring that there is a designated day set aside in law to participate in this vital and important act we can ensure that our environment is safeguarded for generations to come. In addition to the environmental benefits there are economic benefits to be gained by the country. The international market for carbon credits is gaining maturity.
17. He further submitted that a regular and marked tree planting day allows Kenyans to constantly stay ahead of the need for carbon credits. Having a National Tree Planting Day makes Kenya a leader in environmental stewardship, and a beacon that can be followed by others. The ripple effect of this can spread to corners of the globe not only increasing our global standing and influence but also ensuring through leadership by example that other nations implement similar initiatives with the end-effect of an environmental renewal.

PART IV

4.0 COMMITTEE OBSERVATIONS

Having analysed the proposed amendment and the submissions received, the Committee made the following observations: -

- (i) Tree Planting is a continuous process that does not require a specific day. The designation of a specific day as a tree planting holiday may limit continuous tree planting efforts. In any case, the Cabinet secretary can designate any day as tree planting day whenever the need arises.
- (ii) The Principal Act is enacted pursuant to Article 9 (5) of the Constitution which provides that Parliament may enact legislation prescribing other public holidays and providing for observance of public holidays.
- (iii) The observance and celebration of Utamaduni Day promotes the right to use language and to participate in cultural life provided under Article 44 of the Constitution.

PART V

5.0 COMMITTEE RECOMMENDATIONS

That the Schedule to the Bill be amended by deleting the proposed amendment to the Schedule to the Public Holidays Act (Cap. 110)

SIGNED



DATE

6th Dec 2023

HON. COL (RTD) DIDO RASSO, MBS, MP

VICE-CHAIRPERSON

DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND INTERNAL SECURITY

ANNEXURES

Annex 1 Minutes of the Committee sittings

Annex 2: Adoption List

Annex 3 Submissions

MINUTES OF THE 130TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND INTERNAL SECURITY HELD ON WEDNESDAY 12TH DECEMBER, 2023 IN 2ND FLOOR COMMITTEE ROOM, CONTINENTAL HOUSE, PARLIAMENT BUILDING AT 12.00 NOON

PRESENT

1. **Hon. Col (Rtd) Dido Rasso, MBS, MP - Vice Chairperson**
2. Hon. Kaluma George Peter, MP
3. Hon. Fred C. Kapondi, MP
4. Hon. Liza Chelule, MP
5. Hon. Liza Chepkorir Chelule, MP
6. Hon. Oku Kaunya, MP
7. Hon. Roza Akinyi Buyu, MP
8. Hon. Fatuma Jehow, MP

ABSENT WITH APOLOGOY

1. **Hon. Gabriel Koshal Tongoyo, MP - Chairperson**
2. Hon. Sarah Paulata Korere, MP
3. Hon. Protus Ewesit Akujah, MP
4. Hon. Amb. Francis Kipyegon Sigei, **EBS**, MP
5. Hon. Hussein Weytan Mohammed, MP
6. Hon. Mburu Kahangara, MP
7. Hon. Caroline Jeptoo Ng'elechei, MP

Committee Secretariat

1. Mr. Philip Lekarkar - Clerk Assistant I
2. Mr. Gideon Kipkogei - Clerk Assistant III
3. Ms. Judith Kanyoko -Legal Counsel II
4. Mr. Bernard Njeru - Clerk Assistant III
5. Ms. Delvin Onyancha - Research Officer III
6. Mr. Rodgers Kilungya - Audio Officer
7. Mr. Mohamed Said -Serjeant-At-Arms
8. Ms. Victoria Wanjiku - Intern

MIN. NO. DC-AIS/666/2023: PRELIMINARIES

The meeting was called to order Eight Minutes past Noon and prayer was said.

MIN. NO. DC-AIS/667/2023: ADOPTION OF THE AGENDA

The agenda was adopted having been proposed by Hon. Oku Kaunya MP and seconded by Hon. Fred Kapondi, MP

**MIN. NO. DC-AIS/668/2023: CONSIDERATION OF THE REPORT STATUTE LAW
(MISCELLANEOUS AMENDMENTS) (NO. 2)
NATIONAL ASSEMBLY BILL NO. 68 OF 2023**

The Committee was briefed as follows:-

The Statute Law (Miscellaneous Amendments) Bill is an omnibus Bill sponsored by the Leader of the Majority Party Hon. Kimani Ichung'wa (CBS), MP. The Bill was published on 30th October 2023 and was read a first time on 15th November, 2023 and thereafter committed to various Departmental Committees pursuant to Standing Order 127. The Bill seeks to amend various statutes in keeping with the practice of making minor amendments to several laws which do not merit the publication of separate Bills.

In relation to the Act relevant to this Committee, the Bill intends to amend the Public Holidays Acts (Cap 110).

The Bill proposes to amend the Schedule to the Public Holidays Act to remove the holiday celebrated on the 10th of October.

Historical Background

The History of the principal Act dates back to the Public Holidays Ordinance 1912 and was intended to provide for Public Holidays within the East African Protectorate. The 10th of October was included into statute by the Public Holidays (Amendment) Act 1990 and was known as Moi Day. In 2010, the Constitution of Kenya set out three national days under Article 9(3) as Madaraka Day, Mashujaa Day and Jamuhuri Day. Article 9(5) of the Constitution further mandates Parliament to enact legislation to provide for other Public Holidays.

The day was not observed in the subsequent years after the promulgation of the Constitution. This was the subject of *Republic v Cabinet Secretary for Internal Security ex parte Gragory Oriaro Nyauchi & 4 others [2017] eKLR*. In a Judgement dated 6th November 2017, the Court held the omission to have the 10th of October observed as a public holiday was an illegality and in contravention of section 2(1) as read with part 1 of the Schedule to the Public Holidays Act. The Court further held that unless and until Parliament amended the First Schedule of the said Act or the Cabinet Secretary substituted the same for another date, the 10th of October in each year was to continue being a public holiday. The Court noted that it was not for it to prescribe the manner in which the same is to be celebrated.

Following this Judgment, the day was celebrated in 2019 and was officially renamed from Moi Day to Utamaduni Day vide the Statute Law (Miscellaneous Amendments) Act, 2020.

Public Participation on the Bill

In compliance with Article 118(1) (b) of the Constitution and Standing Order 127(3), the Committee, through the placement of adverts in the print media on 22nd November, 2023 inviting the public and interested stakeholders to submit memoranda on the proposed amendment. Submission was received from Mr Gragory Nyauchi

Vide a letter NA/DDC/AIA/2023/118 dated 1st December, 2023, the Committee requested the Cabinet Secretary for Interior and National Administration to provide written submissions on the proposed amendment to the said Act.

Submission from the Cabinet Secretary for the Ministry of Interior and National Administration

Through Letter Ref. MOINA/SEC.2/12 dated 5th December, 2023 the Ministry of Interior and National Administration submitted that the day is meant to celebrate cultural diversity and heritage.

The Ministry cited Article 44 of the Constitution, which provides that every person has the right to participate in the cultural life of his/her choice, to enjoy that culture and join and maintain cultural associations.

The Ministry submitted that considering the significance of the day and the fact that its abolishment contradicts the Constitution; it does not support the amendment of the Public Holidays Act as sought as the Bill seeks to amend the schedule to the Act to abolish Utamaduni Day as a public holiday.

Submission from Mr. Gragory Nyauchi

The Committee received comments from Mr. Gragory Nyauchi vide memorandum dated 1st December 2023, who proposed that Utamaduni Day be re-designated as “National Tree Planting Day”.

Justification

Mr. Nyauchi’s justification for the re-designation is that the recent celebration of National Tree Planting Day on 13th November 2023 was a resounding success, underscoring Kenya's commitment to environmental stewardship. Communities, organizations, and individuals came together to actively participate in tree planting activities, demonstrating a collective dedication to addressing environmental challenges. According to him, building on this success, designating Utamaduni Day as the National Tree Planting Day ensures a seamless continuation of this momentum, allowing Kenyans to celebrate and build upon the positive impact achieved on during the Tree Planting Day.

He submitted that Utamaduni Day seeks to celebrate the richness and cultural heritage of the Country. One of the most important features of the country that has had role to play in our culture, economy and national psyche is our environment. The Government has recognized this in various ways by hosting the inaugural African Climate Summit and celebrating the aforementioned tree planting day. By ensuring that there is a designated day set aside in law to participate in this vital and important act we can ensure that our environment is safeguarded for generations to come. In addition to the environmental benefits there are economic benefits to be gained by the country. The international market for carbon credits is gaining maturity.

He further submitted that a regular and marked tree planting day allows Kenyans to constantly stay ahead of the need for carbon credits. Having a National Tree Planting Day makes Kenya a leader in environmental stewardship, and a beacon that can be followed by others. The ripple effect of this can spread to corners of the globe not only increasing our global standing and influence but also

ensuring through leadership by example that other nations implement similar initiatives with the end-effect of an environmental renewal.

COMMITTEE OBSERVATIONS

Having analysed the proposed amendment and the submissions received, the Committee made the following observations: -

- (i) Tree Planting is a continuous process that does not require a specific day. The designation of a specific day as a tree planting holiday may limit continuous tree planting efforts. In any case, the Cabinet secretary can designate any day as tree planting day whenever the need arises.
- (ii) The Principal Act is enacted pursuant to Article 9 (5) of the Constitution which provides that Parliament may enact legislation prescribing other public holidays and providing for observance of public holidays.
- (iii) The observance and celebration of Utamaduni Day promotes the right to use language and to participate in cultural life provided under Article 44 of the Constitution.

COMMITTEE RECOMMENDATION

That the Schedule to the Bill be amended by deleting the proposed amendment to the Schedule to the Public Holidays Act (Cap. 110)

The Committee unanimously adopted the Report having been proposed by Hon. Kaluma George Peter, MP and seconded by Hon. Fred C. Kapondi, MP.

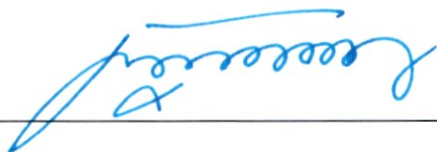
MIN. NO. DC-AIS/669/2023: ANY OTHER BUSINESS

No other business arose.

MIN. NO. DC-AIS/670/2023: ADJOURNMENT

There being no any other business, the meeting was adjourned at one minute past one O'clock. The next meeting will be held on Notice.

SIGNED _____



DATE _____

6th Dec, 2023

**HON. COL (RTD) DIDO RASSO, MBS, MP
VICE CHAIRPERSON**

DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND INTERNAL SECURITY.



THE NATIONAL ASSEMBLY
13TH PARLIAMENT –SECOND SESSION (2023)
DIRECTORATE OF DEPARTMENTAL COMMITTEES
COMMITTEE ON ADMINISTRATION AND INTERNAL SECURITY
MEMBERS ATTENDANCE REGISTER

ADOPTION LIST

Date:..... Venue:.....
Time Started:..... Time Ended:

Agenda:.....

| No. | MEMBER | SIGNATURE |
|-----|---|-----------|
| 1. | Hon. Gabriel Koshal Tongoyo, MP - Chairperson | |
| 2. | Hon. Col (Rtd) Dido Rasso, MBS, MP - Vice Chairperson | |
| 3. | Hon. Kaluma George Peter, MP | |
| 4. | Hon. Fred C. Kapondi, MP | |
| 5. | Hon. Aduma Owuor, MP | |
| 6. | Hon. Sarah Paulata Korere, MP | |
| 7. | Hon. Liza Chepkorir Chelule, MP | |
| 8. | Hon. Mburu Kahangara, MP | |
| 9. | Hon. Protus Ewesit Akujah, MP | |
| 10. | Hon. Oku Kaunya, MP | |
| 11. | Hon. Rozaah Akinyi Buyu, MP | |
| 12. | Hon. Amb. Francis Kipyegon Sigei, EBS, MP | |
| 13. | Hon. Fatuma Abdi Jehow, MP | |
| 14. | Hon. Caroline Jeptoo Ng'elechei, MP | |
| 15. | Hon. Hussein Weytan Mohammed, MP | |

Forwarded by:

Signed.....Date:.....

Philip Lekarkar

First Clerk Assistant-Committee Clerk

Approved by:

Signed.....Date:.....

Mr. Peter Chemweno

Director Directorate of Departmental Committees



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 THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (No. 2) BILL (NATIONAL ASSEMBLY BILLS NO. 68 OF 2023)

INVITATION TO SUBMIT MEMORANDA

AS, 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;

AND WHEREAS, the Statute Law (Miscellaneous Amendments) (No. 2) Bill (National Assembly Bills No. 68 of 2023) was read a First Time on Wednesday, 15th November, 2023 and thereafter referred to the relevant Departmental Committees for consideration and reporting to the House;

IT IS NOTIFIED that the Statute Law (Miscellaneous Amendments) (No. 2) Bill (National Assembly Bills No. 68 of 2023) sponsored by the **Leader of the Majority Party, the Hon. Kimani Ichung'uwah, MGH, MP** seeks to make amendments to various statutes. It is in keeping with the practice of making various amendments that do not merit the publication of separate Bills into one Bill. The Bill contains proposed amendments to the following statutes—

(1) The Oaths and Statutory Declarations Act (Cap. 15)

The Bill proposes to amend the Oaths and Statutory Declarations Act to provide that an advocate who has been appointed as a commissioner for oaths shall sign the roll kept by the Chief Registrar of the Judiciary; and that the Registrar or Deputy Registrar of a superior court or subordinate court may administer an oath or affirmation or take an affidavit or statutory declaration under the Act.

(2) The Advocates Act (Cap. 16)

The Bill proposes the amendment of the Advocates Act to provide that the Registrar responsible for keeping the Roll of Advocates shall be the Chief Registrar of the Judiciary. Further, the Bill proposes to amend the Act to provide that the Council of the Society may, with the approval of the Chief Justice, make rules for the admission of advocates.

(3) The Notaries Public Act (Cap. 17)

The Bill proposes to amend the Notaries Public Act to provide that the Chief Registrar of the Judiciary shall be responsible for enrolling notaries public in the book kept for that purpose; granting new certificates to newly enrolled notaries public; and removing from the roll any person whose appointment as a notary public has been revoked under the Act.

(4) Civil Procedure Act (Cap. 21)

The Bill proposes to amend the Civil Procedure Act to reduce the members nominated by the Law Society of Kenya to three to improve decision-making within the Rules Committee and reduce the cost of facilitating its work.

(5) The Public Holidays Act (Cap. 110)

The Bill proposes to amend the Public Holidays Act to remove *Utamaduni Day* as a public holiday.

(6) The Trustees (Perpetual Succession) Act (Cap. 164)

The Bill proposes to amend the Trustees (Perpetual Succession) Act to empower the Registrar of Companies to register trusts and issue Certificates of Incorporation; process applications for incorporation; prescribe the form of an application; keep and maintain a register; conduct searches; and prescribe Regulations.

(7) The Industrial Training Act (Cap. 237)

The Bill proposes to amend the Industrial Training Act to harmonize the date for remitting the training levy with the period within which PAYE is required to be remitted to the Kenya Revenue Authority.

(8) The Traffic Act (Cap. 403)

The Bill proposes to amend the Traffic Act to incorporate the use of technology in the management of minor traffic offences and to enhance the maximum fine that may be imposed for failure to attend court pursuant to a notification; unauthorized removal of a notification affixed on a motor vehicle; and failure to report to a police station in relation to a defaced notification.

(9) The Sexual Offences Act, 2006 (No. 3 of 2006)

The Bill proposes to amend the Sexual Offences Act, 2006, to replace the Registrar of the High Court with the Chief Registrar of the Judiciary as the custodian of the register of convicted sexual offenders.

(10) The Employment Act, 2007 (No. 11 of 2007)

The Bill proposes to amend the Employment Act, 2007, to exempt the National Intelligence Service from the application of the Act in the same manner as other national security organs.

(11) The Veterinary Surgeons and Veterinary Paraprofessionals Act, 2011 (No. 29 of 2011)

The Bill proposes to amend the Veterinary Surgeons and Veterinary Paraprofessionals Act, 2011 to make minor corrections to the provisions relating to the definition of "animal", "animal resource industry", "annual license", "private practice", "register" and "veterinary medicine" and grammatical errors in other provisions of the Act.

(12) The Public Finance Management Act, 2012 (No. 18 of 2012)

The Bill proposes to amend the Public Finance Management, 2012 to delete an inconsistency in the Act relating to the submission of the legislative proposal containing revenue raising measures for the national government. Section 39A of the Act already exhaustively provides for the manner of the introduction, consideration and passage of the legislative proposal.

(13) The Universities Act, 2012 (No. 42 of 2012)

The Bill proposes to amend the Universities Act, 2012 to provide for the declaration of technical universities under section 25(1) of the Act in respect of public institutions that are or were national polytechnics and possess the facilities and human resource necessary to operate as a technical university. It further proposes to amend section 56(1) of the Act to require the Board of the Kenya Universities and Colleges Central Placement Service to place both privately sponsored and government sponsored students in universities and colleges.

(14) The Office of the Attorney-General Act, 2012 (No. 49 of 2012)

The Bill proposes to amend the Office of the Attorney-General Act, 2012 to remove inconsistencies in the operational framework of the Office of the Attorney-General in line with Article 156 of the Constitution that establishes the Office of the Attorney General as an independent office.

(15) The Civil Aviation Act, 2013 (No. 21 of 2013)

The Bill proposes to amend the Civil Aviation Act, 2013, to include aviation information circulars in the definition of "publication"; and to increase the period within which the Director-General is required to submit an annual report to within six months after the end of the financial year.

(16) The Value Added Tax Act, 2013 (No. 35 of 2013)

The Bill proposes to amend the Value Added Tax Act, 2013 to re-classify the supply of gas meters under tariff number 9028.10.00 and the supply of denatured ethanol under tariff number 2207.20.00 as exempt and zero-rated, respectively.

(17) The Privatization Act, 2023 (No. 11 of 2023)

The Bill proposes to amend the Privatization Act, 2023 to delete the preparation of a long-term divestiture sequence plan as a role of the Privatisation Authority. This cures an inconsistency between the role of the Authority and the Cabinet Secretary.

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 for consideration by the respective Departmental Committees of the National Assembly set out in the schedule below—

| ACT PROPOSED FOR AMENDMENT | COMMITTEE |
|--|--------------------------------------|
| 1. The Oaths and Statutory Declarations Act (Cap. 15) 2. The Trustees (Perpetual Succession) Act (Cap. 164) 3. The Advocates Act (Cap. 16) 4. The Notaries Public Act (Cap. 17) 5. The Civil Procedure Act (Cap. 21) 6. The Sexual Offences Act, 2006 (No. 3 of 2006) 7. The Office of the Attorney-General Act, 2012 (No. 49 of 2012) | Justice and Legal Affairs |
| 1. The Public Finance Management Act, 2012 (No. 18 of 2012) 2. The Value Added Tax Act, 2013 (No. 35 of 2013) 3. The Privatization Act, 2023 (No. 11 of 2023) | Finance and National Planning |
| 1. The Traffic Act (Cap. 403) 2. The Civil Aviation Act, 2013 (No. 21 of 2013) | Transport and Infrastructure |
| The Public Holidays Act (Cap. 110) | Administration and Internal Security |
| The Industrial Training Act (Cap. 237) | Trade, Industry and Cooperatives |
| The Employment Act, 2007 (No. 11 of 2007) | Labour |
| The Veterinary Surgeons and Veterinary Paraprofessionals Act, 2011 (No. 29 of 2011) | Health |
| The Universities Act, 2012 (No. 42 of 2012) | Education |

Copies of the Bills are available at the National Assembly Table Office, Main Parliament Buildings and 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 Friday, 1st December, 2023 at 5.00 p.m.

S. NJOROGE
CLERK OF THE NATIONAL ASSEMBLY
22nd November, 2023



OFFICE OF THE PRESIDENT

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Telephone: Nairobi 2227411

When Replying Please Quote

MINISTRY OF INTERIOR

AND

NATIONAL ADMINISTRATION

**STATE DEPARTMENT FOR INTERNAL SECURITY & NATIONAL
ADMINISTRATION**

P.O. Box 30510-00100

Nairobi

Our Ref: MOINA/SEC. 2/12

Date: 5th December, 2023

Mr. Samuel Njoroge

Clerk of the National Assembly

P.O. BOX 41842-00100

NAIROBI

**REQUEST FOR COMMENTS ON THE PROPOSED AMENDMENTS IN
THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO. 2)
BILL, 2023 BY THE DEPARTMENTAL COMMITTEE ON
ADMINISTRATION AND INTERNAL SECURITY**

Reference is made to the above-mentioned matter and your letter Ref. NA/DDC/AIA/2023/118 dated 1st December, 2023 whose contents have been duly noted.

We note that the Committee has requested for comments on the Bill. We shall confine our comments to the Public Holidays Act which is under our mandate.

Background

Article 9(4) of the Constitution recognizes Madaraka Day, Mashujaa Day and Jamhuri Day as public holidays in Kenya. Article 9(5) of the Constitution states that Parliament may enact legislation prescribing other public holidays and providing for their observance. Other public holidays are prescribed in the Public Holidays Act, Cap 110 of the Laws of Kenya. Under schedule 2, Part 1 to the Act, Utamaduni Day is one such holiday. It is observed on 10th October and was first celebrated this year.

Before it became Utamaduni Day, this day was observed as Moi Day and was celebrated not to honour the then Head of State but for people to dedicate themselves to volunteerism and service to others. With the promulgation of the

2010 Constitution, the observance of this holiday stopped until the High Court in the case of *Republic (Ex parte Gragory Oriaro Nyauchi v. the Cabinet Secretary for Internal Security & others, (2017) eKLR* ordered that it be observed. The Cabinet changed its name to Huduma Day. The day was meant to encourage service to others. A year later, it became Utamaduni Day.

Significance of Utamaduni Day

Article 44 of the Constitution states that every person has the right to participate in the cultural life of his/her choice, to enjoy that culture and join and maintain cultural associations. This day is meant to celebrate cultural diversity and heritage.

The Bill

The Bill seeks to amend the Schedule to the Act so as to abolish Utamaduni Day as a public holiday. Considering the significance of the day and the fact that it has constitutional underpinnings, the Ministry opposes its abolition and hence does not support the amendment of the Public Holidays Act as sought.



Anne Ng'etich, EBS

Principal Administrative Secretary

FOR: PRINCIPAL SECRETARY

INTERNAL SECURITY & NATIONAL ADMINISTRATION

Copy to: Kithure Kindiki

Cabinet Secretary

Interior & National Administration

NAIROBI

Dr. Raymond Omollo, PhD

Principal Secretary

Internal Security & National Administration

NAIROBI

GRAGORY NYAUCHI
ID NUMBER 25287113
TELEPHONE NUMBER +254 720641832

1st December, 2023

The Clerk of the National Assembly,

P. O. Box 41842-00100,

cna@parliament.go.ke

RE: MEMORANDA ON THE NATIONAL ASSEMBLY STATUTE LAW (MISCELLANEOUS AMENDMENTS)(NO. 2) BILL (NATIONAL ASSEMBLY BILLS NO. 68 OF 2023) PROPOSAL TO REMOVE UTAMADUNI DAY AS A PUBLIC HOLIDAY

| <u>Statute being Amended</u> | <u>Effect of Amendment</u> | <u>Proposal for consideration</u> | <u>Justification for proposal</u> |
|------------------------------|--|---|---|
| The Public Holidays Act | To amend the Public Holidays Act to remove Utamaduni Day as a Public Holiday | Redesignate Utamaduni Day as "National Tree Planting Day" | <p>The recent celebration of National Tree Planting Day on November 13th, 2023, was a resounding success, underscoring Kenya's commitment to environmental stewardship. Communities, organizations, and individuals came together to actively participate in tree planting activities, demonstrating a collective dedication to addressing environmental challenges. Building on this success, designating Utamaduni Day as the National Tree Planting Day ensures a seamless continuation of this momentum, allowing us to celebrate and build upon the positive impact achieved on November 13th.</p> <p>Utamaduni Day seeks to celebrate the richness and cultural heritage of the</p> |

| | | |
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| | | <p>Country. One of the most important features of the country that has had role to play in our culture, economy and national psyche is our environment. The Government has recognised this in various ways by hosting the inaugural African Climate Summit and celebrating the aforementioned tree planting day. By ensuring that there is a designated day set aside in law to participate in this vital and important act we can ensure that our environment is safeguarded for generations to come.</p> <p>In addition to the environmental benefits there are economic benefits to be gained by the country. The international market for carbon credits is gaining maturity. Our forest cover and the possibility of it being extended afford us a unique opportunity to tap into this market. A regular and marked tree planting day allows us to constantly stay ahead of the need for carbon credits. It is a way that we can do well by doing good.</p> <p>Having a National Tree Planting Day makes Kenya a leader in environmental stewardship, and a beacon that can be followed by others. The ripple effect of this can spread to corners of the globe not only increasing our global standing and influence but also ensuring through leadership by example that other nations</p> |
|--|--|---|

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| | | | implement similar initiatives with the end-effect of an environmental renewal. |
|--|--|--|--|

Yours Faithfully,

Gragory Nyauchi

GRAGORY ORIARO NYAUCHI
Advocate and Commissioner of Oaths
P. O. Box 35434-00100, NAIROBI
Cell: 0736 361753

