

NAIROBI CITY COUNTY ASSEMBLY



FIRST ASSEMBLY - SECOND SESSION

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FIRST REPORT OF THE SECTORAL  
COMMITTEE ON JUSTICE AND LEGAL AFFAIRS  
ON THE CONSIDERATION OF THE NAIROBI CITY COUNTY PETITION TO COUNTY  
ASSEMBLY (PROCEDURE) BILL, 2015

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Clerk's Chambers,  
Nairobi City County Assembly  
City Hall Buildings  
Nairobi

JUNE, 2015

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## 1.0 PREFACE

Mr. Speaker Sir,

The Sectoral Committee on Justice and Legal Affairs is established under Standing Order No. 191.

Its mandate pursuant to Standing Order 191(5) is to:-

- a) *investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;*
- b) *study the programme and policy objectives of departments and the effectiveness of the implementation;*
- c) *study and review all county legislation referred to it;*
- d) *study, assess and analyse the relative success of the departments as measured by the results obtained as compared with its stated objectives;*
- e) *investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;*
- f) *vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 185 (Committee on Appointments); and*
- g) *make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.*

The Committee comprises the following Members:-

1. Hon. Jaffer Kassam, MCA - Chairperson
2. Hon. Moses Nyangaresi, MCA - Deputy Chairperson
3. Hon. Peter Migwi, MCA
4. Hon. Stephen.K Thuo, MCA
5. Hon. Muchiri Mwaniki, MCA
6. Hon. Maurice Akuk, MCA
7. Hon. Elkana Mauti, MCA
8. Hon. Manoah Mboku , MCA
9. Hon. Jacqueline Awino, MCA
10. Hon. Martin Karanja Kingeth, MCA
11. Hon. Njoroge G. Maina, MCA
12. Hon. Jackson Kiama, MCA
13. Hon. Elias Otieno, MCA
14. Hon. David Mberia, MCA
15. Hon. Hashim Kamau, MCA
16. Hon. Mercy Kariuki, MCA
17. Hon. Jane Muasya, MCA

**Mr. Speaker Sir,**

The Committee exercises oversight role on the work and administration of the Governor's Office which constitutes the following departments:-

- i) Inspectorate Department
- ii) Investigations Department
- iii) Information, Communication & e-Government Department
- iv) Legal Affairs Department

In accordance with the Second Schedule of the Standing Orders, the Sectoral Committee is mandated to consider all matters relating to:-

The Committee is also mandated to deal with matters related to;

- i) Constitutional affairs;
- ii) Administration of law and justice; including
  - a) City inspectorate and enforcement services;
  - b) Ethics;
  - c) Integrity;
  - d) Anti-corruption; and
  - e) Human rights.

**Mr. Speaker Sir,**

On Tuesday, 28<sup>th</sup> April, 2015, the Nairobi City County Petition to County Assembly (Procedure) Bill, 2015 sponsored by the Hon. Pius Otieno, MCA, was read a first time and thereafter committed to the Sectoral Committee on Justice and Legal Affairs for consideration pursuant to Standing Order 121.

**Mr. Speaker Sir,**

The Committee placed a notice in the local dailies on Thursday 14<sup>th</sup> May, 2015 calling for any representations and amendments from the public on the Bill Pursuant to Article 196(b) of the Constitution of Kenya and Standing Order 121(3) which require public participation in the legislative and other business of the Assembly and its Committees. Following the notice, the Committee did not receive any written memoranda from the stakeholders; The Committee wrote to some of the stakeholders such as: and both the Kenya Alliance of Residents Association (KARA), Bunge La Mwananchi on 12<sup>th</sup> May, 2015.

- i) County Director, Legal Affairs Department ;



- ii) Kenya Alliance of Residents Association (KARA); and
- iii) Bunge La Mwananchi.

The Committee held a total of five (5) meetings and a retreat to consider the Bill and all representations received including consideration of the submissions from the County Director, Legal Affairs Department to get the views of the County Executive on the Bill since the sector would be responsible for the implementation of the Bill if passed. The Director proposed amendments on the technical areas of the Bill to make it easier to implement. The Committee first met with the Hon. Pius Otieno, the sponsor of the Nairobi City County Petition to County Assembly (Procedure) Bill, 2015 to brief on the policy objectives of the bill and the salient provisions of the bill.

The Committee further held a meeting with representatives from Bunge La Mwananchi though representatives of Kenya Alliance of Residents Association (KARA) failed to show up for the Meeting and did not give their views on the Bill. ; The stakeholders were agreeable in principle with the Bill although they proposed amendments to certain Clauses.

**Mr. Speaker Sir,**

While examining the Bill, the Committee noted the following:

1. The principle objective of the Bill is to empower citizens to petition a County Assembly and to make provision for the procedure for the exercise of their right. The bill also seeks to enhance public participation in the County Assembly and legislative process in line with the cardinal principle of public participation.
2. The right to petition the Government for correction of public grievances derives from the English Magna Carta of 1215 and the English Bill of Rights of 1689 (Petitions by subjects to their King to take certain actions)  
Petitions as a legal form of procedure are provided for in our constitution: Article 50(6)-petition by convicted person for new trial where there is new and compelling evidence.
3. Article 51(2)-Petition by detained person for order of *habeas corpus*; Article 87(2)-Petitions concerning elections; Article 133(1)-Petition to President to exercise power of mercy; Article 168(2)-Petition for the removal of a judge of the High Court; Article 104-Petition to recall MP; Section 28 County Governments Act-Petition to recall MCA;
4. *The Committee took note that the section 15 of the County Government Act, 2012, Article 37 of the Constitution provides the citizen's right to petition a County Assembly*

and Section 88 of the County Governments Act on Citizens' right to petition and challenge a County Government.

**Mr. Speaker Sir,**

The Committee finds this Bill a bold step towards the petitioning of a County Assembly in the County. A comparative study of parliaments that have embraced petition to Assemblies is the National Parliament of Kenya.

**Mr. Speaker, Sir,**

The Committee will propose amendments to the Bill in long title, Clauses 1, 3, 4, 5, and the Schedule and memorandum and objects of reason. Some of the amendments are editorial while others are aimed at making the Bill to be consistent with the Constitution and other existing national policies on procedure for petition of a County Assembly and also to cater for the concerns of stakeholders.

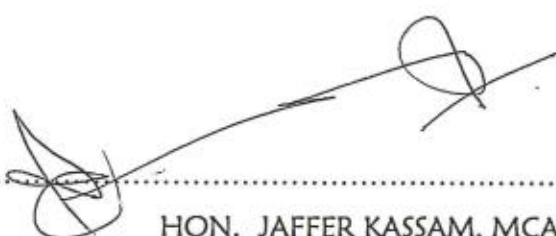
**Mr. Speaker Sir,**

The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the County Assembly for the support and services extended to Members of the Committee to enable them complete the exercise smoothly. I am grateful to the Members of the Committee whose support enabled the Committee to accomplish this task. Special thanks to the secretariat for their support at all times.

On behalf of the Committee, I now have the honour and pleasure to present this report on the consideration of the Nairobi City County Petition to County Assembly (Procedure) Bill, 2015 for adoption.

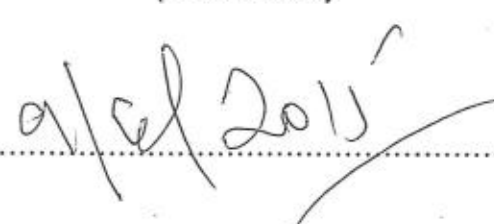
Thank You.

SIGNED .....



HON. JAFFER KASSAM, MCA  
(CHAIRMAN)

DATE.....



**2.0 COMMITTEE CONSIDERATION OF THE NAIROBI CITY COUNTY PETITION TO COUNTY ASSEMBLY (PROCEDURE) BILL, 2015**

While considering the Bill the Committee emphasized on the following aspects; Whether the Bill is consistent with the Fourth Schedule of the Constitution.

The Committee was convinced that the Bill is Constitutional and if passed, it will seek to enhance Public Participation in the County Assembly and Legislative process in line with the cardinal principle of public participation as empowered by Article 10 and Article 174 of the Constitution;

In addition, the proposed Act shall allow Members of the County Assembly to use it as a way of informing the Government about an issue on which their Constituents hold strong views. Moreover, the petition remains a valuable tool whereby Members can hold the executive to account;

The petition will also be used as a means to mobilize opinion, and to create publicity locally, or nationally, for an issue; and

The Act will also seek to inculcate a civic culture of public participation and engagement with the Assembly;

The Committee deliberated on the Bill as follows;

- Long title - proposed amendment
- Clause 1 - proposed amendment
- Clause 2 - agreed to
- Clause 3 - opposed amendment
- Clause 4 - proposed amendment
- Clause 5 - proposed amendment
- Clause 6 - agreed to
- Schedule - proposed amendment



### 3.0 COMMITTEE STAGE AMMENDMENTS

NOTICE is given that the Chairperson of the Sectoral Committee on Justice and Legal Affairs, Hon. Jaffer Kassam, M.C.A, intends to move the following amendments to the Nairobi City County Petition to County Assembly (Procedure) Bill, 2015.

#### LONG TITLE

- a) THAT, the Bill be amended in the Long Title by-  
Adding the words “and section 88 of the County Government Act” appearing immediately after the words “Petition a County Assembly”;

#### CLAUSE 3

- a) THAT, sub clause 3 (a) of the bill be amended by-  
Adding the word ‘braille’;
- b) THAT, sub clause 3(e) of the Bill be amended by-  
Deletion of the whole definition and substituting therefore the following marginal note  
“be properly bound if it contains more than one (1) sheet”;
- c) THAT, sub clause 3(k) of the Bill be amended by-  
Deletion of the word “not” at the beginning of the clause so as to start “ Have letters, affidavits...”;
- d) THAT, sub clause 3(n) of the Bill be amended by-  
Deleting the words “only cover” and substituting therefore the following marginal note— “shall seek prayers only in respect of...”

#### CLAUSE 4

- (a) THAT, sub clause 4 (3) of the Bill be amended by-  
Deleting the word “seven” and replacing it with the word “fourteen”;

#### CLAUSE 5

- (a) THAT, sub clause 5(1) of the bill should be amended by -  
Adding the following marginal note after the words “County Assembly”; “and the Clerk of the County Assembly in writing, notify the petitioner that the petition is in order and has been forwarded to the Speaker.”;

#### SCHEDULE

(s. 3)

- (a) THAT, the Bill be amended by-  
Adding the letter “T” to the word “HEREFORE” to read “THEREFORE your humble....”;