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29/5/25*

REPUBLIC OF KENYA


THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – FOURTH SESSION – 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

REPORT ON:

THE CONSIDERATION OF THE POLITICAL PARTIES
(AMENDMENT) (NO. 2) BILL, 2024
(SENATE BILL NO. 26 OF 2024)

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 29 MAY 2025 DAY: Thursday	
TABLED BY:	Hon. George Mwangi MP Chairperson JLA C
CLERK-AT THE-TABLE:	Halima Ahmed

CLERK'S CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI



MAY 2025

TABLE OF CONTENTS

Table of Contents	i
List of Abbreviations and Acronyms.....	ii
List of Annexures.....	iii
Chairperson's Foreword	iv
CHAPTER ONE	I
Preface	I
1.1 Establishment of the Committee.....	I
1.2 Mandate of the Committee	I
1.3 Committee Membership	3
1.4 Committee Secretariat	4
CHAPTER TWO.....	5
Overview of the Political Parties (Amendment) (No. 2) Bill (Senate Bill No. 26 of 2024)	5
2.1 Background.....	5
2.2 Summary of the Bill.....	5
CHAPTER THREE.....	7
Public Participation and Stakeholder Engagement on the Bill	7
3.1 Legal Framework on Public Participation	7
3.2 Memoranda Received on the Bill.....	7
CHAPTER FOUR	18
Committee Observations.....	18
CHAPTER FIVE.....	20
Committee Recommendations	20
CHAPTER SIX	21
Schedule of Amendments.....	21

LIST OF ABBREVIATIONS AND ACRONYMS

CEO	-	Chief Executive Officer
CMD	-	Centre for Multiparty Democracy
ELGIA	-	Electoral Law and Governance Institute for Africa
FORD	-	Forum for the Restoration of Democracy
ICPAK	-	Institute of Certified Public Accountants of Kenya
IEBC	-	Independent Electoral and Boundaries Commission
IRCK	-	Inter-Religious Council of Kenya
IPPRC	-	Independent Political Parties Regulatory Commission
KLRC	-	Kenya Law Reform Commission
LSK	-	Law Society of Kenya
MCCP	-	Maendeleo Chap Chap Party
NADCO	-	National Dialogue Committee
ORPP	-	Office of the Registrar of Political Parties
ODM	-	Orange Democratic Movement
PPDT	-	Political Parties Disputes Tribunal
PPLC	-	Political Parties Liaison Committee
PSC	-	Parliamentary Service Commission
TAA	-	The Architects Alliance

LIST OF ANNEXURES

- Annexure 1: Adoption Schedule
 - Annexure 2: Minutes
 - Annexure 3: Political Parties (Amendment) (No. 2) 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 forum
 - Annexure 6: Memoranda by Stakeholders
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CHAIRPERSON'S FOREWORD

This report contains the proceedings of the Departmental Committee on Justice and Legal Affairs on its consideration of the Political Parties (Amendment) (No. 2) Bill (*Senate Bill No. 26 of 2024*). The Bill having been passed in the Senate on 5th December, 2024 and forwarded to the National Assembly was read a First Time in the House on 13th February 2025 and was thereafter committed to the Departmental Committee on Justice and Legal Affairs in line with Standing Order 143(2) of the National Assembly Standing Orders.

The Bill seeks to give effect to some of the recommendations and views of the public submitted to the National Dialogue Committee (NADCO) on the issues of electoral justice and related matters, fidelity to political parties/coalitions and the law on multiparty democracy.

The Bill aims to amend the Political Parties Act, Cap 7D to, among other things, replace the Office of the Registrar of Political Parties with the Independent Political Parties Regulatory Commission; repeal the provisions on when a member may be deemed to have resigned from a political party; and transfer the jurisdiction of hearing and determining disputes on decisions made by the Commission from the Political Parties Disputes Tribunal to the High Court.

In compliance with Article 118(b) of the Constitution and Standing Order 127(3) of the National Assembly Standing Orders, the Committee placed an advertisement in the print media on 18th February, 2025 and 19th February 2025 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/2025/017 dated 10th April 2025 invited key stakeholders to submit views on the Bill and attend a public participation forum on 17th April 2025. The memoranda were to be received on or before 5th March 2025 at 5.00 pm (East African Time). By the close of the submission deadline, the Committee had received ten memoranda. The IEBC, IRCK, KLRC, ORPP, CMD, ELGIA, *Kituo Cha Sheria*, the CRADLE, TAA and PPLC 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. One of the recommendations by NADCO was to establish the Independent Political Parties Regulatory Commission as an independent body responsible for the registration of political parties and management of the Political Parties Fund.

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 IEBC, IRCK, KLRC, ORPP, CMD, ELGIA, *Kituo cha Sheria*, the CRADLE, TAA and PPLC 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) of the National Assembly Standing Orders, it is my pleasant privilege and honour to present to this House the Report of the Committee on its Consideration of the Political Parties (Amendment) (No. 2) Bill (*Senate Bill No. 26 of 2024*).

It is my pleasure to report that the Committee has considered the Political Parties (Amendment) (No. 2) Bill (*Senate Bill No. 26 of 2024*) and has the honour to report back to the National Assembly with the recommendation that the **House approves the Bill with amendments.**

Hon. George Gitonga Murugara, CBS, MP
Chairman, Departmental Committee on Justice and Legal Affairs



CHAPTER ONE

I PREFACE

I.1 Establishment of the Committee

- I. 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.*

I.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 oversights 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.
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1.3 Committee Membership

4. The Committee was reconstituted by the House on 5th March 2025 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

Hon. Gladys Boss, MGH, MP
Uasin Gishu Constituency
UDA Party

Hon. Maalim Farah, EGH, MP
Dadaab Constituency
WDM-Kenya

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

Hon. Francis Kajwang' Tom Joseph, CBS, MP
Ruaraka Constituency
ODM Party

Hon. Wetang'ula Timothy Wanyoyi, CBS, MP
Westlands Constituency
ODM Party

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

Hon. Muchira Michael Mwangi, MP
Ol Jorok Constituency
UDA Party

Hon. Eric Muchangi Karemba, MP
Runyenjes Constituency
UDA Party

Hon. Makali John Okwisia, MP
Kanduyi Constituency
FORD-Kenya

Hon. Mogaka Stephen M., MP
West Mugirango Constituency
Jubilee Party

Hon. Aden Daud, EBS, MP
Wajir East Constituency
Jubilee Party

Hon. Siyad Amina Udgoon, MP
Garissa County (CWR)
Jubilee Party

Hon. CPA Zuleka Hulbale Harun, MP
Nominated Member
UDM Party

I.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 I

Ms. Vivienne Ogega
Research Officer III

Mr. John Nduaci
Serjeant-At-Arms

Mr. Meldrick K. Sakani
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 POLITICAL PARTIES (AMENDMENT) (NO. 2) BILL (SENATE BILL NO. 26 OF 2024)

2.1 Background

6. 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 fidelity to political parties and coalitions and the law on multiparty democracy.
7. The Bill having been passed in the Senate on 5th December, 2024 and forwarded to the National Assembly, the Rt. Hon. Speaker caused the Bill to be read a First Time in the House on 13th February 2025 and was thereafter committed to the Committee in line with Standing Order 143(3) of the National Assembly Standing Orders.

2.2 Summary of the Bill

8. The Bill seeks to amend the Political Parties Act in order to replace the Office of the Registrar of Political Parties with the Independent Political Parties Regulatory Commission.
9. In particular—
 - (a) **Clause 1** of the Bill provides for the short title and the commencement. The Bill shall come into force upon publication the *Gazette*.
 - (b) **Clause 2** of the Bill seeks to amend the interpretation section to substitute the definition of the term “Commission” to mean the Independent Political Parties Regulatory Commission and delete the definition of the term “Registrar” which means the Registrar of Political Parties Act.
 - (c) **Clause 3** of the Bill seeks to replace the terms “Registrar” and “Office of the Registrar of Political Parties” with “Commission”.
 - (d) **Clause 5** of the Bill seeks to repeal section 14A provides for when a member of a political party is deemed to have resigned from a political party.
 - (e) **Clause 6** of the Bill seeks to amend section 32 replace the terms “Registrar” with “Commission”.
 - (f) **Clause 7** of the Bill seeks to amend section 33 to providing for the following—
 - (a) the establishment of the Independent Political Parties Regulatory Commission;
 - (b) the functions of the Commission including a provision on the independence of the Commission in the performance of its functions;
 - (c) the membership of the Commission comprising of five members nominated by the majority party or coalition of parties in Parliament; minority party or coalition of parties in Parliament; and Parliamentary Service Commission to represent non-parliamentary registered political parties;
 - (d) the qualification and disqualification for appointment as a member of the Commission;
 - (e) the tenure of office of the members of the Commission;
 - (f) the vacancy in the office of a member of the Commission;
 - (g) the removal from office of a member of the Commission;
 - (h) the procedure of the Commission;
 - (i) the terms and condition of service of members of the Commission;
 - (j) the appointment and removal of the secretary to the Commission; and

- (k) the powers of the Commission to appoint staff for the performance of its function.
- (g) **Clause 8** of the Bill seeks to repeal section 34 on the functions of the Registrar;
 - (h) **Clause 9** of the Bill seeks to repeal section 34A on the vacancy in the Office of the Registrar of Political Parties or the Assistant Registrars;
 - (i) **Clause 10** of the Bill seeks to amend section 34C on the powers of the Registrar in respect of political party records and the jurisdiction of the High Court to hear and determine appeals against decisions of the Commission in making changes to the records of political parties;
 - (j) **Clause 11** of the Bill seeks to repeal section 36 on the procedure for appointment of the Registrar and Assistant Registrars;
 - (k) **Clause 12** of the Bill seeks to repeal section 37 on the removal of the Registrar and the Assistant Registrar;
 - (l) **Clause 13** of the Bill seeks to amend section 38 on the functions of the Political Parties Liaison Committee to clarify the functions of the Committee is to provide a platform for dialogue among the Commission, IEBC and political parties;
 - (m) **Clause 14** of the Bill to remove the determination of appeals from the decisions of the Commission from the jurisdiction of the Political Parties Disputes Tribunal;
 - (n) **Clause 15** of the Bill amends the Sixth Schedule to make provisions on the meetings and procedure of the Commission and
Clause 16 of the Bill provides for the savings and transition provision on the assets, rights, liabilities, actions and staff of the Office of the Registrar of Political Parties.
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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 (Annexure 4) in the print media on 18th February 2025 and 19th February, 2025 inviting the public to submit memoranda by way of written statements on the Bill on or before 5th March 2025 at 5.00 pm (East African Time). Further, the Committee vide letter Ref. No. NA/DDC/JLAC/2025/017 dated 10th April 2025 (Annexure 5) invited key stakeholders to submit views on the Bill and attend a public participation forum on Thursday 17th April 2025.

13. To this end, the KLRC, ORPP, ELGIA, *Kituo cha Sheria* and the CRADLE attended the public participation forum on Thursday 17th April 2025.

14. Furthermore, upon further request, the Independent Electoral and Boundaries Commission (IEBC) appeared before the Committee on Tuesday 22nd April 2025 to submit its views.

15. The Committee received ten (10) memoranda from IEBC, IRCK, KLRC, ORPP, CMD, ELGIA, *Kituo cha Sheria*, the CRADLE, TAA and PPLC. The memoranda are annexed to this report as Annexure 6.

16. **IEBC, IRCK, KLRC, ORPP, CMD, ELGIA, Kituo cha Sheria, the CRADLE, TAA and PPLC** submitted memoranda on the Bill noting reservations with specific clauses.

17. The stakeholders submitted as follows:

Clause 3

18. ORPP proposed amending the proposal to give a proviso for where other disputes relating to the Commission's mandate lie.

19. PPLC proposed that the PPDT should retain the jurisdiction of hearing and determining the appeals against the decisions made by the Commission.

Committee Observation

20. The Committee observed that Clause 3 grants the High Court the jurisdiction to hear and determine disputes relating to suspension and deregistration of a political party by the Commission. Therefore, there is need to specify the entity/body that will hear and determine the disputes relating to other decisions of the Commission such as refusal to register a political party.

Clause 5

21. IRCK and KLRC noted that repealing section 14A of the principal Act will offend the Constitution as it would allow politicians to support rival agenda and this could erode party loyalty and policy coherence.
22. ORPP noted that the proposal relates to a proposed NADCO constitutional amendment which may not precede the passage of the instant Bill thereby resulting in a lacuna in law. ORPP added that the process of deeming whether a party member has resigned from a political party could be sufficiently addressed in party constitutions by amending the Second Schedule to the Political Parties Act, Cap 7D.
23. ELGIA submitted that the proposal is a consequential amendment from the Constitution of Kenya (Amendment) Bill, 2023, proposed by NADCO, intending to amend Article 103(1)(e)(i) of the Constitution by substituting the words 'deeming to have resigned from a political party' with 'deregistration from a political party' therein. ELGIA therefore, proposed that the instant Bill and the proposed constitutional amendment be considered concurrently to avoid any possible gaps in implementation.
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24. *Kituo cha Sheria* proposed retaining section 14A of the Act with modifications to clearly define procedures and grounds for resignation, ensuring alignment with Articles 38 and 47 of the Constitution and to include safeguards for notice, hearing and appeal.

Committee Observation

25. The Committee observed that the NADCO, in its proposed amendment to the Constitution, recommended that Articles 103(1)(e), 181(1) and 194(1)(e) of the Constitution be amended by including deregistration from a political party as one of the ways in which the office of an MP, a governor or an MCA may become vacant.
26. The Report by National Assembly's Departmental Committee on Justice and Legal Affairs and Senate's Standing Committee on Justice, Legal Affairs and Human Rights on the Implementation of the Recommendations by NADCO to amend the Constitution recommended that the proposed amendments be further amended by removing deregistration.
27. Therefore, the NADCO Constitution of Kenya (Amendment) Bill and this Bill should be considered concurrently to avoid any inconsistency in law.

Clause 6

28. ORPP submitted that the proposal be amended to substitute the terms, 'The Office of Registrar of Political Parties' with 'The Commission' instead of wholesale deletion of the provisions for neater drafting.

Committee Observation

Report of the Departmental Committee on Justice and Legal Affairs on its Consideration of the Political Parties (Amendment) (No. 2) Bill (Senate Bill No. 26 of 2024)

29. The Committee observed that there are risks with such legislative drafting.

Clause 7—

Establishment of the Independent Political Parties Regulatory Commission (IPPRC)

30. Noting that replacing the Registrar with a Commission would increase professionalism and independence in party regulation, KLRC noted that the Commission could still be politicized if not well insulated from political influence.

31. ORPP proposed establishing the Commission under Chapter Fifteen of the Constitution in accordance with the recommendations of NADCO.

32. In addition, TAA proposed amending the provision to establish an independent Political Parties Dispute Tribunal (PPDT) within the Commission to handle intra-party and inter-party disputes and to comprise experts in law and governance. This would provide a specialized forum for resolving disputes aligning with global best practice.

33. PPLC submitted that the PSC should be substituted with PPLC as the nominating body of the non-parliamentary party representative in the Commission.

Committee Observation

34. The Committee observed that the establishment of the Independent Political Parties Regulatory Commission to replace the Office of the Registrar of Political Parties would enhance independence and neutrality as outlined in the NADCO Report.

35. Also, the Committee observed that Article 92 obligates Parliament to enact legislation to provide for, among other things, the regulation of political parties. Therefore, it is proper to establish the Commission through legislation and not through an amendment of Chapter Fifteen of the Constitution on Commissions and Independent Offices.

36. Further, the Committee observed that section 40 of the Political Parties Act provides for the jurisdiction of the Political Parties Disputes Tribunal to hear and determine intra-party and inter-party disputes.

Functions of the Independent Political Parties Regulatory Commission

37. ORPP and ELGIA proposed retaining the function to regulate, monitor, investigate and supervise political parties as appears in section 34(a) of the Political Parties Act, Cap 7D to align with Article 92 of the Constitution and the purpose of the Act.

38. TAA proposed amending the provision to require political parties to conduct biennial internal elections for leadership positions under the supervision of the Commission and to ensure annual verification of membership registers to prevent fraudulent memberships. This would foster internal democracy within political parties and ensure their legitimacy as democratic institutions.

39. PPLC proposed an amendment to the function of the Commission to train political parties on management and development and the deployment of agents; facilitating dialogue and consensus building on matters involving political parties processes and elections; enforcing political parties code of conduct

Committee Observation

40. The Committee observed that the function of the Commission provided for under the proposed section 33A(a) only provides for the registration of political parties and their office holders. This has excluded other functions such as regulation and supervision of

Report of the Departmental Committee on Justice and Legal Affairs on its Consideration of the Political Parties (Amendment) (No. 2) Bill (Senate Bill No. 26 of 2024)

political parties as required by Article 92 of the Constitution. Therefore, there is need to align the functions of the Commission with the provisions of Article 92 of the Constitution.

Management of the Political Parties Fund

41. ELGIA proposed amending the proposal by substituting the word 'Management' with 'Administration' to align with the sections 23 and 25(1)(d) of the Political Parties Act, Cap 7D providing for the establishment and distribution of the Fund.

Committee Observation

42. The Committee observed that Article 92(f) of the Constitution provides that Parliament shall enact legislation for the establishment and **management** of a political parties' fund. Therefore, the use of the word "management" in place of "administration" aligns with the provisions of the Constitution.

Publication of political parties' audited annual accounts

43. TAA proposed amending the provision to require political parties to submit quarterly financial reports instead of annual reports to be published online within 30 days of submission. This would promote transparency as in other jurisdictions where frequent disclosures are mandatory.

Committee Observation

44. The Committee observed that section 31(1) of the Political Parties Act requires political parties to keep proper books and records of account of the income, expenditure, assets and liabilities. Section 31(2) obligates the political parties to submit the accounts to the Auditor-General within three months after the end of every financial year. It is based on these requirements that the Commission is mandated to ensure publication of audited annual accounts of political parties. Therefore, due to costs and resources required to conduct a full audit, annual audited reports is reasonable.

Verification and publicization of the list of all members of political parties

45. The CRADLE proposed amending the provision to include regular review of the political party membership registers to ensure accuracy and prevent fraudulent membership claims.

Committee Observation

46. The Committee observed the functions of the Commission provided for in section 33A includes keeping and maintaining a register of members or registered political parties and verification and making publicly available the list of all members of all political parties. Therefore, the review of political party membership registers is already provided for.

Maintaining a political parties' register

47. TAA proposed amending the new proposed section 33A to require the Commission to develop an online user-friendly portal for political party registers including membership lists and financial reports to enhance accessibility and transparency.

Committee Observation

48. The Committee observed that section 34B of the Political Parties Act provides for the use of technology in processing political parties' data and records.

Ensuring a person is a member of only one political party

49. ORPP proposed deletion of the provision because sections 28 and 35A of the Elections Act, Cap 7 already adequately provides for the procedure to submit certified party membership registers and certified party lists to IEBC.
50. The CRADLE proposed amending the provision to require the Commission to ensure independent candidates meet minimum ethical and leadership integrity standards to ensure integrity and credibility of independent candidates.

Committee Observation

51. The Committee observed that section 28A and 35A of the Elections Act provides that the Registrar of Political Parties shall certify a party's membership list and a party's list before they are submitted to the IEBC for purposes of a general election or a by-election. Therefore, this function is well within the functions of the Commission.

Certification of symbols used by independent candidates

52. IEBC proposed deletion of the provision because the mandate to certify the symbol intended for use by an independent candidate is bestowed upon IEBC as provided in section 32 of the Elections Act, Cap 7.

Committee Observation

53. The Committee observed that section 4B of the Political Parties Act provides that it is the function of the Registrar of Political Parties to reserve names, symbols and slogans for a proposed political party. Also, section 32 of the Elections Act provides that the IEBC shall be responsible for approving symbols intended to be used in an election by an independent candidate. These functions should complement each other since the ORRP is the custodian of the symbols of political parties.

Certification of names appearing in party lists

54. IEBC proposed deletion of the proposal because it is the IEBC's mandate to certify the names appearing in party lists and verify the qualifications of the nominees in the party lists as provided for in Article 90 of the Constitution. Furthermore, IEBC uses the membership register of a political party to verify the membership of each nominee in the party list.

Committee Observation

55. The Committee observed that section 35A of the Elections Act provides that a political party that intends to submit a party list to IEBC shall first submit the party list to the Registrar of Political Parties for certification. Therefore, the Commission, which will be the custodian of information on party membership, is best placed to certify the information contained in the party lists before submission of the party lists to IEBC.

Regulation of political party nominations

56. IEBC proposed deletion of the provision as it is unconstitutional as was held by the court in **Constitutional Petition E043, E057, E109 of 2022**.
57. ORPP noted that the proposal would be in line with Article 92 of the Constitution. However, it would require a corresponding amendment to Article 88(4) of the Constitution to ensure no overlap of roles between IEBC and the contemplated IPPRC and to comply with the court's decision in **Thuranira & 4 Others v Attorney General & 2 Others; Registrar of Political Parties & 3 Others (Interested Parties) (Petition E043, E057 & E109 of 2022) [2022] KEHC 482 (KLR)**.

58. The CRADLE proposed amending the provision to require the Commission to ensure that nomination processes adhere to principles of fairness, transparency and gender equality in accordance with Article 27 of the Constitution.

Committee Observation

59. The Committee observed that Article 88(4)(d) of the Constitution provides that regulation of the process by which political parties nominate candidates for election is a function of IEBC. Further, the Committee observed that in the case of *Thuranira & 4 Others v Attorney General & 2 Others; Registrar of Political Parties & 3 Others (Interested Parties) [2022] KEHC 482 (KLR)*, the High Court declared that section 34(fd) of the Political Parties Act is unconstitutional as regulation of political party nominations is the mandate of the IEBC and not the Registrar of Political Parties. Therefore, this function assigned to the Commission may be deleted to align with the provisions of the Constitution and the judgment.

Training political party election agents upon request

60. The CRADLE proposed amending the provision to require the Commission to ensure that all agents are adequately trained on election laws, dispute resolution and ethics to ensure competency and professionalism.

Committee Observation

61. The Committee observed that the training of political party agents is aimed at building knowledge on the roles and responsibilities of agents on the day of elections.

Investigating complaints received under the Act

62. IEBC proposed deletion of the proposal as it conflicts with Articles 248 and 252 of the Constitution which confer upon the stipulated Constitutional Commissions the sole power to conduct investigations.
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63. The CRADLE further proposed amending the provision to require the Commission to investigate complaints received under the Act within a stipulated timeframe and to ensure timely resolution through a structured dispute resolution mechanism. In The CRADLE's view, this would prevent delays in dispute resolution.

Committee Observation

64. The Committee observed that the Constitution provides that Parliament shall enact legislation that provides for the regulation, management and supervision of political parties. Therefore, to enable the Commission perform these functions, the Commission has the power to receive complaints with respect to political parties as well as the power to investigate these complaints

Independence of the Commission

65. The CRADLE submitted that the proposal be amended to include that the Commission shall receive a dedicated budgetary allocation approved by Parliament to ensure financial autonomy. This would prevent political interference and strengthen the Commission's ability to discharge its functions impartially.

Committee Observation

66. The Committee observed that the Political Parties Act establishes the Office of the Registrar of Political Parties. However, the Act does not contain financial provisions such as sources of funds for the ORPP; the financial year for the ORPP; and accounts and audits for ORPP.

Appointment of Members of the Commission

67. IRCK proposed the appointment of the Commission through a nine-member selection panel established by the President to ensure inclusivity. The selection panel is to comprise of members nominated by the majority and minority parties in Parliament, Parliamentary Service Commission, LSK, IRCK and ICPAK.
68. ORPP proposed amending the provision to include timelines of seven days within which the President has to forward names of the nominees to Parliament and a further seven days within which the President should, upon receipt of the names approved by the National Assembly, appoint the Commissioners. Further, ORPP proposed including a definition of the term 'non-parliamentary registered political party' to provide clarity and avoid multiple interpretations.
69. The CRADLE noted the need for accountability and transparency in the appointment process of the Commission in accordance with Article 10 of the Constitution. Hence, its submission to amend the provision to require the process of appointment to be based on recommendations by the Public Service Commission. The CRADLE proposed amending the provision to provide that one member of the Commission may be nominated from a civil society with expertise in political governance to ensure inclusivity and strengthen democratic oversight.
70. *Kituo cha Sheria* submitted that the nomination of a non-parliamentary representative from the Parliamentary Service Commission would grant the majority party significant influence over the selection process given its dominance within the Commission. *Kituo cha Sheria*, therefore, proposed that the provision be amended to provide for the non-parliamentary representative to be nominated from the IEBC to promote impartiality. In addition, *Kituo cha Sheria* submitted that the provision should be amended to require the nominating bodies ensure the inclusion of at least one youth representative and at least one person with a disability in line with Article 100.
71. TAA noted the need for gender quotas to promote inclusivity and therefore, proposed amending the provision to introduce a requirement for one-third gender representation and ensure representation of marginalized groups such as persons with disabilities and the youth in the Commission's membership.
72. PPLC submitted that the PSC should be substituted with PPLC as the nominating body of the non-parliamentary party representative in the Commission.

Committee Observation

73. The Committee observed that since the Commission will be charged with the mandate of regulating political parties, the political parties are best suited to nominate members to the Commission.
74. Also, the Committee observed that it is necessary to provide timelines in which the President is required to appoint and Parliament is required to approve the nominees. This will minimize delays.
75. The Committee observed that there would be need to define the term "non-parliamentary registered political parties" to provide for clarity.

Election of the Chairperson and Vice Chairperson

76. ELGIA further proposed a review of the provision to provide for the election of the Vice-Chairperson only and that the Chairperson be appointed exclusively and substantively by the President in line with the practice as provided in other Acts of Parliament.

Committee Observation

77. The Committee observed that the *Mwongozo: The Code of Governance for State Corporations* provides that one of the governance practices is that the chairpersons of all State Corporations shall be appointed by the President.

Disqualifications for appointment as a member of the Commission

78. ORPP noted that the disqualifications for appointment as members of the Commission are not comprehensive and therefore, provided proposed expanding them to bar a State officer from appointment.

Committee Observation

79. The Committee observed that various Acts of Parliament which establish various bodies or entities have provided that a member of Parliament or county assembly is disqualified from appointment as a member of the respective body or entity. Therefore, the disqualification provision may be expanded accordingly.

Vacancy in the office of a member of the Commission

80. ELGIA noted that the provision does not provide the procedure of appointment of new member(s) upon lapse of term of office. ELGIA therefore proposed amending the provision to include the lapse of a term of office as one of the instances under which the office of a member of the Commission shall become vacant and provide a grace period to allow for the appointment process of new members before the lapse of time to avoid an unnecessary vacuum.
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Committee Observation

81. The Committee observed that one way in which an office becomes vacant is through expiration of the term of the office. Therefore, the may be provision may be amended to include expiry of term of office.

Competitive recruitment of Commissioners

82. ORPP was of the view that there is need to qualify the competitive process to Article 232 of the Constitution and the need for a central body to coordinate receipt and processing of nominees from the nominating bodies to the President.

Appointment of the Secretary of the Commission

83. ORPP noted the need for clarity in the functions of the Secretary of the Commission including whether s/he would be the accounting officer of the Commission.
84. TAA proposed amending the provisions to ensure that members of the Commission are fully independent by prohibiting them from holding political party positions for 10 years before or after their tenure and by providing for its funding to be a charge on the Consolidated Fund. TAA was of the view that this aligns with global best practice and would insulate the Commission from political interference.
85. Additionally, TAA proposed amending the provisions to explicitly prohibit members and staff of the Commission from transacting business with the Commission or political parties to prevent conflicts of interest and ensure ethical conduct.

Committee Observations

Report of the Departmental Committee on Justice and Legal Affairs on its Consideration of the Political Parties (Amendment) (No. 2) Bill (Senate Bill No. 26 of 2024)

86. The Committee observed that the Bill seeks to establish the Independent Political Parties Regulatory Commission with a Secretary who shall be the chief executive officer of the Commission. However, the Bill is silent on who shall be the accounting officer. Therefore, it may be necessary to designate the Secretary to the Commission as the accounting officer to clarify the roles.

On the powers of the Commission to appoint staff

87. CMD proposed deletion of the provision as it will interfere with the independence of the Commission.

Committee Observation

88. The Committee observed that the Commission should be retain the power to appoint staff who shall provide technical support to the Commission in the performance of its functions and exercise of its powers.

Clause 8

89. The CRADLE proposed amending the clause to retain key oversight functions contained in section 34 of the Political Parties Act, Cap 7D including requiring the Commission to conduct annual compliance audits of political parties to ensure adherence to financial and governance regulations and submit a report to Parliament. In The CRADLE's view, this would ensure transparency in the use of public funds allocated to political parties.

Committee Observation

90. The Committee observed that Clause 8 of the Bill which provides for the functions of the Registrar of Political Parties which have been captured under the proposed new section 33A on the functions of the Commission.

Clause 10

91. The CRADLE proposed amending the new proposed section 34C(1) to replace the phrase, 'deemed to have resigned' with 'a clear process of voluntary resignation that requires written confirmation from the member' to prevent politically-motivated arbitrary expulsions.

92. ORPP submitted that the new proposed section 34C(4) be amended to include a proviso for where other disputes relating to the Commission's mandate shall lie.

Committee Observation

93. The Committee observed that section 40(1)(f) of the Political Parties Act provides that the Political Parties Disputes Tribunal has the jurisdiction to hear and determine appeals from decisions of the Registrar under the Act. Therefore, this provision caters for disputes outside section 34C on the decisions made by the Commission.

Clause 14

94. Noting that the proposal removes from the PPDT the power to hear and determine appeals from decision of the Commission, the ORPP proposed providing an avenue for disputing decisions of the Commission including decisions on registration of political parties, confirmation of coalitions and certification of party membership registries under section 28 of the Elections Act, Cap 7. While these decisions may lie to the High Court, there is need for clarity on the avenue for dispute resolution.

Committee Observation

95. The Committee observed that the proposed deletion of paragraph (f) in section 40 would leave disputing parties, with respect of the decisions made by the Commission, with no avenue for resolving the disputes.

Clause 15

New proposed Sixth Schedule

96. ORPP proposed amending the new proposed Sixth Schedule to let the Chairperson decide the time and venue of holding the meetings and allow at least three members to requisition for a meeting by writing to the Chairperson where necessary to ensure good governance.
97. Additionally, ORPP noted that given the three-member quorum, members should be allowed to elect a commissioner to preside over a meeting in the absence of the Chairperson and Vice-Chairperson to prevent crippling the operations of the Commission.
98. ELGIA submitted that the new proposed Sixth Schedule be amended to provide that the Secretary of the Commission be the secretary at all meetings of the Commission to effectively implement the decisions of the Commission. ELGIA added that the provision be amended to emulate the Second Schedule to the IEBC Act, Cap 7C.

Committee Observation

99. The Committee observed that there is need to provide for the power to elect a chairperson to preside over a meeting in the absence of the substantive chairperson or vice chairperson. Additionally, there is need to provide that the Secretary to the Commission shall be the secretary in all meetings of the Commission to ensure the meetings well organized, efficiently run and properly documented.

Clause 16

100. IRCK and ORPP noted that the transitional and saving clauses do not expressly cater for the current Registrar and Assistant Registrars of Political Parties. IRCK proposed amending the provisions to allow the current office holders to serve the remainder of their terms for a seamless transition. ORPP proposed that, if considered as staff, the Registrar of Political Parties and Assistant Registrars of Political Parties should be transitioned as CEO and Deputy CEOs of the Commission.

Committee Observation

101. The Committee observed that the Political Parties Act provides that the Registrar and the Assistant Registrars shall serve for a non-renewable term of six years and shall not be eligible for re-appointment. Therefore, there is need to transit the unexpired term of these office holders upon commencement of the Act.

New Proposals

102. IRCK submitted that the Code of Conduct provided for in the First Schedule to the Political Parties Act, Cap 7D is adequate and instead, requires proper implementation.
103. ORPP noted that the Bill does not provide for the sources of funds for the Commission and hence proposed that the source of funds be through an allocation by Parliament.
104. TAA proposed the introduction of a new provision to mandate the Commission to organize annual capacity-building workshops for political parties on financial management, internal democracy and compliance to improve governance and compliance among political parties.

105. PPLC proposed that section 38 of the Act be amended to provide that PPLC shall exist at the national level and the cascade its activities down to the county and ward level; political parties shall nominate representatives in PPLC from the highest decision-making organ of the party; establishment of a PPLC secretariat; functions of the PPLC; funding of activities of PPLC; and power of PPLC to make regulations.

CHAPTER FOUR

4 COMMITTEE OBSERVATIONS

106. Upon reviewing the Bill and the submissions received, the Committee made the following observations—

- (a) 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;
- (b) in that regards, NADCO recommended, among other things, the establishment of the Independent Political Parties Regulatory Commission as an independent body to perform various functions such as regulation of political parties;
- (c) During consideration of the Bill, the Senate introduced the following amendments—
 - (i) amended the jurisdiction of the PPDT on appeals against decisions of the Commission and defect aggrieved persons to the High Court;
 - (ii) cleaned up references to the “Office of the Registrar” and replace with the “Commission”;
 - (iii) altered the approval of the members of the Commission from National Assembly to Parliament;
 - (iv) added qualifications and disqualifications for appointment as members of the Commission including disqualification of a member of the Commission from contesting in elections or leadership of a political party within 5 years of ceasing to be a member of the Commission;
 - (v) added the manner in which the office of a member of the Commission may become vacant and the procedure for filling the vacancy;
 - (vi) added the grounds for removal from office and procedure for removal from office as a member of the Commission;
 - (vii) added provision on conduct of business and affairs of the Commission;
 - (viii) added provision on terms and conditions of service of members of the Commission;
 - (ix) added provisions on appointment and removal of the Secretary to the Commission;
 - (x) repealed the provisions on the appointment of the Registrar and Assistant Registrars;
 - (xi) repealed the provisions on the removal of the Registrar of Assistant Registrar;
 - (xii) cleaned up section 38 to align with the introduction of the definition of the word “Commission” to mean the Independent Political Parties Regulatory Commission and not the Independent Electoral and Boundaries Commission;
 - (xiii) removed appeals from the decisions of the Registrar from the jurisdiction of the Political Parties Disputes Tribunal;
 - (xiv) amended the Sixth Schedule on procedures for appointment of the Registrar and Assistant Registrars and substituted with the provisions on meetings and procedures of the Commission;
 - (xv) expanded the savings and transition provisions to include assets and other property of the ORPP; rights and obligations vested in the ORPP; and actions, suits or legal proceedings pending by, against or before the ORPP.

- (d) on the proposed nomination of members of the Commission, the PSC is a body whose membership is majorly comprised of members nominated by the majority party and minority party;
- (e) there is need to specify the entity/body that will hear and determine the disputes relating to other decisions of the Commission such as refusal to register a political party;
- (f) that Article 88(4)(d) of the Constitution provides that regulation of the process by which political parties nominate candidates for election is a function of IEBC. In the case of ***Thuranira & 4 Others v Attorney General & 2 Others; Registrar of Political Parties & 3 Others (Interested Parties) [2022] KEHC 482 (KLR)***, the High Court declared that section 34(fd) of the Political Parties Act is unconstitutional as regulation of political party nominations is the mandate of the IEBC and not the Registrar of Political Parties. Therefore, this provision may be amended to align with the provisions of the Constitution and the judgment;
- (g) the Act does not contain financial provisions such as sources of funds for the ORPP; the financial year for the ORPP; and accounts and audits for ORPP. Therefore, there is need to amend the Act by introducing new sections to provide for such provisions;

CHAPTER FIVE

5 COMMITTEE RECOMMENDATIONS

107. The Committee, having considered the Political Parties (Amendment) (No. 2) Bill (Senate Bill No. 26 of 2024) and the submissions from members of the public and stakeholders, recommends that the House **approves the Bill with the amendments** contained in the Schedule of Amendments forming Chapter Six of this report.

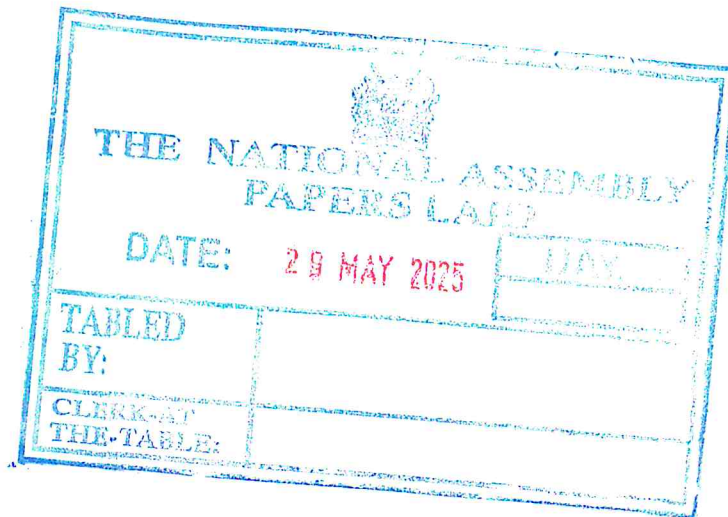
SIGNED.....

DATE.....

29.5.2025

HON. GEORGE GITONGA MURUGARA, CBS, MP
CHAIRMAN

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS





DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

ADOPTION OF THE COMMITTEE REPORT ON ITS CONSIDERATION OF THE POLITICAL PARTIES (AMENDMENT) (NO. 2) BILL (SENATE BILL NO. 26 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 the Political Parties (Amendment) (No. 2) Bill (Senate Bill No. 26 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. Gladys Boss, MGH, MP

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4. Hon. Farah Maalim, EGH, MP

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5. Hon. Silvanus Osoro Onyiego, CBS, MP

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6. Hon. Tom Joseph Francis Kajwang', MP

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7. Hon. Muchangi Karemba, CBS, MP

.....

8. Hon. Timothy Wanyonyi Wetangula, CBS, MP

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

.....

10. Hon. Michael Mwangi Muchira, MP

.....

11. Hon. Aden Daud, EBS, MP

12. Hon. John Okwisia Makali, MP

.....

13. Hon. Stephen M. Mogaka, MP

.....

14. Hon. Amina Udgoon Siyad, MP

15. Hon. CPA Zuleka Hulbale Harun, MP

