

SPECIAL ISSUE

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REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2019

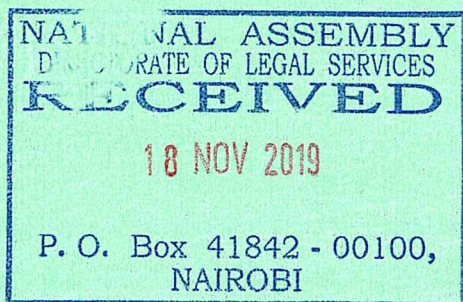
NAIROBI, 18th September, 2019

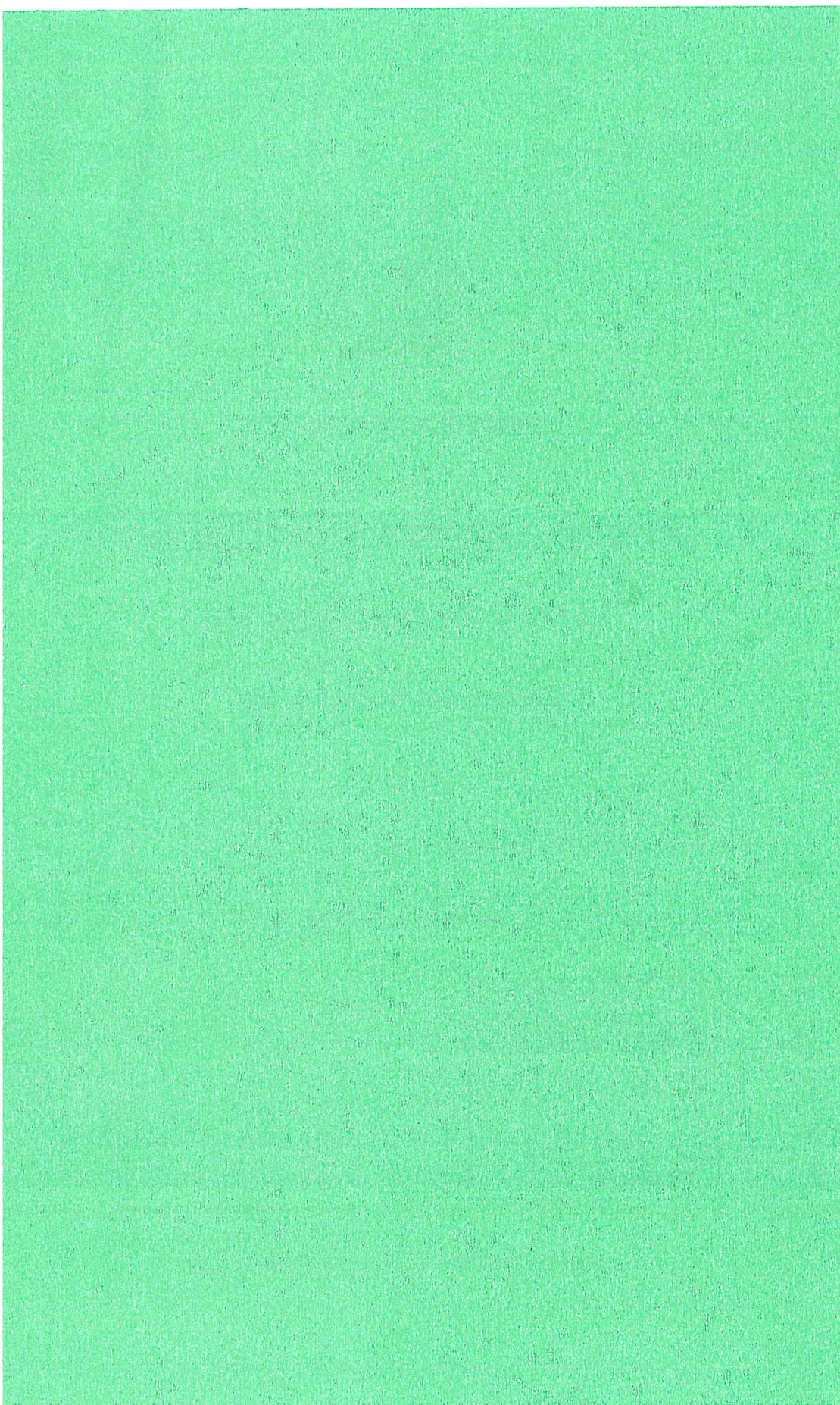
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Bill for Introduction into the National Assembly—

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The Constitution of Kenya (Amendment) (No. 5) Bill, 2019 1053





**THE CONSTITUTION OF KENYA (AMENDMENT)
(NO. 5) BILL, 2019**

A Bill for

AN ACT of Parliament to amend the Constitution of Kenya

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Constitution of Kenya (Amendment) (No. 5) Act, 2019.

Short title.

2. Article 90 of the Constitution of Kenya is amended in clause (2)—

Amendment of Article 90 of the Constitution of Kenya.

(a) in paragraph (a) by deleting the words “all the persons who would stand elected if the party were to be entitled to all seats provided for” and substituting therefor the words “its candidates for election”;

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

“(b) except in the case of the seats provided for under Article 98 (1) (b), each party list comprises—

(i) a candidate nominated for election as president or deputy president who shall be the first and second respectively in the party list; and

(ii) the appropriate number of qualified candidates and alternates between male and female candidates in the priority in which they are listed.”

MEMORANDUM OF OBJECTS AND REASONS

Statement of Objects and Reasons of the Bill

This Bill seeks to amend Article 90 of the Constitution of Kenya in order to make provision for political parties to nominate to the National Assembly or the Senate presidential and deputy presidential candidates and further to prioritize them in the party lists.

These amendments are intended to implement article 10 of the Constitution by bringing into effect the national values and principles of governance specifically that of national unity, participation of the people and inclusiveness. In the current electoral regime, presidential candidates or deputy presidential candidates who lose at a general election are unable to have a seat in either the National Assembly or the Senate. This Bill seeks to cure such eventualities and ensure the country remains united after general elections.

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

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

Statement as to whether the Bill concerns county governments

The Bill does not affect the functions of the county governments and is therefore not a Bill concerning counties for purposes of the Standing Orders.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The Bill is not a money Bill for the purposes of Article 114 of the Constitution as the enactment of this Bill will not occasion additional expenditure of public funds.

Dated the 8th August, 2019.

JEREMIAH KIONI,
*Chairperson, Constitutional
Implementation Oversight Committee.*

Article 90 of the Constitution which is proposed to be amended—

90. Allocation of party list seats

(1) Elections for the seats in Parliament provided for under Articles 97(1)(c) and 98(1)(b), (c) and (d), and for the members of county assemblies under article 177(1)(b) and (c), shall be on the basis of proportional representation by use of party lists.

(2) The Independent Electoral and Boundaries Commission shall be responsible for the conduct and supervision of elections for seats provided for under clause (1) and shall ensure that—

- (a) each political party participating in a general election nominates and submits a list of all the persons who would stand elected if the party were to be entitled to all the seats provided for under clause (1), within the time prescribed by national legislation;
- (b) except in the case of the seats provided for under Article 98(1)(b), each party list comprises the appropriate number of qualified candidates and alternates between male and female candidates in the priority in which they are listed; and
- (c) except in the case of county assembly seats, each party list reflects the regional and ethnic diversity of the people of Kenya.

(3) The seats referred to in clause (1) shall be allocated to political parties in proportion to the total number of seats won by candidates of the political party at the general election.

