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REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FOURTH SESSION – 2025
PUBLIC PETITIONS COMMITTEE

REPORT ON-

CONSIDERATION OF PUBLIC PETITION NO. 13 OF 2024 BY DR. LUKOYE ATWOLI REGARDING THE DECRIMINALIZATION OF ATTEMPTED SUICIDE

SEPTEMBER, 2025

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 23 SEP 2025 DAY. Tuesday
TABLED BY: Hon. Muchangi Karemba, MP Chairperson
CLERK-AT-THE-TABLE: A. Ichibuko

Directorate of Audit, Appropriations and General Purpose Committees
Clerk's Chambers
Main Parliament Buildings
NAIROBI

NATIONAL ASSEMBLY
RECEIVED
23 SEP 2025
SPEAKER'S OFFICE
P. O. Box 41842, NAIROBI.

TABLE OF CONTENTS

Contents

CHAIRPERSON'S FOREWORD

On behalf of the Public Petitions Committee and pursuant to the provisions of Standing Order 227, it is my pleasant privilege and honour to present to this House the Report of the Committee on the Public Petition No. 13 of 2024 regarding the decriminalization of attempted suicide. The petition was presented to the House pursuant to Standing Order No. 225 (2) (b) by the Honourable Speaker of the National Assembly on behalf of Dr. Lukoye Atwoli, Professor of Psychiatry and Dean at the Medical College of East Africa, Agha Khan University.

The petitioner prayed that the Committee recommend the repeal of Section 226 of the Penal Code Cap 63 to decriminalise attempted suicide.

In consideration of the Petition, the Committee collected views from the petitioner, the Kenya Law Reform Commission, the Office of the Attorney General and the Department of Justice. The Committee observed that the High Court in Constitutional Petition No. E045 of 2022, in its Judgement dated 9th January 2025, declared Section 226 of the Penal Code unconstitutional for violating Articles 27 (non-discrimination), Article 28 (on right to inherent dignity), and Article 43 (on right to health) of the Constitution. Further, the enforcement of the provision risks undermining constitutional rights. Therefore, the Committee recommends the repeal of Section 226 of the Penal Code Cap 63 to decriminalise attempted suicide.

The Committee appreciates the Offices of the Speaker and Clerk of the National Assembly for providing guidance and necessary technical support, without which its work would not have been possible. The Chairperson expresses gratitude to the Committee Members for their devotion and commitment to duty during the consideration of the Petition.

On behalf of the Committee and pursuant to the provisions of Standing Order 199, I wish to lay the report on the consideration of Public Petition No. 13 of 2024 by Dr. Lukoye Atwoli, regarding the decriminalization of attempted suicide on the Table of the House.

Signed: _____ **Date:** 23/09/2025

HON. MUCHANGI KAREMBA, CBS, M.P.

CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

1.3 Committee Secretariat

The secretariat comprises:

Mr. Leonard Machira
Principal Clerk Assistant II

Ms. Anne Shibuko
First Clerk Assistant

Ms. Miriam Modo
First Clerk Assistant

Mr. Willis Obiero
Clerk Assistant III

Mr. Bernard Kipchumba
Clerk Assistant III

Ms. Patricia Gichane
Legal Counsel II

Ms. Nancy Ouma
Research Officer III

Ms. Roselyne Njuki
Principal Serjeant-at-Arms

Mr. Paul Shana
Serjeant-at-Arms

Mr. Calvin Karungo
Media Relations Officer III

Mr. Peter Mutethia
Audio Officer

PART TWO

2. BACKGROUND OF THE PETITION

2.1 Introduction

1. Public Petition No. 13 of 2024 regarding the decriminalization of attempted suicide was presented to the House on 13th August, 2024, by the Speaker of the National Assembly on behalf of Dr. Lukoye Atwoli, Professor of Psychiatry and Dean at the Medical College of East Africa, the Aga Khan University.

2. The petitioner called for the repeal of section 226 of the Penal Code, which states that *"any person who attempts to kill himself is guilty of a misdemeanour."* Further, Section 36 provides for a general punishment for misdemeanours, that *"when in this Code no punishment is specially provided for any misdemeanour, it shall be punishable with imprisonment for a term not exceeding two years or with a fine, or with both."*

3. The Petitioner submitted that criminalising suicide attempts not only fails to address underlying mental health issues but also perpetuates stigma and shame surrounding mental illness. This is despite the provisions of Section 2 of the Mental Health Act, which defines and includes in its interpretation of a person with mental illness a person with suicidal ideation or behaviour. Moreover, it inhibits accurate data collection and hinders suicide prevention efforts.

4. He observed that Kenya remains one of the few countries with such legislation criminalising attempted suicide. He averred that many countries have decriminalised attempted suicide, allowing mentally ill patients access to the services they require.

5. The Petitioner further stated that the continued application of the provisions contradicts the provisions of Article 43 of the Constitution that *"(1) every person has the right to the highest attainable standard of health, which includes the right to healthcare services, including reproductive healthcare and (2) a person shall not be denied emergency medical treatment."*

6. The Petitioner argued that Section 226 of the Penal Code, read together with Section 36, was unreasonable as it created a barrier towards access to the highest attainable standard of mental health care and emergency medical treatment.

7. Further, the Petitioner stated that the provision offends Article 28, which provides that *"every person has inherent dignity and the right to have that dignity respected and protected."*

2.2 Petitioner's Prayers

8. The Petitioner prayed that the National Assembly, through the Public Petitions Committee, repeal Section 226 of the Penal Code Cap 63 to decriminalise attempted suicide.

PART THREE

3. STAKEHOLDERS' SUBMISSIONS ON THE PETITION

3.1 The Petitioner

On Tuesday, 1st October 2024, the petitioner, Dr. Lukoye Atwoli, appeared before the Committee and presented as follows—

9. The Petitioner informed the Committee that Kenya remains one of the few countries that still has legislation criminalizing suicide attempts, a leftover from colonial times. It is instructive that the former colonial power, the United Kingdom, repealed similar legislation decades ago, affording mentally ill patients access to the services they require.

10. He urged the National Assembly to move with speed to repeal section 226 of the Penal Code, and thereby guarantee dignity to our fellow citizens who suffer from mental illness that includes suicidal ideation.

11. He observed that the Kenya National Commission on Human Rights has made an effort through various initiatives to have the matter addressed. However, no satisfactory repeal of section 226 of the Penal Code has been achieved.

12. He also clarified that the Constitutional petition No. E045 of 2022, before the High Court of Kenya, sought to have Section 226 of the Penal Code declared unconstitutional.. The petition, on the other hand, aimed to have Section 226 of the Penal Code repealed.

13. He further informed the Committee that Suicide attempts are classified in the psychiatric literature as a medical emergency requiring immediate intervention to prevent serious injury or death. There are evidence-based protocols that have been developed for the management of a patient presenting with a suicide attempt, and all these recognise this as a medical emergency.

14. The Petitioner also argued that Section 226 of the Penal Code prevented a person suffering from a medical emergency from accessing emergency treatment, by directing them into the criminal justice system instead of a health facility where they would receive life-saving care. Therefore, the Section offended Article 43 of the Constitution of Kenya 2010, and should be removed from the statute.

15. Further, Article 27(4) and (5) of the Constitution prohibit discrimination by the State or any person on grounds including health status and disability. Given that people suffering from other illnesses such as diabetes mellitus and hypertension, and people having other signs of psychological distress like depressed mood, severe anxiety and specific phobias are not subjected by law to threats of arrest and arraignment for their illnesses, treating people with suicidal ideation and behaviour as criminals constitutes discrimination on grounds of health status, and should not be allowed in the statute.

16. Additionally, Article 28 of the Constitution of Kenya provides that every person has inherent dignity and the right to have that dignity respected and protected. Categorising a person's psychological distress and signs of mental illness as a criminal offence amounts to denying their inherent dignity, and punishing them for their symptoms is the exact opposite of protecting their dignity.

17. He further argued that respecting and protecting the dignity of persons with suicidal ideation would mean they can be conveyed to a health facility where they will be assessed by a qualified mental health professional and provided with the care to take away the suicidal thoughts and behaviours. Thus allowing them to resume a dignified life as productive citizens of this republic instead of spending the rest of their days as convicted criminals on account of their illness.

18. The Petitioner also noted that Section 226 of the Penal Code was enacted before independence in the context of a very different social milieu in which the lives of the majority of citizens were at the mercy of the colonial power. The science at the time had not advanced sufficiently for society to acknowledge that suicide is the end-product of severe mental illness or extreme psychological and/or social distress that, if addressed, would significantly reduce the risk of suicide and improve the mental health of the person.

19. He noted that globally, nine people die by suicide out of 100,000 per year (2019); Kenya's rate is 6 per 100,000. He cited a study using South African data that showed that the presence of mental illness among parents increased the odds of suicidal behaviour among their adult offspring, and the greater the number of parental mental illnesses, the higher the risk of having suicidal ideation.

20. He also referred to another study conducted in Mosoriot in Nandi County (Prevalence of Psychiatric morbidity in a community sample in Western Kenya), which found that 1 in 6 people in the community had made a suicide attempt in their lifetime. The prevalence of mental illness was also high, with almost half having had at least one mental disorder in their lifetime.

21. In addition, the Petitioner noted that there were many reported cases of suicide attempts in hospitals in Kenya, and many reported suicides in the community, as evidenced by police and administrative reports.

22. Further, with worsening socio-economic circumstances and increasingly problematic social relations, suicide rates and the prevalence of mental illnesses were increasing.

23. He also informed the Committee that the World Health Organization indicates that suicides are preventable, and the measures for prevention and control that include limiting access to means, interacting with media for responsible reporting of suicide, fostering socio-emotional skills in adolescents, and early identification and management of those with suicidal behaviours. He empasized that punishment was not one of the recommendations for handling suicide in any setting.

24. In Kenya, the Mental Health Policy 2015-2030 indicated that the high burden of untreated mental illness in the country might be responsible for the daily reported cases of suicide, among other social problems we face, and in the Mental Health Action Plan 2021-2025 the

Ministry of health empasized the implementation of a suicide prevention programme as a priority action in achieving the Strategic Objective of Preventive and Promotive Mental Health.

25. The Committee was also informed that the Presidential Taskforce report of 2020 titled *"Mental Health and Wellbeing- Towards Happiness and National Prosperity"*, recommended that a National Suicide Prevention Programme be established with the role to restrict means, conduct surveillance, education, access to treatment, decriminalisation, responsible media reporting, helpline, and crisis intervention.

26. On criminalization of suicide, the Petitioner observed that the Taskforce recommended that there was a need to decriminalize suicide and amend other laws which are discriminatory and use derogatory language, and that laws relating to the criminal justice system be amended to ensure people with mental health conditions are not discriminated against by criminalization of symptoms of mental illness and get fair administration of justice.

27. He further observed that the Mental Health Action Plan sought the development and implementation of comprehensive national strategic interventions for the prevention of suicide, with special attention to vulnerable groups identified as at an increased risk of suicide. The strategies are to be implemented by the National and County governments, working in collaboration with all stakeholders.

28. In addition, he informed the Committee that one of the strategic activities in the Suicide Prevention Strategy 2021-2026 is advocating for the decriminalization of suicide by repealing Section 226 of the Penal Code.

29. The Petitioner cited a research article authored by Edith Kwobah, Steve Epstein, Ann Mwangi, Debra Litzelman and Lukoye Atwoli titled *Prevalence of psychiatric morbidity in a community sample in Western Kenya*, which found that about 25% of the worldwide population suffers from mental, neurological and substance use disorders. The article further found that up to 75% of affected persons do not have access to the treatment. In addition, data on the magnitude of the mental health problem in Kenya is scarce.

30. The Committee was informed that the research concluded by stating that a large proportion of the community has had a mental disorder in their lifetime, and most of these conditions are undiagnosed and therefore not treated. These findings indicate a need for strategies that will promote the diagnosis and treatment of community members with psychiatric disorders. To screen more people for mental illness, we recommend further research to evaluate a strategy similar to the home-based counselling and testing for HIV and the use of simple screening tools.

31. The Petitioner also cited another research article by Lukoye Atwoli, Matthew Nock, David Williams and Dan Stein, titled *Association between parental psychopathology and suicidal behaviour among adult offspring: results from the cross-sectional South African Stress and Health survey*, He noted that prior studies demonstrated a link between parental psychopathology and offspring suicidal behaviour. However, it remained unclear what aspects of suicidal behaviour among adult offspring are predicted by specific parental mental disorders, especially in Africa.

32. He stated that the results of the study were that the presence of parental psychopathology significantly increased the odds of suicidal behaviour among their adult offspring. More specifically, parental panic disorder was associated with offspring suicidal ideation, while parental panic disorder, generalized anxiety disorder and suicide were significantly associated with offspring suicide attempts. Among those with suicidal ideation, none of the tested forms of parental psychopathology was associated with having suicide plans or attempts. There was a dose-response relationship between the number of parental disorders and the odds of suicidal ideation.

33. The study concluded by stating that parental psychopathology increased the odds of suicidal behaviour among their adult offspring in the South African context, replicating results found in other regions. Specific parental disorders predicted the onset and persistence of suicidal ideation or attempts in their offspring. He recommended further research into these associations to determine the mechanisms through which parent psychopathology increases the odds of suicidal behaviour among offspring.

3.2 Kenya Law Reform Commission

The Acting Secretary, Kenya Law Reform Commission, Mr. Peter Musyimi, vide a letter dated 20th May 2025, submitted as follows—

34. The Secretary stated that the World Health Organization Policy Brief on the Health Aspects of Decriminalization of Suicide and Suicide Attempts names Kenya as one of only twenty-three countries in the world which still criminalized suicide attempts.

35. The Brief also stated that the criminalization of suicide perpetuates an environment that fosters blame and stigmatization towards people who attempt suicide and, at the same time, fail to recognize the role of social, economic and cultural factors that play a role in suicide and suicide attempts. The Brief further states that the criminalization deters people from seeking timely help and accessing interventions due to the fear of legal repercussions and stigma.

36. He noted that the Mental Health Act, Cap. 248 defined a person with mental illness as a person diagnosed by a qualified mental health practitioner to be suffering from mental illness. It included a person with suicidal ideation or behaviour.

37. He submitted that under the Act, therefore, a person who has attempted suicide would be seen more as a patient needing help than a criminal who should be punished. This was so stated in the case of Republic v SWN (Criminal Case 20 of 2019) [2022] KEHC 3312 (KLR) (7 July 2022) (Sentence) where the High Court held that: *"As the facts patently announce, here is a young woman in need of treatment, care and protection. She is certainly not a deranged criminal in need of retribution and confinement."*

38. In the above case, the Committee was informed that the accused person was found to have fatally stabbed her son, killing him immediately. She then turned the knife on herself three times in an attempt to kill herself. One of the issues before the court was its role in sentencing an accused person who was mentally ill.

39. In conclusion, the Secretary recommended that attempted suicide should be decriminalized in Kenya through the repeal of section 226 of the Penal Code.

3.3 Office of the Attorney General and Department of Justice

The Attorney General, vide a letter dated 21st May 2025, submitted as follows—

40. The Attorney General cited the following Articles of the Constitution regarding non-discrimination, protection of human dignity and the right to health in support of the petition:

    a. Article 27 (4) of the Constitution provides that the State shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.

    b. Article 28 of the Constitution provides that every person has inherent dignity and the right to have that dignity respected and protected.

    c. Article 43(1) (a) of the Constitution provides that every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care.

41. The Attorney General also cited a case: High Court in *Kenya National Commission on Human Rights & 2 others v Atorney General: Director of Public Prosecutions & 3 others (Interested Parties): Law Society of Kenya (Amicus Curiae) (Constitutional Petition E045 of 2022) [2025] KEHC 6 (KLR) (Constitutional and Human Rights) declared section 226 of the Penal Code unconstitutional for violating Articles 27, 28 and 43 of the Constitution.*

42. He informed the Committee that the High Court in the above-referenced case held as follows-

    Section 226 of the Penal Code offends Article 27 of the Constitution by criminalizing a mental health issue, thereby endorsing discrimination based on health, which is unconstitutional. It also indignifies and disgraces victims of suicidal ideation in the eyes of the community for actions that are beyond their mental control, which is a violation of Article 28. The existence of Section 226 exposes the survivors of suicide and potential victims with suicide ideation to possible reprisals, thereby eroding the right to have the highest attainable standard of health envisaged in Article 43 (1) of the Constitution.

43. He submitted that Article 2 (6) of the Constitution provides that any treaty or convention ratified by Kenya shall form part of the law of Kenya under the Constitution. Kenya is a signatory to the World Health Organization Global Mental Health Action Plan 2013-2030. The overall goal of the action plan is to promote mental well-being, prevent mental disorders, provide care, enhance recovery, promote human rights and reduce the mortality, morbidity and disability for persons with mental disorders. One of the recommendations in the Plan is the decriminalization of suicide, suicide attempts and other acts of self-harm.

44. He also stated that to realize global commitments such as the Global Mental Health Action Plan (2013-2030), the Ministry of Health developed the Kenya Mental Health Action Plan (2021-2025). The Plan envisions a nation where mental health is valued and promoted, and mental health conditions are treated without stigmatization and discrimination. The Plan provides a roadmap for securing reforms and building strong mental health systems with the ultimate goal of attaining the highest standard of mental health in Kenya. The Plan proposes explicitly the decriminalization of suicide and the amendment of laws which are discriminatory and use derogatory language.

45. The Attorney General concluded that, considering the declaration by the High Court as well as the national and global commitments, the Office of the Attorney General did not object to the repeal of section 226 of the Penal Code as proposed by the Petitioner.

PART FOUR

4. COMMITTEE OBSERVATIONS

Upon hearing from the Petitioner, and examining submissions from the Kenya Law Reform Commission, the Office of the Attorney General and Department of Justice, the Committee observed as follows-

46. Section 226 of the Penal Code, which criminalizes attempted suicide, is a relic of colonial legislation in commonwealth countries that no longer aligns with modern mental and public health policies.

47. The High Court in Constitutional Petition No. E045 of 2022, in its Judgement dated 9th January 2025, declared Section 226 unconstitutional for violating Articles 27 (non-discrimination), Article 28 (on right to inherent dignity), and Article 43 (on right to health) of the Constitution. Therefore, the enforcement of this provision risks undermining constitutional rights.
48. Criminalization of attempted suicide promotes stigma and barriers to mental health care by deterring vulnerable individuals from seeking help.
49. Suicidal thoughts are internationally recognized as indicators of underlying mental health conditions. Furthermore, the Mental Health Act Cap 248 includes persons with suicidal behaviour within the definition of mental illness, classifying them as individuals who need medical support and not punishment.
50. There is a need to align with global commitments on the decriminalization of suicide and prioritization of human rights-based approaches to mental health, considering that Kenya is a signatory to the WHO Global Mental Health Action Plan 2013–2030.
51. The stakeholders that made submissions to the Committee, including the petitioner, the Office of the Attorney General & the Department of Justice and the Kenya Law Reform Commission, supported the repeal of Section 226 of the Penal Code.

PART FIVE

5. COMMITTEE RECOMMENDATIONS

52. Pursuant to the provisions of Standing Order 227, the Committee responds to the Petition as follows—

On the prayer that the Committee repeal Section 226 of the Penal Code Cap 63 to decriminalize attempted suicide, the Committee notes that the High Court in Constitutional Petition No. E045 of 2022 declared Section 226 unconstitutional. The enforcement of the provision risks undermining constitutional rights. **Therefore, the Committee recommends the repeal of Section 226 of the Penal Code Cap 63 to decriminalize attempted suicide.**

Signed: _____ **Date:** 23/09/2025

HON. MUCHANGI KAREMBA, CBS, M.P.
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 23 SEP 2025 DAY. Tuesday

TABLED BY:	Hon. Muchangi Karemba, MP Chairperson
CLERK-AT THE-TABLE:	A. Ushbuko

ANNEXURES

Annex 1: The Adoption List

Annex 2: Public Petition No. 8 of 2024 regarding amendment to the Penal Code to provide for the offense of sextortion

Annex 3: Minutes of the 56th Sitting of the Public Petitions Committee held on 1st October, 2024

PUBLIC PETTIONS COMMITEE

ADOPTION LIST

(i) **Consideration and adoption of the Report on** Public Petition No. 13 of 2024 by Dr. Lukoye Atwoli, regarding decriminalization of attempted suicide.

We, the undersigned, hereby affix our signatures to this Report to affirm our approval:

DATE: 16/9/2025

	HON. MEMBER	SIGNATURE
1.	Hon. Muchangi Karemba,CBS, M.P.(Chairperson)	
2.	Hon. Janet Jepkemboi Sitienei, CBS, M.P.(Vice Chairperson)	
3.	Hon. Patrick Makau King'ola, M.P.	
4.	Hon. Beatrice Kadeveresia Elachi, CBS, M.P.	
5.	Hon. Joshua Chepyegon Kandie, M.P.	
6.	Hon. Maisori Marwa Kitayama, M.P.	
7.	Hon. Edith Vethi Nyenze, M.P.	
8.	Hon. Patrick Ntwiga Munene, M.P.	
9.	Hon. Bidu Mohamed Tubi, M.P.	
10.	Hon. (Eng.) Bernard Muriuki Nebart, M.P.	
11.	Hon. Peter Mbogho Shake, M.P.	
12.	Hon. Suzanne Ndunge Kiamba, M.P.	
13.	Hon. John Bwire Okano, M.P.	
14.	Hon. Sloya Clement Logova, M.P.	
15.	Hon. Peter Irungu Kihungi, M.P.	