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CLERK-AT-THE-TABLE: J-Lemerelle

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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FIFTH SESSION - 2026

DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND INTERNAL SECURITY

REPORT ON: -

THE COMMISSION OF INQUIRY (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.23 OF 2026) SPONSORED BY THE HON. GABRIEL TONGOYO, CBS, MP.

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CHAIRPERSON'S FOREWORD

The Commission of Inquiry (Amendment) Bill, (National Assembly No.23 of 2026) sponsored by Hon. Gabriel Tongoyo, CBS, MP was read a first time on 12th August, 2026 and subsequently committed to the Departmental Committee on Administration and Internal Security for consideration and reporting to the House, pursuant to Standing Order 127(1).

The principal object of the Bill is to amend the Commissions of Inquiry Act, Cap 102, to require the appointment of any person to a commission of inquiry by the President be made with the approval of the National Assembly.

Pursuant to Article 118(1)(b) of the Constitution and Standing Order 127(3), advertisements for request for submission of memoranda were placed in the Daily Nation and the Standard newspapers on 18th August 2026. The Committee received submissions from government institutions including Office of the Attorney General, Ministry of Interior, Kenya Law Reform Commission, Transparency International, the Commission on Administrative Justice and members of the public. All submissions were considered by the Committee and are annexed to the report.

The Committee, having considered the Commission of Inquiry (Amendment) Bill (National Assembly Bill No. 23 of 2026), sponsored by Hon. Gabriel Koshal Tongoyo and taking into consideration views and recommendations of the public pursuant to Standing Order 127(3A), made observations and recommendations contained in Part Four and Part Five of this Report.

Acknowledgement

The Committee sincerely thanks the Offices of the Speaker and the Clerk of the National Assembly for the immense and timely technical and logistical support accorded to it in the execution of its mandate. I also thank all the Members of the Committee for their commitment and hard work in the compilation of this Report.

On behalf of the Departmental Committee on Administration and Internal Security and pursuant to provisions of Standing Order 127(4), it is my pleasant duty to table the Report of the Departmental Committee on Administration and Internal Security on its consideration of the Commission of Inquiry (Amendment) Bill, (National Assembly No.23 of 2026)

HON. GABRIEL KOSHAL TONGOYO, CBS, MP
CHAIRPERSON
DEPARTMENTAL COMMITTEE ON ADMINISTRATION & INTERNAL SECURITY

CHAPTER ONE

1.0 PREFACE

1.1 Mandate of the Committee

1. The Departmental Committee on Administration and Internal Security is constituted pursuant to the National Assembly Standing Order 216(1) which mandates Departmental Committees to-

   a. *investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*

   b. *study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;*
   on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;

   c. *study and review all legislation referred to it;*
   d. *study, assess and analyze the relative success of the Ministries and departments by the results obtained as compared with their stated objectives;*
   e. *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;*
   f. *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);*
   examine treaties, agreements and conventions;

   g. *make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
   h. *consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
   i. *examine any questions raised by Members on a matter within its mandate.*

1.2 Subjects of the Committee

In executing its mandate, the Committee is mandated to consider the following subjects:

a. Home affairs, internal security – including police services and coast guard services;
b. Public administration; and
c. Immigration and citizenship.

1.3 Committee Membership

Hon. Gabriel Tongoyo, CBS, MP
Chairperson
Narok West Constituency

Hon. Col. (Rtd.) Dido Rasso, CBS, MP
Vice Chairperson
Saku Constituency

Hon. Kaluma George, CBS, MP
Homa Bay Town Constituency

Hon. (Prof.) Protus Akujah, MP
Loima Constituency

Hon. Aduma Owuor, MP
Nyakach Constituency

Hon. Rozaah Buyu, CBS, MP
Kisumu West Constituency

Hon. Fred C. Kapondi, CBS, MP
Mount Elgon Constituency

Hon. Mburu Kahangara, MP
Lari Constituency

Hon. Liza Chelule, CBS, MP.
Nakuru County

Hon. (Dr.) Peter Masara, MP
Suna West Constituency

Hon. Sarah Korere, CBS, MP
Laikipia North Constituency

Hon. Francis Sigei, EBS, MP
Sotik Constituency

Hon. Oku Kaunya, MP
Teso North Constituency

Hon. Hussein Weytan, MP
Mandera East Constituency,

Hon. Caroline Nge'lechei, MP
Elgeiyo-Marakwet County

1.4 Committee Secretariat

Mr. Gideon Kipkoech
Clerk Assistant II-Head of Secretariat

Ms. Salim Athuman
Clerk Assistant II

Ms. Clarah Kimeli
Principal Legal Counsel I

Ms. Peninah Simiren
Legal Counsel I

Mr. Benson Kimanzi
Serjeant-at-Arms

Mr. Nimrod Ochieng
Audio Officer

Mr. Edison Odhiambo
Fiscal Analyst I

Ms. Delvin Onyancha
Research Officer II

Ms. Judith Kanyoko
Legal Counsel I

Ms. Hillary Mageka
Media Relations Officer

Ms. Esther Mbatha
Public Communications Officer

CHAPTER TWO

2.0 CONSIDERATION OF THE COMMISSION OF INQUIRY (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 23 OF 2026) BY THE COMMITTEE

2.1 Analysis of the Bill

2. The Commissions of Inquiry (Amendment) Bill, 2026 intents to amend the Commissions of Inquiry Act, Cap. 102. The principal object of the Bill is to align section 3 of the Act with the Constitution of Kenya, 2010, following the High Court's judgment in Azimio La Umoja One Kenya Coalition Party v President of Kenya & 9 others; Kenya National Commission on Human Rights (Interested Party) [2024] KEHC 8251 (KLR), which declared section 3 of the Act unconstitutional to the extent that it grants the President unfettered discretion to appoint judges to commissions of inquiry, thereby undermining the principle of separation of powers.

3. The Bill further seeks to restrict commissions from inquiring into matters within the mandate of constitutional commissions or independent offices unless such matters are of grave national importance.

2.1.1 Background of the Commissions of Inquiry Act, Cap. 102

4. The Commissions of Inquiry Act, Cap. 102, was enacted in 1962 to provide for the appointment of commissioners to inquire into matters of public interest, including the conduct of public officers or public bodies. The impugned section 3 of the Act vests the President with the authority to issue commissions, appoint commissioners, and specify the scope and conduct of inquiries. The Act has been invoked in various instances, including the 2023 Commission of Inquiry into the Shakahola incident, which was challenged and nullified by the judgment of the High Court.

2.1.2 Analysis of the High Court Judgment

5. On May 4, 2023, H.E. the President through Gazette Notice No.5660 established a 'Commission of Inquiry into the Shakahola Tragedy'. The petitioner challenged the President's action of forming the Commission of Inquiry, contending that it amounted to usurpation and undermining of the powers duly assigned to constitutional institutions, State Organs and State Officers. Specifically, the Petitioner contended that the initiative led to usurpation of the powers and mandate of the Judiciary, the National

Police Service, the Director of Public Prosecution and the Public Service Commission's mandate, Parliament, the Independent Police Oversight Authority, and the Kenya National Human Rights Commission.

6. The Petitioner also stated that the establishment of the Commission of Inquiry was a breach of the Commission for Administrative Justice's function to investigate any conduct in state affairs or any act or omission in public administration by any State Organ or State Public Officer.

7. The petitioner further alleged that the action undermined the Senate's authority in forming an ad-hoc committee whose functions mirrored those of the established Commission of Inquiry. As a consequence, the petitioner faulted the President's action of forming the Commission of Inquiry into the Shakahola Tragedy for being in contravention of the Constitution.

8. In its judgement dated 11th July 2024, the High Court declared section 3 of the Commissions of Inquiry Act, Cap. 102, unconstitutional to the extent that it permits the President to appoint a judge to a commission of inquiry without safeguards, thereby violating the principle of separation of powers enshrined in Articles 1, 2, 159, and 160 of the Constitution. The Court held that such appointments threaten judicial independence, as judges are tasked with executive functions outside their constitutional mandate. The Court further noted that the unfettered discretion granted to the President under section 3 lacks clear qualifications for appointees and risks abuse of executive power.

9. The judgment also emphasized that commissions of inquiry must not encroach upon the mandates of constitutional commissions or independent offices established under Chapter 15 of the Constitution, such as the Kenya National Commission on Human Rights or the Office of the Director of Public Prosecutions, unless justified by exceptional circumstances.

2.2 Comparative Jurisdictions

2.2.1 South Africa

10. Under Section 84(2)(f) of the South African Constitution, the President has the power to appoint commissions of inquiry. Commissions of Inquiry are further provided for under the Commissions Act. Under the said Act, the President may appoint a

commission for the purpose of investigating a matter of public concern by a proclamation in the Gazette. The President may make regulations with reference to such commission conferring additional powers on the commission, providing for the manner of holding or the procedure to be followed at the investigation or for the preservation of secrecy and providing generally for all matters which he considers it necessary or expedient.

11. Judges have previously been appointed as Chairpersons of commissions of inquiry. For example, the Chairperson of the Judicial Commission of Inquiry to Inquire into Allegations of State Capture, Corruption and Fraud in the Public Sector Including Organs of State was the then Deputy Chief Justice Raymond Mnyamezeli Mlungisi Zondo.

2.2.2 Ghana

12. Under Article 278 of the Ghanaian Constitution, the President may appoint a commission of inquiry into any matter of public interest, either on their own initiative, following advice from the Council of State, or by resolution of Parliament. The commission may consist of a sole commissioner or several members, with at least one person possessing relevant expertise. The chairperson or sole commissioner must be a Justice of the Superior Court or suitably qualified.

13. The commission has High Court powers, including to subpoena witnesses, compel documents, and examine witnesses under oath. It must conduct a fair and impartial inquiry, submit a written report, and explain its findings. Adverse findings are treated as High Court judgments, subject to appeal to the Court of Appeal. The President must publish the report and White Paper within six months, or give reasons if not. Proceedings are generally public, and individuals implicated may have legal representation and expert assistance. Witnesses enjoy the same privileges and immunities as in court.

2.2.3 United Kingdom

14. In the UK a Minister has the power to commence an inquiry where he is of the view that particular events have caused, or are capable of causing, public concern, or there is public concern that particular events may have occurred. The inquiry may be composed of a chairman alone or a chairman and one or more members. A Minister who proposes to cause an inquiry to be held, or who has already done so without

making a statement, must as soon as is reasonably practicable make a statement to that effect to the relevant Parliament or Assembly.

15. If the Minister wants to appoint a judge to an inquiry panel, they must first consult the appropriate senior legal authority depending on the judge's position. For example, for a Lord of Appeal in Ordinary, the Minister must consult the senior Lord of Appeal; for judges in England and Wales, the Lord Chief Justice; for judges in Scotland, the Lord President of the Court of Session; and for judges in Northern Ireland, the Lord Chief Justice of Northern Ireland.

2.3 Clause by Clause Consideration

16. The Bill contains 2 clauses requiring the appointment of persons to a Commission of Inquiry by the President be made with the approval of the National Assembly.

17. Clause 2 of the Bill repeals section 3 and replaces it with a new section.

Section 3(1) of the Commission of Inquiry Act, Cap. 102 (the "Act") provides that the President may issue a commission to inquire into the conduct of any public officer or the conduct or management of any public body or any matter which in his opinion is in the public interest. New Clause 3(1) provides that the President may with the approval of the National Assembly appoint commissioners to inquire into what in the President's opinion amounts into public interest.

This provision seeks to provide for the oversight role of the National Assembly as stipulated in Article 95(5) of the Constitution.

18. Clause 3(2) of the Bill introduces new provisions which are currently not provided in the Act which states that the President shall not appoint commissioners to inquire into a matter falling under the mandate of a Constitutional Commission or an Independent office established under the Constitution unless the matter requires coordination or joint action and would be effectively addressed through a commission of inquiry.

This provision seeks to protect Commissions and Independent Offices established under Chapter 15 of the Constitution by ensuring that there is no overlap of powers and functions between such commissions and independent offices with the commissions of inquiries issued by the President. Article 249(2)(b) specifically provides that such commissions and independent offices are independent and not subject to direction or control by any person or authority. This stands in contrast to a

commission of inquiry, which is set up by the President and therefore does not carry the same constitutional guarantee of independence.

19. Clause 3(3) of the Bill provides that each commission upon appointment shall be specified with the terms of appointment on the matter to be inquired and when the report should be concluded. The intention pf this provision is to provide or the scope of an inquiry and timelines within which the inquiry may be concluded.

20. Section 3(2) of the Act provides that a commission of inquiry with more than one commissioner may designate one commissioner as a chairperson and where the President thinks it fit, the commission may appoint another commissioner as a deputy chairperson. This subsection has been retained under the new Clause 3(4) of the Bill which provides that where a Commission has more than one commissioner, it may designate one of the commissioners as a vice chairperson.

21. Clause 3(5) of the Bill provides for rules of evidence in an inquiry.

22. Clause (6) of the Bill provides for conduct of an inquiry to be done in public unless the Commission of inquiry is satisfied that a private inquiry can be conducted.

23. Clause 3(7) of the Bill increases penalty where a person who contravenes an order issued by the commission in regard to prohibition against publishing the name, address or photograph of any witness or person or evidence, the person upon conviction shall be liable to a monetary penalty not exceeding two hundred thousand shillings or imprisonment for a term not exceeding 6 months or to both. Section 3(4) of the Act provides that a person contravening such an order shall be liable to a fine not exceeding two thousand shillings.

24. Clause 3(8) of the Bill introduces new provisions on disqualification of a person from being appointed as a member of a Commission which includes if that person –

(a) is a Member of Parliament;

(b) is a Member of a County Assembly, governor or deputy governor of a county or a other member of an executive committee of a County Government;

(c) has been dismissed or removed from office for contravention of the Constitution or any other law; or

(d) is an undischarged bankrupt.

25. The Bill under clause 3(9) further provides that a serving judge subject to consultation and approval of the Chief Justice may be appointed as a commissioner to a Commission of Inquiry. The provision seeks to balance the aspect of separation of power between arms of government.

CHAPTER THREE

3.0 Public Participation

26. Article 118 (1) (b) of the Constitution of Kenya provides as follows—

> "Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees."

27. Standing Order 127(3) provides that—

> "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.

28. Standing Order127(3A) further provides that—

> "The Departmental Committee shall take into account the views and recommendations of the public under paragraph (3) in its report to the House."

29. Pursuant to the provisions of the Constitution and Standing Orders, on public participation, the Committee through local daily newspapers of Tuesday, 10th March, 2026 published an advertisement inviting the public to submit memoranda on the Bill. The advertisement is annexed to this report as Annexure 3.

30. Further, vide a letter dated 26th August 2026, the Committee invited stakeholders to make submissions on the Bill. The meeting was held on 3rd September, 2026 within Parliament Buildings. Stakeholder submissions are annexed as Annexure ...

3.1 Stakeholders' submissions on the Bill

31. The Committee received submissions through written memoranda and oral presentations. In addition to submitting written memoranda, the following stakeholders also appeared before the Committee on 3rd September 2026, to give their oral presentation on the Bill:

(i) the Office of the Attorney General

(ii) the State Department for Internal Security and National Administration

(iii) the Kenya Law Reform Commission

(iv) Transparency International Kenya

(v) The Commission on Administrative Justice

(vi) Members of the Public

32. Both the written memoranda and oral presentations contained general comments on the Bill as well as comments on individual clauses of the Bill as analysed below—

3.1.1 Office of the Attorney General

33. The Office of the Attorney General via memorandum dated 2nd September 2026, during their submission, they recommended the removal of 'with the approval of the National Assembly" in Section 3 (1). The noted that the Parliamentary Approval may limit the executive functions of the President as granted by the Constitution, and the Parliamentary approval would cause undue delay in inquiring into urgent public interest matters.

34. The Office of the Attorney General proposed the additional of Judiciary in subsection 3(2) where the President shall not appoint commissioners to inquire into a matter falling under the specific mandate. This is to prevent the commission of inquiry from encroaching into judicial functions.

35. The Office proposed the deletion of Section 3(5)(b) that states that in the event of any such departure from this instruction, the commissioner shall record reasons therefore in the record of the inquiry. The reason being that Paragraph (b) provides that commissioners may depart from fair administrative action provisions set out in paragraph (a) and is inconsistent with Article 5 of the Constitution which provides for fair hearing.

36. The Office of the Attorney General proposed the deletion of section 3(5)(iv) which indicates that the person shall be given such opportunity as. This is a drafting error and is a repetition of 3(5) (iii)

37. The Office recommended deletion of section 3(9) which notes that serving judge may, subject to consultation and approval of the Chief Justice, be appointed to a Commission

of inquiry as a commissioner. They proposed to substitute is with "A serving judicial officer shall not be appointed to the Commission of Inquiry". The noted that in a case, Azimio la Umoja v President of Kenya, the court declared that to that extent of section 3 of the Commissions of Inquiry Act gave the President unrestrained discretionary power to appoint a serving judge to the Commission of Inquiry undermined the principle of separation powers and was a threat to the independence of the Judiciary and therefore unconstitutional.

3.1.2 State Department for Internal Security and National Administration

38. The State Department proposed section 3(1) that proposes vetting of nominees. They noted that the objectivity of the vetting exercise may be negatively affected by partisan interest and possible risk of overreach by the National Assembly into the core executive functions hence infringement on the doctrine of separation of powers. They also noted that parliament vetting may be slow causing delays and there are risks of the majority influencing the vetting process at the expense of the minority, hence interfering with substantive oversight.

39. The State Department of National Security and Internal Administration proposed deletion of limitations of the presidential power as in section 3(2). They noted that this power should not be fettered, that the Commissions of inquiry are best suited to handle urgent matters of serious public importance.

40. The State Department noted that, in section 3(3) on submission of the report should not be at the discretion of the Commission but should be set by the President. They noted that this ensures certainty in the work of the Commission.

41. The State Department for Internal Security and National Administration, section 3(8) on disqualification from appointment as a member of the commission, proposed that persons convicted of criminal offences and sentenced to imprisonment for a period of more than six months, as these are felonies justifying disqualification.

3.1.3 Kenya Law Reform Commission

42. The Kenya Law Reform noted that Clause 3(2) restricts the appointment of a Commission of Inquiry where the matters fall within the mandate of Constitutional Commission or Independent Office established under the Constitution. They further noted that the provision does not extend the same protection to other constitutional

or statutory bodies whose functions are specifically assigned by the Constitution or written law. They proposed expansion of 3(2) to cover other State organs and statutory bodies whose specific functions are assigned by the Constitution or written law.

43. The Commission noted that section 3(4) provides that where more than one commissioner is appointed the Commission may designate one commissioner as the vice-chairperson, but it does not provide for the designation of a chairperson. They proposed to replace the vice chairperson with chairperson if that is the intended office.

44. Clause 3(3) of the Bill provides that each commission upon appointment shall be specified with the terms of appointment on the matter to be inquired and when the report should be concluded.

3.1.4 Transparency International Kenya

45. The organization noted that there is a Court ruling between Azimio za Kenya and The President of Kenya and 9 others where the Court declared section of the Commissions of Inquiry Act unconstitutional, finding the granting the executive unchecked authority to appoint sitting judges weakens judicial independence and the separation of powers. They further added that the court ruled that presidential commissions must not usurp or replicate the constitutional mandates of existing independent state organs.

46. The Transparency International Kenya recommended amendment of section 3 to be each commission shall specify the matter to be inquired into and direct where and when the inquiry shall be made and reports submitted, they noted that this will enhance transparency by requiring the commission to clearly define its scope to ensure it acts within its powers and duties.

47. The organization proposed deletion of section 3(5) (a) (iii) which was a repetition.

48. The Transparency International Kenya proposed addition of section 3 (6) to indicate that a "person who contravenes the orders of the commission under sub section (2) and publishes the name, address and photograph of a witness or a person or any evidence or information that can be used to identify such person or witness commits an offence and shall, without prejudice to section 121 of the Penal Code be liable on conviction to imprisonment for a term not exceeding seven years. They noted that this will enhance the protection of protected witnesses and prohibit publication of their

information and where appropriate punish persons who contravene the orders of the commission. The proposed mode of the sentence is aligned with section 30 of the Witness Protection Act.

49. The organization proposed insertion of a new sub section 3(8) e- is a Cabinet Secretary or any other State Officer. They noted that this will prohibit the appointment of Cabinet Secretaries and other State Officers under the National Executive to prevent conflict of interest and enhance the independence and effective functioning of the commission.

50. The organization proposed that the insertion of section (f) does not meet the requirements Six of the Constitution, they noted that this will ensure that individuals with questionable integrity pending corruption cases or those who have failed integrity vetting by Ethics and Anti-Corruption Commission are legally barred from sitting in public inquiry commissions.

3.1.5 The Commission on Administrative Justice (Office of the Ombudsman)

51. The Commission on Administrative Authority supported the bill and noted that the Approval of Appointments section 3(1) introduces parliamentary approval for presidential appointments of commissioners, but lacks statutory criteria, vetting guidelines of conflict-of-interest standards. They proposed section 3(1) to be "provided that the approval process by the National Assembly shall evaluate integrity, impartiality, and competence, and every nominee shall submit a signed declaration of actual, potential or perceived conflicts of interest prior to vetting". They further noted that this will enhance public trust, prevent political patronage and guarantee compliance with Chapter Six (Leadership and Integrity)

52. The Commission noted that the on the definition of "Coordination of Joint Action" the expression requires coordination or joint action by two or more Constitutional Commissions or Independent Offices is vague and risks scope creep or misuse to bypass standard bodies, that coordination should embed the principle of institutional subsidiarity.

53. The Commission on Administrative Justice noted that the existing practice shows inquiries risk suspending, terminating or superseding ongoing lawful investigations by Chapter 15, bodies like CAJ. The proposed that the establishment of an inquiry shall not terminate suspend or invalidate proceedings before CCIO. The commission noted

that the establishment of a Commission of Inquiry under this Act shall not suspend, terminate, or invalidate any active investigation, inquiry, or remedial proceeding lawfully undertaken by a Constitutional Commission or Independent Office.

54. The Ombudsman noted that there mere permitting of a person to be present during hearings does not satisfy the right to Fair Administrative Action under Article 47, and they proposed insertion of "where an adverse finding against any person is contemplated, the Commission shall issue written notice specifying the allegations and evidence and afford the person not less than 14 days to respond before the final report is adopted.

55. The Commission noted that broad discretion to hold in-camera proceedings without written justification threatens transparency and public access to information. They proposed addition in section 3(6) to indicate 'where the Commission orders in-camera proceedings, it shall record written reasons demonstrating the necessity and proportionality of the restriction and publish such determination in the official record within 7 days.

56. The Commission also proposed that section 3(9) be amended by inserting "a serving judge may, subject to consultation with and approval by the Chief Justice, be appointed to a Commission of Inquiry as a Commissioner provided that the judge shall, for the duration of such appointment, be placed on leave from judicial duties in accordance with the applicable law and regulations governing judicial officers". They noted that this will ensure administrative decision making remains accountable, traceable and open to judicial review under administrative law.

57. The Commission also proposed insertion of "any departure from standard procedure or evidentiary safeguards shall be recorded Contemporaneously with reasons". They noted that this will ensure administrative decision making remains accountable, traceable, and open to judicial review under administrative law.

3.1.6 Judicial Service Commission

58. The Commission noted that the proposed section 3(2) restricts the Commission of Inquiry from inquiring into a matter falling under the mandate of a Constitutional Commissions of Independent Office established under the Constitution. They supported the proposed safeguard.

59. The Judicial Service Commission proposed the deletion of section 3(2)(b) which gives the president considerable discretion to determine when a matter within the mandate of independent institutions should be subjected to a Commission of Inquiry or alternatively require consultation with the affected institutions and considerations of views followed by National Assembly approval.

60. The Commission proposed the deletion of exceptions where the matter would be effectively addressed through the issue of commission of inquiry. They noted that this gives the president a broad discretion to determine that a matter reserved for an independent institution would be more effectively addressed through a Commission of Inquiry, potentially undermining its constitutional mandate and independence.

3.1.7 Members of the Public

Two memoranda were received from members of the public,

Mr. Amos Waqo Abduba

61. He supported the bill noting that the bill would strengthen accountability, and public interests, prevent duplication of constitutional institutions and protect the rights to be heard.

62. He further submitted that the bill would promote evidence-based inquiries, safeguard judicial independence and promote integrity and impartiality.

Mr. Saul Nyamogo

63. He supported the Commission of inquiry Bill and submitted that, he recommended, strengthened safeguards governing overlap with constitutional commissions and independent offices, application of necessity in private proceeding and departure form procedures. He further added that he recommended transparency and conflict of interest safeguards during parliamentary vetting, and timely publication of commission reports.

64.

CHAPTER FOUR

4.0 OBSERVATION

65. Upon consideration of the Bill, the Committee observed the following—

(a) The appointment of commissions of inquiry is an important mechanism for investigating matters of public interest, promoting accountability, establishing facts and recommending appropriate remedial measures;

(b) The establishment of a commission of inquiry and the appointment of its members must be guided by constitutional principles, the rule of law, accountability, transparency and the efficient utilisation of public resources;

(c) A commission should be established to investigate a particular matter of public interest, with clearly stated terms of reference, objectives, scope and expected outcomes;

(d) There is need to amend the Commissions of Inquiry Act to comply with the Constitution;

(e) Under Clause 3(1) the proposed amendment seeks to establish a legal requirement for approval of members of an inquiry by the National Assembly, the Committee is of the view that the proposal lacks a statutory criterion on vetting for approval by the National Assembly and also some commissions of inquiries are appointed based on public interest that may require urgent investigation or conduct of the inquiry;

(f) On Clause 3(1) the Committee further notes that the National Assembly has power under Article 125 to summon any person/institution to answer to any report or any matter of public concern, the National Assembly can still exercise its oversight powers upon Commission of inquiries if need be;

(g) Clause 3(5) paragraph (a)(iii) and (iv) are similar thus there is need to delete one sub-paraph; and

(h) Clause 3(6) to be renumbered to synchronize with the other sub-sections.

CHAPTER FIVE

COMMITTEE RECOMMENDATIONS

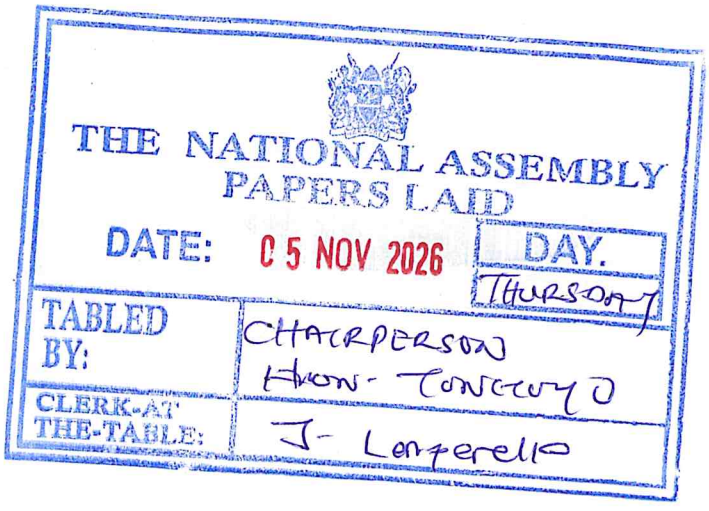
66. The Committee having considered the Commission of Inquiry (Amendment) Bill (National Assembly Bill No.23 of 2026) and the submissions from members of the public and stakeholders, recommends that the House **APPROVES** the Bill subject to the amendments contained in the proposed schedule of amendments.

SIGN..... DATE....4th Nov, 26.....

HON. GABRIEL KOSHAL TONGOYO, CBS, MP

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON ADMINISTRATION & INTERNAL SECURITY



SCHEDULE OF PROPOSED AMENDMENTS

CLAUSE 3

THAT Clause 3 of the Bill be amended-

(a) in subclause (1) by deleting the words "with the approval of the National Assembly" appearing after the words "the President may";

(b) in subclause (5) by deleting paragraph (a)(iv);

(c) by deleting subclause (6) and substituting therefor the following new subclause (6)-

"(6) A commission shall hold an inquiry in public except where the Commission is satisfied that a public inquiry is desirable for-

(a) the preservation of order;

(b) the due conduct of the inquiry; or

(c) the protection of the person, property or reputation of any witness in the inquiry or any person referred to in the course of the proceedings.

Provided that, where the Commission is satisfied that the inquiry shall be held in private, the commission shall order that no person shall publish the name, address or photograph of any witness or person or any evidence or information whereby the witness is likely to be identified."

THE NATIONAL ASSEMBLY
13TH PARLIAMENT – FIFTH SESSION (2026)
COMMITTEE ON ADMINISTRATION AND INTERNAL SECURITY

REPORT ADOPTION LIST OF THE

DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND INTERNAL SECURITY ON THE COMMISSION ON INQUIRY (AMENDMENT) BILL NO.23 OF 2026) SPONSORED BY THE HON. GABRIEL TONGOYO, CBS, MP

We, the undersigned Members of the Departmental Committee on Administration and Internal Security do hereby append our signatures to adopt this Report

Date: 06/10/2026

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