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Cc:  
Hon. Samuel Chepkonga  
Chairperson  
Kenya National Assembly  
Departmental Committee on Justice and Legal Affairs  
Parliament Buildings  
P.O Box 41842-00100  
Nairobi

10 February 2017

Dear Sir

**RE: Constitution of Kenya (Amendment) Bill, 2017**

The Institute for Social Accountability (TISA), Centre for Enhancing Democracy and Good Governance (CEDGG), Africa Centre for Open Governance (AfriCOG) and their legal partner Katiba Institute (KI) through this letter responds to the call for submission of memoranda to the Constitution of Kenya (Amendment) Bill, 2017.

1. The call for submission of memoranda on the Constitution of Kenya (Amendment) Bill, 2017 published in the Daily Nation on 2 February 2017 indicated that the deadline for public input was 10 February 2017. Noting that the Bill underwent its first reading on 9 February 2017, the short period for public input undermines the threshold for public participation given that Article 256 of the Constitution allows for a ninety-day period between the first and second reading for a constitutional amendment Bill.
2. As one of the key pillars of Kenya's constitutional democracy Parliament is called upon to promote a constitutional culture through the promotion and protection of the Constitution. This implies using its legislative powers in the furtherance of the principles and objects of the Constitution. It is noteworthy, that the proposed amendments seek to fundamentally deface and negate the underlying tenants of the Constitution, in particular devolution and the principle of separation of powers. We therefore surmise that the proposed amendment is unconstitutional.
3. We note that it is the responsibility of the Speaker and clerk to provide guidance in the legislative endeavours of the National Assembly; In this regard we regretfully observe that they have failed to do so.

In summary, the proposed bill is offensive to both the letter and spirit of the Constitution, and in the unfortunate event that it is passed, defenders of Kenya's constitutional democracy will be forced to find recourse in the courts.

Sincerely,



Wanjiru Gikonyo  
National Coordinator