



23<sup>rd</sup> October 2019

## Statement on the Constitution of Kenya (Amendment) Bill, 2018 (Senate Bills No. 40)

Last week the Clerk of the Senate issued a notice for public participation on the *Constitution of Kenya (Amendment) Bill, 2018 (Senate Bill No. 40)*, and will hold a public hearing on the Bill on 24<sup>th</sup> October 2019 at KICC from 9am.

1. The Bill seeks to remove Nairobi County from the ambit of county governments and to place it under the leadership of the National Government.
2. The Bill further seeks to establish Nairobi as the National Capital City and empower the President to nominate a Cabinet Secretary to manage the City.
3. The proposed amendment to the *Constitution* will require approval of the people through a referendum in accordance with the *Constitution Article 255(1)* because it relates to matters on the objects, principles and structure of devolved government.
  - *The Bill seeks to amend Article 6 of the Constitution that provides for devolution and access to services. Article 6(1) provides that the territory of Kenya is divided into counties specified in the First Schedule.*
4. However, the proposed amendment will reverse the gains of devolution for the residents of Nairobi county.
  - *Among the objects of devolution were to: strengthen self-governance; increase public participation in making decisions that affect them; recognize the right of communities to manage their own affairs; promote social and economic development; provide proximate and easily accessible services; promote democratic and accountable exercise of power.*
5. Devolution should improve responsiveness to local needs and improve targeting of interventions. Jill Cottrell Ghai,<sup>1</sup> raises critical questions in her analysis of the Bill, that is,  
*“Will a national department be concerned about issues of concern to the true residents of Nairobi? What solution would ensure that Nairobi is an efficient, welcoming city for the public governmental functions of a national capital, and for its international role? And, that solution must also ensure, as a matter of equal or greater priority, that it is a city that embraces its residents, the people who make it work and make it welcoming, and does not drive them to its periphery.”*

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<sup>1</sup> <http://www.katibainstitute.org/wp-content/uploads/2019/06/An-Audit-of-the-Constitution-of-Kenya.pdf>