



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT**

**NATIONAL ASSEMBLY**

**THE HANSARD**

**VOL. I NO. 6**

## THE HANSARD

Thursday, 6<sup>th</sup> October 2022

The House met at 2.30 p.m.

*[The Deputy Speaker (Hon. Gladys Boss) in the Chair]*

### PRAYERS

### ADMINISTRATION OF OATH

*Hon. Abubakar Ahmed Talib was escorted into the Chamber  
by Hon. Ali Wario and Hon. Khamis Chome)*

The Oath of Office was administered to:

Mr. Abubakar Ahmed Talib

### COMMUNICATION FROM THE CHAIR

#### DELEGATION FROM KWALE COUNTY

**Hon. Deputy Speaker:** Hon Members, I wish to introduce to you a delegation of Members of the County Assembly (MCAs) of Kwale who are seated in the Speaker's Gallery. It is led by the Speaker, Hon. Seth Mwatela Kamanza.

*(Applause)*

The Members are currently undergoing a five-day induction on their roles and mandates at the Centre for Parliamentary Studies and Training (CPST), since 4<sup>th</sup> October 2022.

On my own behalf and that of the House, I welcome them to the National Assembly and wish them fruitful engagements during the course of the induction.

Thank you.

### MOTION

#### DEBATE ON THE ADDRESS BY THE PRESIDENT

THAT, the thanks of the House be recorded for the exposition of public policy contained in the Address of the President delivered on Thursday, September 29, 2022.

*(Hon. Gladys Boss on 5.10.2022 – Morning Sitting)*

*(Resumption of Debate interrupted on 5.10.2022 – Afternoon Sitting)*

**Hon. Deputy Speaker:** Hon. Members, we will continue with the debate on the President's Speech. I can see the names of the persons who are ready to speak.

*(The Deputy Speaker consulted with the leading Clerk-at-the-Table)*

Member for Kiharu, what is your point of order? Your microphone is working now.

**Hon. Ndindi Nyoro** (Kiharu, UDA): Thank you, Hon. Deputy Speaker, for this opportunity. This House is very anxious, and our country is paralysed in so far as the determination of the majority and minority sides in this House is concerned. The Speaker had indicated that this House was expecting a Communication from the Chair so that we determine the majority and minority sides. This will allow us to continue with the very business that brought us to this House.

I seek your guidance because the country cannot continue to wait in paralysis and this House cannot continue to wait in anxiety.

I seek your communication.

**Hon. Deputy Speaker:** Hon. Members, hold your horses. We still have until 8.00 p.m. The session is not yet over.

*(Applause)*

Now, I will call upon the Member for...

*(Loud consultations)*

Proceed now that you are on your feet.

**Hon. Junet Mohamed** (Suna East, ODM): Thank you, Hon. Deputy Speaker. We stand guided as per your communication. As you are aware, this is a House of record and procedure. The last communication that we heard from the substantive Speaker was that he would deliver a ruling on the issue of the majority and minority sides on Thursday, 6<sup>th</sup> October 2022 at 2.30 p.m. It is in the *Hansard*. The *Hansard* will bear me witness that the Speaker pronounced himself on the Floor of the House that he would deliver his ruling at 2.30 p.m. It is now 2.44 p.m. We are late by 14 minutes. Maybe the ruling is not ready, or the law has taken its course and wisdom has befallen the leadership of the House and they have realised that the Azimio la Umoja-One Kenya Alliance is the majority side, so that we move forward. We need to move the country forward as my colleague, the Kiharu Member of Parliament (MP), alluded to. We should not keep the country paralysed nor Parliament in anxiety.

The rule of law is very clear, as lawyers say. The law is very clear. There are many lawyers in this House, some of who are Senior Counsels. I think Hon. Murugara is here. The lawyers are here. The law is very clear. So, can we authoritatively say that the decision has been made in silence that the Azimio la Umoja-One Kenya Alliance is the majority party in the House, we move forward and conduct business as it is known in Parliament?

*(Laughter)*

**Hon. Deputy Speaker:** Hon. Member, you are out of order. You have no power or authority to make a ruling on that point. The Hon. Speaker clearly communicated that he would give his ruling during this session that starts at 2.30 p.m. and ends at 8.00 p.m. Until we get to 8.00 p.m., we still have time.

*(Loud consultations)*

Order, Hon. Members! We will proceed with the debate. I have put that issue to a close. We will now proceed to continue with the debate.

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Member for Lang'ata Constituency, you have the Floor. It is your turn.

**Hon. Phelix Odiwour** (Lang'ata, ODM): Thank you, Hon. Deputy Speaker. First of all, let me take this opportunity to congratulate you for having been elected the Deputy Speaker of this House. I also take this opportunity to thank the people of Lang'ata for giving me the chance to represent them in this august House. I thank Team Jalas that put up a very big battle. The battle for Lang'ata was not an easy one. I take this opportunity to also thank my party, the Orange Democratic Movement (ODM), and my party leader, Raila Amolo Odinga, who supported me all the way to the end. I thank the teams from Mugumoini, Highrise, South C, Nairobi West, and Karen Wards. Most of the Members here are my constituents. Thank you for your support. I take this opportunity to, again, thank my family that was with me in the battle.

I picked one thing in the President's Speech that is very key for my constituency, which is affordable housing. I am happy that the President is coming to Lang'ata this week for the launch of 4,500 houses in Zone B of Nyayo Highrise. I take this opportunity to tell the people of Lang'ata to be ready. This project has taken long but it will finally come to fruition.

Secondly, I would like to talk about the Hustler Fund. I would like the fund to be given to the Members of this House to care and be in charge of it. We campaigned with the hustlers and we know them better than anyone else. We were with them.

I also want to talk about the savings that the President talked about. If the Hustler Fund is coming, let the savings also be directed to the hustlers themselves so that they receive and save them on their own. Let them not be given to anybody else.

For Lang'ata, I want to talk about stalled projects. We have a case in South C Market where the land has already been allocated. They are just waiting for a few confirmations and approvals from the county government. I request the county government to expedite this so that work in that market can begin in earnest. I also thank the team that has been pushing for Mugumoini Market to start operating. Chairman Alois, I know you are watching. You asked me to push for this market. The lawyers who are here, help us push for this market so that the small battles we have in court can come to an end. We want this over and done with.

I take this opportunity to tell the people of Lang'ata that the issue of water will be addressed. Anytime one mentions Lang'ata everybody talks about water. The Northern Corridor Grid is already being worked on. We hope the water issue will finally end during this term and my regime as the Member of Parliament for Lang'ata. That is when the Northern Corridor infrastructure is completed and we are gridded into it.

Finally, I ask the Hon. Speaker to, in his wisdom and wherever he is, make the best ruling that Azimio is the Majority in this House. That is when he comes here later.

Thank you so much, Hon. Deputy Speaker.

*(Laughter)*

I donate the remainder of my time to Hon. Salasya. He had requested me to donate some two minutes to him. He had something he wanted to say. Hon. Salasya is here. Thank you.

*(Laughter)*

**Hon. Deputy Speaker:** No. You are out of order. I now call upon the Member for Kigumo.

*(Loud consultations)*

**Hon. Joseph Munyoro** (Kigumo, UDA): Thank you, Hon. Deputy Speaker. My name is Joseph Kamau Munyoro from Kigumo Constituency. I take this opportunity to, first, congratulate the Hon. Speaker, Moses Wetang'ula and you, Hon. Deputy Speaker, on your election as the Deputy Speaker. I also congratulate our President, His Excellency William Samoei Ruto and the Deputy President, Rigathi Gachagua on their election.

Secondly, I thank the people of Kigumo for giving me this opportunity to serve them as their representative in this 13<sup>th</sup> Parliament. People from Kahumbu, Muthithi, Kigumo, Kinyona and Kangari Wards, I thank you. I promise you that I do not take for granted the election we conducted and you giving me the votes overwhelmingly. I will endeavour to serve you. I assure you that I will keep all the promises I made. I also take this opportunity to thank my family, my dear wife and children for the support they gave me during the campaigns. I thank my extended family too and my brothers and sisters, and my mother in Mareira, for giving the support that was required during the campaigns, for me to get to this Parliament. I assure them that our family name is in safe hands.

I would like to tell the people of Kigumo that we have projects that we are following up. We have Kangari Market that, we know, is halfway done. I assure them that we will be looking at it and making sure that it is completed. We are launching Muthithi Market. We will do ground breaking next week. I assure them that we will ensure that all the projects we have in the constituency are completed during my term. I also assure them that we have spoken about bursaries and the National Government Constituencies Development Fund (NG-CDF). I thank the President for mentioning it here and assuring us that we will have the kitty to enable us educate our children. We know that many of them are at home and some of these children can only be helped by paying their school fees from the kitty. We assure them that we will do that without favour, and it will get to the needy people.

To comment on the President's Speech, one of the things that really touched us as the people of Kigumo is on agriculture. We come from an agricultural constituency. We have tea and coffee, and we do dairy farming and horticulture. Many of us are touched by farming. So, the issue of fertiliser subsidy has really helped. That is money directly put into people's pockets through the President's Order to have the cost of fertiliser reduced. I saw the President meeting with the Tea Board of Kenya yesterday. I request him that we also look at the market. As we get the farmers, especially of tea, let us do away with the cartels that control the prices. Since he has decided that we should go with one brand that is Kenyan and stop having blends, I ask him to look at having a better market for our tea farmers so that we can put more money into their pockets.

I thank the President too for mentioning the Hustler Fund. We are waiting for the kitty because our young men and women are at home and most of them are jobless. They do not have capital to start and run their businesses to enable them feed their children. He also mentioned the issue of water. Water is one of our real problems, especially in the lower areas of our constituency. We would like to be involved as much as possible because if we are increasing the water supply from 60 per cent to 80 per cent, the constituencies that suffer most should be at the frontline. The lower area of Kigumo, especially Kahumbu, parts of Muthithi and areas of Kangare need support and water made available.

The President mentioned electricity. We want to connect our people to electricity so that they can start their businesses even in the *Jua Kali* sector and run them for income.

Hon. Deputy Speaker, I will also mention the issue of interest rates, and especially the Fuliza issue. We know that many of our people have those loans on their phones. Some of them cannot transact using M-Pesa due to these loans. The lowering of the interest rates is really a good thing for us. I hope they will be lowered even further because even the 50 per cent is still high.

The President raised the issue of the Cabinet Secretaries coming into the House of Parliament so that they are asked Questions. We have the Mau Road that is being constructed and we have had issues with it. This is because it traverses more than one constituency. It would be fair for the Cabinet Secretary to answer one Question instead of each Member of Parliament asking a Question to the Cabinet Secretary on their own, and them having to prepare an Answer for each one of us. That should be supported. On any legal framework that will come into this House for us to actualise, I assure the President of our support.

I will finish by saying that, coming from an agricultural constituency, we will still need more to be done for our agriculture. There is market for our Hass avocados. We need to be assured because we have somewhat of a cartel in the avocado industry. That is so that everybody sells their avocados directly without having to go through brokers hence making more money.

Any legislation that will come into this House aims at supporting and actualising the promises made by the United Democratic Alliance (UDA) Government and our President. So long as it is serving our people, they can count on my support. I also assure our Kigumo people that their interests of being represented will be well done. On legislative functions, I will make sure that laws passed here also support and favour us. I assure them that we shall oversee the Government.

I thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Thank you. Member for Dagoretti South.

**Hon. John Kiarie** (Dagoretti South, UDA): Hon. Deputy Speaker, I take this very early opportunity to, first, congratulate you. You are legendary. You are one of the few Kenyans I know who have served in all the three Arms of the Government. We saw you do some amazing work in the Executive. We know you did some great leadership in the Judiciary and you are now in the legislative Arm of Government as the Deputy Speaker. I take this opportunity on behalf of the people of Dagoretti South to profusely congratulate you on ascending to the very high office of Deputy Speaker of this House. In the same breath, I congratulate the Rt. Hon. Moses Wetang'ula on being elected overwhelming as the Speaker of the 13<sup>th</sup> Parliament. This is my first address in this House on a substantive issue. So, I take this opportunity to thank the people of Dagoretti South Constituency, who decided that *kweli* it is time for us to get back to *Bunge* and do that which we had started in the last term.

On the speech by the President, I want to concretise it into thematic areas. I was able to note that the speech by the President was succinct. It was short, sweet and to the point and after all was said and done, out of the many paragraphs, one is able to summarise it into seven very profound thematic areas. His Excellency, the President was able to speak on agriculture and food security and the grand plan. He not only spoke about it but he has already sanctioned it through executive action because we saw him moving our subsidies from consumption to production. On that alone, I commend His Excellency, the President.

This is a man who was elected on the back of a wave of a campaign that was driven by the hustlers of this country. The President was careful to recognise that there is a sector called the Small and Micro Enterprises (SMEs) and to it, he spoke elaborately about the plan of investing in this very critical sector. Of importance to me is the fact that this House has a role to play in connecting the drive on SMEs with the Technical and Vocational Education Training institutions (TVETs) and the installation of institutions that will be used for incubation and for apprenticeship for the people in the SMEs.

For people like us who represent urban constituencies, we took note of the great investment in the Hustler Fund and the Enterprise Fund, which we know is going to spur development in this area. I pride myself as the “women representative” of the people of Dagoretti South Constituency. I am a feminist and admittedly so, so I was very excited when His Excellency the President took up the women agenda. We know what the plans are and we

saw them when he signed charters with the women of this country. Not only did he sign a charter but he also transformed it into an agenda in his manifesto, which ended up becoming the Kenya Kwanza Plan that we shall be implementing. I commit as a feminist and the “women representative” of the people of Dagoretti South to support any legislative agenda that will push the women agenda in this House.

His Excellency the President was keen to bring up the health agenda. When each Member of Parliament here does their clinics on Monday mornings, the biggest issue they have to contend with is how to pay hospital bills and bills for the deceased. This country cannot afford to continue paying for health out of pocket. When his Excellency the President will champion Bills to reform the National Hospital Insurance Fund (NHIF) in this House, I shall be a champion. I will champion for the reform of the health sector, and more so health financing. I commend the President for putting it in his speech.

We have been told that there is a taskforce coming up to review the Competency Based Curriculum (CBC). So, when it came up as an agenda on the President’s Speech, I was excited because some of us have children in Grade Six this year. We want to know what CBC means for a young child of 12 years taken to a high school and has to be in school with students who are probably 18 or 19 years. So, when we shall come to the issue of education, I know even this House shall be involved in recommending some changes to CBC form of education and this taskforce will be one of the things that will be a highlight in the life of this Parliament.

Hon. Deputy Speaker, His Excellency the President applied himself on the issue of Information Communication Technology (ICT) and the digital economy. This is a sector that brought me up. I would like to report to this House that in the world that we are living today, ideas and data are the currency. If we do not take note of the new and emerging economies in the digital and creative economy, we shall not be fit for any purpose in a time such as this. So, it is my joy and celebration that His Excellency the President, through his very important speech, was able to address the issues of the creative digital economy.

The question on whether telcos should continue operating as banks, whether they can be regulatable when they operate by the Communications Authority of Kenya while they are also conducting monetary business that should be overseen and regulated by the Central Bank of Kenya (CBK) is an issue of concern. The issue of *Fuliza* and digital loans is critical. We cannot have a country that is listed as people who cannot pay loans. The idea of moving the Credit Reference Bureau (CRB) to a credit system was very welcome as an idea from His Excellency the President. I know this House shall have a bite on this issue. I know that our Members who represent Kenyans and have been listed, and who have been condemned shall be contributing to it.

For me, the housing issue is critical. I hail from this city that brought me up. I do not know of any other place. As people retreat to their rural areas, Nairobi is my *ushago* so to say. So, when the issue of housing and settlement was brought up by His Excellency the President, I was keen to know what he had to say. I picked out a great idea of aggregation, specialisation and standardisation that speaks to the people of Dagoretti South, who are worldly renowned as artisans and as *Jua Kali* Sector idea leaders. Hon. Deputy Speaker, if you drive on your way from Adams Arcade round-about all the way to Karen, you shall see the street lined-up on both sides of the road by *Jua Kali* artisans. These are people who will benefit from the housing and settlement plan.

Hon. Deputy Speaker, because there is no much time to lay out everything I wanted to say, I would leave it at the issue of corruption. Hon. Fatuma Mohammed from Migori County said that His Excellency the President had nothing to say about corruption. That speech was laden with issues if addressed would address the main issue of corruption. Even as we address corruption, we need to remind ourselves what Mother Theresa told us – that, whatever you resist, persists. We cannot keep glorifying corruption by giving it a high pedestal. Let us start

speaking about integrity. Let us make institutions that are titled with the word integrity and let us stop glorifying corruption as a name. The more we glorify it, the more it persists. It is upon us to align ourselves with integrity, ethics and morals but not to keep glorifying corruption.

Hon. Deputy Speaker, I thank you for giving me this opportunity. I take this chance to congratulate each and every Member of Parliament who was elected and I wish you a good...

**Hon. Deputy Speaker:** Thank you Member for Dagoretti South for your kind words. I would now call the Member for Suna West.

**Hon. Peter Masara** (Suna West): Thank you, Hon. Deputy Speaker for giving me this opportunity to contribute in this House.

First, I congratulate you for being elected the Deputy Speaker of the 13<sup>th</sup> Parliament. Before I say something about today's agenda, let me thank the great people of Suna West for electing me for the second time to represent them in this very important House.

I thank the youth, religious leaders, professionals, business community and all those who worked 24 hours to ensure that my second victory is one which I am not taken to court to be challenged.

As I continue to contribute to today's Motion, there are several areas I want to mention, more particularly on the youths. We are talking about the Hustler Fund according to the President's Speech. Some hustlers are old men and women, and the youths. I however want to particularly put emphasis on the issue of the youths of this country. Many were promised that there would be *pesa mfukoni* while some were to be given Kshs6,000 every month. All of them are, however, now lamenting. If you read the Bible, the Book of Habakkuk, they do not know if there is money in their pockets or at the end of the month they are going to get the promised Kshs6,000. Can we not formulate a policy to have a youth commission that will ensure that small and medium enterprises money is given to the youth? This is because they do not have enterprise startup capital. As we move forward and discuss the President's Speech, we should also put emphasis on the issues of youths so that they can be part and parcel of this country.

I agree with what the President said on the Universal Health Coverage. We want to try and increase the number of people being covered by the National Hospital Insurance Fund (NHIF). However, let us also consider the standards of health facilities in this country. We have very few referral hospitals in this country. If we do not increase their numbers to enable every county to have a well-equipped hospital, we will continue losing our citizens simply because they cannot access standardized health services. On the same note, we may talk of Universal Health Coverage but what about the health workers? Do they have good representation? As we talk, the 47 counties are not able to manage our health workers well. This House should, therefore, consider forming a health commission so that they can deal with issues of health workers in this country.

On the same note, I want to talk about infrastructure. The President did not cover this in his Speech. The people of Suna West were expecting a lot in terms of infrastructure. We have a major road in Suna West called Kababu-Piny Oyie-Adera Road which is still unusable. We expected a lot of money to be allocated to infrastructure so that we can benefit to enable us make this road to bitumen standard.

We have civil servants in this country and as we all know, the cost of living is so high while salaries remain the same. We need to look into our civil servants, and our men and women in uniform when we discuss economy issues. This is because in their circumstances, very few people think about them.

Our education system is confusing. Let us formulate policies which can guarantee standardized education. Today, even the professionals are not sure of what is going to happen tomorrow. January is just next door but we do not know the system we will use. Above all, the Government has tried over a period of time on the issues of free secondary education. The



question, however, is: Is the money allocated for secondary school students enough as per the current situation? Something has to be done about it.

We also need to do something on the price of *unga*. Currently, it is trading at Kshs200 plus. School principals are buying maize from the same market but the capitation allocation, which was done 10 years ago, still remains constant. Are we doing favour and justice to these schools and students or we are losing it? As legislators, I believe we can do something to salvage this country.

I want to talk about the KRA issue that was mentioned world over. I have been doing some small research world over and there is no friendly tax collector. A tax collector is always one. The best thing that can be done is to come up with good policies where those who are paying tax can see or feel value for it; and by doing so, nobody will complain about it. We need to see good roads, hospitals and salary increments.

On the issue of security, what are we doing for our people who are not secured? Are we increasing the number of vehicles for police officers? Are we increasing the salaries for men and women in uniform? Are we jailing criminals or letting them go scot-free? Our courts should do something about the people responsible for insecurity in this country.

Finally, I congratulate each and every Member of this 13<sup>th</sup> Parliament for being elected. I remind them that as we are now being celebrated, we will become the enemies of the public the next day if we do not meet their expectations. We need to do things which we will be remembered for, whether in this House or out there. We must develop our people to an extent that even when you are no longer in Parliament, people talk about you. That way, people will remember you many years after you exit the position of leadership.

I thank my ODM party and my leader Hon. Rt. Raila Amollo Odinga for giving me an opportunity to serve the people of Suna West as an elected Member through his party. The last time I was in this House as an Independent Member of Parliament, I faced so many challenges. I pray that the current Independent Members do not face the same. We need to strengthen our parties so that democracy can prevail in this country. We need people like Hon. Rt. Raila Amollo Odinga to be respected and given opportunity as the few statesmen we have in Africa today.

As we are about to talk about Azimio la Umoja and Kenya Kwanza, we must know that there are people who contributed to the liberation we are enjoying today. Sometime back, there were areas which could not develop themselves because there was no devolution. Some people died because of fighting for devolution. If I recall, someone like Dr. Odhiambo Mbai was killed because he was agitating and fighting for the people of Kenya to be liberated for the second time.

Nobody was mentioned as a candidate for the Ministry of Devolution and Planning. That worries me because I was the last Mayor of Migori, and I know what devolution can do. Something, therefore, needs to be done so that we have a powerful Minister to head the Ministry of Devolution and Planning so that we can strengthen our devolved units for people to get services irrespective of whether they are in or out of Government.

Thank you for giving me the opportunity.

**Hon. Deputy Speaker:** What is your point of order, Hon. Member for Eldas? I am sorry Members; it is not a point of order. You can go ahead and contribute.

**Hon. Adan Keynan** (Eldas, JP): Thank you for giving me an opportunity to contribute to this important debate.

I take this opportunity to congratulate you for being among the few lady representatives for the 13<sup>th</sup> Parliament. I also congratulate all Members here for having been elected to the 13<sup>th</sup> Parliament.

Hon. Deputy Speaker, an elective position is the most difficult and sometimes the most sought-after job. This is why I welcome my colleagues to the 13<sup>th</sup> Parliament. Enjoy both the

pressures and pleasures of Parliament. I am sure in due course you will realise that there are certain things that we must not take for granted.

Hon. Deputy Speaker, before I go back to the President's Speech, I would like to thank the people of Wajir West. I know we have our able Member Hon. Muliro Farah – Hon. Yusuf Farah – that was my first constituency that showed me the door to politics. I was a Member of Parliament twice, elected actually for 10 years then later on I moved to Eldas where I am doing my fifth term as a representative of the people of Eldas.

Hon. Deputy Speaker, I must appreciate that at one time the current Head of State and I were classified as young legislators who benefitted from a programme called The Young Legislators Programme sponsored by the United States of America (USA) Embassy. We went around globe-trotting to enjoy the benefits of being newly elected young Members of Parliament. That was in 1998. We went to the USA where we visited over 18 States and that Programme opened the doors for us.

One thing that I appreciate and felt very good about this particular speech is respect for the separation of institutional roles. Those of us who were there and participated in the midwifing of the current Constitution, one of the things that the August 2010 Constitution emphasised on is respect for the rule of law.

Hon. Deputy Speaker, you are a lawyer with many years of experience. The opening chapter in Article 1 emphasizes on representation and clearly spells out the nexus between representation and sovereignty. That is one Article that all of us must accept and pursue to the letter. At times somebody will invoke Articles 95 and 96 and say the role of a Member of Parliament (MP) is not clearly defined. Unfortunately, the Salaries and Remuneration Commission (SRC) up to now is yet to accept the role of Members of Parliament. It is not just limited to representation.

An MP is an embodiment of everything in the Kenyan society. That is why Hon. Deputy Speaker, the best diplomats or economic advisors are found amongst Members of Parliament. Kenya is a premier nation. One of the things that the President's Speech emphasized was development of different sectors: the economic, security, infrastructural and education sectors. All these require an informed, knowledgeable and persistent Member of Parliament through legislation and oversight. That is why without the National Government Constituencies Development Fund (NG-CDF), there would be no representation. I will ask my colleagues here to agree with me that "No NG-CDF, no representation." This is because without it, there would be no need of being an MP. In the 1990s, when there was no NG-CDF, MPs were miserable. The presence of the NG-CDF has given life, human dignity and taste to representation.

Whatever you do, regardless of the differences in our political persuasions, the NG-CDF must remain an integral part of our day-to-day activities. That is why I appreciated when His Excellency the President talked about retention of the NG-CDF. For that to happen, it is up to all of us to pursue it to the letter. Otherwise, dictates from the Treasury mandarins will always be there and they are loyal to their own interests. For us, our loyalty is to those who brought us to this House. That is a very important ingredient in your life.

Hon. Deputy Speaker, coming back to Kenya, just some few days before the final results were announced, the atmosphere was pregnant with so many rumours and speculations. The people were speculating on what might happen. There were trivial advices and so many other challenges. However, one thing that we must appreciate is the resilience of the Kenyan people and the maturity of our democracy. Kenya is not just a country by name but it is a premier republic. Today in Ethiopia, an eventful day is happening because of the effects of Safaricom diplomacy which is being felt in the entire Africa. We are going to be very proud of that event because soon the benefits of Safaricom are going to be felt all over.

Equally, Hon. Deputy Speaker, Kenya is an economic, security and diplomatic hub. These are things we must appreciate as citizens and representatives of the people. The other

day this country was voted as the best in human resource capital. What we need to benefit from this is our diaspora diplomacy. I know very soon there will be an inclusion of diaspora diplomacy as one of the tenets of our foreign policy but before that is domesticated, the diaspora diplomacy has greatly contributed and improved our economy. That is something that each one of us here as Parliamentarians and part of parliamentary diplomacy must be prepared to engage in. In this era of representation, Parliamentarians are the best diplomats in other jurisdictions and democracies. However, in the Kenyan context, the Parliamentarian is not regarded as somebody who is well informed. This is because of the basic definitions that other people were not friendly to Parliament previously and the same was projected to the Members of Parliament.

Hon. Deputy Speaker, there is the issue of drought, which His Excellency the President has alluded to. However, my colleagues from Northern Kenya must accept that the era of food relief must come to an end. Instead, we need to pursue water availability and irrigation, revival of Kenya Meat Commission (KMC) and Kenya Livestock Marketing Authority (KLMA). These things have died over the years. In 1968, Kenya was a leading beef exporter to the whole world. Today we get our beef from Botswana. In 1968, Kenya was a leading donor nation. In fact, our Gross Domestic Product (GDP) was at par with that of South Korea. Today, South Korea's GDP is five times that of Kenya and yet they have no known natural resource. These are issues we must deal with and address as citizens of the Republic of Kenya.

Finally, Hon. Deputy Speaker, we are approaching a very difficult time because of serious rise in inflation, economic stagnation and unemployment. These are issues we can salvage if we put our heads together. We are surrounded by countries that have had serious security challenges and that is why Kenya remains a very important component of the international community. That is why I believe in their own wisdom, the international community decided to elect Kenya as a member of the United Nations Security Council. That is not just a mere achievement. It is a serious achievement which we must be prepared to jealously protect.

Hon. Deputy Speaker, this is just the beginning of this Session. Eventually, we will begin to learn and appreciate each other. However, my final word today on this is that as Members of the 13<sup>th</sup> Parliament, we are one family. Regardless of our political persuasions, we are one family and outside there, we will be treated as Members of one family. Whatever we do, let us engage soberly and with dignity while appreciating our roles. There is a time I was the youngest Member here. Today, I am among the oldest Members of Parliament. Time changes. These are realities that we must expect and appreciate; that my contribution and experience will add value to you. Also, your coming in will add value to me. Ultimately, we have the best representation in the 13<sup>th</sup> Parliament.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Member for Garissa County.

**Hon. Amina Siyad** (Garissa CWR, JP): Thank you Hon. Deputy Speaker. My name is Amina Udgoon, the Woman Representative of Garissa County. First and foremost, I would like to thank the people of Garissa County for voting me in. I am a desert flower, a young lady and a humanitarian before I became a politician. Thank you. congratulations for being elected as the Hon. Deputy Speaker. As a woman, I am proud of you.

About the speech of the President, it was short, concise and to the point. It is largely people-centred and it is about Wanjiku. It reflected the aspirations of the new President in charge of the lives of the ordinary citizens. However, there were notable gaps. A million plus citizens in more than 23 counties are being affected by drought. More so the people of Garissa County and the larger Northern Kenya are staring at starvation. Mothers and children are the worst affected, especially lactating mothers and infants.

The President's Speech ought to have largely centred on this recurring problem that affects the people of Northern Kenya every year. The situation is grim, horrific and desperate.

People are dying each year because of hunger. Some things need to be done to save the lives of millions of people. I expected His Excellency the President to touch on these serious issues since he was addressing us as the peoples' representatives. Under our Constitution, the State is responsible for the lives of all Kenyans. Efforts must be made to ensure that no Kenyans lose their lives because of hunger. I must commend the Government for the little but necessary effort it has initiated by sending relief food to the affected people. However, more needs to be done. I thank His Excellency the Deputy President, Rigathi Gachagua *aka Riggy-G* for leading this exercise. We hope the new Cabinet will address this issue.

Another important issue His Excellency the President forgot is the good message of unity in our country. He is no doubt the President of 50 plus million Kenyans; those who voted for him and those who did not. Without commitment to the unity of the nation, the Government might not succeed in its endeavours. The unity of our people is paramount. The President is a symbol of national unity under our Constitution. We pray for him and our nation and expect him to unify Kenyans.

The President said he is a believer of the rule of law. I believe that Azimio is the majority, and hope that the law will be respected and Azimio named the majority party.

Thank you, Hon. Deputy Speaker. As a woman, I am proud to have you as our Deputy Speaker.

**Hon. Deputy Speaker:** Thank you, Member for Garissa County for being brief. Members, I think the reason why we had the Procedural Motion on limitation of debate was to ensure that as many Members as possible have an opportunity to speak, particularly those who are making their maiden speeches. I can see there are people who have already spoken, but their names are appearing. Kindly pull out your cards. I have a very good memory, in case you thought I have forgotten. For example, the Member for Emurua Dikirr, I can see your name here and you have already spoken. Member for Kigumo, also remove your card. I will find out.

I now call the Member for Elgeyo Marakwet County, please, proceed.

**Hon. Caroline Ng'elechei** (Elgeyo Marakwet CWR, Independent): Thank you, Hon. Deputy Speaker, for giving me this opportunity to make my maiden speech. First and foremost, I thank God and the people of Elgeyo Marakwet for electing me to this august House. My journey here was not easy. I come from Elgeyo Marakwet County, which is the 'bedroom' of the United Democratic Alliance (UDA) Party. But the people believed in me and voted for me overwhelmingly, and I thank God for this and appreciate them.

Hon. Deputy Speaker, I come from a county with many challenges, and one sector that is facing many challenges is agriculture. About 100 per cent of the residents of Elgeyo Marakwet are farmers who either keep domestic animals, or grow crops. The issue that has been affecting my people recently is that of fertiliser prices, and I applaud and commend the President for talking about subsidising farming inputs. I believe that going forward, the life of a farmer will be as rosy as anybody who lives in the city; enjoying what comes from the farm without knowing the hustle and bustle that farmers go through.

I also want to assure the people of Elgeyo Marakwet that we will handle the issue of banditry in Kerio Valley. This is because they do not enjoy peace because others have taken the law into their hands, and walk around brandishing firearms the way they want. Going forward, I believe that through this House, I will bring legislation to ensure that we can live like other people.

It is about time that the issue of banditry in Kerio Valley was categorised as terrorism. This is because a bandit is more than a terrorist. If you can remember in the last year, some people were killed in Kerio Valley by people with illegal firearms in their hands. The number of those killed was more than those killed by the *Al Shabaab* in the last five years. So, the *Al Shabaab* and bandits are all in the same category. Through this House, I will ensure that we categorise bandits as terrorists so that the issue of banditry can come to an end.

I also want to assure the people of Elgeyo Marakwet that I will revive the two projects of Aror and Kimwarer dams. The previous Government massacred this exercise at the expense of the benefit to the people. I will ensure those projects are revived, so that they can help the people to irrigate their farms.

Allow me to thank the President of the Republic of Kenya for remembering *mama mbogas* and hustlers. In this country, the gap between the rich and poor is widening day and night. This is because the poor become poorer daily. However, through the Hustler Fund, I believe that the people of Elgeyo Marakwet will benefit by using the revolving fund to improve their lives.

Hon. Deputy Speaker, since I know there is a queue of so many people who want to give their maiden speeches, I wish to donate the extra time I have so that even my Member of Parliament (MP) for Marakwet West can have a chance to give his maiden speech.

I appreciate and thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Members, if you come to side-talk me requesting for time to speak, you are automatically disqualified. This is because I do not want to give the impression that if you side-talk me, then you get an opportunity. So, if you come here, you are disqualified. Let us have the Member for Nairobi County. If your card is not working, ask the Clerk-at-the-Table or the Serjeant-at-Arms to assist you. Let us have Hon. Passaris.

**Hon. Esther Passaris** (Nairobi CWR, ODM): Thank you, Hon. Deputy Speaker. First and foremost, allow me to start by congratulating you for being elected as the Deputy Speaker of this august House. I also want to congratulate our Speaker, Hon. Moses Wetang'ula for being elected, and every Member of Parliament who has made it back. It is said that we had the highest number of returnees to this Parliament.

I also want to congratulate my worthy opponent, hon. Millicent Omanga, because we had an amazing campaign together. We did not tread on each other's toes. She accepted, conceded defeat and congratulated me. I think this is the kind of politics that we want.

I also want to congratulate the country, because it has grown in democracy. We had a peaceful election and there were many people who were hurt by this election; over seven million people but we stood for the democracy, which is the respect that we all have. The people that supported Raila Amolo Odinga and the Azimio fraternity, and the respect for democracy. I want to congratulate Kenyans for the peaceful election. We are a model for the entire world.

I also take this opportunity to thank the Nairobi voters; those who voted for me, those who did not vote for me, and those who did not show up to vote. We understand that there might have been a lot of voter apathy, and it is something that we, as leaders, will strive to work for; and make you understand that voting is an important exercise. A total of 8 million people did not show up to vote, and that should be a concern to every elected leader.

Now we are here to discuss the President's Speech. While we are looking at the President's Speech, I would like to first congratulate the President for being sworn in as the President of this country. In this country after an election, we try to come together. Today as we sit and discuss the President's Speech, he talked about and touched on a number of issues. For me, it is not about whether it was a long a speech or a short one. What I took back is the fact that he wanted to ensure that we continue the programmes that we had in the 12<sup>th</sup> Parliament like housing food security and infrastructure, among others. I believe that kind of continuity is important.

As a women representative, when I came into office, I found projects that my predecessor had started but had not been completed. I continued with them. That is very important. We recently accompanied the President as he was launching a housing project. That is a project that started in the last administration, where he was the Deputy President. He wants to continue with. I like the fact that he actually spoke to the point that the rental income will be

low and the people will be able to afford the houses. Nairobi has a slum in every corner. The people of Nairobi want better housing. That was part of the four agendas of the Government, and I believe that continuity of programs that are good will be very favourable for this country.

The area that I have a problem when it comes to food security is our rush for Genetically Modified Organisms (GMO). I believe that in the whole world, if you go to Europe right now, the priciest commodities are the ones that are organic. When we start thinking of GMOs, I believe that we should start treading slowly. As much as we want to feed our people, we have to make sure that we understand that, as a country, we do not just want to feed ourselves but to export our products. We have to think twice and we have to educate our people. With the rising cases of cancer, if we rush to GMOs, we might also end up having a situation where we are increasing our medical costs and we also have Universal Health Coverage (UHC) as a big programme for this country.

On the idea of savings, the President said that when you retire, your National Social Security Fund (NSSF) contributions will not be sufficient for you in retirement at the rate of Kshs200. He talked about Kshs2 and Ksh1 coming from the State. That is very good idea. But at the same time, what we have to realise is that if we do not handle corruption, which is the big elephant in the room, then we will be faced with the situation where people are saving and the money is being siphoned out and not invested. I believe that when we save for retirement, one of the things that we should offer our citizens is affordable housing. We see a lot of citizens that have worked very hard, but they can hardly live on the retirement benefits that they get from the Government.

When it comes to the borrowing that we have in this county, the President touched on reducing the budget by over Kshs300 billion. The excess that we have to borrow every year of Kshs900 billion is reduced by Kshs300 billion. That is the good initiative but then, we have to ask ourselves where we are going to find that money. I believe that this country loses so much more than the Kshs300 billion to corruption. So, while we are strengthening our institutions, like the Judiciary, the Police Service and we are giving them budgets so that they can sustain themselves, we have to deal with corruption.

An area that I had hoped the President would look into is investment and investor confidence. This country right now makes it very difficult for people to invest and bring money into the country. You have a situation where if you want to deposit any money, the maximum that you are allowed to deposit is USD10,000. Many Kenyans have got money outside this country, and they cannot come and bring it. We desperately need that money to come into this country. I believe that we should allow some kind of amnesty to bring in the money and remove the obstacle where you have to deposit only USD10,000, and provide sufficient documentation for it. The problem is that it is stifling many people who are coming into this country to make investments. I believe that not every amount of money that comes into this country of over USD10,000 could be stolen money. But we are making it very difficult for people to come into this country to invest because of the red tape that we have.

Kenya is a blessed country, but we have a situation right now which is drought. We need an intervention from the Government. It is sad to see that right now, Kenyans do not have food. In so many parts of this country, children are dying of malnutrition because their parents cannot afford to give them healthy nutritious food. People are dying because there is no food in the country.

So, while we talk about the fact that this country does not have enough food, I think the most important thing that we have to address as a country is also family planning. At the moment, we do not have enough family planning in this country. We do not buy commodities. Family planning is dependent on donors. Every country has to plan its population. In Kenya, we have failed to plan our population. In the 1960's, when Tom Mboya was asked by the British Broadcasting Corporation (BBC): "What programmes do you have for your country?" The first

thing that he said was that we have to look at our population, because for us to grow our economy, we have to make sure that we also manage our population. It is really sad to see a number of women having children, not because they want children, but because they did not have access to information on family planning. They did not have access to the commodities. Those women have children and they are condemned to abject poverty.

*[The Deputy Speaker (Hon. Gladys Boss) left the Chair]*

*[The Speaker (Hon. Moses Wetang'ula) took the Chair]*

I know we say that we are a Christian country, but I want you to understand that even God himself was a family planner. He believes in family planning. In the cycle of a woman, there is a period where she cannot have a child. As a country, we need to plan our population so that we can actually look after our environment and also protect the citizens of this country to be able to prosper.

Thank you, Hon. Speaker, for giving me this opportunity.

**The Hon. Speaker:** Thank you. Member for Kandara, proceed.

**Hon. Members:** Ruling!

**Hon. Speaker:** After the Member for Kandara, you will get what you are asking for.

**Hon. Alice Wahome** (Kandara, UDA): Thank you, Hon. Speaker. I take this opportunity to congratulate you on your election by this House as our Speaker. Having said that, I also congratulate your Deputy, Hon. Gladys Shollei, for being elected as the Deputy Speaker. May I then also go further to congratulate each and every Member of this House for a very hard job to ensure that they were elected to this House. I congratulate my colleagues, the women Hon. Members who have been elected from the 29 constituencies. Those constituencies have agreed to elect women MPs. We are 29 and I recognise that we lost 8 women by failure to retain their seats. In the last House, we were 23, and I was the Chairperson of that caucus. We are now 29 women. We hope to retain and get an addition. We appreciate those constituencies that continue to elect women, and specifically my constituency, Kandara, for giving me a third honourable term. I will forever remain grateful. It is an unusual situation for a woman to be elected for three terms. Where I come from, we are still very conservative and, therefore, Kandara Constituency has demonstrated progressive thinking and action towards political development. Thank you.

I also want to take this opportunity to thank His Excellency the President of the Republic of Kenya, Dr. William Samoei Ruto for seeing it fit to appoint me as the Cabinet Secretary (CS) for the Ministry of Water, Sanitation and Irrigation, subject to the approval of this House. The approval is a very important process, and nobody should take this House for granted. Even though some of us have been appointed, I look forward to appearing before the relevant committee. Those who have said that they will approve my name, thank you. I will truly appreciate.

Let me make my contribution on the Address by the President. I know that I may not have much time, if I am approved by this House. I am grateful for this opportunity to contribute to the address by His Excellency. To the new Members who may not know me, my name is Alice Muthoni Wahome, Member for Kandara Constituency. Kandara is in Murang'a County, for record purposes.

Hon. Speaker, I think it is important to read this Address. I know that we all listened to the Address by His Excellency the President. One key thread that has come out for me is this: He spoke about ensuring that he will run a Government that is transparent and accountable. The role of this House is to hold the Government to account. Therefore, for His Excellency to come out in his own address to uphold the House, and to continue to urge the House to ensure

that it undertakes its role of holding the Government to check and to accountability, is something that we would want to take home.

Hon. Speaker, the President also said that he hopes legislative proposal from his Government will receive a bipartisan approach in a bipartisan debate, noting that whatever proposals are brought by the Government are proposals for the good and for the interest of the people of Kenya. I, therefore, think it is important as legislators to isolate politics from development. We all agree that we can debate, we can disagree as we have done before; we in fact even haggle and push, while noting that as legislators, we have a duty to ensure that the Government delivers on the promises that it has made. One key issue is the promise as a coalition to look at the economy from a bottom up approach. Therefore, we expect that the Government will continue to look at projects and programmes that will ensure that it lifts the people from the bottom upwards, while ensuring that where the economy is hurting most is addressed as soon as possible.

Hon. Speaker, the address by the President also speaks to reducing the borrowing in this country. The President, particularly seems to detest the fact that the country has found itself borrowing to finance recurrent expenditure. No country can be proud if it is borrowing instead of putting money into development, production and industrial development. We are borrowing to meet our recurrent expenditure. I appreciate the fact that it has been picked up very early in this Government's term.

I have also looked at something relevant to the portfolio that I have been appointed to, which includes, ensuring that there is access to water coverage. Access to water is currently at 60 per cent. The Government hopes that we can push it to 80 per cent. We target to raise Kshs500 billion shillings, as stated in his Address. I hope that it will be possible to work with the Public Private Partnerships (PPP) and investors to raise the money. If I am approved by this House, my office will remain open to MPs. I will make sure that we continue to work for the benefit of the people. I know that if the relationship between the Legislature and the Executive is improved and enhanced, and if we ensure that there is a logical prudent reasonable working relationship, we can make a difference. We can deliver to the people, noting that where we are as a country, nobody is proud of the fact that the country is on its knees literally, and that we all need to work very hard.

Hon. Speaker, I want to finalise by saying that the people of Kandara are fairly anxious. I know that they expected a five-year term from me, having elected me with quite a good number of votes. Since campaigns are ongoing, I am sure I will have an opportunity to seek the approval of my constituents to be able to move to the next office. I know that they would have wanted me to serve for another term. I do not take it for granted that they gave me that term. I will be consulting them. We shall be engaging even before I come to appear before the relevant committee.

Thank you, hon. Members for listening to me. I am here until you get me out of here.

**Hon. Speaker:** Thank you, honourable Member for Kandara.

## MESSAGE

### NOMINATION OF PERSONS FOR APPOINTMENT TO THE CABINET

**Hon. Speaker:** Hon. Members, I have a Communication to make. I have a Message to deliver and a ruling that follows our debates earlier in the week.

Hon. Members, this is a Message on the Nomination of Persons for Appointment to the Offices of Cabinet Secretaries, Secretary to the Cabinet and the Attorney-General.

Hon. Members, Standing Order 42(1) relating to 'Messages from the President' provides that-



“The Speaker shall read to the House any message from the President delivered to the Speaker for communication to the House”.

In this regard, I wish to convey to the House that I have received a Message from His Excellency the President, notifying the nomination of various persons for appointment to the Offices of Cabinet Secretaries, Secretary to the Cabinet and the Attorney-General.

Hon. Members, in the Message, His Excellency the President conveys that, in exercise of powers conferred on him by Articles 152(2), 154(2) and 156(2) of the Constitution, as read together with sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act, 2011, he has nominated various persons for appointment to the aforementioned offices.

For clarity, these provisions of the Constitution state as follows-

152. Cabinet.

“(2) The President shall nominate and, with the approval of the National Assembly, appoint Cabinet Secretaries.”

154. Secretary to the Cabinet.

“(2) The Secretary to the Cabinet shall be nominated and, with the approval of the National Assembly, appointed by the President.”

156. Attorney-General.

“(2) The Attorney-General shall be nominated by the President and, with approval of the National Assembly, appointed by the President.”

Hon. Members, the names of persons submitted to this House for approval to be appointed as Cabinet Secretaries are as follows –

NO.	NOMINEE	STATE DEPARTMENT/OFFICE
1.	Hon. Musalia Mudavadi, EGH	Office of the Prime Cabinet Minister
2.	Hon. (Prof.) Kithure Kindiki, EGH	Cabinet Secretary, Ministry of Interior and National Administration
3.	Prof. Njuguna Ndung'u, CBS	Cabinet Secretary for National Treasury and Economic Planning
4.	Hon. Alice Wahome	Cabinet Secretary, Ministry of Water, Sanitation and Irrigation
5.	Hon. Aden Duale, EGH	Cabinet Secretary, Ministry of Defence
6.	Ms. Rebecca Miano, CBS	Cabinet Secretary, Ministry of East African Community, the ASALs and Regional Development
7.	Hon. Alfred Mutua, EGH	Cabinet Secretary, Ministry of Foreign and Diaspora Affairs
8.	Hon. Aisha Jumwa Katana	Cabinet Secretary, Ministry of Public Service, Gender and Affirmative Action
9.	Hon. Moses Kiarie Kuria	Cabinet Secretary, Ministry of Trade, Investment and Industry
10.	Hon. Soipan Tuyu, CBS	Cabinet Secretary, Ministry of Environment and Forestry
11.	Hon. Kipchumba Murkomen, EGH	Cabinet Secretary, Ministry of Roads, Transport and Public Works
12.	Hon. Penina Malonza, OGW	Cabinet Secretary, Ministry of Tourism, Wildlife and Heritage
13.	Mr. Zacharia Mwangi Njeru	Cabinet Secretary, Ministry of Lands, Housing and Urban Development
14.	Ms. Susan Nakhumicha Wafula	Cabinet Secretary, Ministry of Health

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NO.	NOMINEE	STATE DEPARTMENT/OFFICE
15.	Hon. Mithika Linturi	Cabinet Secretary, Ministry of Agriculture and Livestock Development
16.	Mr. Eliud Owalo	Cabinet Secretary, Ministry of Information, Communication and the Digital Economy
17.	Hon. Ezekiel Machogu, CBS	Cabinet Secretary, Ministry of Education
18.	Mr. Davis Chirchir	Cabinet Secretary, Ministry of Energy and Petroleum
19.	Hon. Ababu Namwamba, EGH	Cabinet Secretary, Ministry of Youth Affairs, Sports and the Arts
20.	Mr. Simon Chelugui, EGH	Cabinet Secretary, Ministry of Cooperatives and Micro, Small and Medium Enterprises (MSME) Development
21.	Hon. Salim Mvurya, EGH	Cabinet Secretary, Ministry of Mining, the Blue Economy and Maritime Affairs
22.	Hon. Florence Bore	Cabinet Secretary, Ministry of Labour and Social Protection

*(Several Hon. Members stood at the entrance)*

Can the Members at the back take their seats?

*(Several Hon. Members walked into the Chamber)*

Hon. Members, in the Message, His Excellency the President also conveys that he has nominated Hon. Justin Bedan Njoka Muturi, EGH, as the Attorney-General and Ms. Mercy Wanjau as the Secretary to the Cabinet. His Excellency the President now seeks the approval of the National Assembly on the nominees for appointment to the said offices.

As you are all aware, the Committee on Appointments is yet to be constituted, despite the provisions of Standing Order No.204(2) requiring that the Committee be appointed within seven days on the assembly of a new House. This has been occasioned by the fact that the House Business Committee (HBC) is yet to be formed, on account of the question of the leadership of the majority party and the minority party, which I will rule on after this.

It is the HBC which is charged with the responsibility of nominating Members to sit in the Committee on Appointments, save for the slots reserved for the leadership of the House. Having resolved the stalemate in a short time to come, we will then move to the next level to process these appointments.

Section 8 of the Public Appointments (Parliamentary Approval) Act, 2012 provides that, unless otherwise provided in law, the committee to which such nomination is referred to shall consider the matter and table a report in the House within 28 days. It is, therefore, imperative that once the Committee on Appointments is formed, it should immediately commence the process of consideration of the nominees to enable speedy conclusion of the vetting process within the set timelines.

I also direct the Clerk of the National Assembly to take the necessary steps and notify the nominees and the general public through an advertisement in daily newspapers of national circulation; and on the parliamentary website, of the time and place of holding the approval hearings. This should be done by Friday, 7<sup>th</sup> October 2022 following which the Committee on Appointments should commence the approval hearings.

The Committee is expected to table its report in the House on or before Tuesday, 27<sup>th</sup> October 2022. In accordance with the law, the House would be required to consider the Committee's report and make a decision on the nominees within seven days following the tabling of the report; that is on or before Thursday, 3<sup>rd</sup> November 2022.

The House is accordingly guided.

*(Several Hon. Members stood at the entrance)*

Can the Members at the back take their seats?

Hon. Members, the following is a ruling on a matter that has been contested before the House and in correspondence with my Office, and that has taken centre-stage in the public media on the issue of the leadership of the National Assembly in the 13<sup>th</sup> Parliament.

Here I go.

### COMMUNICATION FROM THE CHAIR

#### CONSIDERED RULING: LEADERSHIP OF THE NATIONAL ASSEMBLY IN THE 13<sup>TH</sup> PARLIAMENT

Hon. Members, you will recall that during the afternoon sitting of Tuesday, 4<sup>th</sup> October 2022, I informed the House that a question had arisen on the manner of constituting the House Business Committee, especially with regard to the membership reserved for the leaders and whips of the majority party and the minority party, respectively. In guiding the House on the business to be transacted before the establishment of the House Business Committee and the manner in which the business would be moved, I indicated that a question had arisen as to who the *bona fide* leader of the majority party in the House is. I proceeded to allow the House to address me on this matter and gave priority to the designated Party Leaders and Whips of the Kenya Kwanza Coalition and the Azimio La Umoja - One Kenya Coalition Political Party.

In the debate that ensued, Hon. Kimani Ichung'wah tabled various coalition agreements entered into by the constituent parties of the Kenya Kwanza Coalition and deposited with the Registrar of Political Parties. Hon. Silvanus Osoro also tabled letters relating to the matter, an excerpt of the minutes of the parliamentary group meeting and a list of attendees of the meeting during which the Party Leaders were elected.

Similarly, Hon. Opiyo Wandayi tabled a copy of a letter dated 7<sup>th</sup> September 2022 from the Registrar of Political Parties (RPP) addressed to the Clerk of the National Assembly, conveying what the Registrar termed as constituent parties of the Azimio la Umoja - One Kenya Coalition Party, the Kenya Kwanza Alliance (KKA), the name of one party not affiliated to any coalition and an indication of parties that had filed constitutional petitions and objections to their membership of the Azimio Coalition.

While contributing to the debate, Hon. Junet Mohamed also tabled what he claimed to be the coalition agreement entered into between the constituent parties of the Azimio la Umoja - One Kenya Coalition Party. Several other Members also weighed in on the matter, including Member for Garissa Township, Hon. Aden Duale; nominated Member Hon. John Mbadi; Member for Ugenya, Hon. David Ochieng', Member for Tiaty, Hon. William Kamket; Member for Kimilili, Hon. Didmus Barasa; Member for Kathiani, Hon. Robert Mbui; Member for Ainabkoi, Hon. Samuel Chepkong'a; Member for Embakasi East, Hon. Babu Owino; Member for Kiharu, Hon. Ndindi Nyoro; nominated Member Hon. Sabina Chege; Member for Kibwezi West, Hon. Mwengi Mutuse; Member for Mandera North, Hon. Bashir Abdullaih; Member for

Laikipia North, Hon. Sarah Korere; Member for Ganze, Hon. Kenneth Kazungu Charo and Member for Alego Usonga, Hon. Samuel Atandi.

Other Members who spoke on the matter include Member for Tinderet, Hon. Julius Melly; Member for Kilifi North, Hon. Owen Baya; Member for Kabondo Kasipul, Hon. Eve Obara; Member for Kangundo, Hon. Fabian Muli; Member for Dagoretti South, Hon. John Kiarie; Member for Embakasi South, Hon. Julius Mawathe; Member for Kiminini, Hon. Bisau Kakai; Member for Emuhaya, Hon. Omboko Milemba; Member for Tharaka, Hon. George Murugara and Member for Dagoretti North, Hon. Beatrice Elachi. At the conclusion of the debate, I reserved my considered ruling for today. There are many other Members who rose on points of order. I need not mention them.

From the onset, Hon. Members, permit me to amplify a portion of the contribution made by Hon. John Mbadi, which is key to the resolution of this matter. The *Hansard* records Hon. Mbadi as having said that:

“There is no contention over which Members constitute the leadership of both the Kenya Kwanza Coalition and the Azimio la Umoja - One Kenya Coalition. The only contention that exists (and which formed the basis of the debate that ensued) is over which of the two is the majority.”

Article 108 of the Constitution establishes the offices of party leaders in Parliament and outlines the order of precedence to be observed in the National Assembly. The Article provides as follows:

108. (1) There shall be a leader of the majority party and a leader of the minority party.
- (2) The leader of the majority party shall be the person who is the leader in the National Assembly of the largest party or coalition of parties.
- (3) The leader of the minority party shall be the person who is the leader in the National Assembly of the second largest party or coalition of parties.
- (4) The following order of precedence shall be observed in the National Assembly—
  - (a) the Speaker of the National Assembly;
  - (b) the leader of the majority party; and,
  - (c) the leader of the minority party.

Hon. Members, what is clear from the Constitution is that the Leader of the Majority Party must lead *either* a party or a coalition of parties in the National Assembly. I invite the House to note my emphasis on the word ‘either’. Article 92 of the Constitution mandates Parliament to enact legislation on various aspects of political parties. To this end, the Political Parties Act, 2011 was enacted. This law has been amended several times, including as late as February this year. You will note that section 2 of the Act defines a political party as an association of citizens, with an identifiable ideology or programme, constituted for the purpose of influencing public policy or nominating candidates to contest elections. The term is further defined to include a coalition political party. Under the same section, a coalition is defined as an alliance of two or more political parties formed for the purpose of pursuing a common goal and is governed by a written agreement that is deposited with the Registrar. On the other hand, a coalition political party is defined as a coalition that is registered by the Registrar as a political party. Interestingly, section 10(1) of the Act allows two or more political parties to form a coalition or a coalition political party before or after an election, on condition that they deposit a coalition agreement with the Registrar.

What I discern from this definition in section 10(1) of the Act is that Parliament in its wisdom legislated as follows: That two or more political parties may form a coalition or a coalition party and deposit a written agreement with the Registrar. Further, that a coalition of two or more parties may register itself as a political party with the Registrar under the Act. You

will agree with me that this legislation creates a unique and puzzling scenario where a coalition, which is a conglomeration of parties, can also be treated as a political party on its own right.

I note that in the letter that I received on this matter from the Member for Suna East, Hon. Junet Mohamed, he submitted names of leaders representing the Azimio la Umoja - One Kenya Coalition Party. Curiously, in the same letter, the Member signed off as Secretary-General of the Azimio la Umoja - One Kenya Coalition. This begs the question whether Azimio la Umoja One Kenya Coalition is a coalition, a political party or both.

*(Applause)*

In the debate on this matter, several Members argued that a coalition political party is a perfectly legal vehicle that was used in the just-concluded elections to allow individual and corporate membership within a coalition. In my understanding of Sections 2 and 10 of the Political Parties Act, Parliament permitted a coalition political party to elect to assume the character of either a party or a coalition. In the last general election, it is evident that Azimio la Umoja - One Kenya Coalition Party elected to behave as several political parties in certain categories of elections and as one political party with regard to the presidential election. It is without doubt that if it were to be considered as a political party, Azimio la Umoja - One Kenya Coalition Party has no elected Member in this House today, as no Member was elected under its banner.

*(Applause)*

This is easily discernible from *Gazette* Notice No.9950 and *Gazette* Notice No.9951 of 2022, both dated 23<sup>rd</sup> August 2022, and *Gazette* Notice No.10535 dated 5<sup>th</sup> September 2022, in which the Independent Electoral and Boundaries Commission (IEBC) declared the persons duly elected as Members of this House and their respective political parties. Further, it is notable that with respect to Members nominated to this House, the Azimio la Umoja - One Kenya Coalition Party elected to nominate Members under the names of its constituent parties. This can be seen in *Gazette* Notice No.10537 of 2022 dated 7<sup>th</sup> September 2022 and *Gazette* Notice No.10710 of 2022 dated 9<sup>th</sup> September 2022. The Azimio la Umoja-One Kenya Coalition Party seems to have elected to enter this House in both elective and nominative positions through its individual constituent parties. It is a clear demonstration of the Coalition Party's respect for freedom of association under Article 36 of the Constitution; exercise of political rights under Article 38 of the Constitution and freedom of speech and debate in the House under Article 117 of the Constitution.

Hon. Members, Article 108 of the Constitution also allows a coalition to elect and designate their choice of the Leader of the Majority Party. The claim by the Kenya Kwanza Coalition is based under this limb. Similarly, the Azimio La Umoja-One Kenya Coalition Political Party has staked its claim to the leadership of the Majority Party in exercise of its second skin as a coalition.

What is clear from the Constitution is that the Leader of the Majority Party must lead either a party or coalition of parties in the National Assembly, and not both. Indeed, as I noted earlier in this Communication, in determining the matter confronting the House today, one must ask the question whether the entities claiming the leadership of the Majority Party are parties or coalitions. The provision of the Constitution seems not to envisage the position of the Leader of the Majority Party being claimed by an entity that is both a party and a coalition of parties.

*(Applause)*

It is apparent that while the Azimio la Umoja-One Kenya Coalition Political Party elected to behave as a political party in certain categories of elections in the last General Election, it has now staked its claim to the leadership of the Majority Party in this House using its second skin as a coalition. The issue that arises at this stage is whether this conduct is in conformity with the expectation of Article 108 of the Constitution, which requires an entity to elect one of the two choices.

You will recall that before the *sine die* adjournment of the 12<sup>th</sup> Parliament, the Standing Orders were amended to insert a new Standing Order 2B. This provision requires the Clerk of the National Assembly to obtain a certified copy of any coalition agreement entered into between two or more political parties. This amendment was necessitated by a dispute that arose at the beginning of the 12<sup>th</sup> Parliament on the entitlement of the constituent parties of the then National Super Alliance Coalition, which is commonly referred to as NASA Coalition, to a share in the membership of the Parliamentary Service Commission (PSC). It was not possible for the then Speaker to resolve the issue without access to, and perusal of the then NASA Coalition's agreement that was deposited with the Registrar.

Apart from resolving any disputes related to the membership of the PSC, it will interest Members to note that pursuant to Article 215(2) of the Constitution, part of the membership of the Commission on Revenue Allocation (CRA) is also drawn from nominees of the Majority Party and Minority Parties in the House. This is the basis upon which the Standing Order was introduced in the last Parliament, so as to enable the Speaker to discern the undertakings made by the parties with regard to the positions available to the House: the sharing of nominees for appointment to Commissions such as the PSC and CRA, entitlement to positions in the East Africa Legislative Assembly (EALA) and, where necessary, determining the relative majorities in the House. Journals of the House indicate that this provision was hardly intended to be used to resolve questions of which party or coalition of parties has sufficient numbers in this House, so as to be entitled to elect the Leader of the Majority Party.

Hon. Members, the Political Parties Act provides a general framework for the formation of coalitions, but leaves the substantive provisions to the formulation of the respective parties to a coalition. Where the substantive provisions of a coalition agreement are unclear, ambiguous or are in contention, the interpretation of the intent of the parties is left to the general jurisdiction of the legal system. Nevertheless, perusal of an agreement entered into between the partners in a coalition would greatly assist in resolving or forestalling unnecessary disputes which are likely to impede the conduct of the business of the House. Indeed, upon obtaining a copy of the NASA Coalition Agreement, my immediate predecessor urged that the provision of coalition agreements to the House should become standard practice. This is what informed the introduction of the new Standing Order 2B in our rules of procedure.

With regard to the coalition agreements affecting the affairs of the 13<sup>th</sup> Parliament, the Clerk wrote to the Office of the Registrar of Political Parties on 2<sup>nd</sup> September 2022. In her letter titled, "Requests for Information and Copies of Coalition Agreements Pursuant to the National Assembly Standing Order 2B", she provided the Registrar with a list of parties with representation in the House at the time. The Clerk sought the following from the Registrar:

- (i) Guidance on which particular political parties (from the list above) are in Coalition arrangements. Please include the date of the registration of the coalition(s);
- (ii) Information on changes made to any of the coalition agreements or partnerships that are in place and the dates of the changes, if any; and,
- (iii) Certified copies of the coalition arrangements entered into by any of the parties listed herein.

Hon. Members, in response, the Registrar noted that as at 21<sup>st</sup> April 2022, Azimio La Umoja-One Kenya Coalition Party comprised 26 political parties namely: Jubilee Party (JP), Orange Democratic Movement (ODM), Wiper Democratic Movement of Kenya (WDM-K),

Kenya African National Union (KANU), National Rainbow Coalition (NARC), National Rainbow Coalition-Kenya (NARC-Kenya), Muungano Party (MP), Maendeleo Chap Chap Party (MCCP), Democratic Action Party Kenya (DAP-K), Devolution Empowerment Party (DEP), United Party of Independent Alliance (UPIA); United Democratic Movement (UDM), United Progressive Alliance (UPA), Pamoja African Alliance (PAA), Kenya Union Party (KUP), United Democratic Party (UDP), Movement for Democracy and Growth (MDG), Kenya Reform Party (KRP), Chama Cha Uzalendo (CCU), National Liberal Party (NLP), People's Trust Party (PTP), Ubuntu Peoples' Forum (UPF), Party of National Unity (PNU), Labour Party of Kenya (LPK) and the Party for Growth and Prosperity (PGP).

In the same letter, according to the Registrar, the Kenya Kwanza Alliance comprises 15 political parties which include: United Democratic Alliance (UDA), Amani National Congress (ANC), Forum for Restoration of Democracy in Kenya (FORD-K), Chama Cha Kazi (CCK), Communist Party of Kenya (CPK), The Service Party (TSP), Tujibebe Wakenya Party, Farmers Party, Devolution Party of Kenya, Economic Freedom Party and the Umoja na Maendeleo Party. These are the members of the Coalition as at 3<sup>rd</sup> June 2022.

Can the Members take their seats?

*(Several Members walked into the Chamber)*

Hon. Members, the letter further notes that the Democratic Party, the National Agenda Party of Kenya, the Grand Dream Development Party and Chama Cha Mashinani effectively became members of the Coalition on 5<sup>th</sup> September 2022. The Registrar of Political Parties also observed that the National Ordinary People Empowerment Union (NOPEU) is not a member of any of the coalitions. In the letter, the Registrar of Political Parties also conveys that the Maendeleo Chap Chap Party (MCCM), the Pamoja African Alliance (PAA), the United Democratic Movement (UDM) and the Movement for Democracy and Growth (MDG) have filed constitutional petitions and/or objections with regard to their membership of the Azimio Coalition.

*(Applause)*

It is notable that despite written requests by the Clerk of the National Assembly, the Registrar of Political Parties did not convey certified copies of any pre-election or post-election coalition agreements entered into by the parties with representation in this House in the response to the letter dated 7<sup>th</sup> September 2022.

May I at this juncture report to the House that surprisingly the Registrar of Political Parties today morning, at 8.30 a.m. submitted to me, through the Office of the Clerk, documents said to be certified copies of the coalition agreements for the Kenya Kwanza Alliance Coalition and the Azimio la Umoja-One Kenya Coalition Party. Curiously, whereas the Registrar's letter to the Clerk of the National Assembly is dated 3<sup>rd</sup> October 2022, the accompanying agreements bear a certification of the following day, which is 4<sup>th</sup> October 2022. The letter and the documents were delivered to the Office of the Clerk today, 6<sup>th</sup> October 2022. That is more than six weeks after the request by the Clerk. Seemingly, this may be read by any reasonable person to be a reaction to the proceedings of the House on Tuesday, 4<sup>th</sup> October 2022.

Nevertheless, I have had occasion to peruse the documents accompanying the letter as against the documents tabled in the House on Tuesday this week. Despite attempting to advise the House on the status of the coalition agreements affecting the composition of the House as at 3<sup>rd</sup> October 2022, the Registrar has again failed to mention the existence of any post-election

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coalition agreements. This is a glaring omission when viewed against the post-election coalition agreements tabled by the Member for Kikuyu Constituency during the proceedings. The post-election coalition agreements are critical to the Speaker for purposes of guaranteeing constitutional rights and political freedoms of Members of this House elected under UDM, PAA, MCCP and MDG.

*(Applause)*

This now brings me to the submissions made by Hon. Opiyo Wandayi on the significance to be attached to the response of the Registrar of Political Parties, which he also tabled in the House on Tuesday this week and any subsequent communication from the Registrar. It will be recalled that the distinguished Member for Ugunja submitted that the Speaker has no other role apart from conveying information contained in the letter by the Registrar to the House. You will agree with me that this view is untenable for two main reasons.

Firstly, Section 10 of the Political Parties Act 2011 is clear that coalitions are not cast in stone. They are evolving arrangements that can occur both prior to and after an election. The Registrar has shied away from making a determination on the post-election status of the existing coalitions in light of the submissions made by part of the membership of this House and letters written to me by a number of Members relating to post-election coalitions. The Speaker ought not to be a conduit for this indecision in so far as it has the potential of curtailing the business of the House that is an important constitutional arm of the national Government. Secondly, you will also agree with me that the assertion by the Hon. Member for Ugunja is flawed on account of the history I have given to the House relating to the rationale of introducing Standing Order 2B. It is, indeed, an established parliamentary practice that the Speaker is not a mere conveyor belt of information. The Speaker must apply his mind to any communication or document before it is presented to the House or admitted for use in the House. This is important in order to comply with the Standing Orders of this House and to protect the dignity of the House.

*(Applause)*

In the present instance, Standing Order 2B expressly requires the Clerk to obtain a certified copy of any coalition agreement to assist the Speaker to ascertain the relative majorities of the House and facilitate transaction business of the House. Certification of the document and determination of its veracity and admissibility is of prime importance. You will agree with me again that there would be chaos in this House if I made rulings on the basis of an unauthenticated, unverifiable and inadmissible document that affects the rights of Members.

*(Applause)*

I note that unless the Political Parties Act is amended or the House exercises its power to call for evidence under Article 125 of the Constitution, there currently exists no express statutory obligation to the Registrar to furnish the House with coalition agreements as contemplated under Standing Order 2B. As a matter of fact, the 12<sup>th</sup> Parliament noted this particular gap and proposed amendments to the Political Parties Act whose introduction I approved in my Communication issued during the Afternoon Sitting of Tuesday, 4<sup>th</sup> October 2022. Those Members of Justice and Legal Affairs Committee (JLAC) have a job to do to cure this lacuna.



Attempts were made by Members during the Afternoon Sitting of Tuesday 4<sup>th</sup> October 2022 to table coalition agreements in support of the claims by the Kenya Kwanza Coalition and the Azimio la Umoja-One Kenya Coalition Party. You will recall that I ruled the documents tabled by Hon. Junet Mohamed as inadmissible owing to the inconsistencies that were apparent on the face of the document. The inconsistencies were glaring, especially in light of the allegations made by Hon. David Ochieng denouncing association of both himself and his party with the Azimio Coalition Political Party. Apart from being a Member of this House, Hon. David Ochieng is also the party leader of the MDG, an alleged party in the document tabled by Hon. Junet Mohamed.

In light of the objections raised by Hon. David Ochieng, the document became a centre of particular focus with respect to its legality, validity and admissibility. The attempt by the Registrar of Political Parties to convey what is said to be a certified copy of the document tabled by Hon. Junet Mohamed on 6<sup>th</sup> October 2022 has not made things any better. The document from the Registrar, just like the document tabled by Hon. Junet Mohamed, has the same glaring gaps and inconsistencies that make it inadmissible.

*(Applause)*

My predecessors have severally addressed the question of admissibility of Papers laid in this House. In the most recent case, Hon. Justin Muturi distilled previous guidance on admissibility of documents into nine brief rules in a Communication issued on Tuesday, 10<sup>th</sup> May 2022 while ruling on the tabling of Papers by the then Member for Wajir County, Hon. Fatuma Gedi. The then Speaker ruled that in assessing the admissibility and/or authenticity or otherwise of a document tabled in the House, the Speaker ought to examine whether the document:

- (i) relates to the matter for which it has been tabled;
- (ii) is signed, and if it is a Government document, by the authorised person or persons;
- (iii) bears the emblem or logo of the institution/person from which it originated or coat of arms in the case of documents from Government agencies;
- (iv) clearly indicates the author and person to whom it is addressed;
- (v) discloses the origin or source of the document;
- (vi) bears certification where a document other than the original is being tabled;
- (vii) if electronic, has been obtained from a source that does not permit alteration of contents;
- (viii) is related to a claim made before the House or a Committee or its content has a nexus with the claim; and
- (ix) is stamped and clearly indicates the person signing off the stamp.

Can the Hon. Members take their seats?

*(Several Members walked into the Chamber)*

Hon. Members, a perusal of the document tabled by Hon. Junet Mohamed and the version conveyed by the Registrar of Political Parties reveals glaring inconsistencies in both documents. With regard to signatures, there is no uniformity in the manner in which the various pages of the documents have been signed off, or initialed. Some pages in the documents contain fewer signatures than others while Page 3 of both documents, in particular, contain signatures that are hardly visible. The pagination of the two documents is also inconsistent. Pages 1 to 22 bear page numbers; several pages with signatures bear no page numbers; and a paginated page

appears randomly between unpaginated pages. I am inclined to think that these are superimpositions.

Hon. Members, may I at this point bring to the attention of the House that several Members said to belong to the Azimio la Umoja - One Kenya Coalition Party have formally written to my office to denounce their association with the party. In a letter dated 9<sup>th</sup> September 2022 and received by my office on 22<sup>nd</sup> September 2022, the Member for Ugenya Constituency, Hon. David Ochieng wrote to convey the decision of his party, the MDG to terminate its membership with the Azimio la Umoja - One Kenya Coalition Party. In the letter, Hon. Ochieng also notes that his party is now a member of the Kenya Kwanza Coalition.

*(Applause)*

In letters received by my office on 21<sup>st</sup> and 22<sup>nd</sup> September 2022, Hon. Kenneth Charo, Hon. Gonzi Rai and Hon. Anthony Kenga, who were all elected to Parliament on the PAA Party ticket formally distanced themselves and their party from any association with the Azimio Coalition. The three categorically noted that their party should only be associated with the Kenya Kwanza Coalition with which it has entered into its only existing coalition agreement.

*(Applause)*

Additionally, in a letter dated 16<sup>th</sup> September 2022 and received by my office on 19<sup>th</sup> September 2022, all the seven Members of Parliament elected to the National Assembly under the United Democratic Movement (UDM), namely Hon. Maj (Rtd). Bashir Abdullahi, Hon. Hassan Kulow, Hon. Haro Abdul Ebrahim, Hon. Mangale Chiforomodo, Hon. Yusuf Adan Haji, Hon. Joseph Lekuton, Hon. Umul Kheir Kassim and Hon. Sulekha Harun distanced themselves and their party from any alleged coalition agreement with the Azimio Coalition.

*(Applause)*

Instead, they note in their letter that they are party to a post-election coalition agreement with the Kenya Kwanza Coalition. It is their contention that their affiliation with the Kenya Kwanza Coalition has seemingly been ignored by the Registrar of Political Parties.

It will be recalled that during the debate on this matter on Tuesday this week, Hon. David Ochieng; Hon. Kassait Kamket; Hon. Mwengi Mutuse; Hon. Bashir Abdullahi and Hon. Kenneth Charo also raised serious concerns as to the membership of the MDG; KANU; MCCC; UDM and PAA in the Azimio la Umoja - One Kenya Coalition Party. At this stage, the question that comes to my mind as your Speaker is, what am I meant to do with these contentions?

Allegations were also made by a number of Members on alleged coercion and duress while entering into agreements with one of the coalitions.

*(Applause)*

Order, Hon. Members! I have not finished what I am saying.

*(Laughter)*

This, if true, is a serious affront to the democratic rights and freedoms that we enjoy as citizens of this country. As a seasoned lawmaker and a lawyer, I note that the political freedoms granted to Kenyans by the Bill of Rights must be taken very seriously in the affairs of political parties. If I were to rely on the coalition agreements tabled before this House, I would find

great fault in any provisions seeking to limit the political rights of Members of this House. Our Constitution is very Rights-centric. In any ruling I make as your Speaker, I must be guided by the provisions of Article 3; Article 10 and Article 21 of the Constitution. These provisions require me to uphold, respect and defend the Constitution whenever applying myself on any questions brought before me. I am also under an obligation to jealously protect the rights and freedoms guaranteed by the Constitution to all Members of this House and indeed all Kenyans. You will note that even when making laws, all of you are enjoined under Article 24 of the Constitution to ensure that any limits you place on a right or freedom are expressly stated and that the limitation is reasonable and justifiable in an open and democratic society.

Having looked at the drafting style of the Political Parties Act, *vis-à-vis* the requirements of Article 24(2) of the Constitution, it is evident that the Political Parties Act does not manifest or declare any intent whatsoever to limit the rights guaranteed under Article 36 of the Constitution on the freedom of association and Article 38 of the Constitution on political rights. Political rights are not absolute. They may be limited in a manner that is consistent with the provisions of Article 24 of the Constitution. Indeed, the Political Parties Act does not engage in the substantive limitation of rights but only deals with the procedural exercise of those rights in terms of timelines. Indeed, the architecture of the Act is that timelines are only prescribed with respect to activities that fall before the election date which seem to be related to the management of the election calendar. There are no timelines prescribed for activities after the election date. From the provisions of the Act, it appears that a person is at liberty to join and leave political parties as long as they notify the Registrar of their actions.

I am not sure whether a provision of a coalition agreement regulating the period within which a Member may exit a coalition would pass the test of being compliant with the Political Parties Act, in the first instance, or the Constitution, in the second instance. Fortunately, that is not for me to decide. I trust those who are aggrieved will find their way to courts of law in exercise of their powers under Article 165 of the Constitution. Noting that some of the matters raised were said to be pending either in the Political Parties Dispute Tribunal or the court, I shall refrain from pronouncing myself on such.

Hon. Members, let me now turn to the nexus between the letter from the Registrar of Political Parties and the several gazette notices published by the Independent Electoral and Boundaries Commission (IEBC) with respect to your election or nomination as Members of this House. Based on Gazette Notices No. 9950 and 9951 of 2022 both dated 23<sup>rd</sup> August 2022; Gazette Notice No. 10535 of 2022 dated 5<sup>th</sup> September 2022; Gazette Notice No. 10537 of 2022 dated 7<sup>th</sup> September 2022 and Gazette Notice No. 10710 of 2022 dated 9<sup>th</sup> September 2022 the current composition of the National Assembly by individual political parties is as follows: The UDA), 145; ODM, 86; Jubilee Party, 28; WDM, 26; UDM, 8; ANC, 8; FORD-K, 6; KANU, 6; DAP-K, 5; PAA, 3; KUP, 3; UPIA 2; MCCP, 2; TSP, 2; UPA, 1; NAP-K, 1; NOPEU, 1; GDDP, 1; DP, 1; MDG)1; and CCM, 1.

Hon. Members, reference to the letter by the Registrar of Political Parties would give the cumulative number of members of the constituent parties of what the Registrar refers to as the Azimio la Umoja-One Kenya Coalition Party as 171 Members against 165 Members of the constituent parties of what the Registrar refers to as the Kenya Kwanza Alliance. It is however, notable that a total of 14 Members are drawn from four parties which is UDM, MDG, MCCP and PAA who according to the letter of the Registrar have filed constitutional petitions and objections against their membership in Azimio. This implies that the letter from the Registrar may not be used to compute the membership of the Majority and Minority parties by dint of the admission contained in it on the existing constitutional petitions and objections.

Hon. Members, it will also be recalled that the Members of UDM, MDG, MCCP and PAA have claimed they signed pre-election and post-election coalition agreements with the Kenya Kwanza Alliance Coalition. Cumulatively, the membership of the four parties in this

House is 14 Members. If these Members were to be added to the 165 Members of the initial constituent parties of the Kenya Kwanza Coalition, it would comprise a total of 179 Members.

*(Applause)*

Consequently, the Azimio Coalition would then...

*(Loud consultations)*

I have not finished this ruling at all. Order, Members. If you listen...

*(Loud consultations)*

Hon. Mbadi, I am sure you know the difference between if and when. Consequently, the Azimio Coalition would then comprise a total of 157 Members. However, the pending constitutional cases and objections by Members of UDM, MDG, MCCP and PAA noted by the Registrar of Political Parties, in addition to the letters sent by the Members and the contentions recorded during Tuesday's Sitting have a profound bearing on the matter at hand in so far as the same relates to the business of the House.

At this stage, the House has a choice to either halt its proceedings and await the determination of matters that are before the Political Parties Dispute Tribunal and the courts or to permit the Speaker to make a decision that facilitates this House to continue discharging its constitutional functions.

*(Loud consultations)*

Order! You will hear the Speaker in silence. In any event, Members are aware that the *sub judice* rule is a rule that the House imposes on itself. It can never be contemplated that the House can curtail the performance of its own mandate.

*(Loud consultations)*

Can the Hon. Members at the Bar take their seats?

*(Several Members walked into the Chamber)*

Hon. Member, take your seats. This includes among others, the formation of not only the House Business Committee, but also other key Committees of the House whose membership must be appointed within a prescribed timeline of seven days and others that are extremely critical to the functioning of this House and the national Government.

The Committees that ought to be constituted within seven days include the following:

1. The House Business Committee which determines, prioritises and approves the business to be considered by this House under Standing Order No.171;
2. The Committee on Selection which is responsible for nominating Members to serve in Committees under Standing Order 172;
3. The Committee on Appointments which is responsible for vetting of persons nominated to serve as Cabinet Secretaries under Article 152(2) of the Constitution;
4. The Budget and Appropriations Committee which is responsible for consideration of the Budget Estimates; and

5. The National Government Constituencies Development Fund Committee which is responsible for overseeing the policy and legislative framework matters relating to the NG-CDF. This is especially important noting the need for a forum to deliberate some current matters that you are all fully aware of.

Hon. Members, the disclosure by the Registrar relating to the petitions and objections, the letters by the Members of the four parties, the oral objections raised in this House, and the need to promote the continuity of the business of the House while respecting the due process of the courts of law, presents this House with a complex situation that requires balanced consideration of the intent and philosophy behind the provisions of Articles 108 and 124 of the Constitution.

In determining this delicate balance between the provision that establishes the leadership positions of the House, and the provision which empowers this House to make its own rules of procedure, due regard must be given to Article 3 of the Constitution which requires all persons to protect, defend and uphold the Constitution and Article 10 of the Constitution which requires one to apply the national values and principles of governance when interpreting the Constitution.

Hon. Members, I note that the four parties which I mentioned cumulatively, comprise of 14 Members. The Members elected to this House under the four parties have exercised their freedom of association under Article 36 of the Constitution. They have already migrated to the Kenya Kwanza Alliance both in writing and in action. The parties are already enjoying benefits accruing from their membership of the Kenya Kwanza Coalition based on the coalition agreements that they signed and deposited with the Registrar.

*(Loud consultations)*

Indeed, and as noted earlier, the 14 Members have written to me distancing themselves and their parties from the Azimio Coalition and have called upon Hon. Speaker to recognise their coalition agreement with Kenya Kwanza with respect to the business of this House. I also noted the verbal representation made by some of the 14 Members during the debate on this matter on Tuesday, 4<sup>th</sup> October 2022.

Hon. Members, I started by noting the sentiments by Hon. John Mbadi on the fact that the Members comprising the leadership of the Kenya Kwanza Coalition and the Azimio la Umoja-One Kenya Coalition Party was not in contention. Indeed, no objection was raised during the debate on the issue of either proposing an alternate line up or the allusion to the existence of any other coalition comprising any parties with representation in this House.

Having addressed the question of who between the Kenya Kwanza Coalition and the Azimio la Umoja-One Kenya Coalition is entitled to appoint the Leader of the Majority Party, allow me to discharge my responsibilities under Standing Order 19A(4) and 20(4) with respect to the leadership of the House in the 13<sup>th</sup> Parliament.

Hon. Members allow me now to address the House on the fate of the letters received from Hon. Jeremiah Kioni, the Secretary General of the Jubilee Party, which I mentioned in my Communication on Tuesday, 4<sup>th</sup> October, 2022. The Jubilee Party, and indeed, any other parliamentary party is at liberty to designate its party leaders and whips by dint of the provisions of Standing Order 20A which provides for the recognition of parliamentary parties. Specifically, the Standing Order provides that a parliamentary party has the right to designate a leader and Whip of the party in the House for purposes of the transaction of the business of the House. However, in parliamentary practice, the House frowns upon any purported communication emanating from “strangers” especially if the matter relates to the internal organization of sections within the House. This is intended to ensure that the House only

deals with persons that it can interact with and hold to account should need arise. For clarity, Standing Order 20A (3) provides, and I quote:

3. The names of the Members designated as party whips shall be communicated to the Speaker in writing by:
  - a) the Leader of the Majority Party on behalf of the Majority Party;
  - b) the Leader of the Minority Party on behalf of the Minority Party;
  - or
  - c) the leader of a parliamentary party in the National Assembly in case of a parliamentary party that is not part of a coalition forming the Majority Party or the Minority Party.”

In order to facilitate the transaction of the business of the House the Leader of the Majority Party and the Leader of the Minority Party are required to forward to me the names of Members who shall sit in the five critical committees that I mentioned earlier.

Hon. Members, Standing Order 171(1)(f) provides that, apart from the House leadership, the House Business Committee consists of nine other Members nominated by the parliamentary parties, reflecting the relative majorities and taking into consideration the interests of parties other than parliamentary parties and independents.

Furthermore, Standing Order 172(1)(c) provides that besides the House leadership, the Committee on Selection consists of not less than 11 and not more than 21 Members nominated by the parliamentary parties reflecting the relative majorities and taking into consideration the interests of parties other than parliamentary parties and independents.

Standing Order 204(1) provides that apart from the leadership of the House, Committee on Appointments consists of not more than 15 other Members nominated by the House Business Committee on the basis of proportional party membership taking into consideration the numerical strength of the parties and interests of independents.

Hon. Members, upon formation of the Committee on Selection, I will be asking the party leadership to nominate Members for appointment to the rest of the committees with particular priority to the Budget and Appropriations Committee and the National Government Constituency Development Fund Committee. It is imperative that in nominating the Members to the Committees, Majority and Minority Leaders should as much as possible take into consideration the gender representation, the need for regional balance and the interests of parties other than parliamentary parties and indeed the Independents.

As to the completeness of the membership of the aforementioned committees, you will note that I have reserved some slots for Independent Members in each of the three Committees whose nomination ratios I have specified. This is to ensure adherence to the Standing Orders which require the recognition of the various shades of opinion represented in the House. As my predecessor noted during the 12<sup>th</sup> Parliament, “the Speaker should protect the Independent Members and small parties in the nomination to and discharge from committees.”

Hon. Members in summary therefore, my considered determination on the matter raised is as follows:

1. THAT, consideration of the various allegations of coercion and duress at the time of entering into coalition agreements and any appropriate remedy for the same lies outside the authority of this House.
2. THAT, in my considered opinion, it would be imprudent to treat the 14 Members elected to the House under the UDM, PAA, MCCP and MDG as part of a coalition that they have expressly distanced both themselves and their parties from. I am therefore persuaded that the 14 Members and their parties are part of the Kenya Kwanza Coalition. This, in my view, would be fair and in accordance with previous rulings by my predecessors on related matters.

3. THAT, with the 14 members, the membership of the Kenya Kwanza Coalition stands at 179 Members while the membership of the Azimio la Umoja-One Kenya Coalition Party stands at 157 Members. This, by implication, indicates that the Kenya Kwanza Coalition is the Majority Party and the Azimio la Umoja-One Kenya Coalition Party is the Minority Party in this House.

*(Applause)*

4. THAT, the Kenya Kwanza Coalition is entitled to appoint the Leader of the Majority Party while the Azimio la Umoja-One Kenya Coalition Party is entitled to appoint the Leader of the Minority Party.
5. THAT, with regard to the Majority Party:
  - a) The Member for Kikuyu Constituency, Hon. Kimani Ichung'wa is the Leader of the Majority Party;
  - b) The Member for Kilifi North, Hon. Owen Baya is the Deputy Leader of the Majority Party;
  - c) The Member for South Mugirango, Hon. Silvanus Osoro is the Majority Party Whip; and
  - d) The Member for Marsabit County, Hon. Naomi Jillo Waqo is the Deputy Majority Whip.
6. THAT, with regard to the Minority Party:
  - a) The Member for Ugunja, Hon. Opiyo Wandayi is the Leader of the Minority Party;
  - b) The Member for Kathiani, Hon. Robert Mbui is the Deputy Leader of the Minority Party;
  - c) The Member for Suna East, Hon. Junet Mohamed is the Minority Party Whip; and
  - d) Nominated Member, Hon. Sabina Chege is the Deputy Minority Whip.
7. THAT, the letters from the Secretary General of Jubilee Party have already been dealt with.
8. THAT, with respect to the composition of the House Business Committee, the Leader of the Majority Party, Hon. Kimani Ichung'wah, and the Leader of the Minority Party, Hon. Opiyo Wandayi, are to submit no more than four Members each to my office, latest by 10.00 a.m. on Tuesday, 11<sup>th</sup> October 2022.
9. THAT, with respect to the composition of the Committee on Selection, the Leader of the Majority Party and the Leader of the Minority Party are to submit 10 Members and nine Members, respectively to my office, latest by 10.00 a.m. on Tuesday, 11<sup>th</sup> October 2022.
10. THAT, with respect to the composition of the Committee on Appointments, the Leader of the Majority Party, Hon. Kimani Ichung'wah and the Leader of the Minority Party, Hon. Opiyo Wandayi, are to submit no more than seven Members each to my office, latest by 10.00 a.m. on Tuesday, 11<sup>th</sup> October 2022.
11. THAT, upon receipt of the names of Members of the House Business Committee, the Clerk is hereby directed to cause the list to be published in the Order Paper on Tuesday, 11<sup>th</sup> October 2022. The Clerk is also directed to ensure that the names of the Members to serve in the Committee on Selection and the Committee on Appointments are presented to the House Business Committee when the Committee sits on Tuesday, 11<sup>th</sup> October 2022.
12. THAT, while it will be construed in the interim that the Minority Party has designated its leadership, the Leader of the Minority Party, Hon. Opiyo Wandayi,

is hereby required to regularise the designation of the Whip and the Deputy Whip of the Minority Party in accordance with the requirements of Standing Order 20A(3). Remember, previously we were notified by Hon. Junet. Now it is Hon. Wandayi to notify the Speaker on who your Whip and Deputy Whip are.

13. THAT, with respect to any Member belonging to any party other than a parliamentary party, as your Speaker I will endeavour to ensure the power afforded to me by Standing Order 174(2B) is upheld. I will not accept or approve any list of committee membership that does not take into account the interest of Independent Members and parties other parliamentary parties, the ones we commonly refer to as small parties.
14. THAT, pursuant to Standing Order 259, the marked seats in the front row of the Chamber to my right and to my left are reserved for the persons occupying the offices of leadership of the Majority Party and leadership of the Minority Party, respectively.
15. THAT, in accordance with Article 108 of the Constitution, the Parliamentary Service Act, 2019 and Standing Order 19, the Clerk of the National Assembly is hereby directed to take necessary measures to facilitate the leadership of the House that has been appointed to move into their respective offices and access all other entitlements relating to their offices as has been approved by the Salaries and Remuneration Commission (SRC) and the Parliamentary Service Commission.

In conclusion, Hon. Members, today's guidance has been informed by my solemn duty to facilitate the continuity of the business of this House. The House would be at a standstill without a clear guidance on the leadership of the House. It is so directed.

We now go back to the debate on the Presidential Address.

*(Applause)*

**Hon. Opiyo Wandayi** (Ugunja, ODM): On a point of order, Hon. Speaker.

**Hon. Speaker:** Yes, Hon. Wandayi.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, I listened keenly to your ruling on this contentious issue. Whereas, of course, I do not agree with it, I would wish to acknowledge the fact that this House operates in a quasi-judicial manner. Therefore, in line with rules of natural justice, tenets of democracy and established jurisprudence, I would wish to give notice that we shall be moving you to review your decision. For that reason, I will be asking you to give me an opportunity to make certain submissions or to make an application for you to review your decision. My application is, obviously, in line with established jurisprudential practice. Again, I will be asking you to direct the Clerk to facilitate my coalition with certified copies of your ruling, if possible by close of business today.

Hon. Speaker, I say this with tremendous respect to your office and to the institution of Parliament. It is important for us to establish a culture of openness and transparency and, indeed, to work consciously towards entrenching democracy and the rule of law. So, I will be asking you to allow me to formally make that application at the earliest possible opportunity. I am seeking leave.

**Hon. Speaker:** Order, Hon. Members. In the tradition of the House, under our Standing Orders and practice, once the Speaker makes a ruling such as the one I have made, it is not subject to debate, it is not appealable and it stands as it is. I want to take this opportunity to salute and thank you, Hon. Wandayi and all Members of the House, for the decorum that you have exhibited throughout the close to one hour that I delivered the ruling.

*(Applause)*



I want to encourage the House to note that a decision has been made. Let the chips fall where they may. Take up your offices. Carry out a robust and vibrant oversight of the Government and make sure that public resources from taxpayers are put to good use. Audit their use vigorously and make sure that you do everything possible within the law to ensure that we have a responsible Parliament, with both sides being responsive to the needs of the people of Kenya.

There will be no further debate on this matter. You know the rules. You are all very senior Members. And the new colleagues who have come in want to learn from you. Do not give them misdirection on procedure. I now want us to go to the Order that we had suspended to take the ruling. I will give the Floor to Hon. Abdikadir Mohamed of Lagdera.

*(Several Members rose in their places)*

On the same matter?

**Hon. Members:** Yes.

*(Loud consultations)*

**Hon. Speaker:** Order, Hon. Members! Order, Hon. Junet! I have given direction. The ruling of the Speaker is a public document; it will be on the parliamentary website. You can get it in the course of the evening or tomorrow, depending on what the Clerks-at-the-Table will do, and you can analyse it and critique it. You can do many things about it except debate it on the Floor of this House.

*(Laughter)*

*(Applause)*

I indulged the distinguished Member for Ugunja, being your leader, to make a comment, which he did and we have taken it in the stride. I have given him direction and you can see how distinguished he is with respect to what I have said. I want to urge you to remember that we have called out the order which we suspended before the ruling. If the Member for Lagdera is on the Floor, he can continue with debate. If he is not, we can give the Floor to the next Member.

**Hon. Members:** He is here.

**Hon. Speaker:** Go on, Member.

**Hon. Abdikadir Mohamed** (Lagdera, ODM): Thank you, Hon. Speaker.

**Hon. Members:** No! No!

**Hon. Speaker:** Member for Lagdera, if you want to cede your time, we can give it to somebody else. Order, Hon. Members! Order! Order! Order, Hon. Members! The Member for Lagdera, you will forfeit your position if you do not want to speak.

*(Several Members congregated around the Mace)*

Order, Hon. Members! Order!

**Hon. Members:** No! No! No!

**ADJOURNMENT**

**Hon. Speaker:** Order! This House will adjourn until Tuesday, 11<sup>th</sup> October 2022, at 2.30 p.m.

The House rose at 5.24 p.m.

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