



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – FIRST SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

THURSDAY, DECEMBER 07, 2017

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Honourable Speaker
4. **COMMUNICATION FROM THE CHAIR**

The Speaker conveyed the following Communication –

“Honourable Members,

You will recall that on Thursday, 30th November, 2017 during the afternoon sitting, the Member for Lugari Constituency, the Hon. Ayub Savula, rose on a Point of Order seeking direction of the Speaker on the composition of the list submitted by the Minority Party outlining its House Leadership pursuant to the provision of Standing Order 20. Specifically, the Member was of the view that the list submitted by the Minority Party violated Standing Order 20 with regard to regional and gender balance. His Point of Order related to the Communication that I delivered during the afternoon sitting of Wednesday, 29th November, 2017 informing the House of my receipt of letters dated 16th November 2017 and 29th November 2017 from the National Super Alliance (NASA) Coalition forwarding the names of its House Leadership. In reserving the matter for a considered ruling, I did mention that other Members had also expressed concerns with the list since its communication, notably the Honourables Ramadhani Suleiman Dori and the Hon. Baya Owen Yaa from the Minority Party.

At the time the matter was raised by the Member, you will also recall the interventions from the Leader of the Majority Party and the Member for Seme, the Hon. (Dr.) James Nyikal, calling for restraint with regard to the intervention by the Speaker in a matter that, in their opinion, should be left for consideration and resolution by the Minority Party.

Honourable Members, Standing Order 20, upon which the Member's concern is premised, outlines the procedure for the election of the Leader and Deputy Leader of the Minority Party. Paragraph (4) of the Standing Order is instructive with regard to the submission of the outcome of the election process to the House through the Speaker. It reads, and I quote,—

(4) The Whip of the minority party or coalition of parties in the National Assembly shall forthwith, upon a decision being made under this Standing Order, communicate to the Speaker, in writing the decision together with the minutes of the meeting at which the decision was made.

Honourable Members, a clear reading of Standing Order 20 reveals that the Speaker has no role in the process of the election of the Leadership of the Minority. Indeed, even for the Majority Party. Under the Standing Order, the election process is, and remains an internal affair of the Minority Party which only communicates the outcome of the process in writing to the Speaker. The Speaker's duty thereafter is limited to ensuring that the list submitted by the Minority Party is accompanied by the minutes of the Meeting at which the Party made its decision. Indeed, as you may recall Members, on 12th October 2017, I issued a Communication directing the minority coalition to comply with the provisions of Standing Order 20(4) and the rules of the Coalition in communicating to my office the names of its House Leadership.

Honourable Members, in directing the Minority Party to comply with its rules, I was cognizant of my limited role in the matter and the fact that any disputes arising from the procedure would be resolved purely according to the Party's rules and any coalition agreement entered into. Neither I nor other persons who are not Members of the Minority Party are fully kept abreast of its leadership contests or disputes. Indeed, as noted in the text *The Selection of Political Party Leaders in Contemporary Parliamentary Democracies* (Jean-Benoit Pilet, William Cross Eds.), the authors note as follows with regard to party leadership politics in Australia—

“Leadership politics are governed by the norms and traditions of the party room as they exist at any point in time. Records of party room votes are not usually kept nor officially reported.”

For our purposes, the only evidence the Standing Orders require from the Minority Party is a copy of the minutes of the meeting at which the decision on its leadership was made. I confirmed to the House that the Minority Party fulfilled this requirement and that action in itself settles the matter. I play no other role in the process and any issues raised with regard to the constitution of the Minority Leadership or the process undertaken to constitute it therefore fall squarely within the purview of the Minority Party and its internal dispute resolution mechanisms.

Honourable Members, Hon. Savula further sought direction from the Speaker on the remedies available to address his concerns. Standing Order 20, upon which the Member rose, provides adequate guidance with regard to any dispute or disaffection with the House Leadership of the Minority Party. In addition, and in the event the Member's concern relates to the internal democracy of his party or Coalition, the Political Parties Act may offer some respite. As Members are aware, the Political Parties Act establishes the Political Parties Disputes Tribunal, which, pursuant to section 40, is mandated to determine, and I quote,—

- (a) disputes between the members of a political party;*
- (b) disputes between a member of a political party and a political party;*
- (c) disputes between political parties;*
- (d) disputes between an independent candidate and a political party;*
- (e) disputes between coalition partners;*

Honourable Members, in conclusion, I have noted the concern raised by various Members on the apparent gender imbalance in the House Leadership of the Minority Party. Though direct intervention into the manner in which the Minority Party decides to constitute its

Leadership is outside my purview, I am not precluded from reminding the Minority Party of the two-thirds gender principle which is entrenched in the provisions of Article 27(8) of the Constitution. Indeed, the provisions of Standing Order 20(2)(b) enjoin the Minority Party to take gender balance into account when deciding the composition of its House Leadership.

Please be guided accordingly.

Thank you”.

5. **PAPERS LAID**

The following Papers were laid on the Table –

Subsidiary legislation from the Ministry of Lands and Physical Planning:-

- (i) The Land (Extension and Renewal of Leases) Rules, 2017 and the Explanatory Memorandum;
- (ii) The Community Land Regulations, 2017 and the Explanatory Memorandum;
- (iii) The Land Registration (General) Regulations, 2017 and the Explanatory Memorandum;
- (iv) The Land Regulations, 2017 and the Explanatory Memorandum; and,
- (v) The Land Registration (Registration Units) Order, 2017 and the Explanatory Memorandum.

(Leader of the Majority Party)

- (vi) Report of the Procedure and House Rules Committee on amendments to the Standing Orders.

(Chairperson, Procedure and House Rules Committee)

- (vii) Report of the Joint Parliamentary Select Committee on the Election of Members to the East African Legislative Assembly

(Co-Chairperson of the Joint Parliamentary Select Committee on the Election of Members to the East African Legislative Assembly)

6. **NOTICES OF MOTION**

The following Notices were given –

- (i) **THAT**, pursuant to the provisions of Standing Order 262 and notwithstanding the provisions of Standing Order 47(1), this House adopts the Report of the Procedure and House Rules Committee on amendments to the Standing Orders, laid on the Table of the House today, Thursday, December 7, 2017, and further resolves that the amendments as contained therein take effect from December 08, 2017.

(Chairperson, Procedure and House Rules Committee)

- (ii) **THAT**, pursuant to the provisions of Article 50 of the Treaty for the Establishment of the East African Community and Rule 13(5) of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017, and notwithstanding the provisions of Standing Order 47(1), this House adopts the Report of the Joint Parliamentary Select Committee on its consideration of the nominees for election as Members of the East African Legislative Assembly, laid on the Table of the House today, Thursday, December 7, 2017, and further resolves that the election be held on Wednesday, December 14, 2017.

(Co-Chairperson of the Joint Parliamentary Select Committee on the Election of Members to the East African Legislative Assembly)

7. **STATEMENT PURSUANT TO STANDING ORDER 44(2)(a)**

Pursuant to the provision of Standing Order 44(2)(a), the Leader of the Majority Party issued a Statement regarding the Business of the House for the week commencing Wednesday, December 13, 2017

8. **PROCEDURAL MOTION - RESOLUTION TO HOLD A SITTING ON THURSDAY MORNING**

Motion made and Question proposed –

THAT, pursuant to the provisions of Standing Order 30(3)(b) and following the resolution of the House on Tuesday, December 5, 2017 extending its sittings, this House resolves to hold a Morning Sitting on Thursday, December 14, 2017 commencing at 9.30am for purposes of conducting the election of Members to the East African Legislative Assembly, or considering any other urgent business.

(The Leader of the Majority Party)

Question put and agreed to.

9. **MOTION – INTRODUCTION OF COMPULSORY TREE PLANTING IN ALL LEARNING INSTITUTIONS AND INDIVIDUAL HOUSEHOLDS**

Motion having been made and Question having been proposed on 06.12.2017–

THAT, aware that Article 42 of our Constitution accords every person the right to a clean and healthy environment and that Article 69(1)(d) mandates the State to encourage public participation in the management, protection and conservation of the environment; further aware that deforestation is one of the main contributors to climate change; noting that Kenya has not been spared by the effects of global warming and climate change as a result of deforestation amongst other aspects; deeply concerned that this has adversely affected the agriculture sector which is the backbone of the rural economy, and also led to severe drought being experienced in all parts of this country; this House urges the Government to introduce compulsory tree planting programmes in all learning institutions and individual households.

(Hon. William Chepkut – 06.12.2017)

Debate on the Motion having been concluded on Wednesday, December 06, 2017 (Morning Sitting);

Question put and agreed to.

10. **MOTION – APPROVAL OF NOMINEES TO VARIOUS CONSTITUENCY COMMITTEES OF THE NATIONAL GOVERNMENT CONSTITUENCY DEVELOPMENT FUND**

Motion having been made and Question having been proposed on 06.12.2017–

THAT, pursuant to the provisions of Section 43(4) of the National Government Constituency Development Fund Act, 2015 and paragraph 5 (9 & 10) of the National Government Constituency Development Fund Regulations, 2016, this House approves the list of nominees for appointment to the following four (4) Constituency Committees of the National Government Constituency Development Fund, laid on the Table of the House on Tuesday, December 05, 2017:-

1. NAROK EAST CONSTITUENCY

| | | |
|-------|--------------------------------|--|
| (i) | Rapanket Daniel Koisikir | Male Youth Representative |
| (ii) | Tapaiya Olngashar Punyua | Male Adult Representative |
| (iii) | Sointa Kuyoo Parkire | Female Youth Representative |
| (iv) | Peninah Sein Benson Olturoomum | Female Adult representative |
| (v) | Dominic Tira Dikirr | Representative of Persons living with Disability |
| (vi) | William Kabaka Kirtelah | Nominee of the Constituency Office (Male) |
| (vii) | Gladys Wanjiru Soitara | Nominee of the Constituency Office (Female) |

2. GATANGA CONSTITUENCY

(Additional names to those approved by the House on Wednesday, November 8, 2017)

| | | |
|------|----------------------|---|
| (i) | Peter Mulwa Mutune | Nominee of the Constituency Office (Male) |
| (ii) | Naomi Wairimu Ndarua | Nominee of the Constituency Office (Female) |

3. MVITA CONSTITUENCY

| | | |
|-------|------------------------|---|
| (i) | Easter Oduor Oremo | Male Youth Representative |
| (ii) | Omar Shariff Ali | Male Adult Representative |
| (iii) | Sylvia Buluma Adikinyi | Female Youth Representative |
| (iv) | Anna Nyambura | Female Adult Representative |
| (v) | Amina Saud Ali | Representative of Persons with Disability |
| (vi) | Jamal Ali Mohamed Noor | Nominee of the Constituency Office (Male) |
| (vii) | Fatuma Mbeyu Khamis | Nominee of the Constituency Office (Female) |

4. NYANDO CONSTITUENCY

| | | |
|-------|-------------------------|---|
| (i) | Joseph Rocky Odada | Male Youth Representative |
| (ii) | Marcella Amondi Onyango | Female Youth Representative |
| (iii) | Hellen Adhiambo Muga | Female Adult Representative |
| (iv) | Zedekiah Odalo Hongo | Representative of Persons with Disability |

- (v) Henry India Odep Nominee of the Constituency Office (Male)
(vi) Eunice Awino Ochieng Nominee of the Constituency Office (Female)

(The Leader of the Majority Party – 06.12.2017)

Debate on the Motion having been concluded on Wednesday, December 06, 2017 (Afternoon Sitting);

Question put and agreed to.

11. **MOTION – AMENDMENTS TO THE STANDING ORDERS**

Motion made and Question proposed –

THAT, pursuant to the provisions of Standing Order 262 and notwithstanding the provisions of Standing Order 47(1), this House adopts the Report of the Procedure and House Rules Committee on amendments to the Standing Orders, laid on the Table of the House today, Thursday, December 07, 2017, and further resolves that the amendments as contained therein take effect from December 08, 2017.

(Hon. Tom Kajwang, MP)

Debate arising;

Mover replied;

Question put and agreed to.

12. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

IN THE COMMITTEE
The First Chairperson in the Chair

Consideration of the Procedure and House Rules Committee (PHRC) amendments to the National Assembly Standing Orders, 3rd Edition

STANDING ORDER 172

Procedure and House Rules Committee Amendment proposed –

THAT, Standing Order 172 be amended in paragraph (1)(c) by deleting the word “nineteen” appearing immediately after the words “not more than” and substituting therefor the word “twenty-one”.

(Hon. Tom Kajwang, MP)

Debate arising;

Question put and agreed to;

Procedure and House Rules Committee amendment to Standing Order 172– agreed to

STANDING ORDER 174**Procedure and House Rules Committee Amendment proposed –**

THAT, Standing Order 174 be amended by deleting paragraph (3) and substituting therefor the following new paragraph—

“(3) Except as the House may otherwise resolve, on the recommendation of the Committee on Selection for reasons to be stated—

- (a) no Member shall be appointed to serve in more than two Departmental Committees;
- (b) a Member who is a Chairperson of a committee or a member of the Parliamentary Service Commission appointed under Article 127(2)(c) of the Constitution shall not serve in more than one committee.”

(Hon. Tom Kajwang, MP)

Debate arising;

Question put and agreed to;

Procedure and House Rules Committee amendment to Standing Order 174– agreed to

STANDING ORDER 178**Procedure and House Rules Committee Amendment proposed –**

THAT, Standing Order 178 be amended by inserting the following new paragraph immediately after paragraph (1)—

“(1A) A member of the Parliamentary Service Commission appointed under Article 127(2) (c) of the Constitution shall not be eligible to stand for election as a Chairperson or Vice-Chairperson of a select committee.”

(Hon. Tom Kajwang, MP)

Debate arising;

Question put and agreed to;

Procedure and House Rules Committee amendment to Standing Order 178– agreed to

STANDING ORDER 205**Procedure and House Rules Committee Amendment proposed –**

THAT, Standing Order 205 be amended in paragraph (3) by deleting the word “sixteen” appearing immediately after the words “not more than” and substituting therefor the word “eighteen”.

(Hon. Tom Kajwang, MP)

Debate arising;

Question put and agreed to;

Procedure and House Rules Committee amendment to Standing Order 205– agreed to

STANDING ORDER 205A (SPECIAL FUND ACCOUNTS COMMITTEE)

Procedure and House Rules Committee Amendment proposed –

THAT, Standing Order 205A be amended in paragraph (3) by deleting the word “sixteen” appearing immediately after the words “not more than” and substituting therefor the word “eighteen”.

(Hon. Tom Kajwang, MP)

Debate arising;

Question put and agreed to;

Procedure and House Rules Committee amendment to Standing Order 205A – agreed to

STANDING ORDER 206 (PUBLIC INVESTMENTS COMMITTEE)

Procedure and House Rules Committee Amendment proposed –

THAT, Standing Order 206 be amended in paragraph (3) by deleting the word “sixteen” appearing immediately after the words “not more than” and substituting therefor the word “eighteen”.

(Hon. Tom Kajwang, MP)

Debate arising;

Question put and agreed to;

Procedure and House Rules Committee amendment to Standing Order 206– agreed to

STANDING ORDER 207 (BUDGET AND APPROPRIATIONS COMMITTEE)

Procedure and House Rules Committee Amendment proposed –

THAT, Standing Order 207 be amended in paragraph (2) by deleting the word “twenty-two” appearing immediately after the words “not more than” and substituting therefor the word “twenty-six”.

(Hon. Tom Kajwang, MP)

Debate arising;

Question put and agreed to;

Procedure and House Rules Committee amendment to Standing Order 207– agreed to

STANDING ORDER 208 (PROCEDURE AND HOUSE RULES COMMITTEE)

Procedure and House Rules Committee Amendment proposed –

THAT, Standing Order 208 be amended in paragraph (2) by deleting the word “fifteen” appearing immediately after the words “not more than” and substituting therefor the word “seventeen”

(Hon. Tom Kajwang, MP)

Debate arising;

Question put and agreed to;

Procedure and House Rules Committee amendment to Standing Order 208– agreed to

STANDING ORDER 209 (COMMITTEE ON IMPLEMENTATION)

Procedure and House Rules Committee Amendment proposed –

THAT, Standing Order 209 be amended in paragraph (4) by deleting the word “sixteen” appearing immediately after the words “not more than” and substituting therefor the word “twenty-two”.

(Hon. Tom Kajwang, MP)

Debate arising;

Question put and agreed to;

Procedure and House Rules Committee amendment to Standing Order 209– agreed to

STANDING ORDER 210 (COMMITTEE ON DELEGATED LEGISLATION)

Procedure and House Rules Committee Amendment proposed –

THAT, Standing Order 210 be amended by inserting the following new paragraph immediately after paragraph (1)—

“(1A) The Committee shall consist of a Chairperson and not more than twenty-two other members.”

(Hon. Tom Kajwang, MP)

Debate arising;

Question put and agreed to;

Procedure and House Rules Committee amendment to Standing Order 210– agreed to

STANDING ORDER 212 (COMMITTEE ON REGIONAL INTEGRATION)

Procedure and House Rules Committee Amendment proposed –

THAT, Standing Order 212 be amended by inserting the following new paragraph immediately after paragraph (2)—

“(3) The Committee shall consist of a Chairperson and not more than twenty-two other members.”

(Hon. Tom Kajwang, MP)

Debate arising;

Question put and agreed to;

Procedure and House Rules Committee amendment to Standing Order 212– agreed to

STANDING ORDER 212B (COMMITTEE ON MEMBERS’ SERVICES AND FACILITIES)

Procedure and House Rules Committee Amendment proposed –

THAT, Standing Order 212B be amended in paragraph (3) by deleting the word “six” appearing immediately after the words “not more than” and substituting therefor the word “fourteen”.

(Hon. Tom Kajwang, MP)

Debate arising;

Question put and agreed to;

Procedure and House Rules Committee amendment to Standing Order 212B– agreed to

STANDING ORDER 213 (APPOINTMENT OF JOINT COMMITTEES)

Procedure and House Rules Committee Amendment proposed –

THAT, Standing Order 213 be amended by deleting paragraph (4).

(Hon. Tom Kajwang, MP)

Debate arising;

Question put and agreed to;

Procedure and House Rules Committee amendment to Standing Order 213– agreed to

STANDING ORDER 214 (JOINT COMMITTEE ON NATIONAL COHESION AND EQUAL OPPORTUNITY)

Procedure and House Rules Committee Amendment proposed –

THAT, Standing Order 214 be deleted.

(Hon. Tom Kajwang, MP)

Debate arising;

Question put and agreed to;

Standing Order 214 – deleted

STANDING ORDER 215 (JOINT COMMITTEE ON PARLIAMENTARY BROADCASTING AND LIBRARY)

Procedure and House Rules Committee Amendment proposed –

THAT, Standing Order 215 be deleted.

(Hon. Tom Kajwang, MP)

Debate arising;

Question put and agreed to;

Standing Order 215 – deleted

STANDING ORDER 216 (APPOINTMENT AND MANDATE OF DEPARTMENTAL COMMITTEES)

Procedure and House Rules Committee Amendment proposed –

THAT, Standing Order 216 be amended by deleting paragraph (1) and substituting therefor the following paragraph—

“(1) There shall be select committees to be known as Departmental Committees whose members shall—

(a) be nominated by the Committee on Selection in consultation with parliamentary parties at the commencement of every Parliament; and

(b) not exceed nineteen in number.”

(Hon. Tom Kajwang, MP)

Debate arising;

Question put and agreed to;

Procedure and House Rules Committee amendment to Standing Order 216– agreed to

NEW STANDING ORDERS 212C AND 212D

Procedure and House Rules Committee Amendment proposed –

THAT, the Standing Orders be amended by inserting the following new Standing Orders immediately after Standing Order 212B—

“Committee on National Cohesion and Equal Opportunity

212C. (1) There shall be a select committee to be designated the Committee on National Cohesion and Equal Opportunity.

(2) The Committee shall consist of a Chairperson and not more than twenty-two other members.

(3) The Committee shall—

- (a) monitor and promote measures relating to policy and program initiatives in pursuit of peace and national cohesion;
- (b) investigate, inquire into and report on all matters relating to inter-community cohesion;
- (c) monitor and promote measures designed to enhance the equalization of opportunities and improvement in the quality of life and status of all persons, including persons who are marginalised on the basis of gender, age, disability, health status, ethnic, racial, cultural or religious background or affiliation or any other such ground;
- (d) investigate, inquire into and report on all matters relating to discrimination or marginalization of persons referred to under sub-paragraph (c);
- (e) make proposals to Parliament including legislative proposals for the protection, equalisation of opportunities and promotion of the welfare of the groups referred to under sub-paragraph (c); and
- (f) examine the activities and administration of all state departments and statutory bodies in so far as they relate to the rights and welfare of the persons referred to under sub-paragraph (c).

Committee on Parliamentary Broadcasting and Library

212D. (1) There shall be a select committee to be designated the Committee on Parliamentary Broadcasting and Library.

(2) The Committee shall consist of a Chairperson and not more than twenty-two other members.

(3) The Committee shall—

- (a) consider and report on all matters relating to broadcasting of the proceedings of the House;
- (b) advise the House on matters related to public participation;
- (c) make reports and recommendations to the House, including proposed legislation on matters relating to broadcasting of House proceedings;
- (d) recommend to and advise the House on matters related to provision of library, publications and research services in Parliament, including improvement of the library and research services; and
- (e) assist Members in utilizing the facilities provided by the library and research services, including use of information and communication technology.

(4) The Committee shall not deal with matters related to procurement of items or services of the broadcast, the library or research services, or any matter falling within a function of the Parliamentary Service Commission.”

(Hon. Tom Kajwang, MP)

Debate arising;

Question put and agreed to;

New Standing Orders 212C AND 212D – agreed to

FOURTH SCHEDULE (JOINT SITTINGS RULES)**Procedure and House Rules Committee Amendment proposed –**

THAT, the Fourth Schedule to the Standing Orders be amended in rule 9 by deleting paragraph (1).

(Hon. Tom Kajwang, MP)

Debate arising;

Question put and agreed to;

Procedure and House Rules Committee amendment to the Fourth Schedule—agreed to

Consideration of Amendments to the National Assembly Standing Orders to be reported without amendments;

13. **HOUSE RESUMED** - the Speaker in the Chair

Consideration of the Procedure and House Rules Committee (PHRC) amendments to the National Assembly Standing Orders, 3rd Edition

Consideration reported without amendments

Motion made and Question proposed –

THAT, this House do agree with the Committee in its Report.

(Hon. Tom Kajwang, MP)

Question put and agreed to.

Motion made and Question proposed –

THAT, the Procedure and House Rules Committee amendments to the National Assembly Standing Orders be agreed to without amendments.

Question put and agreed to.

14. **MOTION - ADOPTION OF THE JOINT PARLIAMENTARY SELECT COMMITTEE ON THE ELECTION OF MEMBERS TO THE EAST AFRICAN LEGISLATIVE ASSEMBLY**

Motion made and Question proposed –

THAT, pursuant to the provisions of Article 50 of the Treaty for the Establishment of the East African Community and Rule 13(5) of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017, and notwithstanding the provisions of Standing Order 47(1), this House adopts the Report of the Joint Parliamentary Select Committee on its consideration of the nominees for election as Members of the East African Legislative Assembly, laid on the Table of the House today, Thursday, December 7, 2017, and further resolves that the election be held on Thursday, December 14, 2017.

(The Co-Chairperson of the Joint Parliamentary Select Committee on the Election of Members to the East African Legislative Assembly)

(Change of Chair from the Speaker to the First Chairperson)

Debate arising;

Rising in his place on a Point of Order pursuant to Standing Order 35(1), the Nominated Member (Hon. Godfrey Osotsi) drew the attention of the First Chairperson to the fact that there were was no Quorum in the House;

And the Chairperson having counted the numbers and ascertained the claim thereupon ordered the Quorum Bell to be rung for ten minutes;

And there being **no** Quorum after expiry of ten minutes;

And the time being twenty-eight minutes to Seven O'clock, the Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

15. **HOUSE ROSE** - at twenty-eight minutes to Seven O'clock

M E M O R A N D U M

The Speaker will take the Chair on
Wednesday, December 13, 2017 at 9.30 a.m.

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