

**PARLIAMENT OF KENYA****THE NATIONAL ASSEMBLY****THE HANSARD****SPECIAL SITTING**

*(Convened vide Gazette Notice  
No.13599 of 15<sup>th</sup> December, 2021)*

**Wednesday, 22<sup>nd</sup> December 2021**

The House met at 10.00 a.m.

*[The Deputy Speaker (Hon. Moses Cheboi) in the Chair]*

PRAYERS

QUORUM

**Hon. Deputy Speaker:** Hon. Members, we do not have the required numbers. I order the Bell to be rung for 10 minutes.

*(The Quorum Bell was rung)*

Order Members. You can now take your seats. We now have quorum and, therefore, business will begin.

**PAPERS LAID**

**Hon. Deputy Speaker:** Under this particular Order, we have the Chairperson of the Departmental Committee on Justice and Legal Affairs.

**Hon. David ole Sankok** (Nominated, JP): Point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** You are out of order. Proceed, Hon. Kigano.

**Hon. Clement Kigano** (Kangema, JP): Hon. Deputy Speaker, I have the honour to lay before the House Report on consideration of the Political Parties (Amendment) Bill (National Assembly Bill No.56 of 2021).

**Hon. David ole Sankok** (Nominated, JP): Point of order, Hon. Deputy Speaker. I have a point of order.

**Hon. Deputy Speaker:** Let me train you a little, Hon. Sankok. When no other Member has spoken other than the Speaker, your point of order would, therefore, be insinuating that the Speaker is out of order. So, you would be out of order yourself.

*(Laughter)*

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Now that the Chair of the Departmental Committee on Justice and Legal Affairs has spoken, I hope whatever it is you have will be directed at anything else other than the Speaker. Let me hear it, and it had better be a point of order.

**Hon. David ole Sankok** (Nominated, JP): Hon. Deputy Speaker, I rise on a point of order.

**Hon. Deputy Speaker:** Under which Standing Order?

**Hon. David ole Sankok** (Nominated, JP): Standing Order 1.

**Hon. Deputy Speaker:** Standing Order 1 does not allow you to raise a point of order.

**Hon. David ole Sankok** (Nominated, JP): No, Hon. Deputy Speaker. Excuse me, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Just a minute. I am going to give you an opportunity. You will have the Floor. Hon. Sankok, let me refresh your memory. I am going to help you in Kiswahili. *Inasema katika hali ambazo jambo lolote halijaeleza waziwazi katika Kanuni hizi au kwa amri zingine za Bunge la Taifa, basi Spika ataamua utaratibu wa kufuatwa.* Now, which one is this that you want me to do?

**Hon. David ole Sankok** (Nominated, JP): Hon. Deputy Speaker, exactly that one. Now you have guided me properly because I need your guidance.

**Hon. Deputy Speaker:** If that is the one you want to ask me to do, then, I would do it on my own and not yours. So, you have to get a specific issue that you want to raise. Which one is this?

**Hon. David ole Sankok** (Nominated, JP): Hon. Deputy Speaker, we know our COVID-19 status currently in this country. Some of us went to Tanzania to collect medals. Unfortunately, there is something extra that we collected in terms of COVID-19. Currently, 38 per cent of those who are back from Arusha, Tanzania, tested positive. From where we were being tested, I heard that out of 11 Members that were tested, eight of them have...

**Hon. Deputy Speaker:** Order! Sit down. Hon. Sankok, take your seat. You do not come here and peddle rumours. You went to Tanzania. If you feel that you are not okay, step out of the House. You do not come here and peddle rumours and tell us about numbers. The issues that are being done there are specifically health matters and there is privilege to that. So, you cannot come here and make allegations that you have no idea about. I am not going to allow you. You are completely out of order. We will not discuss that. If you suspect yourself, step out. The issue is if you want to discuss that particular issue, you know the Standing Order in which to pursue this matter, but what I cannot accept is for you to make issues and mention numbers that you have no idea. I cannot accept that. Go and bring the evidence and table it. I am not going to allow that. That kind of thing is very reckless. If you have any evidence, walk out and bring the evidence, and then we will deal with it. You know the manner in which to deal with those kinds of things. It is not shouting from where you are seated. I am not going to allow that. Let us proceed. We go to the Chairperson of the Select Committee on Implementation.

**Hon. Richard ole Kenta** (Narok North, ODM): Hon. Deputy Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Select Committee on Implementation on the Implementation Status of the Report of the Departmental Committee on Lands on a Petition on irregular renewal of lease of land...

*(Loud consultations)*

**Hon. Deputy Speaker:** Hon. Sankok, you know yesterday we specifically indicated that Members must social distance. If you are going to be sitting close to another Member and you are making wild allegations, that is absolutely out of order. Proceed, Hon. Kenta.

**Hon. Richard ole Kenta** (Narok North, ODM): Let me start again. Please let me table my Papers.

*(Loud consultations)*

**Hon. Deputy Speaker:** I am not going to allow any distraction to the business that is going on. Proceed, Hon. Kenta.

**Hon. Richard ole Kenta** (Narok North, ODM): Hon. Deputy Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Select Committee on Implementation on the Implementation Status on:

1. The Report of the Departmental Committee on Lands on a Petition on irregular renewal of leases of land by Delmonte Kenya Limited.
2. The Report of the Departmental Committee on Lands on its consideration of the Petition by the former workers of the Late Mayor Jacob Samuel regarding the invasion and eviction of the workers from their land in Roysambu Constituency by the Kenya Defence Forces.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is it, Hon. Pukose?

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Hon. Deputy Speaker, with all due respect, the Chair of the Justice and Legal Affairs Committee has tabled a Report on the amendments made on the Political Parties (Amendment) Bill, but we went to the Table Office and apparently we do not have the reports. We want to read those reports and be able to...

**Hon. Deputy Speaker:** That is a fair point of order. What has happened?

**Hon. David ole Sankok** (Nominated, JP): *off record*.

**Hon. Deputy Speaker:** Hon. Sankok, if you repeat that, then I will close the school with you. I would rather we stop it there. On this one of Hon. Pukose, what the Chair of the Justice and Legal Affairs Committee has done is to table the Report. Now, on the matters of the specific amendments - and they are many - they are online and they are separate. Some of them are probably on the Order Paper, but they are online. You can check there. I think that is a fair issue. Let us be serious, Hon. Members. There are matters you do not raise very casually in the House. There are matters of procedure that are fair as the one by Hon. Pukose. We can deal with them. Hon. Members, please, let us maintain some calm. If you think anybody can derail the processes of the House, it is not going to be possible this morning. We want to progress and whatever we will do, we will do it fairly. Let us proceed to the next Order.

## BILL

### *Second Reading*

#### THE POLITICAL PARTIES (AMENDMENT) BILL

**Hon. Deputy Speaker:** Let us have the Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Deputy Speaker. I beg to move that the Political Parties (Amendment) Bill...

**Hon. Deputy Speaker:** Leader of the Majority Party, just a minute. What is it, Hon. Murugara?

**Hon. George Gitonga** (Mwea, JP): Hon. Deputy Speaker, allow me to raise what I consider to be serious constitutional matters relating to the Bill which we are just about to commence debate on. I have several issues to raise and I wish to be heard on each of them, so that I can seek a ruling of the Speaker. I am seeking direction. It is a point of order on a very important constitutional matter on which I seek the ruling of the Chair as regards the constitutionality of some of the provisions in this Bill. Kindly allow me to raise the issues.

**Hon. Deputy Speaker:** Hon. Murugara, you have risen on a point of order. You are trying to seek my guidance on a particular issue and you have my ears. I want you to proceed as if you do not hear anybody else.

**Hon. George Gitonga** (Mwea, JP): Unfortunately, I should not be interjected because I lose my line of thought.

**Hon. Deputy Speaker:** Hon. Murugara, the only thing that I ask from you is that it should be brief.

**Hon. George Gitonga** (Mwea, JP): Yes, it depends on how many points I have. Thank you, Hon. Deputy Speaker. I have looked at the Political Parties (Amendment) Bill of 2021 and I speak first and foremost as a Member of Parliament representing Tharaka Constituency, a Member of the Justice and Legal Affairs Committee and also as a lawyer. I have particularly a problem with Clause 2, which seeks to amend Section 2 of the Political Parties Act, which in essence introduces matters that are not constitutional.

The Political Parties Act is basically founded on Article 260 of the Constitution, which defines a political party by making reference to Chapter 7, Part III. When you look at what a political party is in the Constitution, it does not in any way contemplate formation of any other thing not referred as a political party to be a political party. What we have is a definition that is introduced in Clause 2(b). Now, a political party includes a coalition political party. If we read the Constitution, Article 260 as read with Chapter 7 Part III, there is no contemplation as *ejusdem generis* even if we construe it in whichever way that we would introduce an entity that is not contemplated by the Constitution. What this particular clause is doing is to introduce an entity that requires to be defined by the Constitution. Failing to do so means that what we are just about to debate is unconstitutional. This particular section of the clause is introducing an entity that requires to be defined by the Constitution, and failing to do so means that what we are just about to debate is unconstitutional.

*(Applause)*

Secondly, I take you to Article 118 of the Constitution. Today, we are debating the Political Parties (Amendment) Bill, a Bill that seeks to amend the Political Parties Act. The proposed amendments have very serious ramifications on Kenyans because almost all Kenyans are members of political parties. Under Article 118, this House is required to conduct extensive and conclusive public participation. Unfortunately, this was not done regarding this Bill. So, what we have is an advertisement in the newspaper calling for written memorandum. First and foremost and extremely important, in my view, we should have conducted what would be, in the eyes of this House, adequate public participation.

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**Hon. Deputy Speaker:** I am listening to you very keenly and I am at that particular Article of the Constitution. As you proceed, you know you are a Member of the Justice and Legal Affairs Committee. Do we have such representation in the minutes of your JLAC meeting? There are some things you could have cured yourself if there were issues.

**Hon. George Gitonga (Tharaka, DP):** May I explain myself?

**Hon. Deputy Speaker:** Yes.

*(Hon. Amos Kimunya spoke off record)*

**Hon. George Gitonga (Tharaka, DP):** I do not want the Leader of the Majority Party to distract me because I am a Member of the Justice and Legal Affairs Committee and the Chairman is here. For sure, we did not schedule a meeting to discuss this Bill.

*(Loud consultations)*

Do not shout, we did not schedule a meeting to discuss this Bill.

**Hon. Deputy Speaker:** Hon. Chairman, I will give you an opportunity to speak. Let him conclude. Of course, I will give the Chair of the Committee because...

**Hon. George Gitonga (Tharaka, DP):** We did not schedule a meeting to discuss this Bill. This is what happened. I am sorry, this is very important.

**Hon. Deputy Speaker:** I believe the interest you have is public participation and the unconstitutionality of the introduction of Clause 2 of this particular Bill that we are going to discuss.

**Hon. George Gitonga (Tharaka, DP):** Hon. Deputy Speaker, you asked me whether my issues are captured in the Report. You are not taking my response. Kindly listen to me when I tell you why my sentiments are not captured.

**Hon. Deputy Speaker:** I wanted us to be brief.

**Hon. George Gitonga (Tharaka, DP):** Hon. Deputy Speaker, you cannot rush us this way unless there is a good reason for that.

**Hon. Deputy Speaker:** We have a reason for that. We have a big thing to do. Hon. Murugara, I will explain to you why we are in a hurry. There are two days that were placed before us for the Special Sitting. This is a special sitting and we need to conclude or exhaust the business before us. Unfortunately, we are on the second day. So, I am trying to see how we can have you on board and have the interest of moving forward on board.

**Hon. George Gitonga (Tharaka, DP):** The same way we have the urgency, the same way there is an urgency in what I am raising as follows. We need to go on record.

*(Loud Consultations)*

The Justice and Legal Affairs Committee did not schedule any meeting for this Bill. What happened was that a meeting was scheduled by the Judicial Service Commission in Mombasa, for which we were all invited. This Bill came up in Mombasa as any other business. Unfortunately, by the time the Judicial Service Commission invited us, most of us were committed elsewhere and we were not able to attend. As a result, I was not able to make my presentation in the AOB that we were to do in Mombasa. Yesterday, we were signing the particular Report which was discussed in Mombasa. I raised a point in the meeting, but the Chairman locked me out. Later on...

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**Hon. Deputy Speaker:** You have raised your two issues.

**Hon. George Gitonga** (Tharaka, DP): No, I have not. Hon. Deputy Speaker, let me explain what I am raising. Everybody can talk the whole day.

**Hon. Deputy Speaker:** It is not for the whole day. I have two issues. Hon. Sankok, do not worry about your matter. I will sort it out. Hon. Gitonga, let me give you a timeline so that you can organise yourself within the next three minutes to wind up your submission.

**Hon. George Gitonga** (Tharaka, DP): One minute would go like this. At 5.00 o'clock, we raised an issue as to whether all the memorandum received were considered. We were told that there was no other memorandum received. I was not satisfied. I went to the Office of the Clerk and a memorandum had been received at 4.55 p.m. I am going to table it so that you can see if what I am saying is true.

Finally, as we proceed to discuss this, we have not less than 13 to 15 Members of Parliament who have proposed amendments to the Bill. What we are discussing may not be what we are going to pass. There is need to harmonise the proposed amendments with the Bill, so that when we discuss, we discuss something that is properly harmonised. There is a problem with that. Before, we were discussing the other Bill and the Speaker noted that there were many amendments that there was need for harmonisation before we proceed to debate. I need your guidance as regards this.

**Hon. Deputy Speaker:** That is okay. Thank you very much, Hon. Murugara. As promised, there are two people I am going to give a chance. One of them is going to be the Leader of the Minority Party and the next one is the Chair of the Justice and Legal Affairs Committee and probably the Leader of the Majority Party. The issues I want to understand from the Chair of the Justice and Legal Affairs Committee is the meetings that were scheduled and whether you discussed this particular matter including the one of yesterday. Already, one of your Members has indicated that he did not participate. So, we want to know whether he did not participate by virtue of not being invited to a meeting or by his failure to attend a meeting. Those are issues that we would want to know. So, let us start with the Leader of the Minority Party. Meanwhile, where is Hon. Babu Owino? Please, approach the Speaker quickly.

Proceed.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Deputy Speaker, for giving me this opportunity to contribute to the point of order raised by Hon. Warugara.

Hon. Warugara has raised two fundamental issues and he claims that the provisions of this Bill would infringe on the constitutional provisions; against what is provided in the Constitution.

*(Hon. David ole Sankok spoke off record)*

Does he have his crutches? Hon. Deputy Speaker, can I proceed, please?

*(Hon. Deputy Speaker consulted with Hon. Babu Owino)*

**Hon. Deputy Speaker:** Please, proceed. I was sorting out another matter which has risen and I want to settle it down.

**Hon. John Mbadi** (Suba South, ODM): Thank you. I wanted to react to the point of order that has been raised by Hon. Warugara. He has cited two fundamental issues.

**Hon. Deputy Speaker:** Leader of the Minority Party, Warugara is a lady. The one you are talking of is Hon. Murugara.

**Hon. John Mbadi** (Suba South, ODM): This is Murugara?

**Hon. Deputy Speaker:** Yes, the man.

*(Laughter)*

**Hon. John Mbadi** (Suba South, ODM): Hon. Murugara. Let me apologise for referring to Hon. Murugara as Hon. Warugara.

The two issues that Hon. Murugara has raised... The Member of Parliament for Malindi is again interfering. Can I just proceed now?

*(Loud consultations)*

The two issues that Hon. Murugara has raised touch on the Constitution. I want to address myself to them. First, the current existing law refers to a definition of a political party as having been founded under Article 260 of the Constitution.

*(Loud consultations)*

Hon. Deputy Speaker, could we have some order with Hon. Sankok?

**Hon. Deputy Speaker:** Leader of the Minority Party, please, take your seat. The matter that I am aware is happening to Hon. Sankok is serious.

*(Hon. (Dr.) Robert Pukose spoke off record)*

Just keep quiet, Hon. Dr. Pukose! It has nothing to do with you.

*(Hon. (Dr.) Robert Pukose spoke off record)*

No. Forget about you being a doctor. Did you say that you are a gynaecologist?

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Surgeon.

**Hon. Deputy Speaker:** Surgeon, that is okay. What is surprising is that Hon. Sankok is seated there all the time. If you have lost your crutches, you obviously have in mind the person who has taken them. I will order them to be brought to you quickly. The matter of bringing the bodies in law is called *habeas corpus*. I believe this is going to be *habeas legs*.

*(Laughter)*

We must very quickly get the crutches. I am told it is Hon. Babu Owino. I am not so sure if that is the truth. If that is the case, Hon. Owino, you probably need to take them back very quickly. Are you the one who has committed that offence?

**Hon. Babu Owino** (Embakasi East, ODM): Hon. Deputy Speaker, I have already released them. The Serjeant-at-Arm has taken them.

**Hon. Deputy Speaker:** Hon. Nominee 001, do you already have your other legs? Let us put it this way: The legs with Hon. Sankok would be legs, but if they fall to the hands of someone else, then they become some weapon. We would not want those legs to be with anybody else. I want to be sure first, he has received his legs. Since it has been stated that you do not seem to take good care of your legs, we are safely keeping them somewhere so that nobody else can take them

from you. Take your seat because you will have your crutches. They are there and they will be brought to you. I think I have resolved your matter. You do not have to worry any more.

*(Hon. (Dr.) Robert Pukose stood up in his place)*

Hon. Pukose, take your seat.

Hon. Babu, you should apologise to the House and not to Hon. Sankok because what you have just done is absolutely out of the ordinary. I know you for making many other issues, but this should not be one of them. Just apologise.

**Hon. Babu Owino** (Embakasi East, ODM): Hon. Sankok seem not to need the legs at the moment.

**Hon. Deputy Speaker:** Just apologise.

**Hon. Babu Owino** (Embakasi East, ODM): I apologise.

**Hon. Deputy Speaker:** That matter is settled now. I can see that even Hon. Sankok is happy. Let us get to serious business now. Leader of the Minority Party, please, proceed.

**Hon. John Mbadia** (Suba South, ODM): Thank you, Hon. Deputy Speaker. That must have been a commercial break.

Let me get back to the business of the House. Hon. Murugara raised two fundamental issues. I think we need to engage our minds into those issues and address them. I will start with the first issue that he raised regarding the infringement of the Constitution by providing the definition of a political party or political parties as it is in the proposed amendment. He cited that the old law that we are seeking to amend has provided for the definition under Article 260. If you go to Article 260, it refers you to Chapter 7, Part III, which is basically Article 91 of the Constitution. Article 91 of the Constitution provides how a political party should look like. It does not provide for the definition of a political party. It has only provided the architecture, the composition and what you need to look into when you are looking at a political party. It is now that we are providing a legislation that is going to define a political party and unless it infringes directly and explicitly on the provisions under Article 91, then there is nothing wrong. In fact, the current proposal clarifies what a political party should be and there is no contradiction whatsoever with what is provided under Article 91 of the Constitution. It basically provides what you need to look into when you are forming a political party or applying for registration. You must respect the provisions of the Constitution.

With all due respect to the lawyer, Hon. Murugara, when it comes to matters legislation and the Constitution, as long as you are an average Kenyan with good intellectual capacity like myself, then you are able to interpret and understand that there is nothing infringing on it. As a matter of fact, Article 38 of the Constitution provides for the rights of Kenyan to form themselves into political parties and movements. I do not think Hon. Murugara has raised a substantive issue regarding this Bill on that matter.

On the issue of public participation, we do not have clear programmes and provisions in law which define how public participation needs to be carried out. Yesterday, we deferred debate of the Second Reading of this Bill because we realised that we were going to infringe on that provision in the Constitution on public participation. We had invited Kenyans and gave them 21 days which were ending last evening. One would expect that any Kenyan who is interested in giving input in whichever form would have used the 21 days, either to send a written memorandum or appear before the Committee of the House, and canvass his or her position. At the end of the 21 days' period, you cannot again come and fault this House that we have not conducted enough



public participation. We do not have the definition of enough public participation in law. It is not there. In my view, the 21 days' should suffice.

Hon. Deputy Speaker, I know we would have problems with the provisions of this Bill in whichever way. The best thing for us to do is to converse. Talk to us, Hon. Murugara, and tell us what you feel needs to be changed. You can then propose amendments. Many Members, namely, 13 of them, have proposed amendments, and we are going to deal with them. We will consider amendments that merit consideration, but we shall not deal with amendments that do not merit.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Just before I come to the two Members including the Leader of the Majority Party, as I had indicated, let me give a chance to Hon. Mutua Barasa, Member for Kimilili. Did you want to speak to this one?

*(Hon. John Kiarie spoke off record)*

We are discussing a point of order, Hon. KJ, so, how do you bring another point of order when we are on a point of order?

Proceed, Member for Kimilili. Do you have a problem with your microphone? You can use the one in the Dispatch Box. That will be fine.

**Hon. Didmus Barasa** (Kimilili, JP): Thank you, Hon. Deputy Speaker, for giving me this opportunity. Hon. Murugara has raised very serious matters that need your guidance, and it is only fair that you give an appropriate ruling because we are staring at a situation where even Non-Governmental Organisations (NGOs) will begin to field political candidates if we do not tread carefully. We are making these laws for posterity and not for a particular group. So, we should look at the matters that have been raised by Hon. Murugara with the seriousness they deserve. Let us not put our political emotions into this because they are going to affect the coming generations.

So, I beseech you to make your pronouncement and not to allow us to dilute what Hon. Murugara has raised so that you, as the Deputy Speaker of this House, guided by the Standing Orders, provide a proper ruling as to whether this Bill is properly before this House or not. If it is unconstitutional, it should be sent back to the sender.

**Hon. Deputy Speaker:** Hon. Iringo, do you have something to say because I see your name at the top here? Let us have Hon. Iringo, and then we go back to the Members I had mentioned.

**Hon. Kubai Iringo** (Igembe Central, JP): Thank you, Hon. Deputy Speaker. I request you, with due respect and without side shows and other insinuations, that whatever Hon. Murugara brought in should be looked at critically. I also repeat that laws are made for posterity and not to curve or take a dimension of pleasing some caucus.

If I can take you down the memory line way back in the 10<sup>th</sup> Parliament, the Standing Orders were tailored to fit a certain party. When we came to the 11<sup>th</sup> Parliament, we were unable to proceed with the business of the House for almost a year because what was tailored to fit into the political dispensation at that time did not favour them since, unfortunately, they did not get the leadership position. Therefore, we had to go back to the drawing board to put things right.

Let us not do things to please people for a year. Let us do things which will take this country forward for many years to come.

**Hon. Deputy Speaker:** Let us go to the Chairperson.

*(Loud consultations)*

Let me just guide you, Hon. Members. Hon. Murugara rose on a point of order and now, the Members are responding and buttressing the issues in one way or the other. So, for another Member to rise on a point of order, you will have to allow us to finish with this one, and then you can raise your own. We cannot have it two ways. We are dealing with one specific matter. Let us not be unruly about this issue. If you have an issue which makes sense, you will be heard, but again, we are not going to use this one as a filibustering thing. We are going to proceed because we do not want to waste time on a matter that is fairly straight forward, in my thinking.

So, let us have the Chairperson of the Committee telling us the process with which the matter of public participation was done. Actually, it is not even the matter of public participation because it is in your domain, Hon. Members, that public participation was done and it ended yesterday, and that is why we could not progress with this yesterday. Yesterday, Hon. John Kiarie, and that is why I am going to have a bit of a problem giving you an opportunity, the reason why this matter was brought today is because you are part of the Members who gave me the opportunity to make that decision, led, of course, by the Leader of the Majority Party and the Chairperson of the particular Committee. So, you cannot have it twice.

So, proceed, Hon. Chairperson.

**Hon. Clement Kigano** (Kangema, JP): Thank you, Hon. Deputy Speaker. Some of these matters that have been raised...

**Hon. Deputy Speaker:** I actually want you, most importantly, to restrict yourself to the matter of the public participation process and the meetings by your Committee.

**Hon. Clement Kigano** (Kangema, JP): Hon. Deputy Speaker, first of all, due notice of the meeting for consideration of the Political Parties (Amendment) Bill was given electronically on Tuesday, 14<sup>th</sup> December 2021. It was dispatched to everybody and, in fact, yesterday, Hon. Murugara gave a notice of apology for the meeting.

*(Loud consultations)*

*(Hon. George Gitonga spoke off record)*

You need to wait?

**Hon. Deputy Speaker:** Hon. Murugara, you have made your submissions in peace. So, allow your Chairman to also have some peace as he submits.

**Hon. Clement Kigano** (Kangema, JP): Hon. Deputy Speaker, on 14<sup>th</sup> December 2021 at 6.35 p.m., the following notice was electronically dispatched to every Member of the Departmental Committee on Justice and Legal Affairs:

“Members are reminded that on Thursday, we shall meet the Judiciary, thereafter, embark on consideration of the Political Parties Act amendments necessitating retreat extension to Monday, 20<sup>th</sup> December 2021, instantly. We will be taking this course and the Registrar of Political Parties has been invited to take us through the proposals. All Members are requested to avail themselves for this noble exercise since the amendments are scheduled for debate at the Special Sitting next week.”

The Members attended the meeting yesterday. When we retreated to Committee Room 9, Hon. Murugara requested the Chairperson to register that his apologies were not captured in the minutes. Thereafter, we went ahead to consider the Report. He never raised any complaint and never

brought any memorandum. We left that Room at about 6.00 p.m. The so-called memorandum was not brought to the notice of the Committee at that hour.

**Hon. Deputy Speaker:** Alright. So, we go to the Leader of the Majority Party.

*(Loud consultations)*

**Hon. Clement Kigano** (Kangema, JP): May I continue, Hon. Deputy Speaker?

**Hon. Deputy Speaker:** Is there any point of order that I am going to entertain? What is it, Hon. John Kiarie? You have one minute. It should not be a speech.

**Hon. John Kiarie** (Dagoretti South, JP): Thank you, Hon. Deputy Speaker.

*(Loud consultations)*

I need your protection, so that I can be heard in silence.

**Hon. Deputy Speaker:** A point of order is not going to be heard in silence. It is going to be heard briefly.

**Hon. John Kiarie** (Dagoretti South, JP): Hon. Deputy Speaker, yesterday, I did rise in my place and requested that this Committee admits a report to this House procedurally following the provisions of Article 118 of the Constitution that requires us to have public participation. From the Chair, yesterday, you said that public participation cannot be seen to be a cosmetic affair. Yesterday evening, the Departmental Committee on Justice and Legal Affairs met.

This is a House of records, Hon. Deputy Speaker. If we went... Hon. Deputy Speaker, allow me to make my point.

**Hon. Deputy Speaker:** No. I am not going to allow you. If you...

**Hon. John Kiarie** (Dagoretti South, JP): Hon. Deputy Speaker, there is no consideration of memos that came in yesterday and we cannot say that we have done conclusive public participation.

*(Loud consultations)*

*(Hon. John Kiarie spoke off-record)*

**Hon. Deputy Speaker:** Thank you very much. Chair!

*(Hon. John Kiarie spoke off-record)*

Proceed. Chair, proceed.

*(Hon. John Kiarie spoke off-record)*

**Hon. Clement Kigano** (Kangema, JP): Hon. Deputy Speaker...

**Hon. Deputy Speaker:** Hon. Baya, I am not going to accept yours. No.

*(Loud consultations)*

Chair, proceed.

*(Loud consultations)*

**An Hon. Member:** Simameni!

*(Loud consultations)*

**Hon. Members:** We need the *Hansard*. *Simameni!* We need the *Hansard!*

*(Loud consultations)*

**Hon. Deputy Speaker:** Proceed, Hon. Chair! Then we come to... Hon. Chair, you can wind up on your...

*(Loud consultations)*

**Hon. Members:** *Hansard! Hansard! Hansard!*

*(Several Members stood up in their places)*

**Hon. Deputy Speaker:** Okay. Hon. Members, now take your seats. Take your seats.

**Hon. Members:** *Hansard!*

*(Loud consultations)*

**Hon. Member:** Give it to KJ.

*(Several Members stood up in their places)*

**Hon. Deputy Speaker:** Now, let me comment about the *Hansard*. Take your seats! I would like to comment about the *Hansard*. Take your seats, Members. Not! It is your... Okay.

*(Hon. John Kiarie stood up in his place)*

Order, Hon. KJ! Hon. KJ, take your seat! The rest of the Members, take your seats. Let me make a comment about the request you have made about the *Hansard*.

*(Loud consultations)*

Just take your seats. I am going to order that particular Member out! Take your seats. You have asked for the production of the *Hansard*.

*(Loud consultations)*

*(Hon. John Kiarie spoke loudly)*

Hon. KJ, I am going to ask that if you become unruly, I will take some step which I do not want to. You have made a request, but you are still shouting. That does not make... You are being very unruly.

You have said that you want to see the progress...

*(Loud consultations)*

I am not giving anybody the microphone now. I am making a ruling.

*(Loud consultations)*

We will progress.

*(Loud consultations)*

*(Hon. John Mutunga stood up in his place and consulted loudly)*

The Member for Tigania West! Member for Tigania West.

*(Loud consultations)*

**Hon. Deputy Speaker:** Order, Hon. Members. Hon. KJ has made a request that we have the *Hansard* of the meeting of yesterday of the Departmental Committee on Justice and Legal Affairs.

**Hon. Members:** Yes.

**Hon. Deputy Speaker:** That is simple. In the meantime, as we progress, we ask that the *Hansard* be brought. I do not think there should be something else unless there is another issue that you want to canvass. So, let us have...

*(A Member spoke off-record)*

Excuse me! I now order that the *Hansard* record of yesterday's meeting be brought here. In the meantime, we shall progress as we wait for the *Hansard*. Hon Leader of the Majority Party.

*(Loud consultations)*

Proceed.

*(Loud consultations)*

**A Member:** No! *Hatuendelei. Hansard iletwe.*

*(Loud consultations)*

**Hon. Deputy Speaker:** Order, Hon. Members. Order! So, this is how we are going to progress. In the meantime, we are going to get the meeting records for the Departmental Committee on Justice and Legal Affairs yesterday.

Secondly, I am going to make a ruling later, if need be, on Hon. Murugara's request and guidance. So, let us progress. The two things will be handled.

Proceed, Hon. Member.

*(Loud consultations)*

**Hon. Deputy Speaker:** Now, let me tell you Hon. Members. Let me tell you Hon. Members. I know for sure you know that the ruling is not possible now because, first, Hon. Murugara did not give notice directly to Hon. Speaker. He has placed his notice here. It is not your ruling anyway, but Hon. Murugara's. So, we are going to progress as we get all those things. Thank you.

*(Loud consultations)*

**Hon. Deputy Speaker:** Proceed.

## **BILL**

### *Second Reading*

#### THE POLITICAL PARTIES (AMENDMENT) BILL

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Deputy Speaker, I beg to move:

THAT, the Political Parties (Amendment) Bill, (National Assembly Bill No. 56 of 2021), be now read a Second Time.

*(Applause)*

*(Loud consultations)*

Hon. Deputy Speaker, political parties are endemic to democracy. Indeed, the kind of political democracy we are seeing in this House today is anchored on political party thinking. They are the vehicles that move our democratic space and give our citizens the opportunity to choose their leaders from amongst the contenders in every election.

*(Applause)*

Active citizen participation in political parties subtly offers unique benefits, including the opportunity to influence policy choices, choose and engage political leaders, and even run for office. It is in this sense that this Bill seeks to propose amendments aimed at strengthening party autonomy, encouraging individual and citizen participation in party politics, requiring registration of members and maintenance of a members' list and that parties be formed based on certain common political ideals.

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When we enacted the 2010 Constitution, we defined political parties within Article 260. A political party was defined as an association contemplated in Part 3 of Chapter Seven. Part 3 of Chapter Seven contains Articles 91 and 92. Article 91(1) defines the characteristics of a political party. It shall have a national character; have a democratically elected governing body; promote national unity; and abide by certain values. Article 91(2) defines what a party shall not do. Article 92 then places responsibility on Parliament to legislate on political parties. We then went ahead and legislated in 2011. In Section 2 of the Political Parties Act (No.11 of 2011), we defined a political party as having the meaning assigned to it in Article 260 of the Constitution.

We ended up with a situation where the House that was given the power by Kenyans to define a political party did not do so and hence, we have been having...

*(Loud consultations)*

Since 2011, we have had the problem of having not defined a political party and yet, that responsibility was placed on this House.

*(Loud consultations)*

There was a case where the Political Parties Forum Coalition went to court and sought funding for political parties in a coalition. In 2016, the courts ruled that the law does not define a political party and the matter was upheld in the Court of Appeal. It is the responsibility of Parliament to define what a political party is, and not the courts. We must take that cue from the courts. The courts have said that Parliament was expected to define a political party, which it has not. Hence, the courts cannot define what a political party means.

*(Loud consultations)*

One of the provisions within this Political Parties (Amendment) Bill is to define what a political party is. The Bill defines it as an association of citizens with common ideals that are pursuing a certain agenda. This Bill cures one of the problems we have within our law where political parties are not defined. This is one of the fundamental amendments that we are bringing in this Bill.

The Bill also states that Article 260 envisages an association. It does not define whether it is an association of natural persons, legal persons, parties or bodies. Hence, the definition being proposed for debate in this House basically states that a political party – for avoidance of doubt – is an association of citizens with an indefinable ideology or program that is constituted for the purpose of influencing public policy or nominating candidates to contest elections.

*(Applause)*

That definition does not exist in our law today. We just came up with a convoluted Act. The Constitution states that it is an association contemplated in Part 3 of Chapter Seven. In our law, we said that it is an association as defined in Article 260. The two have never defined a political party. So, for once, we are going to have the definition of a political party.

We have also looked at the history of this country. Let us go back to the late 1990s when the National Development Party (NDP) merged with the Kenya African National Union (KANU). When they could not make a decision, they imploded. In 2002, the Democratic Party, the Forum for the Restoration of Democracy-Kenya (FORD-K) and the National Party of Kenya (NPK) came together under the National Rainbow Coalition (NARC). It was not possible to register a coalition and hence we adopted one of the parties – NPK – to change its name. Immediately the parties got into power, NARC was reclaimed by its owner. All of a sudden, the entire Government was at the behest of one of the party owners.

Fast forward to 2013, The National Alliance (TNA) got into a coalition with the United Republican Party (URP). In that coalition, President Uhuru Kenyatta had a running mate from URP who could not run on a URP ticket because the law does not recognise coalitions. Therefore, His Excellency William Ruto had to run on a TNA ticket.

Moving forward to 2017, a number of parties; namely, the Orange Democratic Movement (ODM), Wiper Democratic Movement-Kenya (WDM-K), Amani National Congress (ANC) and FORD-K came together as the National Super Alliance (NASA).

However, NASA could not sponsor a candidate. Therefore, ODM sponsored a candidate, but the running mate was not from ODM. As a result, we all know the issues that have happened since then.

In 2016, the Jubilee Party attempted to cure the problem and amalgamated all the parties that supported the coalition. We know the story. Some people have bolted.

It is clear that coalitions are the future of Kenya. It is a global phenomenon. There are coalitions in Britain, Germany and South Africa. There are coalitions everywhere. How do we ensure that parties that come together through a coalition are protected from the issues that we have seen in the past? That is what we need to think about.

When two or three parties come together, they cannot rely on the big brother to protect them. They must be protected in law. We are providing for a legal recognition of any framework that allows three or four political parties to come together so that they can sponsor their candidates as a political party. They share the money as a political party. It is not up to the big or the small brother to control the shots. That is the best thing that can happen to this country. I do not understand how anyone would have a problem with that kind of arrangement that protects small parties and individuals.

Hon. Deputy Speaker, we also know that we have been having problems with access to political party funding. Political parties are funded by the Exchequer to the tune of 0.3 per cent of the national revenue. We shall be making an amendment to that because the national revenue reference was in 2011 and we now know it is sharable revenue, excluding the money for the counties. But that money is only accessible to what we call the “big boys”. That money has never been accessible to the small parties. The small parties will have three or four Members of Parliament, a governor and some members of the county assemblies (MCAs), but cannot access the national kitty that was set up to promote the growth of democracy in this country. Therefore, one of the amendments that are being proposed in this law is to lower the threshold for access to the national funds that are being provided for the growth of democracy in this country. That way, any party that wins a seat; be it in the county assembly, gubernatorial race, Senate or the National Assembly, has put enough effort to merit participating in the sharing of the national funds. That is the kind of thing that is good for democracy in this country. We may oppose things because we might think that we do not need them.



*(Loud consultations)*

I want to state that if a small party like the Party of Development and Reforms (PDR) was not given coalition housing by Jubilee, there would be no UDA today. PDR as a small party was housed by a bigger party and it was able to produce a bigger party. All these amendments have been brought in to ensure that we clean up the mess we never cleaned since 2011. The courts have told us that we need to clean up so that political parties can be properly defined in terms of coalition of parties, the sharing of money and, most importantly, how we participate in our nominations. We should not have a situation where one party goes to influence the results of another political party at the nominations to get the weakest candidate. Only members of a certain political party will be able to participate. We have had cases where the worst candidates have been produced because a political party that has an interest in an area goes and influences the results of that party by basically supporting the weakest candidate.

Hon. Members, I wish to ask that you look at this Bill from a positive perspective in terms of how it enriches democracy. If you find that there are some areas that require amendments, let us reason together and bring those amendments. Let us harmonise them so that we can give the people of Kenya a Political Party Act that will withstand the test of time now and into the future.

I could go on and on, but I do not want to go through some...

*(Loud consultations)*

I will leave it at that and allow the Chairman of the Departmental Committee on Justice and Legal to continue. I want to urge Members that as we legislate, we must do it for posterity. We are not legislating for any of us but, basically, for the bigger good of the people of Kenya to ameliorate the suffering of the ordinary Kenyan people that is occasioned by some of these issues.

Hon. Deputy Speaker, I beg to move and request the Chair of JLAC, who had the responsibility and honour to get the public participation, to take us through the process of what they did. I want to dispute a statement by some Members that there was no public participation. I know that there was a lot of public participation. Before and after the publication of this Bill, there was public participation. We even had public participation in Mombasa. This Bill has gone through the most extensive public participation, including by all political parties who were invited and did their part.

I beg to move and ask Hon. Muturi Kigano to second.

**Hon. Clement Kigano** (Kangema, JP): Hon. Deputy Speaker, I beg to second and confirm and fortify what the Leader of Opposition has said.

*(Laughter)*

The Leader of the Majority Party has expounded on Article 270 as it relates to the meaning of political parties. I confirm that my Committee looked into this and we found out that Article 260 repossesses the ascription of meaning to registration through Article 292 of the Constitution. The sub-heading of Article 292 provides for the registration of political parties. It states:

“Parliament shall enact legislation to provide for, among other things, the management of political parties”.

The definition is, therefore, reposed to registration. The registration that has ascribed meaning is the Political Parties Amendments Bill 2021 under Clause 2.

*(Hon. David ole Sankok consulted loudly)*

Hon. Deputy Speaker, please protect me from this heckler. I do not know the type of government they aspire to have. It will be a government of disorder.

Hon. Deputy Speaker, this is the Bill that is going to remove or erase any overlapping mandates between the IEBC and the Office of the Registrar of Political Parties. This will enhance effective management of political parties and define the role of the Office of the Registrar of Political Parties regarding independent candidates. It will also fully implement the Constitution to address the gaps that are identified in the Office of the Registrar, for example, the meaning of a political party or a coalition.

Hon. Deputy Speaker, coalitions are the in-thing in the world today. If you look at Germany today, it is a coalition of several political parties. In India, the biggest democracy in the Commonwealth, the Government of Narendra Modi today has seven political parties in his coalition. It is a coalition Government.

**Hon. David ole Sankok** (Nominated, JP): How did you know?

**Hon. Clement Kigano** (Kangema, JP): I know. It is everywhere. I know it is choreographed by Hon. Murugara and Hon. Sankok in a way of disrupting everybody who speaks here so that they can buy time.

The Bill seeks to provide, as I said, a proper definition of what a political party and a coalition is. It also seeks to define party nominations and provide for party nominations to differentiate the same from registration of candidates in elections. It also seeks to create rules of political parties as required under Article 292 and also registration of coalitions and submission of pre-election agreements. Parties, as they stand today, are not properly defined. So, you need to define their ideology and the slogans. We also need to have timelines for reservations of names, symbols, colours, life spans and provision of registration/legislation. It is streamlining the resignation and expulsion of members and deeming of resignations, including the organ.

*(Hon. David ole Sankok spoke off-record)*

Hon. Deputy Speaker, protect me from these hecklers!

**Hon. Deputy Speaker:** There cannot be any heckling Member. Members can only consult a little loudly. The most important thing is to summarise and we are fine.

**Hon. Clement Kigano** (Kangema, JP): Hon. Deputy Speaker, we also need to delete their constitutional provisions from the Act, including Section 22(3) that attempts to introduce a new ground on how a vacancy arises in Parliament or in the county assemblies. In effect, this is a Bill that will have to go to the other House. It also needs to introduce alternative forms of publications.

Lastly, I will summarise and say that this Bill seeks to address overlapping of mandates and enhances the effective management of parties, the implementation of the Constitution, including Article 82, 92 and 103 to address the gaps identified in the execution of the mandate, lessons learned from experiences to redress the needs of Kenyans as drawn from stakeholder engagements to address domestic and international jurisprudence, which we have drawn from the Katiba Institute.

With those remarks, I beg to second.

*(Question proposed)*

**Hon. Deputy Speaker:** The Leader of the Minority Party.

**Hon. John Mbadi** (Suba South, ODM): Hon. Deputy Speaker, I want to take the shortest time possible. Even though I have 15 minutes, I will take a third of that.

First, I want to address myself to the question of whether we infringe on the Constitution when we expand the definition of a political party. I would want to invite those who are arguing like that to look at Article 92 and see that we were required to bring clarity to defining what a political party means. That is one.

Two, is to those who are complaining about this Bill. I do not know whether they have taken time to read it and understood the provisions of Clause 13. Under Clause 13, you will realise that presently, if for whatever reason, the Registrar of Political Parties deregisters or suspends a political party, the only people who are saved is the Member of Parliament and members of county assemblies. The President or the Deputy President elected on a party that is being deregistered are not protected. The provisions under Clause 13 now also protect the President and the Deputy President, and even the Governors. Anybody elected on a political party that has been deregistered or suspended would continue serving in the office. It is something that is not cured in the current law as we have them today.

Those of us who are making noise about these amendments should understand that there is no process of disciplining a party member as it is today. This law provides a clear mechanism and details on how due process of disciplining a member will be taken. It is of benefit to some of us who are making noise here. We require this law to be clear on what process would be followed.

*(Loud consultations)*

My second last remark is as follows: As it is today, there is no clear provision on how to divide the political parties fund to parties which form a coalition.

*(Loud consultations)*

If these Members of Parliament had numbers, they would show them. We have been told that about 150 Members are supporting a particular course. When we come to the Floor of this House, you can see the Members are hardly 20. That is why they are making noise. They know they do not have the capacity, the numbers and they do not have even the intellectual capacity to argue their case. Therefore, they will continue making noise. If you look at the provisions of this Bill, it is clear that now even those political parties which do not have numbers in the House but have elected leaders will benefit from the Political Parties Fund.

Let me just conclude. To my colleagues on the other side of the political divide who have been boasting of numbers in the streets and have been talking of 150 Members, today we want to see where those 150 Members are.

*(Applause)*

Instead of making noise and shouting like Hon. Alice Wahome is shouting as if she is in a market place, she should tell us where the 150 Members are. They have been boasting about the numbers. They have only 20 or 25 Members. Do not waste our time if you do not have numbers. We have come here to debate.

Thank you, Hon. Deputy Speaker. I support.

**Hon. Deputy Speaker:** Hon. (Dr.) Pukose.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Deputy Speaker. I want to contribute to this Political Parties (Amendment) Bill.

From the onset, I know there are some good amendments but, generally, we also have amendments that Members will bring. My main issue is that this Bill has hurriedly been brought. Even Members have been called away from their vacation to come and contribute. I think the issue of having free and fair elections will be a mirage if this House is not careful. Of interest is Clause 10 of the Bill. It provides that a person who, while being a member of a political party, shall be deemed to have resigned from that party if that person promotes the ideology, interests or policies of another political party. This provision can be used to limit the political rights of members as espoused in Article 38 of the Constitution, which provides that every citizen, including Members of Parliament, have a right to campaign for a political party or course and is free to make political choices. The Bill outlaws those political rights and more so, if enacted, shall be used to threaten members who support certain courses - for instance, economic empowerment and other ideologies of a party that a member believes.

As the Leader of the Minority Party was contributing, some Members were saying parties like WDM-K have not been paid by ODM up to date. And clause 15 of the Bill seeks to amend section 25 of the Political Parties Act to provide for the formula of distribution of the Political Parties Fund. What happens when you have a repeat election? Are you going to use the presidential results of the first election or of the repeat election? For instance, NASA boycotted the repeat presidential election. So, what happens? Do they get money based on the repeat election? That needs to be very clear.

Clause 20F (d) and (e) provide additional functions for the Registrar, which shall be to regulate political party nominations and train political party election agents. Is this not an interference by the Registrar in the manner in which political parties shall conduct their affairs? How do you mandate the Registrar to regulate political party activities? What role does the Registrar have in party nominations and in training party election agents? This cannot be the case unless it is a decoy to interfere with party nominations and election results. Parties should be free to conduct their nominations and choose and train persons of their choice as party agents.

Clause 22 of the Bill seeks to provide requirements for conduct of political party nominations, which include the requirement that a political party that intends to conduct party nominations shall apply in writing to the Registrar for a certified copy of its register. What happens when the certified copy of its register is interfered with? Some of you Members may find yourself missing from that register. What happens in a constituency where you have members registered as voters? It is not just that you will get votes only from your political party. I think we must use the IEBC register and not the registrar from the Registrar of Political Parties. When you use the latter, some members will be locked out. You will be told you are not a member of the party. As it is currently, we know that people have been registered in political parties where they do not belong. People go to M-Pesa agents, get peoples' details and register them in a political party of their choice. It is, however, notable that the Bill outlaws participation of any person who is not a registered member of a political party from participating in the party nominations. This shall technically lock out many registered voters from nominating their candidates as they must be members of the political party that is conducting the nominations.

From what I have highlighted, I beg to oppose the Second Reading of the Bill unless it is amended to accord with Article 38 of the Constitution on political rights and to, more so, allow

parties to conduct their affairs democratically without threat or interference. One cannot talk of a free general election when parties are not free to run their affairs. What is, however, clear is that the Bill was brought as a decoy to change the terrain of political parties. To this end, I stand to be counted that I oppose. This Bill's intentions are hidden.

Hon. Deputy Speaker, I beg to oppose. Thank you.

**Hon. Deputy Speaker:** Hon. (Dr.) Wamalwa.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Thank you, Hon. Deputy Speaker. I speak as the Secretary-General of FORD-Kenya and on behalf of the Political Parties Liaison Committee (PPLC). There is an English proverb which says 'a shoe wearer knows where it pinches.' We have been in coalitions. We were in CORD and NASA. In the last Parliament, I brought a law on recognition of coalitions and, more importantly, on the aspect of funding of political parties. This Bill has merits and demerits. Article 94 of the Constitution is clear. When it comes to matters of legislation, this House has the authority. We are going to debate this Bill and where there are issues, we are going to propose amendments at the Committee of the Whole House. I request Members that we debate this Bill with decorum.

I want to take Members down memory lane. In 2013, we were in the CORD Coalition. Those were FORD-Kenya, WDM-K and ODM. In 2017, we had WDM-K, ANC, FORD-Kenya and ODM. When we confronted the Registrar of Political Parties, she could not send us funding directly. It had to go through the big brother ODM. With this Bill, the Registrar will be able to disburse funds directly to members of a coalition. This Bill has even reduced the threshold for a party to get political parties funds. Under the Political Parties Act, for a party to be registered, it has to have offices in a minimum of 24 counties. It also needs to have, at least, 1,000 registered members in, at least, 24 counties. For a party to fulfil that, it needs money. Small political parties have really suffered. Under the Act, there is a funding of 0.3 per cent of the national government budget that is supposed to be channelled to political parties for purposes of enhancing democracy. On that note, having been a shoe wearer, I can say FORD-Kenya has suffered. Wiper has also suffered. ANC has suffered. KANU has suffered. You never know what will happen tomorrow. So, this provision is going to cure the sharing of the Political Parties Fund.

The negative part of this Bill, to which we will propose amendments at the Committee of the Whole House, is to force political parties to finalise coalitions at least six months to a general election. We want to amend that so that we can allow coalitions as late as possible, in line with the election calendar. President Mwai Kibaki's coalition was formed as late as 90 days to the general election. That is the bit that I call upon us to amend accordingly so that we give people freedom for purposes of having free and fair elections. This country is a multi-party democracy and its future is in coalitions. There is no way a single political party can grab power without coming up to negotiate. In the spirit of negotiations and Memoranda of Understanding (MoUs), it must be a win-win situation to every party; it is a give and take. I am calling the Hon. Members to look at this Bill objectively. Let us look at the gains of this Bill, and where we need amendments, let us come and reason together and amend accordingly for purposes of having free and fair elections.

Hon. Deputy Speaker, I thank you and I support.

**Hon. Deputy Speaker:** Hon. Rachael Nyamai.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Thank you, Hon. Deputy Speaker, for giving me this opportunity. At the outset, I support this Political Parties (Amendment) Bill with very clear reasons. These amendments that we are doing are going to give an opportunity within the law to conduct direct nominations and also indirectly within the law. This is going to be cheaper for our political parties. The use of member's list in the nominations is also going to bring some

sanity in nominations so that people are not put in situations whereby other political parties will gang up against a candidate who is strong within a certain region.

As my colleagues have said, the future of this country is going to be in coalitions, and anybody who is scared of coalitions should know that this is the way to go. The situation of winner-takes-it-all is also going to be healed by the amendments that we are doing today. The situation that some individuals seem to be scared of is whereby one individual wants to take control of the win, and other people who are slightly lower than the winner are not given an opportunity to speak. It is not going to happen. The issue of sharing the political parties fund is also strongly going to be handled by these amendments that we are doing today. The small political parties are especially not going to be messed up by the big political parties, as it has happened with Wiper, on which some people were shouting. I believe that they are not shouting because they are happy for Wiper; it is because of different reasons. Yes, hon. Kalonzo will be able to benefit, among others.

The matter of freedom of association is clear within our Constitution. So, the amendments we are going to do today are going to give a situation whereby different parties that have the same ideologies and policies can come together and lead within the law. Also, registration of coalitions is very important such that in case of any agreement that happens, what was agreed within the coalition is registered with the Registrar of Political Parties. This will bring an opportunity whereby disputes can be resolved. It is going to be cheaper for political parties in terms of nominations. This is one of the reasons why I support these amendments. Also, we are going to give an opportunity to the IEBC to focus on real elections so that matters of nominations are handled by the political parties. This is so that the IEBC does not get involved in both nominations and matters of the general election. This gives the Registrar a clear role in nominations. Recognition in this CPP is also in the same spirit of the BBI that we had. I believe as an individual and the Member for Kitui South that this is going to give a situation whereby our country, which is composed of big and small communities of different colours like red, black and yellow, will have an opportunity to be put together in a situation whereby we have a stake in this country.

As I support, I want to say that anybody who has a problem with coalitions is not the best for the future of this country. Anybody who feels that small political parties should be collapsed in order to give space for one huge political party means that they have a problem with working with the other people. As I sit, I would like to say that this CPP is going to give a chance to our country and parties with the same ideologies and same parties to sit together. I actually look forward already to the passing of this Bill.

**Hon. Junet Nuh** (Suba East, ODM): Thank you, Hon. Deputy Speaker. At the outset, I stand to support the Political Parties (Amendment) Bill. I want to urge Members that this is how Parliament conducts its business. There must be a Bill, debate and voting, and it will be decided in one way or the other. Secondly, coalitions are here to live with us for the longest time possible. Since the advent of multiparty politics, coalitions have been in existence and this is a Bill that is going to make coalitions work better. This is a Bill that is going to make our politics have better hygiene than it was. You could hear people raising issues of previous coalitions. This Bill is supposed to cure those problems. It is supposed to make our politics going forward better than it is today.

I know there are people who do not believe in coalitions. There are people who believe in political parties. There are people who want to be independent. The Constitution guarantees everyone their right. This House will not decide on this Bill based on how loud your voice is; this House is going to decide based on the persuasion every Member makes to the other, and whether what you are saying is making sense or not. For that reason, I want to urge my colleagues to debate

this Bill with sobriety so that we can have a Bill that is going to help this country and a Bill for posterity. For those who were there in the last Parliament, it is normal for amendments to the Elections Act and the Political Parties Act to come to the House at the tail end of Parliament. It is a normal thing. Hon. Pukose was there. I remember in the last Parliament, from the first election to the second election, there were amendments on whether elections should be conducted electronically or not.

With those few remarks, I urge that let us not belabour the matter. This is a very clear Bill. This is a Bill that is going to make our politics better. If you have numbers, do not shout outside there that you have numbers. Bring the numbers here now. They are required in the House. We are going to win this one hands down.

*(Loud consultations)*

**Hon. Deputy Speaker:** Next is Hon. Alice Wahome. Hon. Alice Wahome, you have put your card here and you do not want to speak. No, do not remove your mask. Hon. Alice Wahome, put on your mask and you have the Floor. Proceed with your mask on.

**Hon. (Ms.) Alice Wahome** (Kandara, JP): Thank you, Hon. Deputy Speaker. At the outset, I rise to oppose this Bill on the basis of one, its timing. This Bill is completely untimely and it is intended to disrupt the smooth nominations, particularly in some of the proposals that it is coming up with. The speed in which even this Bill is being processed from the Speaker's seat, completely ignoring procedural issues, directly points to a situation where the country is being asked to run. This Bill runs contrary to the Constitution of Kenya 2010, especially when you look at the proposals regarding formation of a political party. The definition of what is a political party cannot be changed by a legislative enactment, and that is what this Bill is trying to do in some of the proposals it has come up with.

The fact that we have been summoned for a Special Sitting of this House points to the fact that there are people who intend to control the general elections through this Bill in August 2022.

*(Loud consultations)*

You will allow me to say what I want to say, because we can see through these provisions and the hand of the handshake partners, who are now desperate and think that they can use this House to bring up provisions of the law that will facilitate an amorphous coalition or parties. The law today allows coalition of political parties by a deposit of a memorandum to the Registrar of Political Parties. What is so urgent that requires a Session of the House to be called from leave to come and legislate? When you look at the provisions, every election period, you will find that there are disruptive provisions of the law that have been brought or are intended to give undue advantage to some people, therefore finding that the summoning of this House today in respect of this Bill is absolutely unnecessary.

I will be moving some amendments on the register of members. We cannot allow the registrar of political parties to be the holder of the data of members of political parties. This is a very serious attempt by the registrar of political parties with the deep state, I dare say, to control the register of members of political parties. That will not be allowed.

It is a shame that when people are dying, others have taken KEMSA billions, we have been asked to discuss formation of coalitions instead of dealing with the pandemic. Yesterday, statistics showed that every eight people out of ten who were tested turned COVID-19 positive. We are

exposing the Members with a very useless Bill. This is not a pro-people Bill. It is a very selfish move by this House today. We have a political parties Act that is able to deal with the issues of elections and nominations going forward. If, for example, they want to cure bad habits like those of ODM denying other parties their money, it cannot be done by the law. It can only be cured through good behaviour. Therefore, we want to tell them that we can deposit a memorandum of how you share the money and honour the memorandum because many of you have never known how to honour memorandums or gentlemen and ladies agreement.

*(Loud Consultations)*

There are people that have become used to intimidation and curtailing the democratic space of other people. I am properly on the Floor of the House and if you feel you want to curtail the independence, freedom of speech including that of the House, I think we are going in the wrong direction. I want to go on record that if this Bill is passed, it will find difficulties and challenges in court for reasons of its unconstitutionality.

*(Loud Consultations)*

If this Bill passes the way it is, and I know we will be looking at it because I have opposed it, it will find challenges on the Floor and in the courts for reasons of unconstitutionality.

**Hon. Deputy Speaker:** Thank you very much. Hon. Janet Ong'era.

**Hon. (Ms.) Janet Ong'era** (Kisii CWR, ODM): Thank you, Hon. Deputy Speaker for giving me this opportunity to contribute to this Bill. I rise to support and I would like to request our Hon. Members of this House to listen to what I have to say, because I believe I am one of the most sober Members in *Kieleweke*.

I want to speak from experience. I have run political parties for ten years in my previous life. One of the reasons that was most challenging was the fact that we never had provisions for coalition political parties, where you would have corporate membership. When I look at this Bill, it has provided for political parties of single member constituency. I have seen that this amendment is going to provide for corporate membership. That is a coalition of political parties. It is also providing for alliances to be formed. What better democracy can we have when we are speaking about being democratic, except by going through the way of these amendments?

Secondly, one of the greatest challenges that we have had in Kenya was how to share political funding, particularly where we have coalitions. I remember, the late Hon. Kalembe Ndile died crying that he was never given his money by the Jubilee Party. I know that our partners in NASA were crying that ODM never gave them their money until recently. What better way than to have a clear provision that the Registrar of Political Parties can actually divide this money based on proportionate representation? I urge and I seriously urge my colleagues in *Tanga Tanga* to look at this with clear eyes. Do not be clouded by the arena of the heat of politics. History will judge us wrongly. Let us look at this with very sober eyes and look at the provisions. There is nothing that is hidden here. This is very clear.

With those few remarks, I support this amendment Bill.

**Hon. Deputy Speaker:** Let us have Hon. Eseli Simiyu.

**Hon. (Dr.) Eseli Simiyu** (Tongaren, FORD-K): Thank you, Hon. Deputy Speaker, for the opportunity to contribute to this Bill.



This is my third term in Parliament, and in all my time here, I have been in a coalition. In fact, I was also part of the group that negotiated the formation of the past two coalitions – the Coalition for Reforms and Democracy (CORD), and later on, the National Super Alliance (NASA). I can assure the House that Kenya is a coalition of nations like the Luhya nation, the Kikuyu nation and so on. Those are all different nations. Kenya was crafted by the colonialists and now we are a coalition of all those nations. We cannot escape the fact that our politics will also be governed by coalitions. These coalitions are an attempt to overcome the issue of exclusivity in the running of the Government. They are curing the issue of exclusivity so that people can feel included in the governance of the country.

If you do not remember your history, you are bound to repeat the same mistakes. We all saw the Jubilee Party coalition opting to form one juggernaut party in the recent past. In the process, it is slowly imploding. The NASA coalition eventually imploded because of issues of funding. All these issues need a cure, and this is one way to do so.

I will be very brief with this last comment. It is important that we all note that there are those who are concerned about the timeline of forming coalitions. We must note several things. First, the Independent Electoral and Boundaries Commission (IEBC) will require time in order to work on the ballots and other things. That timescale cannot be ignored, and it has to be done properly. We all know the history of the IEBC and the issues it has had with procurement. We must give them enough time to go through the procurement process.

There are those who are uncomfortable with the time stipulated in the Bill for the formation of coalitions. This discomfort is mostly dishonest because there are several parties which are well-known for sitting on the fence, waiting for the highest bidder. These parties fear that if they are told to form coalitions six months to the election, it will be discovered which side they lean towards. They are hoping to ride in such a way that they are not discovered until three months to the elections. That is the discomfort about the timeline. Otherwise, there should be no discomfort about the timeline. If you want to play clean politics, form your coalition early enough so that you are able to campaign and also give the IEBC enough time to prepare the ballots.

I support this Bill. I insist that as Kenyans, we must rise up to correct the mistakes that we have made and ensure that we do not repeat them.

**Hon. Deputy Speaker:** What is it, Hon. Mwathi? Once you have put in your card, it is enough. You do not have to put your hand up. What is it?

**Hon. Peter Mwathi** (Limuru, JP): Thank you, Hon. Deputy Speaker. I have been following the debate. I have listened to the merits and demerits as articulated by those who have spoken. I rise under Standing Order No.95 to ask that the Mover be called upon to reply so that we can deal with the matter later.

*(Loud consultations)*

**Hon. Deputy Speaker:** Hon. Members, you will make a decision on that but before you do so, I want to make a ruling on what Hon. Murugara had asked. I will be very brief.

Hon. Murugara raised two substantive issues. First, he said that there was no public participation on the proposed amendments to the Bill. Secondly, he said that the amendments proposed infringe on Article 260 and Part 3 of Chapter Seven of the Constitution.

It has been established and it is part of the Report that advertisements were duly ran by the Clerk of the National Assembly to notify the public of hearings of the Political Parties (Amendment) (No.2) Bill (National Assembly Bill No.56 of 2021) to seek the views of the public

through the said advertisements. I am aware that several groups appeared before the Committee. The matter of public participation is, therefore, settled. You remember that yesterday, the matter was pushed forward to today because the deadline was yesterday at 5 o'clock. The issue of public participation is settled.

With regard to Article 260 and Part 3 of Chapter Seven of the Constitution which mainly provide for the scope and requirements for political parties under Articles 91 and 92 of the Constitution, this House is seized of this important matter, and you will have to decide one way or the other. Apart from defining a political party, which is not clearly done in the Constitution, the amendment Bill proposes to deal with many other important issues, which will be up to you to decide on.

*(Question, that the Mover be now called upon to reply,  
put and agreed to)*

*(Several Hon. Members stood up in their places)*

Hon. Members, do not take your seats. Allow for the counting of the upstanding Members. Count the Members so that we confirm that we have the numbers to proceed to the next step. Just a minute. We are confirming. Those who are standing should not sit down.

*(Loud consultations)*

Order! Clearly you have the numbers to go to Division. Take your seats. I have confirmed. Take your seats because I want to order that the Division Bell be rung for you to make a decision one way or the other. Ring the Division Bell for 10 minutes.

*(The Division Bell was rung)*

*[The Deputy Speaker (Hon. Moses Cheboi) left the Chair]*

*[The Temporary Deputy Speaker (Hon. Patrick Mariru) took the Chair]*

*[The Temporary Deputy Speaker (Hon. Patrick Mariru) left the Chair]*

*[The Deputy Speaker (Hon. Moses Cheboi) took the Chair]*

**Hon. Deputy Speaker:** Order Hon. Members. Switch off the Division Bell. Our ten minutes are over. Stop the Division Bell.

Lock the doors and draw the Bar. Allow that Member who is coming in then close the doors and draw the Bar.

We do not want any Member to---

Close the doors and pull the Bars.

We need to have these Members here or there. You were 65 of you. But at least--- Anyone who goes out now will not come back. Now Members, take your seats. Take your seats. You need

to vote now. Take your seats. All the doors are closed, including these ones to the small chambers behind here.

Order, Members. First, let me put the Question.

*(Question, that the Mover be now called to reply put and waiting voting)*

There will be two sets of voting. You will vote electronically for those who have cards, and so that we do not disenfranchise Members who have not come with cards today, we understand the circumstances, will be allowed to vote manually.

Order, Members. Members know their thing. I am trying to give sufficient guidance. So we will take that now.

Those voting yes will come to the right side of the Deputy Speaker and those voting no to the left of the Deputy Speaker. That is the position. It does not matter. Maybe today you would have wanted to be nearer, but that is the tradition of the House. The ones voting yes always go to the right of the Speaker. Those with cards will vote electronically.

Those who do not have cards, come.

*(Applause)*

Order. Order. Hon. Nassir put on your mask properly.

Members, remove your cards. Log out, Hon. Members. Those who have cards, log out first.

*(Loud consultations)*

**Hon. Deputy Speaker:** Order, Hon. Members! Please, resume your seats. We will all vote manually. You will be called out and you will vote. This is because most of you do not seem to have your cards. Take your seats. We are going to start immediately. Let us, quickly, have the register.

Please, take your seats.

*(Loud consultations)*

Order, Hon. Members! I am going to guide you on how you will vote. We need two tellers from each side: Two for “Ayes” and two for “Noes”. All the Members who will be voting “Ayes” will proceed to the right of the Speaker. They will line up and have their names recorded there. Those who will be voting “No” will proceed to the left of the Speaker, where they will also record their names very clearly. I am sure about 70 per cent of the Members do not have their cards. We will have two tellers. Sit in your places, please.

*(Loud consultations)*

We now have the tellers. Hon. (Dr.) Pukose and Hon. Benjamin Washiali are tellers for the “Noes” while the tellers for the “Ayes” will be Hon. Peter Mwathi and Hon. Martin Owino. We will have a specific place for those who want to abstain.

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*(Voting in progress)*

Order, Members. Take your seats.

*(Several Hon. Members stood along the gangways and consulted loudly)*

Order, Hon. Gladys Wanga and team.

*(Hon. David ole Sankok stood along the aisle)*

Order, Hon. Sankok. You can now take your seat somewhere. Let me give you the opportunity to take your seat. Hon. Sankok, sit somewhere or freeze.

Hon. Members. We have the results. We expect the tellers to report in the usual manner. I will then make a brief Communication on the way forward in terms of the many things that are either going to be done or not to be done today. So, let us have the reporting first, then I will make a brief communication and we can then make a decision. Let us have the reporting first.

**Hon. Martin Owino (Teller):** Hon. Deputy Speaker, the result of the Division are as follows:

**AYES:** 113

**NOES:** 68

*(Loud consultations)*

**Hon. Deputy Speaker:** Let me have the results. Okay, Hon. Members, the Motion that the Mover be called upon to reply was voted in this manner:

**AYES:** 113

**NOES:** 68

*(Question carried by 113 votes to 68)*

**AYES:** Hon. Peter Mwathi, Hon. Martin Owino, Hon. Kanini Kega, Hon. (Dr.) Naomi Shaban, Hon. Junet Nuh, Hon. David Ochieng', Hon. Peter Masara, Hon. Charles Ong'ondo, Hon. Jeremiah Kioni, Hon. (Dr.) Lilian Gogo, Hon. Patrick Makau, Hon. (Ms.) Wangari Mwaniki, Hon. John Waluke. Hon. (Dr.) Chris Wamalwa, Hon. Geoffrey Omuse, Hon. Raphael Wanjala, Hon. Wafula Wamunyinyi, Hon. (Ms.) Jane Njiru, Hon. (Ms.) Rachael Nyamai, Hon. Ibrahim Ahmed, Hon. William Mwamkale, Hon. Joshua Kimilu, Hon. Godfrey Odanga, Hon. (Dr.) Eseli Simiyu, Hon. Simba Arati, Hon. Joshua Mwalyo, Hon. Gideon Ochanda, Hon. (Ms.) Pamela Ochieng', Hon. Jeremiah Lomorukai, Hon. Kuria Kimani, Hon. Mark Nyamita, Hon. Adipo Akuome, Hon. David Mboni, Hon. Sammy Seroney, Hon. Richard ole Kenta, Hon. Paul Abuor, Hon. Charles Nguna, Hon. Caleb Amisi, Hon. Teddy Mwambire, Hon. (Ms.) Asha Hussein, Hon. (Ms.) Mishi Mboko, Hon. Josphat Kabinga, Hon. Christopher Waganya, Hon. Godfrey Osotsi, Hon. Omboko Milemba, Hon. Stanley Muthama, Hon. Oscar Nabulindo, Hon. Bernard Shinali, Hon. John Mbadi, Hon. Clement Kigano, Hon. Onyango Oyoo, Hon. Mbogo Ali, Hon. Joseph Oyula, Hon. Andrew Mwadime, Hon. Peter Kimaru, Hon. Said Hiribae, Hon. Ahmed Gaal, Hon. Rashid Kassim, Hon. Marselino Arbelle, Hon. Charles Kilonzo, Hon. Bady Twalib, Hon. Tom Odege, Hon. Aduma

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Owuor, Hon. Imran Okoth, Hon. Mohamed Duale, Hon. (Ms.) Eve Obara, Hon. (Ms.) Maison Leshomo, Hon. (Ms.) Gladys Wanga, Hon. Yusuf Hassan, Hon. Chachu Ganya, Hon. (Ms.) Wanjiku Kibe, Hon. (Ms.) Mercy Wanjiku, Hon. Omar Mwinyi, Hon. Memusi ole Kanchory, Hon. Kassim Tandaza, Hon. Makali Mulu, Hon. Isaac Ndirangu, Hon. (Prof.) Zadoc Ogutu, Hon. (Ms.) Jerusha Momanyi, Hon. (Ms.) Florence Mutua, Hon. Ferdinand Wanyonyi, Hon. (Ms.) Sophia Noor, Hon. Simon King'ara, Hon. John Owino, Hon. Babu Owino, Hon. Joseph Nduati, Hon. Samuel Atandi, Hon. Paul Nzengu, Hon. Robert Mbui, Hon. (Ms.) Zuleikha Hassan, Hon. (Dr.) James Nyikal, Hon. (Ms.) Janet Ong'era, Hon. Abdullswamad Nassir, Hon. George Aladwa, Hon. (Ms.) Naisula Lesuuda, Hon. Silas Tiren, Hon. (Prof.) Jacqueline Oduol, Hon. (Ms.) Dennitah Ghati, Hon. (Ms.) Christine Ombaka, Hon. (Ms.) Esther Passaris, Hon. (Ms.) Edith Nyenze, Hon. (Ms.) Shamalla Jennifer, Hon. Oku Kaunya, Hon. Jackson Lekumontare, Hon. Ayub Angatia, Hon. Gideon Mulyungi, Hon. Maina Kamanda, Hon. Peter Kaluma, Hon. Wambugu Ngunjiri, Hon. Erastus Nzioka, Hon. Thuddeus Nzambia, Hon. Emmanuel Wangwe and Hon. Amos Kimunya.

**NOES:** Hon. Benjamin Washiali, Hon. (Dr.) Robert Pukose, Hon. Silvanus Onyiego, Hon. John Kiarie, Hon. George Theuri, Hon. Japheth Mutai, Hon. (Ms.) Sara Korere, Hon. Rigathi Gachagua, Hon. Silvanus Maritim, Hon. Caleb Kositany, Hon. Charles Kamuren, Hon. Kimani Ngunjiri, Hon. Cornley Serem, Hon. John Nyaga, Hon. Leonard Yegon, Hon. Samuel Moroto, Hon. Kubai Iringo, Hon. Gabriel Tongoyo, Hon. (Ms.) Faith Gitau, Hon. David ole Sankok, Hon. Didmus Barasa, Hon. William Kisang', Hon. Ndindi Nyoro, Hon. Mathius Robi, Hon. John Njuguna, Hon. Gichimu Githinji, Hon. (Ms.) Florence C.K. Bore, Hon. Nelson Koech, Hon. Ali Rasso, Hon. (Ms.) Beatrice Kones, Hon. Daniel Tuitoek, Hon. Michael Muchira, Hon. Joseph Limo, Hon. Owen Baya, Hon. (Ms.) Alice Wahome, Hon. Beatrice Nyaga, Hon. (Ms.) Liza Chelule, Hon. Victor Munyaka, Hon. John Mutunga, Hon. Joshua Kandie, Hon. Joseph Tonui, Hon. Mwambu Mabongah, Hon. Koimhuri Ndung'u, Hon. (Ms.) Aisha Jumwa, Hon. (Ms.) Janet Sitienei, Hon. Dominic Koskei, Hon. Ali Sharif, Hon. Kipsengeret Koros, Hon. Eric Njiru, Hon. Geoffrey King'ang'i, Hon. Kinuthia Gachobe, Hon. John Mose, Hon. Joash Nyamoko, Hon. Julius Melly, Hon. (Ms.) Jayne Kihara, Hon. Wilson Kogo, Hon. (Ms.) Gladys Boss, Hon. (Ms.) Cecily Mbarire, Hon. Wilson Sossion, Hon. Lemanken Aramat, Hon. Nixon Korir, Hon. George Kariuki, Hon. George Gitonga, Hon. Kangogo Bowen, Hon. James Murgor, Hon. Charles Njagagua, Hon. (Ms.) Catherine Waruguru, Hon. Lodepe Nakara.

**ABSTENSION:** None.

(Applause)

### COMMUNICATION FROM THE CHAIR

HARMONISATION OF PROPOSED AMENDMENTS AND  
SUSPENSION OF THE AFTERNOON SPECIAL SITTING

**Hon. Deputy Speaker:** Hon Members, this is a brief Communication. Hon. Members... In fact, you will reply after I make this Communication because it is important.

Now that we have concluded the Division exercise and the Mover will be called upon to reply immediately after this Communication, I wish to give guidance before putting the Question on Second Reading later.

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The following Members had filed amendments to the said Bill by close of business yesterday:

- 1) The Chairperson of the Departmental Committee on Justice and Legal Affairs,
- 2) Hon. Ayub Savula.
- 3) Hon. Kimani Ichung'wah.
- 4) Hon. Caleb Kositany.
- 5) Hon. Daniel Tuitoek.
- 6) Hon. John Kiarie.
- 7) Hon. Alice Wahome.
- 8) Hon. Aden Duale.
- 9) Hon. Godfrey Osotsi.
- 10) Hon. Owen Baya.
- 11) Hon. Sylvanus Osoro, and
- 12) Hon. Didmus Barasa.

Given the short notice between the filing of the amendments and the publication of the Order Paper, some of the amendments were not included in the published Order Paper. Subsequently, additional amendments have been filed today, by at least, four additional Members.

Hon. Members, looking at the nature of the amendments, and further, in view of the fact that they are seeking to amend almost all clauses of the Bill, in addition to proposing new clauses that shall amend the Principal Act and its Schedules, I need to invoke Standing Order No. 131 which says:

“Where after a Bill has been Read a Second Time and before commencement of Committee of the whole House, amendments have been proposed to it, which in opinion of the Speaker require harmonisation, the Speaker may direct that any Member proposing an amendment to the Bill to appear before the relevant Departmental Committee dealing with the subject matter of the Bill to present his or her proposed amendments and the Committee shall submit a report to the House on the result of the exercise before the Committee of the whole House is taken.”

The amendments harmonisation process is critical in ensuring that all the proposed amendments are in order as contemplated by the Constitution and by our own procedures.

Therefore, Hon. Members, the Committee of the whole House stage on the Bill is automatically deferred to allow harmonisation of the multiple amendments proposed to the Bill.

Subsequently, today's afternoon sitting shall be suspended. It shall therefore not take place.

*(Applause)*

Order, Hon. Members! Order! All Members with amendments are set to appear before the Departmental Committee on Justice and Legal Affairs for harmonisation of the amendments. The Committee is further required to engage the critical stakeholders, including officials of political parties particularly, in view of the fact that both Houses of Parliament represent over 21 political parties in the country.

The Committee shall then table the addendum containing the outcome of the harmonisation process. The House is duly guided.

Hon. Members, this is what we are going to do. The Mover will be called upon to reply and then we will put the Question on the Second Reading and then we will not have an afternoon session. The Mover is therefore called upon to Reply.

*(Loud consultations)*

Order! Hon, Members. Order!

*(Several Members consulted with the Speaker and the Clerks-at-the-Table)*

*(Loud consultations)*

Okay. Let us have the Mover to reply and then we can take some few comments. Proceed, the Leader of the Majority Party.

*(Loud consultations)*

*(Hon. John Mbadi spoke off record)*

The Leader of the Majority Party, I want you to reply then I can listen to Hon. Mbadi because we have finished this. Just reply and then before we go to the next step, I will give him an opportunity. That is the easier way.

*(Loud consultations)*

The Leader of the Minority Party.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Deputy Speaker. I rise on a point of order based on your ruling. As we proceed to have the Mover to reply, you have made a ruling that we are not going to have the afternoon sitting. My concern is that the afternoon sitting of the House was gazetted after the request by the Leader of the Majority Party. Therefore, once gazetted, a sitting of the House cannot be called off unless by the leave of the House. So, we have a properly constituted Special Sitting this afternoon on 22<sup>nd</sup> December 2021. It is only by leave of this House that a special sitting can be called off.

Therefore, I am asking you to reconsider your ruling because Standing Order No. 1 only provides and gives the Speaker the authority to make determination on matters that are not clearly spelt out in the Standing Orders. However, on the issue of the Special Sitting and having been gazetted, you cannot call off a sitting of the House unless with the leave of the House.

So, my request is that we have our sitting in the afternoon begin from 4.00 p.m. this afternoon. We have to sit from 4.00 p.m. this afternoon. Two hours is enough for the Committee to consider those amendments. We have two hours from 2.00 p.m. to 4.00 p.m. to reconsider all these amendments and harmonise them.

Thank you.

**Hon. Deputy Speaker:** Order, Members! Please, take your seats.

*(Loud consultations)*

Hon. Members, we have come this far. This is something that we have been grappling with since morning. I have been in consultation with the membership and the leadership of this House

and we have agreed on a few things. The Committee of the whole House is with leave of the House. Even if you ask that we come back in the afternoon - which is very possible - we are unable to proceed with only five Members. Nothing has been lost. It has only been moved to another day. When you have numbers, you will always have your way. If I had made this decision alone, I would be speaking differently. However, this is something that we consulted on in every step.

*(Loud consultations)*

Order, Members! If you want us to attempt that, you will come in the afternoon and the results will be the same.

*(Loud consultations)*

Order, Hon. Members. I will ask some Members to leave the House, if they do not respect the rules.

This is a clear position. Maybe you need to look at your Standing Orders. If you want to come in the afternoon as a cosmetic exercise, that will be absolutely fine, but there is nothing we will achieve by coming in the afternoon. That is extremely clear.

It is the Leader of the Majority Party who asked the Speaker to call for this Sitting. We keep consulting because the details are clear. What we intended to achieve as a House is that after the reply...

*(Loud consultations)*

After the reply by the Leader of the Majority Party, we hoped to vote on the Second Reading. By doing so, we would have completed the Second Reading and will only come back for the Committee of the whole House. By that time, the committees would have harmonised everything that they are required to, including the amendments before us. That is the position. I do not see anything contentious about that. Let us allow the Leader of Majority Party to reply and then we move to the next stage.

Hon. Kimunya, you may proceed.

*(Loud consultations)*

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Deputy Speaker, I would like to thank Members for the rather exciting debate on this Bill that is meant to bring sanity on how political parties are managed; to protect the interests of members in those political parties and to protect the interests of political parties within coalitions. It will also ensure that not a single member will be expelled from a political party without the right to free administrative justice.

Members asked about Clause 10. I want to disabuse this confusion. The current Political Parties Act of 2011 does not have a provision for fair administrative action. The current Bill has provided for fair administrative action on a member being expelled.

Hon. Members, in terms of training of members by the Registrar of Political Parties, there is a proposal that has been made. Indeed, I agree that, perhaps, we may not need the Registrar of Political Parties to do the training. That may well be the subject of an amendment.



A Member raised the issue of a party register versus the Independent Electoral and Boundaries Commission (IEBC) register. I confirm that what this Bill intends to do is to cure the mischief where political parties that do not have even a register rely on the IEBC to conduct their primaries. So, only members who are in a political party will be eligible to take part in the primaries of that political party.

Hon. Deputy Speaker, in terms of the timing for the Bill, I believe this is the time. It has taken us 10 years to revisit this Bill. The courts have ruled that we need to define political parties. That was in a case of the Political Parties Forum versus the Registrar of Political Parties in 2016. Hence, this Bill cures that problem. By and large, this Bill is good for each one of you, irrespective of your political differences right now.

I leave it to the House to decide. I beg to reply.

*(Applause)*

**Hon. Deputy Speaker:** Order, Hon. Members. Listen to me clearly on this. We are going to put the question. Before we put the question, I reiterate that this matter of the Committee of the whole House would come with leave of the House. Five Members objecting would make it absolutely difficult for anybody. Let us put it this way: There is nobody who has won or lost. You will have an opportunity to win or lose when you vote. If you feel aggrieved, you still have the opportunity to vote.

*(Question put and agreed to)*

*(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)*

### ADJOURNMENT

**Hon. Deputy Speaker:** Order, Hon. Members. The time being 1.59 p.m., this House stands adjourned until Tuesday, 25<sup>th</sup> January 2022, at 2.30 p.m.

The House rose at 1.59 p.m.