



Approved
10/08/2023

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – SECOND SESSION – 2023


PUBLIC PETITIONS COMMITTEE

PARLIAMENT
OF KENYA
LIBRARY

REPORT ON

(PUBLIC PETITION NO. 10 OF 2022)

**BY MR. VICTOR OKUL REGARDING AMENDMENT OF THE CONSTITUTION TO
ESTABLISH OFFICES OF THE PRIME MINISTER, DEPUTY PRIME MINISTER
AND OFFICIAL LEADER OF OPPOSITION**

 THE NATIONAL ASSEMBLY PARLIAMENT BUILDINGS	
DATE: 10 AUG 2023	DAY: Thursday
TABLED BY:	Hon. Nimrod Mbari (Chairperson, Public Petitions Committee)
CLERK AT THE TABLE:	Gertrude Chebet

**CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI**

AUGUST, 2023

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LIST OF ACRONYMS

- BBI - Building Bridges Initiative
- CBS - Chief of the Burning Spear
- COB - Controller of Budget
- IEBC - Independent Electoral and Boundaries Commission
- PEV - Post Election Violence

CHAIRPERSON'S FOREWORD

On behalf of the Public Petitions Committee and pursuant to provisions of Standing Order 227, it is my pleasant privilege and honour to present to this House the Report of the Committee on the Public Petition regarding Amendment of the Constitution to establish Offices of the Prime Minister, Deputy Prime Minister and Official Leader of Opposition. The petition was conveyed to the House pursuant to Standing Order No. 225 (2) (b) by the Speaker of National Assembly on Wednesday, 23rd November, 2022.

The Petitioner prayed that the House considers amending the Constitution to introduce Offices of the Prime Minister, Deputy Prime Minister and Official Leader of Opposition in order to address the divisive nature of the country's politics.

In considering the Petition, the Committee made various key observations taking into consideration submissions from the various stakeholders including among others, ascertaining that the proposed amendments were similar to those proposed in the 2020 Building Bridges Initiative to amend the Constitution. Further, the proposal would have financial implications on the government wage bill if passed. The Committee further observed that the proposal seeks to introduce a hybrid of presidential and parliamentary system, as the office of the Prime Minister and Deputy Prime Ministers are both in the Legislature and the Executive and the proposal would give the President too much powers in the appointment of the Prime Minister and Deputy Prime Ministers as the element of Parliamentary approval is excluded. In its extensive examination of the issues, the Committee recommended that the issues raised in the petition need to be subjected to extensive public discussions while pursuing the proposed Constitutional amendment by way of parliamentary initiative.

In response to the prayers sought by the Petitioner, the Committee made various recommendations including their concurrence with the Petitioner for the amendment of the Constitution to establish the Office of the Leader of Official Opposition to enhance accountability of the government, through national dialogue and political participation of the Opposition in the House. The Committee further declined the proposal of introducing Offices of the Prime Minister and Deputy Prime Minister to both serve in the Executive and Parliament citing that the challenge in the proposed hybrid system of governance is that the principle of separation of powers which may be violated. This approach seemed to be anchoring the Legislative arm into the appendages of the Executive yet they are currently distinct, independent yet interdependent.

The Committee appreciates the Offices of the Speaker and Clerk of the National Assembly for providing guidance and necessary technical support without which its work would not have been possible. The Chairperson expresses gratitude to the Committee Members for their devotion and commitment to duty during the consideration of the Petition.

On behalf of the Committee and pursuant to the provisions of Standing Order 199, I now wish to lay the Report on the Table of the House.



HON. NIMROD MBITHUKA MBAI, M.P.
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

Date.....16-08-2023.....

PART ONE

1. PREFACE

1.1 Establishment and Mandate of the Committee

The Public Petitions Committee is established pursuant to the provisions of Standing Order 208A and is mandated to:

- a) consider all public petitions tabled in the House;
- b) make such recommendations as may be appropriate with respect to the prayers sought in the petitions;
- c) recommend whether the findings arising from consideration of a petition should be debated; and
- d) advise the House and reporting on all public petitions committed to it.

1.2 Committee Membership

The Public Petitions Committee was constituted in October 2022 and comprises of the following Members:

Chairperson

Hon. Nimrod Mbithuka Mbai, M.P.
Kitui East Constituency

United Democratic Alliance (UDA)

Vice Chairperson

Hon. Janet Jepkemboi Sitienei, M.P.
Turbo Constituency

Independent

Hon. Bernard Muriuki Nebart, M.P.
Mbeere North Constituency

Independent

Hon. Patrick Makau King'ola, M.P.
Mavoko Constituency

Wiper Democratic Movement-Kenya (WDM-K)

Hon. Bidu Mohamed Tubi, M.P.
Isiolo South

Jubilee Party (JP)

Hon. Edith Vethi Nyenze, M.P.
Kitui West Constituency

Wiper Democratic Movement-Kenya (WDM-K)

Hon. Caleb Mutiso Mule, M.P.
Machakos Town Constituency

Maendeleo Chap Party (MCCP)

Hon. Ernest Kivai Ogesi Kagesi, M.P.
Vihiga Constituency

Amani National Congress (ANC)

Hon. John Bwire Okano, M.P.
Taveta Constituency

Wiper Democratic Movement-Kenya (WDM-K)

Hon. Maisori Marwa Kitayama, M.P.
Kuria East Constituency

United Democratic Alliance (UDA)

Hon. Peter Mbogho Shake, M.P.
Mwatate Constituency

Jubilee Party (JP)

Hon. Joshua Chepyegon Kandie, M.P.
Baringo Central Constituency

United Democratic Alliance (UDA)

Hon. Sloya Clement Logova, M.P.
Sabatia Constituency

United Democratic Alliance (UDA)

Hon. John Walter Owino, M.P.
Awendo Constituency

Orange Democratic Movement (ODM)

Hon. Suzanne Ndunge Kiamba, M.P.
Makueni Constituency

Wiper Democratic Movement-Kenya (WDM-K)

1.3 Committee Secretariat

The Public Petitions Committee is facilitated by the following secretariat:

Lead Clerk
Mr. Samuel Kalama
Principal Clerk Assistant

Ms. Anne Shibuko
First Clerk Assistant

Ms. Miriam Modo
First Clerk Assistant

Mr. Willis Owino Obiero
Clerk Assistant III

Mr. Shadrach Omondi
Legal Counsel II

Ms. Patricia Gichane
Legal Counsel II

Mr. Martin Sigei
Research Officer III

Mr. Andrew Shangirai
Principal Sergeant at Arms

Mr. Yezel Jilo
Sergeant at Arms

Ms. Lilian Mburugu
Media Officer

Ms. Rahab Chepkilim
Audio Officer

PART TWO

2. PETITION NO. 10 OF 2022 REGARDING AMENDMENT OF THE CONSTITUTION TO ESTABLISH OFFICES OF THE PRIME MINISTER, DEPUTY PRIME MINISTER AND OFFICIAL LEADER OF OPPOSITION

2.1 INTRODUCTION

1. Public Petition No. 10 of 2022 by Mr. Victor Okul of Post Office Box 2050, Kitale was conveyed to the House by the Speaker on Wednesday, 23rd November, 2022.
2. The Petitioner prayed that the House considers amending the Constitution to introduce Offices of the Prime Minister, Deputy Prime Minister and the Leader of Opposition in order to address the divisive nature of national politics.
3. The Petitioner is convinced that what he terms as "*the winner-takes-it-all*" system is regressive in light of the fact that the establishment of the offices of the Prime Minister, Deputy Prime Minister and Leader of Opposition were initially part of the changes various Kenyans had proposed to the *Bomas* Draft Constitution.
4. He further claims that every presidential election since the promulgation of the Constitution of Kenya 2010 has been divisive on account of the said "*winner-take-it-all*" system.
5. The various initiatives and public discourse to introduce the said offices through the mechanisms provided for under Article 257 of the Constitution have not borne fruit.
6. To the best of the Petitioner's knowledge, the matter in respect of which this Petition is made is not pending before any Court of Law or Constitutional body.

2.2 PETITIONER'S PRAYERS

The Petitioners prayed that the National Assembly through the Public Petitions Committee: -

7. Amends the Constitution to introduce Offices of the Prime Minister, Deputy Prime Minister and the Leader of Opposition; and
8. Makes any other order that it deems fit in the circumstances of this Petition.

PART THREE

3. STAKEHOLDERS' SUBMISSIONS ON THE PETITION

3.1 The Petitioner

Mr. Victor Okul appeared before the Committee on Thursday, 15th December, 2022 and submitted as follows: -

Constitutional history of the Prime Minister Position and Leader of Official Opposition

9. Offices of the Prime Minister and Leader of Official Opposition in Kenya had a history noting the transitions from a parliamentary to presidential systems.
10. The Independence Constitution Order in Council of 1963 provided for the Office of the Prime Minister during the transition phase of independence.
11. There had been attempts to re-introduce the Office of the Prime Minister during the reforms in 1992 but introduction of multiparty democracy introduced the Office of the Opposition Leader.
12. The Constitutional Review Commission (Bomas Draft) agreed to the creation of the Offices of Prime Minister and two deputies and Official Opposition Leader.
13. The Wako Draft which was defeated in 2005 National Referendum also contained the idea of introducing the two offices.
14. After the 2007/2008 Post Election Violence, Agenda Four of the National Reconciliation Accord provided for the constitutional reforms to create temporarily the Office of the Prime Minister and two deputies.
15. The Committee of Experts published the harmonized draft on 17th November, 2009 for public participation and forwarded the final draft to the Parliamentary Select Committee on 8th January, 2010 which was rejected. In the discussions, devolution was preferred leading to the disbandment of the Offices of Prime Minister and Official Opposition Leader, and the rationale was to give Kenyans a new Constitution and then make amendments later.
16. The rationale for the proposal to introduce Office of the Prime Minister would be necessary for the following reasons: -
 - a) Inclusivity and elimination of ethnic majoritarianism - The arithmetic formula of politics is based on tribal numerical strength which is disadvantageous to tribes with insignificant numbers. Therefore, an expanded executive would be all-inclusive government.
 - b) A better cooperation between Parliament and Executive: That a functional link between the two organs is non-existent today because the Cabinet Secretaries cannot

address Parliament or respond to Questions before the House. The CSs are juggling between ministerial duties and appearing before the Committees of Parliament, functions which can be undertaken by a substantive Prime Minister.

- c) End secessions and agitations. The existence of deep routed sense of marginalization among a section of Kenyans with regards to political representation has provided fertile ground for repeated attempts of secession. For example, the Shifta War or Gaf Daba (1963–1967): A secessionist group of ethnic Somalis in the Northern Frontier District of Kenya who attempted to join Somalia. The Mombasa Republican Council famously known for “*Pwani si Kenya*” (2008): Ethnic Mijikenda tribes of coastal counties who attempted to secede due to land injustice and underrepresentation in government. Peoples Republic of Kenya (2017): Claims of a section of Kenyans trying to form own country after the 2017 disputed elections and the mock swearing in of ‘Opposition Leader’ which attempted to separate the country into two due to alleged repeated electoral fraud and underrepresentation in government.
- d) The rationale for the proposal to introduce Office of the Official Opposition Leader was to institutionalize and formalize opposition politics as it were in the 9th and 10th Parliaments. This would provide a legal framework for engaging the opposition in important national discourse.
- e) To end the war of “winner takes all” and pacification of losers, a pure presidential system creates stiff competition which provides grounds for voter manipulation, speculation of election rigging and conspiracies of interference with elections. The Office will accommodate the hopes of election losers and provide a platform for the losers to continuously engage in nation building.
- f) To enhance opposition accountability as it is currently the “opposition” is operating from the streets and promote the idea that the only way to engage government is through street protest. They are not accountable to anyone hence the need to bring them to Parliament where they can be held to account. They will also have a chance to convince the MPs to implement some parts of their manifestos.
- g) To reduce voter apathy: The number of registered voters who did not vote in the past three general elections has been on the rise due to lack of adequate representation of the presidential vote. About 30% who did not vote in 2022 believed voting is an exercise in futility because the system lacks equality of vote. The office of the Official Opposition will reverse this trend
- h) To accommodate divergent views: The voters who did not vote for the day’s government will have a voice through this office. Differences of opinion will be accommodated and encouraged because there will be a platform for alternative voice.
- i) To enhance openness of government and reduce corruption: The occupant of this office will be the principal whistle blower of corruption in government. This will enhance accountability and reduce corruption in government.
- j) To bring to end “mongrel” or Handshake politics: The loser of an election will have a distinct role of keeping the government in check and on toes to deliver the promises

to the people. The conundrum of government opposition itself and opposition joining government will be in the past.

- k) To enhance democracy: This office will increase the level of citizen participation in government by providing a platform to critic without fear of persecution or witch-hunt.
- l) To enhance quality debate in Parliament: The opposition will have the opportunity to ask questions on the Floor of the House concerning pertinent issues affecting the people hence enhancing the vibrancy of debates.
- m) To end of patronage politics: Opposition will ensure that national government resources are distributed without favouritism or discrimination.
- n) End of state capture: State capture is normalized through “handshakes” and unchecked powers of rogue government officials, which can be addressed by a functional opposition.

17. The appointment process: -

a) Prime Minister and Deputy Prime Ministers to be as follows: -

- i.) Appointment of the offices shall be carried out by the President within seven (7) days after a presidential election and they will take oath alongside other Members of Parliament. They will take another oath when the Cabinet is constituted.
- ii.) Regional Balance should be taken into consideration so that the appointees reflect the face of Kenya with representation from different ethnic backgrounds and not from the same community.
- iii.) Age of the appointees be between 40 years and 65 years since the office is a high adrenaline space.
- iv.) The term of office should be that those appointed to serve do so until one dies, resigns, is dismissed from service or until the next appointment after the presidential election. The person to serve for only two terms and not more.
- v.) The mandate of the said offices shall be to supervise other ministries, prepare government sponsored legislation, link the Executive and Legislature and appear before Parliament to respond to questions touching on matters of concern raised and other policy issues.
- vi.) Resignation: May resign from office by delivering a written notice to the President after which the President shall appoint another office holder within seven days.

vii.) Dismissal: Can be dismissed for gross violation of the Constitution or insubordination.

viii.) Vote of no confidence: A Member of the National Assembly supported by at least two-thirds of all Members at any time during a sitting of the National Assembly through a Motion.

b) *Official Opposition Leader*

i.) Qualification – the presidential candidate with the second highest number of votes in a presidential election. Will be a Member of both Houses and appoint two deputies from the membership of Senate and National Assembly. The Opposition Leader will address Parliament once annually and will participate in parliament after amendment of the Standing Orders.

ii.) Removal from office: A Member of the National Assembly supported by at least two-thirds of all Members at any time during a sitting of parliament through a Motion.

iii.) Vacancy: In case of a vacancy in the office by resignation, incapacitation, death and impeachment, the running mate at the most recent presidential elections shall assume the office after the vacancy is declared by the Speaker of the National Assembly.

iv.) Resignation: The Official Opposition Leader shall address the letter of resignation to the Speakers of both Houses.

18. The Order of Precedence shall be that the Leader of Opposition will be ranked third after the Speaker and Prime Minister. In official public functions he or she will be ranked sixth after President, Deputy President, Speakers of both Houses, and the Chief Justice

19. The establishment of the said offices would majorly be re-organization of the existing offices. Therefore, the petitioner averred that no major expenses would be incurred in terms of creation of offices. The Prime Minister and the two deputies will take over the five offices of Prime Cabinet Secretary, Majority Leaders of the National Assembly and Senate and their deputies. The Opposition Leader will take up the current Minority Leader of both Houses and their deputies hence no or negligible additional costs.

20. Amendment of relevant laws as follows: -

i.) Insertion of a new Article 107A in the Constitution to create the office of the Leader of Opposition;

ii.) Repeal and replace Article 108 of the Constitution on order of precedence in the National Assembly to include the Offices of Prime Minister and Official Leader of Opposition; and

iii.) Insert a new Part 2A in the Constitution on creation of the Offices.

21. The BBI judgement in relation to the Petition annulled the proposal based on the constitutionality of the process and not the contents of the Bill hence the proposed offices

of the Prime Minister and Official Opposition Leader were neither challenged by the petitioners nor any other interested parties. Parliament to use this avenue to initiate the proposed changes through Parliamentary Initiative as proved for in Article 256 of the Constitution.

22. The President's commitment towards the proposals raised in the Petition is vividly seen in his current administration where he created the Office of the Prime Cabinet Secretary and the proposal for Cabinet Secretaries to appear before the House to respond to policy issues under their respective ministries as per their Manifesto.
23. The Petitioner prayed to the Committee to submit a favourable report to the House for consideration of the establishment of the offices to address the historical omissions definitively.

3.2 Submissions by the Controller of Budget (CoB)

The Controller of Budget vide a **Letter Ref: COB/NA/002/2/4(53)** dated **28th March, 2023** forwarded their written submissions as follows: -

24. The Office of the Controller of Budget had periodically reported on an increase in the Government structures and creation of the Offices proposed by the Petitioner would put a lot of strain on resources and would have a ripple effect on National Government wage bill and eventually, the Budget.
25. On whether an expansive executive was merited or not would be based on the whether the benefits will outweigh all costs considerations.

3.3 Submissions by the Independent Electoral Boundaries Commission (IEBC)

The Independent Electoral and Boundaries Commission vide a Letter Ref: **IEBC/DLS/CORR/03/2023** dated **23rd March, 2023** forwarded their written submissions as follows: -

26. Chapter 16 of the Constitution of Kenya specifically Articles 255 and 256 which provide for the constitutional framework under which the Constitution may be amended i.e., either by Parliamentary or Popular Initiative on matters relating to supremacy of the Constitution, the Territory of Kenya, sovereignty of the people, national values and principles of good governance, Bill of Rights among others as expressly stipulated in Article 255.
27. Such matters relating to the amendment of the Constitution as provided for in Articles 255 and 256 are broad thematic areas and have a bearing to the larger populace hence must be subjected to National Referendum regardless of whether it is by parliamentary initiative or not.
28. Kenya has a Presidential System that culminates into an election of a President and pursuant to Article 138(4) of the Constitution, the candidate who receives more that half of all the votes cast in the election and at least 25% of the votes in each of more than half of the counties is declared elected President.

29. The 1st Runner up in the election who for practical purposes is the leader of the Minority side does not ascend to any state position since the Minority side by law is represented in Parliament by the Leader of Minority Party who must be a Member of Parliament.
30. Under the present constitutional dispensation, there is no provision for the office of the Prime Minister, Deputy Prime Minister and Official Leader of Opposition.
31. The Committee may consider the Petition under the process enunciated in Article 256 of the Constitution.

3.4 Submissions from the Leader of the Minority Party, National Assembly

The Leader of the Minority Party, Hon. James Opiyo Wandayi, CBS submitted as follows: -

32. There was no clarity with regards to the Petitioner's proposal of creation of the Offices of Prime Minister, Deputy Prime Minister, and Leader of Official Opposition to cure what he termed the curse of winner-takes-it all.
33. The Minority side was of the view that a parliamentary system as proposed in the Bomas Draft, Naivasha Draft and Building Bridges Initiative (BBI) was best for Kenya because of the unique cultural, social, and political orientation as a nascent democracy instead of a pure presidential or a hybrid system.
34. Therefore, in the parliamentary system, a Prime Minister as the head of government would be the leader of party or coalition of parties that form government as a result of the numbers of seats of Parliament in the election. Consequently, the Leader of Opposition would lead opposition in Parliament by providing alternative viewpoints with a shadow Cabinet.
35. Further, as to whether the Offices of Deputy Prime Minister(s) and Deputy Leader of Opposition was neither here nor there because those were details that could be advanced later.
36. That contrary to the proposal in the Petition, the Offices of Prime Minister and Deputy Prime Minister were not necessary with a President who is the Head of State and Head of Government in place. Likewise, in the current presidential system, there was no place for the Office of the Leader of Opposition.
37. That even if the creation of the said offices was necessitated by our unique challenges, consensus building and need for a hybrid system especially Leader of Opposition, it will have to be done correctly as provided for in the Constitution on matters that can only be amended through a referendum.
38. That an amendment with far reaching ramification as the creation of the said offices would have to be taken to the people in a referendum and any other route would be akin to amending the Constitution through the backdoor which the Minority side will not be party to.

3.5 Submissions by the Leader of the Majority Party, National Assembly

The Leader of the Majority Party submitted as follows: -

39. That the proposal by the Petitioner seeks to enhance inclusivity and unity in the country by providing for greater representation of different regions and communities in Government.
40. Political parties are critical in the Kenyan democratic system of governance and transcend all areas of parliamentary business and decision making and exert immeasurable influence on parliamentary activities.
41. Political parties guide the Legislature's performance of its constitutional role and mandate in an organised and orderly manner while playing an important role in shaping the relationship between the executive and the Judiciary in providing an alternative point of view which ensures effective checks and balances.
42. Promulgation of the constitution of Kenya 2010 and the transition to a Presidential System, candidates seeking to contest for the Presidential seat are now excluded from contesting for Parliamentary seats. This effectively locks out the Leader of the Majority Party from meaningful political participation and are left to rely on the Minority Leadership of the House to perform the function of oversight.
43. The proposition for the Office of the Leader of Official Opposition will institutionalize governance, strengthen oversight and deepen democracy. This office will provide checks and balances to the Government of the day as provided for in Article 10 of the Constitution (*National Values and Principles of Good governance*).
44. The Proposal has been backed up by the incumbent President when he wrote to the Speakers of both Houses towards the end of the year 2022 to consider the introduction of a Constitutional Amendment to set up the office of the Leader of Opposition.

3.6 Submissions by the Attorney General

45. The Committee vide a Letter Ref: **KNA/DLPS/ PPETC/CORR/2023/37** dated **March 17, 2023** wrote to the Office of the Attorney General requesting for written submission on the Petition and did not receive views or comments.

3.7 Submissions by the National Council of NGOs

46. The Committee vide a Letter Ref: **KNA/DLPS/ PPETC/CORR/2023/37** dated **March 17, 2023** wrote to the Chairperson, **National Council of NGOs** requesting for written submission on the Petition and did not receive views or comments.

3.8 Submissions by the Kenya Law Reform Commission

47. The Committee vide a Letter Ref: **KNA/DLPS/ PPETC/CORR/2023/37** dated **May 05, 2023** wrote to the Chairperson, Chief Executive Officer, Kenya Law Reform Commission requesting for written submission on the Petition requesting for written submission on the Petition and did not receive views or comments.

PART FOUR

4. COMMITTEE OBSERVATIONS

Upon hearings from the petitioners and other witnesses, the Committee observed that -

48. The amendments to the Constitution proposed in the petition were similar to those proposed in the 2020 Building Bridges Initiative to amend the Constitution.
49. The proposal for the new offices will have financial implications on the government wage bill, therefore the necessity for establishment of these offices should outweigh costs considerations.
50. The proposal seeks to introduce a hybrid of presidential and parliamentary system, as the office of the Prime Minister and Deputy Prime Ministers are both in the Legislature and the Executive.
51. This hybrid system interferes with institutional separation of powers, that the present Presidential system advances. This may promote interference in the administration of government and hinder checks and balances against the government.
52. The proposal seeks to give the President too much powers in the appointment of the Prime Minister and Deputy Prime Ministers as the element of Parliamentary approval is excluded.
53. The expansion of the executive by including the Prime Minister, may not end ethnic majoritarianism or the tyranny of numbers as suggested by the Petition as the President will be the appointing authority.
54. The proposal for the Leader of Official Opposition seeks to accord the main opposition leader a national platform to hold the government accountable and promote democracy in the Country.
55. The issues raised in the petition need to be subjected to extensive public discussions while pursuing the proposed Constitutional amendment by way of parliamentary initiative.

PART FIVE

5. ISSUES FOR DETERMINATION AS PER THE PRAYERS IN THE PETITION

56. Arising from the findings and observations, the Committee makes determination on prayers sought in the Petition as follows:

Prayer No. 1: *to amend the Constitution to establish the Office of the Prime Minister and Deputy Prime Minister*

57. The Committee -

- a) Invited the Petitioner who submitted that the Prime Minister and Deputy Prime Minister would serve in both the Executive and Parliament. Their role will be to supervise Ministries, to prepare government sponsored legislation and convey the same before Parliament and any other duties as assigned by the President.
- b) Notes that the Prime Minister will be appointed by the President. The appointment of the Prime Minister will be effected within seven days after a presidential election. Their proposed removal from office is through resignation or dismissal by the President or a vote of no confidence passed by the National Assembly. The proposed term of office of the Prime Minister and their Deputy would be a five-year term, for a maximum of two terms.
- c) Notes, the following proposed amendments:
 - i.) amendment of Article 130 (1)(b) to provide for the Prime Minister and Deputy Prime Minister in the Executive; and
 - ii.) the insertion of a new part 2A after Article 151 to establish the Office of the Prime Minister, the Deputy Prime Ministers.
- d) Notes that presently Kenya's system of governance is a presidential system.
- e) Notes that the proposed amendments seek to create a hybrid of both a Parliamentary system and Presidential System, with the Prime Minister and Deputies serving in both the Executive and Parliament.
- f) Notes that this hybrid system of governance violates the principle of separation of powers. This hybrid system of governance anchors the Legislative arm into the appendages of the Executive.

Currently, the two arms are distinct, independent yet interdependent.

g) Therefore, is of the view that the proposed hybrid system would destroy the present independence of these two arms of Government, and may stifle democracy or good governance practices by the government.

h) Therefore, rejects the proposed amendment of the Constitution to establish the office of the Prime Minister and Deputy Prime Minister.

Prayer No. 2: *to amend the Constitution to establish the Office of the Leader of Official Opposition.*

58. The Committee -

- a) Notes from the petitioner submissions that the Office of the Leader of Opposition will be established to accommodate the presidential candidate with the second highest number of votes in the presidential elections as declared by the IEBC.
- b) The Leader of Official opposition will be at liberty to appoint their deputy from amongst the members of Parliament in the National Assembly and Senate. The Leader of Official Opposition will also have the liberty to appoint a shadow cabinet from the minority members of parliament to ensure oversight over the executive. They also have the right of participation in all state functions.
- c) Their proposed removal from office is through resignation, incapacitation, death or impeachment. The vacancy arising may be filled by the running mate of the opposition leader. If the running mate is not available, in the case of a coalition of parties, the vacancy is filled through a nomination made by the coalition of parties by way of a national delegates convention.
- d) The petitioner proposes the following amendments:
 - i.) insertion of Article 107A to establish the office of the leader of official opposition; and
 - ii.) replace Article 108 with the order of precedence in the National Assembly to include Prime Minister and Leader of Official Opposition.

- e) Noted in the proposal the Leader of Official opposition takes over the office of Leader of Minority to ensure that the creation of the new office will have negligible additional costs.
- f) Noted that some of the issues arising in the proposed amendment is that the petitioner does not specify where the Leader of Opposition will be domiciled in the National Assembly or the Senate.
- g) Noted that the proposed amendments will consequentially affect Article 97 and Article 98 on the Membership of the National Assembly and Senate.
- h) The rationale for the Office of Leader of Official Opposition is to provide oversight and accord the opposition leader an avenue to contribute to national dialogue. The proposal seeks to enhance accountability of the government and the quality of debate in Parliament.
- i) **Therefore supports the proposed amendment of the Constitution to introduce the office of the Leader of Official Opposition.**

PART SIX

6. COMMITTEE RECOMMENDATIONS

Pursuant to the provisions of Standing Order 227, the Committee recommends -

59. On the proposal to amend the Constitution by inserting Article 131 (1) (b) and Part 2A after Article 151 to establish the Office of the Prime Minister and Deputy Prime Minister. The Committee recommends that **the prayer should be rejected;** and
60. On the proposal to amend the Constitution by insertion of Article 107A and replacement of Article 108 to establish the Office of the Leader of Official Opposition. The Committee concurs with the petitioner that the **proposed amendment will enhance accountability of the government, through national dialogue and political participation of the Opposition in the House.**

Signed: _____



Date: _____

10/8/2023

THE HON. NIMROD MITHUKA MBAI, M.P.
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – SECOND SESSION – 2023
PUBLIC PETITIONS COMMITTEE

**ADOPTION SCHEDULE OF THE REPORT ON CONSIDERATION OF PUBLIC
PETITION NO. 10 of 2023 REGARDING AMENDMENT OF THE CONSTITUTION TO
ESTABLISH OFFICES OF PRIME MINISTER, DEPUTY PRIME MINISTER AND
OFFICIAL LEADER OF THE OPPOSITION**

DATE.....9/8/2023.....

We the undersigned Honourable Members of the Public Petitions Committee, do hereby affix our signatures to this Report on the Consideration of Public Petition No. 10 of 2022 **Amendment of the Constitution to establish offices of Prime Minister, Deputy Prime Minister and Official Leader of the Opposition** to confirm our approval and confirm its accuracy, validity and authenticity: -

	NAME	SIGNATURE
1.	Hon. Nimrod Mbithuka Mbai, M.P. Chairperson	
2.	Hon. Janet Jepkemboi Sitienei, M.P. Vice Chairperson	
3.	Hon. Patrick Makau King'ola, M.P.	
4.	Hon. Edith Vethi Nyenze, M.P.	
5.	Hon. Ernest Ogesi Kivai, M.P.	
6.	Hon. John Walter Owino, M.P.	
7.	Hon. Joshua Chepyegon Kandie, M.P.	
8.	Hon. Maisori Marwa Kitayama, M.P.	
9.	Hon. Bernard Muriuki Nebart, M.P.	
10.	Hon. Bidu Mohamed Tubi, M.P.	
11.	Hon. Caleb Mutiso Mule, M.P.	
12.	Hon. John Bwire Okano, M.P.	
13.	Hon. Peter Mbogho Shake, M.P.	
14.	Hon. Sloya Clement Logova, M.P.	
15.	Hon. Suzanne Ndunge Kiamba, M.P.	

REPUBLIC OF KENYA



**THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT (FIRST SESSION)**

CONVEYANCE OF A PUBLIC PETITION

(No. 10 of 2022)

**ON AMENDMENT OF THE CONSTITUTION TO ESTABLISH
OFFICES OF PRIME MINISTER, DEPUTY PRIME MINISTER
AND OFFICIAL LEADER OF THE OPPOSITION**

Honourable Members, Article 119 of the Constitution accords any person the right to petition Parliament to consider any matter within its authority. Further, Standing Order 225(2)(b) requires the Speaker to report to the House any Petition other than those presented by a Member.

In this regard, **Honourable Members**, I wish to report to the House that my office has received a petition from one Mr. Victor Okul of P.O. Box 2050 Kitale calling for *amendment of the Constitution to introduce Offices of Prime Minister, Deputy Prime Minister and Official Leader of the Opposition*.

The Petitioner is convinced that what he terms as a 'winner-takes-it-all' system is regressive particularly in light of the fact that the establishment of the Offices of the Prime Minister, Deputy Prime Minister and Leader of the Official Opposition were initially part of the changes various Kenyans had proposed to the 'Bomas Draft' Constitution.

Honourable Members, the Petitioner further claims that every presidential election since the promulgation of the Constitution of Kenya 2010 has been divisive on account of the said 'winner-takes-it-all' system.

He also avers that various initiatives and public discourse to introduce the said offices through the mechanisms provided for under Article 257 of the Constitution have not borne fruit.

The Petitioner thus prays that this House considers amending the Constitution to introduce Offices of Prime Minister, Deputy Prime Minister and Official Leader of the Opposition in order to address the divisive nature of our national politics.

Honourable Members, having established that the matter raised in the Petition is well within the authority of this House, I hereby commit the Petition to the Public Petitions Committee for consideration pursuant to Standing Order 208 A. The Committee is required to consider the Petition and report its findings to the House and to the Petitioner in accordance with Standing Order 227(2).

I thank you

Wetang'ula
THE RT. HON. MOSES WETANG'ULA, EGH, MP
SPEAKER OF THE NATIONAL ASSEMBLY

..... 2022

REPUBLIC OF KENYA



**THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT (FIRST SESSION)**

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THE RT. HON. MOSES WETANG'ULA, EGH, MP
SPEAKER OF THE NATIONAL ASSEMBLY

..... 2022

DLPS
Please deal
19/10/22

5

THE NATIONAL ASSEMBLY,
CHAIRPERSON COMMITTEE OF JUSTICE & LEGAL AFFAIRS.

Parliament Buildings
P.O. Box 41842 - 00100

NAIROBI

Email: clerk.nationalassembly@parliament.go.ke

1st October 2022



RE: PETITION TO THE NATIONAL ASSEMBLY TO AMEND THE KENYAN CONSTITUTION UNDER ARTICLE 256 TO PROVIDE FOR THE OFFICE OF PRIME MINISTER, DEPUTY PRIME MINISTERS AND LEADER OF OFFICIAL OPPOSITION.

I, the undersigned, Citizen of the Republic of Kenya and residents of Trans Nzoia county

DRAW the attention of the National Assembly to the following:

1.1 THAT, The American presidential system imposed on our political system is the single factor that divides our nation after every election cycle. This "winner takes all" system is the cancer eating the soul of our nation threatening to tear this country apart.

1.2 THAT, Kenyans submitted their views to the Bomas draft constitution which was the bedrock of the current constitution and it had provided for the position of prime minister, deputy prime minister and leader of official opposition.

1.3 THAT, This system was an afterthought a compromise among the political elites at the infamous Naivasha parliamentary retreat that altered the contents of the Bomas draft constitution creating this oppressive presidential system.

1.4 THAT, Every presidential election since the promulgation this constitution has been decisive due to the bareknuckle politics associated with this system. Politicians have adopted ethnicity based politics which illicit raw uncontained emotions leading to chaos and discontentment.

1.5 THAT, This situation has led to the entrenchment of tyranny of numbers tribal politics balkanizing tribes against each other. Unfortunately, the "us" verses "them" mentality is the new normal.

1.6 THAT, This System is only beneficial to tribes with numbers in total disregard of marginalized, minorities and regional balance as evidenced in the Presidential appointments.

1.7 THAT, Various initiatives involving millions of Kenyans to rectify this anomaly through article 257 have been unsuccessful.

1.8 THAT, The 13th parliament has the opportunity to stop this vicious unending cycle that threatens national unity by amendment of this constitution through article 256.

2010-2018
TO register, acknowledge receipt
and process.
Mpanza
2010.

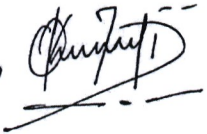
PETITION TO THE NATIONAL ASSEMBLY TO AMEND THE KENYAN CONSTITUTION UNDER ARTICLE 256 TO PROVIDE FOR THE OFFICE OF PRIME MINISTER, DEPUTY PRIME MINISTERS AND LEADER OF OFFICIAL OPPOSITION.

1.9 THAT, None of these issues raised in this Petition is pending in any court of Law, Constitutional or any other legal body.

WHEREFORE, your humble petitioner prays that the National Assembly

That this petition is heard and considered with a view of having it dealt with in accordance with the law and disposed of appropriately

Dated this.....^{1st}.....day of.....*October*.....2022.

Name	Full address	National ID	Phone no & Email	Signature
Victor Okul	P.O Box 2050 Kitale.	22514785	0722707833 victorokul@gmail.com	



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

MINUTES OF THE TENTH SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON THURSDAY, DECEMBER 15, 2022, IN THE CONFERENCE ROOM, HILTON GARDEN INN HOTEL, SIXTH FLOOR AT 9:30 AM

PRESENT

- | | | |
|--|---|------------------|
| 1. Hon. Nimrod Mbithuka Mbai, M.P. | - | Chairperson |
| 2. Hon. Janet Jepkemboi Sitienei, M.P. | - | Vice Chairperson |
| 3. Hon. Joshua Chepyegon Kandie, M.P. | | |
| 4. Hon. Ernest Ogesi Kivai, M.P. | | |
| 5. Hon. Edith Vethi Nyenze, M.P. | | |
| 6. Hon. Caleb Mutiso Mule, M.P. | | |
| 7. Hon. Peter Mbogho Shake, M.P. | | |
| 8. Hon. Suzanne Ndunge Kiamba, M.P. | | |
| 9. Hon. Sloya Clement Logova, M.P. | | |

ABSENT WITH APOLOGIES.

1. Hon. Patrick Makau King'ola, M.P.
2. Hon. John Walter Owino, M.P.
3. Hon. Maisori Marwa Kitayama, M.P.
4. Hon. Bernard Muriuki Nebart, M.P.
5. Hon. John Bwire Okano, M.P.
6. Hon. Bidu Mohamed Tubi, M.P.

IN-ATTENDANCE

PETITIONERS IN THE PETITION REGARDING AMENDMENT OF THE CONSTITUTION OF KENYA TO PROVIDE FOR THE OFFICE OF THE PRIME MINISTER, DEPUTY PRIME MINISTER AND LEADER OF OFFICIAL OPPOSITION

- | | | |
|----------------------|---|------------|
| 1. Mr. Victor Okul | - | Petitioner |
| 2. Ms. Naomi Kemunto | - | Petitioner |
| 3. Mr. John Ohaga | - | Petitioner |

PETITIONER IN THE PETITION REGARDING POLLUTION OF RIVER ATHI

- | | | |
|---------------------------|---|------------|
| Hon. Vincent Kawayu, M.P. | - | Petitioner |
|---------------------------|---|------------|

SECRETARIAT

1. Mr. Samuel Kalama	-	Principal Clerk Assistant II
2. Ms. Miriam Modo	-	Clerk Assistant II
3. Ms. Willis Obiero	-	Clerk Assistant III
4. Ms. Patricia Gichane	-	Legal Counsel II
5. Mr. Shadrack Omondi	-	Legal Counsel II
6. Mr. Martin Sigei	-	Research Officer III
7. Ms. Eunice Jalang'o	-	Office Assistant
8. Mr. Yeziel Jillo	-	Serjeant-At-Arms

MIN./PPETC/2022/43: PRELIMINARIES

The Chairperson called the meeting to order at 9.30 a.m. and said the prayers. The Members of the Committee introduced themselves after which the Lead Clerk introduced the secretariat. The Petitioners also introduced themselves.

MIN./PPETC/2022/44: CONSIDERATION OF A PUBLIC PETITION REGARDING AMENDMENT OF THE CONSTITUTION OF KENYA TO PROVIDE FOR THE OFFICE OF THE PRIME MINISTER, DEPUTY PRIME MINISTER AND LEADER OF OPPOSITION.

1) Brief from Legal Counsel

The Legal Counsel presented a brief on the Petition (*See attached Brief on the Petition*) as follows:

The Petition

The Legal Counsel briefed the Committee that the Petitioner drew the attention of the House to his prayer seeking amendment of the Constitution to introduce the Office of the Prime Minister, the Office of the Deputy Prime Minister and the Leader of the Opposition. The petitioner averred that ethnicity-based politics leads to chaos and discontentment and is only beneficial to tribes with numbers. He explained that the amendment will bring an end to the divisive politics in the country and the '*winner takes it all system*' in the Government.

Analysis

The Legal Counsel stated that the Constitution in Article 94(3) provides for the role of the Parliament of passing amendments to the Constitution in the exercise of its legislative authority.

- a) That a proposal to amend the Constitution shall be enacted in accordance with Article 256 and 257. The proposal must be subjected to a referendum if the amendment relates to:
 - the supremacy of the Constitution;
 - the territory of Kenya; the sovereignty of the people;
 - the national values and principles of governance referred to in Article 10(2)(a) to (d);
 - the Bill of Rights; the term of the office of the President;
 - the independence of the Judiciary and Commissions and Independent Offices to which Chapter Fifteen applies;

- the functions of Parliament; the objects, principles and structure of devolved government; or the provisions of the Chapter 16.
- b) The Constitution provides that an amendment that does not relate to the matters enumerated above may be enacted either through Parliamentary initiative as provided for under Article 256 or by a popular initiative, by the people and Parliament, in accordance with Article 257.
 - c) The Petitioner seeks the amendment of the Constitution through Parliamentary Initiative as provided under Article 256.
 - d) If the Committee considers and approves the Petition, the approved content will be reduced to a legislative proposal sponsored by the Committee for consideration by the House. Standing Order 114 (7A) provides for the procedure to be adopted with respect to a Legislative Proposal to amend the Constitution.

Therefore, the Committee should seek to interrogate -

- a) The views of the Petitioner on the proposed amendments, in particular
 - which specific provisions of the Constitution he seeks to amend;
 - the responsibilities of the proposed Offices; and
 - the manner of appointment and removal from the proposed Offices.
- b) The views of stakeholders such as -
 - the Leader of the Majority Party and the Leader of the Minority Party;
 - the Attorney General, Commissions and Independent Offices as the Independent Electoral and Boundaries Commission, the Public Service Commission;
 - the Kenya Law Reform Commission; and
 - the NGO Council as a corporate representative of the civil society.

Submission by the Petitioners

The Petitioner made submissions before the Committee as follows:

a) Constitutional history of the Prime Minister Position

The Petitioner presented the historical background of the Offices of the Prime Minister and Leader of Official Opposition noting the transitions from a parliamentary to presidential systems. The Petitioners stated that the two offices have previously featured in Kenya's journey as follows:

- i. Independence Constitution Order in Council 1963 provided for the Office of the Prime Minister during the transition phase of independence.
- ii. Attempted reforms to re-introduce the Office of PM in 1992 but introduction of multiparty democracy introduced the Office of the Opposition Leader.
- iii. Constitutional Review Commission (Bomas Draft) agreed to the creation of the Offices of Prime Minister and two deputies and Official Opposition Leader
- iv. The Wako Draft which was defeated in 2005 National Referendum also contained the idea of introducing the two offices.
- v. After the 2007 PEV, Agenda Four of the National Reconciliation Accord provided for the constitutional reforms to create temporarily the Office of the Prime Minister and two deputies.

- vi. The Committee of Experts published the harmonized draft on 17th November, 2009 for public participation and forwarded the final draft to the Parliamentary Select Committee on 8th January, 2010.
- vii. The proposals to have the offices were turned down in the Naivasha Retreat without justification and either pure presidential system or devolution was proposed.
- viii. Devolution was chosen leading to the disbandment of the Offices of Prime Minister and Official Opposition Leader.

The Petitioners submitted that the current Constitution is a product of high voltage, horse-trading among political elites hence a compromised system. That the thinking of the political class back then was first to give Kenyans a new Constitution and then make amendments later. The Petitioners submitted that the time for amendments had come.

b) The rational for the proposal to introduce Office of the Prime Minister

The Petitioners submitted to the Committee that the proposal to establish the Offices of Prime Minister and Official Opposition Leader would be necessary for the following reasons:

- i. Inclusivity and elimination of ethnic majoritarianism: The arithmetic formula of politics is based on tribal numerical strength which is disadvantageous to tribes with minimal numbers. Therefore, an expanded executive will include other tribes at the highest decision-making organs of the state.
- ii. Democratic deficiency responsible for post-election violence would be cured by expanding the executive.
- iii. A better cooperation between Parliament and Executive: That a functional link between the two organs is non-existent today because Cabinet Secretaries cannot address Parliament or respond to questions at the Floor of the House. The CSs are juggling between ministerial duties and appearing before the committees of Parliament, functions which can be undertaken by a substantive Prime Minister.
- iv. End secessions and agitations. The existence of deep rooted sense of marginalization among a section of Kenyans with regards to political representation has provided fertile ground for repeated attempts of secession for example,
 - The Shifta War or Gaf Daba (1963–1967): A secessionist group of ethnic Somalis in the Northern Frontier District of Kenya who attempted to join Somalia.
 - The Mombasa Republican Council famously known for “*Pwani si Kenya*” (2008): Ethnic Mijikenda tribes of coastal counties who attempted to secede due to land injustice and underrepresentation in government.
 - Peoples Republic of Kenya (2017): Claims of a section of Kenyans trying to form own country after the 2017 disputed elections and the mock swearing in of ‘Opposition Leader’ which attempted to separate the country into two due to alleged repeated electoral fraud and underrepresentation in government.

c) The rational for the proposal to introduce Office of the Official Opposition Leader

The Petitioner presented the rational as follows.

- i. Institutionalization and formalization of opposition politics: The office was in existence in the 9th and 10th Parliaments through the National Assembly Standing Orders but was scrapped off

- after the promulgation of the Constitution 2010. The office will provide a legal framework for engaging opposition in important national discourse.
- ii. Ending “winner takes all” and pacification of losers: Pure presidential system creates stiff competition which provides grounds for voter manipulation, speculation of election rigging and conspiracies of interference with elections. The Office will accommodate the hopes of election losers and provide a platform for the losers to continuously engage in nation building.
 - iii. Enhance opposition accountability: Currently the “opposition” is operating from the streets and promote the idea that the only way to engage government is through street protest. They are not accountable to anyone hence the need to bring them to Parliament where they can be held to account. They will also have a chance to convince the MPs to implement some parts of their manifestos.
 - iv. Reduce voter apathy: The number of registered voters who did not vote in the past three general elections has been on the rise due to lack of adequate representation of the presidential vote. About 30% who did not vote in 2022 believed voting is an exercise in futility because the system lacks equality of vote. The office of the Official Opposition will reverse this trend.
 - v. Accommodation of divergent views: The voters who did not vote for the day’s government will have a voice through this office. Differences of opinion will be accommodated and encouraged because there will be a platform for alternative voice.
 - vi. Enhance openness of government and reduce corruption: The occupant of this office will be the principal whistle blower of corruption in government. This will enhance accountability and reduce corruption in government.
 - vii. End of “mongrel” or Handshake politics: The loser of an election will have a distinct role of keeping the government in check and on toes to deliver the promises to the people. The conundrum of government opposition itself and opposition joining government will be in the past.
 - viii. Enhance democracy: This office will increase the level of citizen participation in government by providing a platform to critic without fear of persecution or witch-hunt.
 - ix. Enhance quality debate in Parliament: The opposition will have the opportunity to ask questions on the Floor of the House concerning pertinent issues affecting the people hence enhancing the vibrancy of debates.
 - x. End of patronage politics: Opposition will ensure that national government resources are distributed without favouritism or discrimination.
 - xi. End of state capture: State capture is normalized through “handshakes” and unchecked powers of rogue government officials, which can be addressed by a functional opposition.

d) Appointment of Prime Minister and Deputy Prime Ministers

The Petitioner submitted to the Committee as follows:

- i. Appointment: That the appointment of the offices shall be carried out by the President within seven (7) days after a presidential election and they will take oath alongside other Members of Parliament. They will take another oath when the Cabinet is constituted and the President, Deputy President, Prime Minister and the two deputies shall not be from the same ethnicity.
- ii. Age: The office holder to have between 40 years and 65 years since the office is a high adrenaline space.
- iii. Term of office: Serves until he or she dies, resigns, or dismissed, or the next appointment after a presidential election. A person shall not serve for more than two terms.

- iv. Duties: The office shall supervise other ministries, prepare government sponsored legislation and link the Executive and Legislature. Also, responds to questions in Parliament once a week or on demand.
- v. Resignation: May resign from office by delivering a written notice to the President after which the President shall appoint another office holder within seven days.
- vi. Dismissal: Can be dismissed for gross violation of the Constitution or insubordination.
- vii. Vote of no confidence: A Member of the National Assembly supported by at least two-thirds of all Members at any time during a sitting of the National Assembly through a Motion.

e) Official Opposition Leader

- i. Qualification: The presidential candidate with the second highest number of votes in a presidential election. Will be a Member of both Houses and appoint two deputies from the membership of Senate and National Assembly. The Opposition Leader will address Parliament once annually and will participate in parliament after amendment of the Standing Orders.
- ii. Removal from office: A Member of the National Assembly supported by at least two-thirds of all Members at any time during a sitting of parliament through a Motion.
- iii. Vacancy: In case of a vacancy in the office by resignation, incapacitation, death and impeachment, the running mate at the most recent presidential elections shall assume the office after the vacancy is declared by the Speaker of the National Assembly.
- iv. Resignation: The Official Opposition Leader shall address the letter of resignation to the Speakers of both Houses.

f) Perking Order/Order of Precedence

In Parliament, the Leader of Opposition will be ranked third after the Speaker and Prime Minister. In official public functions he or she will be ranked sixth after President, Deputy President, Speakers of both Houses, and the Chief Justice.

g) Expenses of the new offices

The Petitioner presented that the establishment of the offices is more of a reorganization of the existing offices. The Prime Minister and the two deputies will take over the five offices of Prime Cabinet Secretary, Majority Leaders of the National Assembly and Senate and their deputies. The Opposition Leader will take up the current Minority Leader of both Houses and their deputies hence no or negligible additional costs.

h) Laws to be amended

- i. Insertion of a new Article 107A on creation of the Leader of Official Opposition
- ii. Repeal and replace Article 108 on order of precedence in the National Assembly to include the Offices of Prime Minister and Official Leader of Opposition
- iii. Insert a new Part 2A on creation of the Offices.

i) The BBI judgement in relation to the Petition

The judgement annulled the proposal based on the constitutionality of the process and not the contents of the Bill. The proposed offices of the Prime Minister and Official Opposition Leader were

neither challenged by the petitioners nor any other interested parties. Hence Parliament can move forward to initiate the proposed changes through a parliamentary initiative in Article 256

j) The President's commitment towards the proposals raised in the Petition

- i. The creation of the office of Prime Cabinet Secretary is in sync with the proposals herein.
- ii. The President has shown to be a proponent of the creation of the Office of the Official Leader of Opposition through several high-profile public fora pronouncements.
- iii. The Kenya Kwanza Manifesto also outlines the intent to create these offices.

k) Prayers

The Petitioner prayed to the Committee to submit a favourable report to the House for consideration of the establishment of the offices to address the historical omissions definitively.

Committee Concerns

The Committee raised the following issues.

a) The specific areas in the Constitution to be amended

With regard to the specific areas of the Constitution to be amended, the Petitioner responded that he was seeking to amend the Constitution to insert a new Article 107A to create the office of the Leader of Official Opposition, repeal and replace Article 108 on Order of precedence, and insertion of a new Article 2A to create the said offices.

b) The manner of appointment and removal from office and the House the Prime Minister will be a member

With regards to the manner of appointments and removal, the Petitioner stated that the Prime Minister will be appointed by the President and removed through a Motion by a Member of the National Assembly supported by two-thirds. The opposition leader will be the presidential candidate with the second highest votes and will be removed in the same manner as the Prime Minister in Parliament.

The Petitioner proposed that the Prime Minister be accommodated in both Houses depending on the questions raised.

c) Cost/budget for running the proposed offices

With regards to the budget of running the offices, the Petitioner proposed that the existing Office of the Prime Cabinet Secretary be renamed and strengthened to be the Office of the Prime Minister. With regards to the Office of the Official Opposition Leader, the Petitioner proposed an amendment for the opposition leader to take the offices of minority leadership hence using the same existing budget or additional negligible costs.

d) The Leadership gap existing without the offices

The committee sought to identify the existing gap in leadership since already there is overrepresentation of Kenyans at various levels.

With regards to overrepresentation, the Petitioner submitted that despite the current state of affairs, the pertinent issues being addressed in the proposal cannot be ignored. For example, tension during and after elections makes the country to lose more money.

With regards to the gaps being addressed, the Petitioner mentioned that there is a gap in the linkage between the executive and legislature hence the need for the Prime Minister as it were before. Also, the Petitioner identified the lack of vibrancy in debates that was created by the Prime Minister's time. The Petitioners also cited gender balance as an opportunity/gap that can be addressed in the setting up of these offices.

e) Why the Petitioner wants amendment through Article 256

The Committee sought to know why the Petitioner preferred amendment through Article 256 and not Article 257.

With regards to this, the Petitioner stated that the BBI judgement ruled that the President cannot amend the Constitution using the "Wanjiku" route. Also, mounting a campaign for amendment of the Constitution for the common citizens would be difficult hence the parliamentary route. Also, the parliamentarians are better placed to amend laws.

Committee Resolutions

The Committee resolved to seek the views of the following:

- i. House Leadership (Majority and Minority Leaders)
- ii. Attorney General
- iii. IEBC
- iv. Public Service Commission
- v. Controller of Budget
- vi. NGO Council

MIN./PPETC/2022/45: CONSIDERATION OF A PUBLIC PETITION REGARDING POLLUTION OF RIVER ATHI

1) Brief from Legal Counsel

The Legal Counsel presented a brief on the Petition (*See attached Brief on the Petition*) as follows:

The Petition

The Legal Counsel briefed the Committee that the Hon. Vincent Kawayu, M.P., on behalf of the residents of Mwala Constituency drew the attention of the House to the prayer for the investigation of pollution of River Athi that has led to the discoloration of the river downstream.

The petitioner seeks the intervention of the House to-

- i. engage the Government Chemist and National Environment Management Authority (NEMA) to ascertain the specific chemicals and heavy metals that have permeated the waters of Athi River in order to identify the companies responsible for the pollution;

- ii. secure thorough cleanup of the River Athi through budgetary and related provisions;
- iii. secure due compensation of residents affected by the pollution;
- iv. end further pollution through the revocation or withdrawal of licences of the polluting companies in river Athi and other water bodies;
- v. secure the demarcation of the riparian lands and analyse the feasibility to make them recreation areas; and
- vi. make any other appropriate recommendations it deems fit.

Analysis of applicable legal provisions

The Legal Counsel highlighted the following legal provisions underpinning the Petition:

- i. The Environmental Management and Coordination Act, 1999
- ii. Article 42(1) (a) of the Constitution
- iii. Article 69 (1) (f) and (g) of the Constitution
- iv. Section 118 (1)(e) of the Public Health Act
- v. On the issue of revocation of licenses and permit in a bid to end pollution, section 36 of the Water Act provides that a person requires a water permit to discharge a pollutant into any water resource.
- vi. On budgetary provisions for the clean-up of the river Athi, it is within the mandate of Parliament, under Article 95 (4) (b) to appropriate funds for expenditure by a national state organ.

The Committee should seek to interrogate-

- i. The views of the Petitioner and the views of the public or local communities along the River Athi in Mwala Constituency. The Petitioner should advise the committee on the extent of the manifest pollution of the river.
- ii. The views of the residents as to the effects of the pollution to their health.
- iii. An analysis by the Government Chemist of samples from the waters of the River Athi;
- iv. An environmental audit by NEMA on the level and nature of pollution of the River Athi.
- v. The views of the factories operating along the River Athi with regard to their waste management practices and the alleged pollution of the River Athi;
- vi. The views of NEMA on the remedial measures available to ensure restoration of the environment and an end to pollution of the River.
- vii. The views of the Cabinet Secretary responsible for the Environment, to ascertain whether this riparian area may be converted to recreational areas.
- viii. The views of Cabinet Secretary responsible for Water and Sanitation and relevant state agencies including the Water Resources Authority and the Tana and Athi River Development Authority, with regards to the pollution and clean-up of the river.

2) Submissions by the Petitioners

The Petitioner made his submissions before the Committee as follows:

a) Background of the Petition

The Hon. Vincent Kawayu, M.P, stated that the Petition was prompted by the lack of taking responsibility by the authorities mandated to protect River Athi. The Petitioner averred that there had

been similar petitions on the same matter but probably with different prayers, however, little had been done on the same.

The Petitioner stated that River Athi is the second largest in the country which starts from Ngong Hills through Athi River where it is joined downstream by Nairobi River as you approach Fourteen Falls. The river can be classified into up and down stream. The upstream is any area just before Fourteen Falls which could be referred to as polluters section while the downstream could be referred to us consumers' section. Most of the pollution also come with the tributaries that joins at the river flowing from Ngong. River Athi serves Matungulu, Yatta, Mwala, Makueni, and Kitui.

During the dry season, the pollution of the river is evident since even the fish in the river die, which is not evident during the rainy reason. The pollution is also evident by the complete change in the color and smell of the water. Hon. Vincent Kawayo stated that the status of the river caught his interest since he was doing a hydroelectric project to pump water for small scale irrigation in Mwala Constituency.

b) Systematic identification of polluters

The honorable Member stated that the challenge in identification of pollutants could be attributed to lack of specific data and information. He presented to the Committee that it is important to first identify the pollutants present in the river then trace backwards to the industries/companies producing them to provide evidence. Since the government has the database of companies producing certain chemicals, then the backward tracing could help identify the polluters. In addition, a visit to the identified companies and determining their proximity to the river and identifying their waste management policies would enable identification of pollutants.

Hon. Kawayo stated that the presence of informal settlement along the rivers enable the industrial polluters to hide since it's difficult to establish whether the source of pollutants is the informal settlements or the industries. Therefore, the need for a clear demarcation of the riparian lands, for example, 30 meters gap to avoid settlements after cleanup and even turning the riparian lands to recreational spaces.

c) Presence of pollutants

The honorable Member stated that research by the University of Nairobi assessing the pollution of River Athi through the analysis of heavy metals present, industrial effluents, invertebrate community, and riverine vegetation between Ngara and Fourteen Falls. The heavy metal analysis showed the elements of Lead (Pb) of between 3-98 mg/ml, Copper (Cu) of between 19-98 mg/ml, ferrous Iron (Fe) of between 190-857 mg/ml.

The invertebrate analysis showed that most of the invertebrate parts were found to disappear beyond Kijabe Street meaning loss of aquatic life as the pollutants join the river through tributaries. The riverine vegetation was also progressively disappearing along the riverbanks due to the pollution.

Further, the Hon. Kawayo stated that a quick look at the Google Maps tracing the river upwards showed that Nairobi sewage is feeding into River Athi alongside other sewer lines. Many people have encroached into the riparian land, for example, at Globe Cinema, causing all manner of pollutants into the river.

d) The effects of the pollution

The honorable Member stated that another study stated that River Athi received large amount of pollution from Nairobi with a population of over four (4) million people. That alongside population growth and overpopulation, poor waste solid management emerged as a key health risk.

Therefore, the river is increasingly choking with uncollected garbage, human waste from informal settlements, industrial gaseous emissions, liquid effluents and solid waste, agrochemicals, and other waste specially petrochemicals and metals from microenterprises and overflowing sewers. The situation occasioned spread of waterborne diseases, loss of sustainable livelihoods, loss of biodiversity, reduced availability and access to safe water and various toxic substances and metals poisoning affecting human productivity.

Hon. Kawayu stated that even using the water for irrigation and by mere consumption of vegetables on water polluted by chemicals can cause cancer. Furthermore, other than the small-scale irrigation projects, billions of shillings used in bigger projects like Thwake Dam would not be meaningful as its source is River Athi, hence the need for a thorough cleanup.

e) Coordination with Nairobi River Commission

The Petitioner presented to the Committee that National Environment Management Authority (NEMA) has failed to handle these pollution matters with very little action. Therefore, there is need to also coordinate with the newly formed Nairobi River Commission.

3) Committee Concerns

a) Lack of adherence to the law

From the presentation of Hon. Vincent Kawayu, the Committee noted the lack of adherence to the existing laws by polluters. The Committee expressed concerns over the lack of responsibility by authorities and agencies who were not doing their job with regards to protecting the rivers because even if the rivers were to be cleaned up, there would still be need for maintenance.

b) The need for strong recommendations within the law

The Committee noted the need for making strict and strong recommendations that would be effective in dealing with polluters and protecting the rivers and follow it through.

c) Licenses to discharge wastes

The Committee sought to understand whether there were some companies with licenses to discharge their wastes into the rivers. The honorable Member in response stated that the Committee should put NEMA to task to understand why and how there were such licenses and what actions were taken against those polluters.

d) Site visit of River Athi

The Committee sought to identify how to conduct a site visit along River Athi to establish facts on the ground and visualize the problem. Hon. Vincent Kawayu informed the Committee that it was

necessary to identify the polluters by also visiting both the upstream and downstream using a low-flying chopper and meet the communities downstream to interact with the people affected. Hon. Kawayo also brought to the attention of the Committee that the timing of the visit was very important because depending on the season, the river could provide different results. For example, during the dry season, the pollutants are more visible than in the rainy season where the rains wash away some of the effluents.

4) Committee Resolutions

The Committee resolved as follows:

- i. Meeting with the stakeholders, National Environment Management Authority (NEMA), Ministry of Environment, Climate Change and Forestry, Ministry of Water and Sanitation, and the County Government of Machakos to assist in establishing the facts about the issues raised in the Petition.
- ii. Established a sub-committee to advise on the roadmap of the proposed site visit of River Athi to visualize the extent of the problem and identify polluters with the help of experts. The subcommittee was comprised of:
 1. Hon. Nimrod Mbithuka Mbai, M.P. - Chairperson
 2. Hon. Janet Jepkemboi Sitienei, M.P - Vice Chairperson
 3. Hon. Caleb Mutiso Mule, M.P.
 4. Hon. Sloya Clement Logova, M.P.
 5. Hon. John Bwire Okano, M.P.
 6. Hon. Suzanne Ndunge Kiamba, M.P.

MIN./PPETC/2022/46:

ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business, the Chairperson adjourned the meeting at 1.00 p.m. The date of the next meeting would be on Thursday, 15th December, 2022 at 2.30 p.m.

Sign: 
(CHAIRPERSON)

Date: 



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

MINUTES OF THE 25TH SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON SATURDAY, APRIL 29, 2023, IN ROOM C1, ENGLISH POINT MARINA AT 10:00 AM

PRESENT

1. Hon. Nimrod Mbithuka Mbai, M.P. - Chairperson
2. Hon. Ernest Ogesi Kivai, M.P.
3. Hon. Joshua Chepyegon Kandie, M.P.
4. Hon. Edith Vethi Nyenze, M.P.
5. Hon. (Eng.) Bernard Muriuki Nebart, M.P. - Chairing
6. Hon. Caleb Mutiso Mule, M.P.
7. Hon. Peter Mbogho Shake, M.P.
8. Hon. Suzanne Ndunge Kiamba, M.P.
9. Hon. John Bwire Okano, M.P.

APOLOGIES

1. Hon. Janet Jepkemboi Sitienei, M.P. - Vice Chairperson
2. Hon. Patrick Makau King'ola, M.P.
3. Hon. Maisori Marwa Kitayama, M.P.
4. Hon. John Walter Owino, M.P.
5. Hon. Bidu Mohamed Tubi, M.P.
6. Hon. Sloya Clement Logova, M.P.

SECRETARIAT

1. Mr. Samuel Kalama - Principal Clerk Assistant II
2. Ms. Miriam Modo - Clerk Assistant I
3. Ms. Anne Shibuko - Clerk Assistant I
4. Mr. Willis Obiero - Clerk Assistant III
5. Mr. Shadrack Omondi - Legal Counsel II
6. Ms. Patricia Gichane - Legal Counsel II

MIN./PPETC/2023/162: PRELIMINARIES

The Chairperson called the meeting to order at 11.00 a.m. and Hon. Edith Vethi Nyenze, M.P. said the prayers.

MIN./PPETC/2023/163: ADOPTION OF AGENDA

The Meeting was taken through the Agenda as follows: -

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of Previous Sittings
4. Matters Arising
5. **Consideration of Public Petitions regarding Amendment of the Constitution of Kenya to provide for the Office of Prime Minister, Deputy Prime Minister, and Leader of Official Opposition**
6. Any other Business
7. Adjournment & Date of Next Meeting

Thereafter, the Proposed Agenda of the Meeting was adopted to constitute business of the Meeting having been proposed by the Hon. Suzanne Ndunge Kiamba, M.P. and seconded by the Hon. Caleb Mutiso Mule, M.P.

MIN./PPETC/2023/164: CONFIRMATION OF MINUTES OF PREVIOUS SITTING

Agenda was deferred to another day.

MIN./PPETC/2023/165: MATTERS ARISING

Agenda was deferred to another day.

MIN./PPETC/2023/166: CONSIDERATION OF REPORT ON PUBLIC PETITION REGARDING AMENDMENT OF THE CONSTITUTION OF KENYA TO PROVIDE FO THE OFFICE OF PRIME MINISTER, DEPUTY PRIME MINISTER AND LEADER OF OPPOSITION

The Committee went through the draft report and observed that:

- i. the amendments to the Constitution proposed in the petition were similar to those proposed in the 2020 Building Bridges Initiative to amend the Constitution;
- ii. the House had been debating the motion on the President's Executive Memorandum dated 9th December 2022, that also advocated for the introduction of the office of the Leader of Official Opposition;

- iii. the proposal for the new offices will have financial implications on the government wage bill, therefore the necessity for establishment of these offices should outweigh costs considerations;
- iv. the proposal seeks to introduce a hybrid of presidential and parliamentary system, as the office of the Prime Minister and Deputy Prime Ministers are both in the Legislature and the Executive;
- v. the proposal seeks to give the President too much powers in the appointment of the Prime Minister and Deputy Prime Ministers as the element of Parliamentary approval is excluded; and
- vi. the issues raised in the petition need to be subjected to extensive public discussions while pursuing the proposed Constitutional amendment by way of parliamentary initiative.

The Committee recommended that:

- i. the proposal to amend the Constitution by inserting Article 131 (1) (b) and Part 2A after Article 151 to establish the Office of the Prime Minister and Deputy Prime Minister **should not be adopted**; and
- ii. the proposal to amend the Constitution by insertion of Article 107A and replacement of Article 108 to establish the Office of the Leader of Official Opposition **will enhance accountability of the government, through national dialogue and political participation of the Opposition in the House.**

MIN./PPETC/2023/167: ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business, the Chairperson adjourned the meeting at 01:30 p.m. The next meeting would be held on Tuesday, 02nd May 2023 at 10.00 a.m.

Sign: 

(CHAIRPERSON)

Date: 11.05.2023





REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

MINUTES OF THE 27TH SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON TUESDAY, MAY 03, 2023, IN THE COMMITTEE ROOM ON 4TH FLOOR, CONTINENTAL HOUSE AT 11:00 AM

PRESENT

- | | | |
|--|---|------------------|
| 1. Hon. Janet Jepkemboi Sitienei, M.P. | - | Vice Chairperson |
| 2. Hon. Joshua Chepyegon Kandie, M.P. | | |
| 3. Hon. John Walter Owino, M.P. | | |
| 4. Hon. Maisori Marwa Kitayama, M.P. | | |
| 5. Hon. Edith Vethi Nyenze, M.P. | | |
| 6. Hon. Suzanne Ndunge Kiamba, M.P. | | |
| 7. Hon. John Bwire Okano, M.P. | | |

APOLOGIES

- | | | |
|---|---|-------------|
| 1. Hon. Nimrod Mbithuka Mbai, M.P. | - | Chairperson |
| 2. Hon. Patrick Makau King'ola, M.P. | | |
| 3. Hon. Ernest Ogesi Kivai, M.P. | | |
| 4. Hon. (Eng.) Bernard Muriuki Nebart, M.P. | | |
| 5. Hon. Caleb Mutiso Mule, M.P. | | |
| 6. Hon. Bidu Mohamed Tubi, M.P. | | |
| 7. Hon. Peter Mbogho Shake, M.P. | | |
| 8. Hon. Sloya Clement Logova, M.P. | | |

INATTENDANCE

The Hon. James Opiyo Wandayi, CBS - The Leader of the Minority Party

SECRETARIAT

- | | | |
|-------------------------|---|------------------------------|
| 1. Mr. Samuel Kalama | - | Principal Clerk Assistant II |
| 2. Ms. Patricia Gichane | - | Legal Counsel II |
| 3. Mr. Willis Obiero | - | Clerk Assistant III |
| 4. Mr. Martin Sigei | - | Research Officer III |
| 5. Ms. Lilian Mburugu | - | Media Relations Officer III |
| 6. Ms. Rahab Chepkilim | - | Audio Officer |
| 7. Ms. Libbie Muringi | - | Media Relations Attaché |

MIN./PPETC/2023/174: PRELIMINARIES

The Vice Chairperson called the meeting to order at 11.00 a.m. and Hon. John Walter Owino, M.P. said the prayers.

MIN./PPETC/2023/175: ADOPTION OF AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of Previous Sitings
4. Matters Arising
5. **Consideration of Public Petition regarding desiltation of Matinga dam in Kitui West Constituency**
-Meeting with the Petitioner, the Hon. Edith Nyenze, MP
6. **Consideration of Public Petition regarding the Amendment of the Constitution to provide for the Office of the Prime Minister, Deputy Prime Minister, and the Leader of Oppositions**
-Meeting with the Leader of Majority Party
-Meeting with the Leader of Minority Party
7. Any other Business
8. Adjournment & Date of Next Meeting

Thereafter, the proposed Agenda of the Meeting was adopted to constitute business of the Meeting having been proposed by the Hon. Joshua Chepyegon Kandie, M.P and seconded by the Hon. Edith Vethi Nyenze, M.P.

MIN./PPETC/2023/176: CONFIRMATION OF MINUTES OF PREVIOUS SITTING

The Agenda was deferred.

MIN./PPETC/2023/177: CONSIDERATION OF PUBLIC PETITION REGARDING DESILTATION OF MATINGA DAM IN KITUI WEST CONSTITUENCY

Meeting with the Petitioner, the Hon. Edith Nyenze, MP

The Petitioner made submissions on the petition before the Committee as follows:

- i. That the residents of Kitui West Constituency; Kauwi, Mutonguni, Matinyani, Kithumula/Kwa Muthonga Wards have been facing difficulties in provision of water for their livestock and household.
- ii. That for over 42 years, the residents have suffered lack of water for domestic and livestock due to siltation of Matinga Dam which is about 154 acres with capacity of one billion cubic meters of water.
- iii. The community dam has a title deed with marker boundaries and free from permanent human encroachment.
- iv. Currently the residents get fresh water from Masinga Dam which is in Machakos Count but would conveniently get water from Matinga Dam in Kitui.

- v. That the dam is potentially productive water catchment and ecosystem supporting a human population of excess of 180,000 people and livestock.
- vi. That the residents through a group called Desiltation of Matinga Dam Lobby Group (DIMALG) have persistently sought assistance from government and NGOs for desiltation of the dam to no avail.
- vii. Desiltation of the dam will realize greater benefits including utilization of sand by local community, afforestation exercise around the dam, supply of water for irrigation, other income generating activities such as tourist attraction, water sports etc.
- viii. Desiltation can take the Private Public Partnership (PPP) approach to ensure efficiency and sustainability.
- ix. That the Committee intervenes to ensure the desiltation of Matinga Dam in Kitu West Constituency by the national government.

Committees' Concerns

County government's role in water management

The Committee inquired on whether the desiltation of the dam is a county government function and whether the magnitude of the desiltation could only be done by the national government. The Petitioner indicated that assistance from county government has not been possible because the project requires a lot of resources which can only be provided by the national government.

MIN./PPETC/2023/178: CONSIDERATION OF PUBLIC PETITION REGARDING THE AMENDMENT OF THE CONSTITUTION TO PROVIDE FOR THE OFFICE OF THE PRIME MINISTER, DEPUTY PRIME MINISTER, AND THE LEADER OF OPPOSITION

Meeting with the Leader of the Minority Party, the Hon. James Opiyo Wandayi, CBS.

The Leader of the Minority Party, Hon. James Opiyo Wandayi, CBS submitted as follows: -

- i. With regards to the Petitioner's proposal of creation of the Offices of Prime Minister, Deputy Prime Minister, and Leader of Official Opposition to cure what he termed the curse of winner-takes-it all, there was no clarity as to how the creation of the three offices will cure the problem.
- ii. The Minority side was of the view that a parliamentary system as proposed in the Bomas Draft, Naivasha Draft and Building Bridges Initiative (BBI) was best for Kenya because of the unique cultural, social, and political orientation as a nascent democracy instead of a pure presidential or a hybrid system.
- iii. Therefore, in the parliamentary system, a Prime Minister as the head of government would be the leader of party of coalition of parties that form government as a result of the numbers of seats of Parliament in the election. Consequently, the Leader of Opposition would lead opposition in Parliament by providing alternative viewpoints with a shadow Cabinet.

- iv. Further, as to whether the Offices of Deputy Prime Minister(s) and Deputy Leader of Opposition was neither here nor there because those were details that could be advanced later.
- v. That contrary to the proposal in the Petition, the Offices of Prime Minister and Deputy Prime Minister were not necessary with a President who is the Head of State and Head of Government in place. Likewise, in the current presidential system, there was no place for the Office of the Leader of Opposition.
- vi. That even if the creation of the said offices was necessitated by our unique challenges, consensus building and need for a hybrid system especially Leader of Opposition, it will have to be done correctly as provided for in the Constitution on matters that can only be amended through a referendum.
- vii. That an amendment with far reaching ramifications as the creation of the said offices would have to be taken to the people in a referendum and any other route would be akin to amending the Constitution through the backdoor which the Minority side will not be party to.

Committee Concerns

Creation of the offices through amendment of Articles 130 and 132

The Committee sought the views of the Leader of Minority on amendment of Articles 130 and 132 to create the said offices. The Leader of Minority Party indicated that the amendment of such magnitude would still require a referendum.

Official Opposition Leader taking up the position of the Leader of Minority Party

The Committee sought the opinion of the Leader of Minority regarding the Office of the Official Opposition taking up the position of the Leader of Minority. The Leader of Minority stated that if the people in a referendum agree that the runners up in the presidential elections become the Opposition Leader, then that is what is expected in a parliamentary system. Therefore, that was a justification for not having the Leader of Opposition in a presidential system.

Why such proposals keep on coming

The Committee sought the opinion of the Leader as to why the proposal and idea for a parliamentary system kept on resurfacing in parliament. The Leader stated that indeed it was a concern that there was pretense in the process needed to establish the said offices. That it was clear that such amendments were to relate with functions of Parliament either directly or indirectly hence required a referendum.

Ways of selecting the Leader of Opposition

The Committee sought the opinion of the Leader regarding the ways of having the office of the Leader of Opposition. The Leader indicated that while it was premature to think about that now, there could be various methods including the proposal of the runners up in a credible presidential election which appeared neater or nomination by the second largest party or coalition of parties.

Where the Leader of Opposition will be domiciled

The Committee sought the opinion of the Leader of Minority on where the Leader of Opposition would be domiciled. The Leader stated that the Leader of Opposition should sit in Parliament, but a choice will be made as to whether it's the National Assembly or Senate.

MIN./PPETC/2023/179: ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business, the Vice Chairperson adjourned the meeting at 12:40 p.m. The next meeting would be held on Tuesday, 9th May 2023.

Sign: 
(CHAIRPERSON)

Date: 