

ANALYSIS AND REVIEW OF STANDING ORDERS*

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*A paper presented to the post-election seminar for
Members of Parliament held at
Safari Park Hotel from 25th to 27th July 2003.*

* Reference: *National Assembly, Standing Orders* as amended upto and including November 10, 1997; Government Printer, Nairobi.

INTRODUCTION

The last review of the Standing Orders was done in 1996 and 1997 and they became operational on 10th November 1997.

The Standing Orders were implemented during the 8th Parliament at the peak of the authoritarian presidential system. The imperial presidency was characterized by the domination and control and the restriction of the freedom of the citizens.

The Constitution and the Standing Orders contained glaring inconsistencies and contradictions whose net effect was to restrict the freedom and independence of the Members and the National Assembly in the exercise of their constitutional powers of representation, legislation and oversight. By the president and the exclusive government controlling the calendar and the agenda of the National Assembly, Parliament became a rubberstamp institution whose role was to legitimize decisions made outside the August House.

Following numerous frustrations in the exercise of their constitutional functions, a caucus of the members of the National Assembly undertook a study and analysis of the Standing Orders. They held several workshops during the 8th Parliament in collaboration with the Institute Economic Affairs. This paper is the culmination of their collective endeavors to further democratize the proceedings in the plenary sittings and in the Committees of the House.

The sole aim of the paper is to recommend a review of the Standing Orders to facilitate effective and meaningful debate to enable the National Assembly to make enlightened public policies and legislations and to promote responsible, transparent and accountable government.

This paper is not exhaustive. It does not consider the changes that have been recommended in the draft constitution of Kenya, which is under discussion at the Bomas of Kenya. When the draft constitution is enacted into Law by Parliament, there will be the need to further review the Standing Orders to strengthen the democratic culture and tradition. Not only in Parliament but in the society as a whole.

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PART I: INTRODUCTION

Rationale

To encourage parties form coalition that will ensure growth of Parliamentary democracy.

Standing Order 1: No amendment proposed

Standing Order 2: Interpretation

Amendment proposed

Include Definition;

Official Opposition Party

Means a party offering to form an alternative government.

Party

Means a Parliamentary Party consisting of not less than seven members.

PART II: MEETINGS OF THE HOUSE

Standing Order 3: No amendment proposed

Standing Order 4: No amendment proposed

Standing Order 5: No amendment proposed

Standing Order 6: No amendment proposed

PART III: DEPUTY SPEAKER AND CHAIRMAN OF COMMITTEES

Standing Order 8: No amendment

Standing Order 9: No amendment

Standing Order 10(1): Chairman's Panel

Amendment Proposed

Delete the Words "Mr. Speaker shall with approval of the House nominate three members" and substitute "The House shall elect four members (not being ministers) who shall be known respectively as the First, Second, Third and Fourth Chairman of Committees at the commencement of every Parliament".

Rationale

The election/Appointment of temporary presiding officers should be by the House to give legitimate authority to them. The House should have powers to appoint those presiding at any of its sittings. Their decisions have direct impact on the functions and operations of the House. Their term should be for the life of parliament to give them continuity and expertise.