

# Annexure 10

**Communication No. 088 of 2023  
issued by the Speaker of the  
National Assembly on  
Thursday 30<sup>th</sup> November 2023**



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**REPUBLIC OF KENYA**  
**THIRTEENTH PARLIAMENT - (SECOND SESSION)**  
**THE NATIONAL ASSEMBLY**  
**COMMUNICATION FROM THE CHAIR**

\_\_\_\_\_ (No. 088 of 2023) \_\_\_\_\_

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**NOTIFICATION OF LEGISLATIVE PROPOSALS TO AMEND ARTICLES  
88 AND 89 OF THE CONSTITUTION**

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**Honourable Members,**

1. Pursuant to the provisions of Standing Order 114(7A), I wish to notify the House that I have approved prepublication scrutiny of two Legislative Proposals seeking to amend the Constitution by the Member for Mandera North Constituency, the **Hon. Maj. (Rtd) Bashir Sheikh Abdullahi, MP** and the Member for Thika Town Constituency, the **Hon Alice Ng'ang'a, MP**.
2. **Honourable Members,** the first proposal seeks to amend Article 88 of the Constitution to provide that, in instances where the Independent Electoral and Boundaries Commission (IEBC) is not fully constituted, the Secretary to the IEBC shall discharge the duties and functions of the Commission with regards to the conduct of by-elections. The second proposal seeks to amend Article 89 of the Constitution, to require the Independent Electoral and Boundaries Commission to ensure that the review of constituency boundaries does not result in the loss of a constituency that existed prior to the promulgation of the Constitution was promulgated.
3. **Honourable Members,** the manner of amending our Constitution through **parliamentary initiative** is provided for under Article 256 of the Constitution. Standing Order 114(7A) actualizes this process in the National Assembly by providing as follows, and I quote –

## ***Introduction of Bills***

*"(7A) In respect of a proposal to amend the Constitution –*

- (a) The proposal shall be accompanied by the signatures of at least fifty other Members in support, unless it is sponsored by the Majority Party or the Minority Party;*
- (b) Where the Speaker approves the prepublication scrutiny of the proposal, the Speaker shall notify the House of the approval and may –*
  - (i) allow the sponsor to make a statement on the objectives of the proposal;*
  - (ii) allow comments on the statement made by the Member;*
  - (iii) facilitate collation of the views from the comments of Members at an appropriate forum; and*
  - (iv) invite Members with similar or related proposals to make submissions before the committee to which the proposal is referred."*

**4. Honourable Members**, this procedure is informed by the decision of the High Court in **Petition No. E282 of 2020, consolidated with Petition Nos. 397 of 2020, E400 of 2020, E401 of 2020, E402 of 2020, E416 of 2020, E426 of 2020 and 2 of 2021**, which states that a Bill proposing to amend the Constitution cannot be amended, once it has been published. This procedure in our Standing Orders therefore aims to collate as many views as possible, from as many stakeholders and experts as may be practicable, **before** a proposal to amend the Constitution is published into a Bill.

**5.** Indeed, I note that the proposals by the two Honourable Members have complied with the first part of this provision, having obtained signatures of more than fifty (50) Members of the House. As your Speaker, my obligation is therefore to facilitate the rest of the processes as provided for in the Standing Orders.

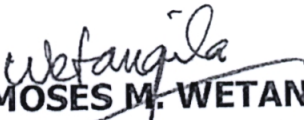
6. In this regard and in keeping with the requirements of the said Standing Order, I wish to notify the sponsors, that is, the Member for Mandera North and the Member for Thika Town, that on **Wednesday, December 6, 2023, I will accord them an opportunity, of not more than 15 minutes each**, to make general statements outlining the contents and objectives of their proposals.

7. **Honourable Members**, in order to facilitate the initial stage of collation of Members' views, I will therefore nominate a time for the House to make general comments on the proposal. Subsequently, I will refer the proposals to the **Departmental Committee on Justice and Legal Affairs** or issue other directions, in view of the comments that will be made by Members during the proceedings. Any Member with similar or related proposals will be at liberty to make submissions to the Committees for consideration in line with Standing Order 114(7A).

8. **Honourable Members**, in the meantime, the Clerk of the National Assembly is hereby directed to circulate the *Legislative Proposals* to all Members.

The House is accordingly guided.

**I thank you.**

  
**THE RT. HON. (DR.) MOSES M. WETANG'ULA, EGH, MP**  
**SPEAKER OF THE NATIONAL ASSEMBLY**

Thursday, November 30, 2023

