

Annexure 7

Addendum to the Report of the Multi-Sectorial Working Group on the Realization of the Two-Thirds Gender Principle



Multi-Sectoral Working Group
on the realisation of the not more than
two thirds gender principle

ADDENDUM
TO THE REPORT OF THE MULTI-SECTORAL WORKING GROUP
ON THE
REALIZATION OF THE NOT MORE THAN TWO- THIRDS GENDER PRINCIPLE

Presented to

Hon. Aisha Jumwa K. Katana
Cabinet Secretary
Gender, Culture, the Arts & Heritage

March, 2024

NAIROBI



Multi-Sectoral Working Group
on the realisation of the not more than
two thirds gender principle

March 11, 2024

Hon. Aisha Jumwa K. Katana
Cabinet Secretary
Ministry of Gender, Culture, the Arts and Heritage
Maktaba Kuu Building, Upper Hill
Nairobi

Dear Madam

RE: 2ND LETTER OF TRANSMITTAL

We refer to our letter dated 22nd February, 2024 submitting the report of the Multi-Sectoral Working Group (MSWG) on the realization of the Two-Thirds Gender Principle for onward transmission to Parliament for further action.

We also refer to the meetings of the MSWG with Hon. Raila Odinga held 27th February, 2024 and with Hon. Kalonzo Musyoka held on 6th March, 2024, and other meetings with key stakeholders after submission of our report which necessitated reconvening and reconsideration of the framework submitted to you earlier.

The matter of the Two-Thirds Gender Principle being among the five (5) issues before the National Dialogue Committee (NADCO) which it considered non-contentious and recommended that the MSWG finalizes its work and recommends a framework on the realization of the Two-Thirds Principle, and further cognizant of the reality that there will be limited room for review of the NADCO Report and the legislative instruments accompanying thereto, having been a product of bipartisan consensus and wide public participation, we hereby submit an addendum to the our report containing justification for review of the proposed Constitution of Kenya (Amendment) Bill, 2024 for onward resubmission to Parliament for consideration.

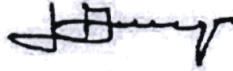
Once again, the Working Group is honoured and thankful for entrusting us with this noble assignment.

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Anne N. Wang'ombe - Chairperson

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Daisy Amdany - Co-Chairperson

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Harriet Chiggai, Advisor, Women Rights

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Faith Nziku Kasiva – Member



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Anne Nderitu - Member



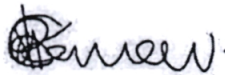
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Tecla Tum - Member



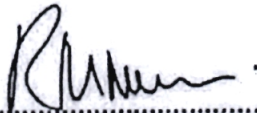
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Angela Wambugu - Member



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Mercy Jelimo – Member



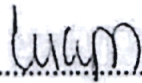
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Beatrice Kamau - Member



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Rahab Mulu – Member



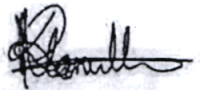
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Mitchelle Oyuga - Member



Lucy Mitei - Member



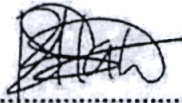
Sarah Muhoya - Member



Ruth Makuthu - Member



Beth Michoma - Member



Stellan Chepkemboi Ruttoh - Member



Frankline Mukwanja - Member



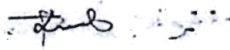
Sophia Abdi Noor - Member



Sheikh Ibrahim Lethome Asmani - Member



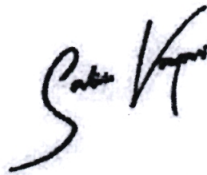
Al-Haji Hassan Kirua ole Naado - Member



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Kennedy Odhiambo Otina - Member



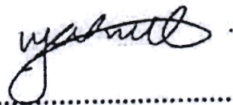
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George Kombe Kagohu - Member




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Salim Vayani - Member



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Adams Barasa - Member



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Ibrahim A. Yakub - Member



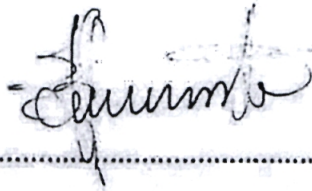
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Jackline N. Makokha - Joint Secretary



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Richard Miano - Joint Secretary



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Eva Mageto - Joint Secretary



Sylvester Mbithi - Joint Secretary

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Christabel Wekesa - Joint Secretary



Rhoda Misiko - Joint Secretary

WORKING GROUP MEMBERS

The table below shows the names of the members and the institutions represented.

Name	Designation	Institution
Anne N. Wang'ombe	Chairperson of the MSWG	Principal Secretary, State Department for Gender, and Affirmative Action
Daisy Amdany	Co-Chairperson	Community Advocacy and Awareness (CRAWN) Trust
Faith Nziku Kasiva	Member	Ministry of Gender, Culture, the Arts and Heritage
Anne Nderitu, CBS	Member	Office of the Registrar of Political Parties
Harriet Chiggai	Member	Advisor, Women Rights
Hon. Dr. Tecla Tum	Member	Executive Office of the President
Angela Wambugu	Member	United Nations Entity for Gender Equality and the Empowerment of Women (UN Women)
Mercy Jelimo	Member	Center for Rights Education and Awareness (CREAW) Kenya
Beatrice Kamau	Member	Women in Leadership and Decision Group Committee of the Gender Sector Working Group
Rahab Muiu	Member	Maendeleo ya Wanawake Organisation
Mitchelle Oyuga	Member	FIDA Kenya
Lucy Mitei	Member	Kenya Private Sector Alliance (KEPSA)
Sarah Muhoya	Member	Echo Network Africa (ENA)
Ruth Makuthu	Member	Independent Electoral and Boundaries Commission (IEBC)
Beth Michoma	Member	Law Society of Kenya
Dr. Stellan Chepkemboi Ruttoh	Member	Former Country Woman Member to the National Assembly candidate
Frankline Mukwanja	Member	Center for Multiparty Democracy - Kenya
Hon. Sophia Abdi Noor	Member	Former Member of Parliament/National Council for Children Services (NCCS)

Sheikh Ibrahim Lethome Asmani	Member	Jamia Mosque
Al-Hajj Hassan Ole Naado	Member	Supreme Council of Kenya Muslims (SUPKEM)
Kennedy Odhiambo Otina	Member	Masculinity Institute
George Kombe Kagohu	Member	Kenya National Association of Social Workers
Salim Vayani	Member	National Muslim Leaders Forum (NAMLEF)
Adams Barasa	Member	Central Organisation of Trade Unions (COTU) – Kenya
Ibrahim A. Yakub	Member	Pastoralist Professionals Association
Jackline N. Makokha	Joint Secretary	State Department for Gender and Affirmative Action
Richard Miano	Joint Secretary	Office of the Prime Cabinet Secretary/State Department for Parliamentary Affairs
Eva Mageto	Joint Secretary	Office of the Attorney General
Sylvester Mbithi	Joint Secretary	National Gender and Equality Commission (NGEC)
Christabel Wekesa	Joint Secretary	Kenya Law Reform Commission
Rhoda Misiko	Joint Secretary	State Department for Gender and Affirmative Action

INTRODUCTION

The Multi-Sectoral Working Group (MSWG) on the realisation of the not more than Two-Thirds Gender Principle was established by the Cabinet Secretary, Gender, Culture, the Arts and Heritage vide Gazette Notices No. 10848 and No. 11090 published on August 15 and August 25, 2023 respectively. The Working Group's term was extended vide Gazette Notice No. 1770 dated February 8, 2024 for a further six (6) months.

On 23rd February, 2024, the MSWG submitted its Report to the Cabinet Secretary, Gender, Culture, the Arts and Heritage Hon. Aisha Jumwa K. Katana. On the same day, Hon. Aisha Jumwa forwarded the Report and the draft legislative instruments seeking to amend the Constitution, the Elections Act and the Political Parties Act to the National Assembly and the Senate for their further action.

On 27th February, 2024, the Speaker of the National Assembly issued a Communication to the House that he had received the Report of the MSWG and was forwarding it to the Leader of Majority for tabling before committal to the Departmental Committee on Justice and Legal Affairs (JLAC) for consideration and appropriate action. In the said Communication, the Honourable Speaker noted that in the previous week, the House had adopted the Report of the National Dialogue Committee (NADCO) which on the issue of the Two-Thirds Gender Principle recommended that the MSWG does finalize its work, and recommend a framework on the implementation of the Two-Thirds Gender Principle and submit its Report to Parliament for consideration. It was therefore necessary to fast track the processing of the Report so that it can be considered with the NADCO Report already before the JLAC.

On the same day 27th February, 2024, the MSWG presented its Report to Hon. Raila Odinga and on 6th March, 2024, to Hon. Kalonzo Musyoka who in addition to supporting the work of the MWSG, shared their insights on the matter of the Two-Thirds Gender Principle. The MSWG has since held further consultations including with the Leader of Minority in the National Assembly, members of the Kenya Women Parliamentary Association (KEWOPA), the Media and bilateral meetings with a few of the Kenya Kwanza Coalition leaders. The aim of the MSWG's engagements post submission of its Report has been to explain the proposed framework to critical players especially the Azimio La Umoja One Kenya Coalition side for their understanding, lobby for their support as well get their buy-in.

JUSTIFICATION FOR REVIEW OF THE PROPOSED CONSTITUTIONAL AMENDMENT BILL ON THE REALIZATION OF THE TWO-THIRDS GENDER PRINCIPLE

During these post Report engagements, there has been concern regarding the proposed 55 gender top up seats (53 for the National Assembly and 2 for the Senate) vis-à-vis the adequacy of Parliament's current infrastructure to accommodate them in the mid-term. Some have opined that the transitional clause proposed to bring the current Parliament to conformity be deleted and compliance await future elections beginning the 2027 General Election. Others have proposed a review of the framework with its formula being pegged on the 290 elective seats under Article 97(1)(a) for the National Assembly and the 47 elective seats under Article 98(1)(a) for the Senate for the 13th Parliament. Even though not compliant with the two-thirds gender principle, Pegging the gender top formula on the 290 elective seats in the National Assembly and on the 47 elective seats for the Senate in the interim period, would nevertheless greatly bridge the gender gap and serve as a firm testament of Kenya's commitment to gender equity despite the current realities. With this alternative gender top up formula, the additional numbers for the National Assembly would be **22** and none in the Senate.

Secondly, the matter of Two-Thirds Gender Principle was among the five (5) issues to be deliberated by the NADCO recommended the MSWG finalizes its mandate and recommend a framework for onward transmission to Parliament. The NADCO Report having been deliberated and adopted by the National Assembly, is currently before the Departmental Committee on Justice and Legal Affairs (JLAC). Cognizant of the position taken by the Azimio Summit on 5th March, 2024 that the NADCO Report must be approved **as is** including the draft bills which process must be fast-tracked, it follows that only the MSWG can propose amendments to the Bills on the realization of the Two-Thirds Gender Principle since there will be limited room, if any, to amend them on the floor of the house.

Majority of the MSWG members agreed that the amendment of its proposed framework to peg the top up seats to the elective seats in both houses would, as an interim measure, be a reasonable compromise in pursuit of full implementation of the not more than Two-Thirds Gender Principle.