



REPUBLIC OF KENYA
TWELFTH PARLIAMENT- (FOURTH SESSION)

THE NATIONAL ASSEMBLY

COMMUNICATIONS FROM THE CHAIR

(No. 6 of 2020)

ON

**PRIVATE VISIT TO SOMALIA BY A SECTION OF MEMBERS
OF PARLIAMENT**

Honourable Members, my attention has been drawn to reports relating to a discrete visit made to the Republic of Somalia on Saturday, February 29, 2020, by about eleven Members of this House, majorly representing constituencies in the former North Eastern Province of the Republic. The sensitivity of the matter, the public interest and the inquiries that have been made to my office on the matter have invited me to address the following questions relating to alleged private visit-

- (1)** What are the responsibilities of a State Officer with regard to engagements with foreign governments?
- (2)** What constitutes a parliamentary delegation?
- (3)** Are Members travelling out of the country required to notify the Speaker and **why?**

Honourable Members, on the first question, permit me to remind this House that, under the Constitution, the office of a Member of Parliament is a State Office in the Republic of Kenya. As such, there are responsibilities expected of Members of Parliament as state officers. Article 10(2) of the Constitution spells out the national values and principles of governance that, among others, **bind state officers.**

These values, which are binding to all state officers, include **patriotism, transparency, and accountability**. These values are also emphasized in section 3 of the Leadership and Integrity Act, 2012 and section 2 of the Fourth Schedule to the Parliamentary Powers and Privileges Act, 2017. I hasten to state that, at all times, any action by a state officer, be it in their private or official capacity, ought to take into consideration the need to remain patriotic, transparent and accountable to the nation.

Honourable Members, you may recall that, pursuant to Article 74 of the Constitution, each one of you took and ascribed to an Oath or Affirmation of Member of Parliament before you assumed the office you hold as Members of Parliament. The oath or Affirmation as prescribed in the Third Schedule to the Constitution reads in part, that –

*"... I shall **bear true faith and allegiance to the people and the republic of Kenya**; that I will obey, respect, uphold, preserve, protect and defend the Constitution of the republic of Kenya; and that I will faithfully and conscientiously discharge the duties of a member of Parliament..."*

Section 8 of the Leadership and Integrity Act, 2012 provides thus –

*(8)"State office is a position of **public trust** and the authority and responsibility vested in a State officer shall be exercised by the State officer **in the best interest of the people of Kenya**."*

Honourable Members, these words are not a mere cosmetic decoration of the Constitution, statutes or indeed the Standing Orders. They speak to and epitomize the true spirit of statesmanship behoving of state and public officers and serve as a constant reminder that a state office is a high calling to serve the interests of the state and its people over and above individual or private interests.

Honourable Members, as reported, the alleged visit was made by a group of legislators. This may have created the impression that the said Members travelled as a *delegation* of this House.

I wish to confirm that, parliamentary delegations to foreign nations must always meet certain parliamentary parameters. First, a parliamentary delegation is formally constituted and officially communicated to the foreign country which is scheduled to be visited through my office or that of the Clerk of the National Assembly. Secondly, parliamentary delegations are either fully or partially funded by the National Assembly. Further, in terms of composition, a parliamentary delegation is constituted in a manner that reflects the different shades of political parties in the House, gender, regional balance among other considerations. In this regard, the alleged visit by the said group of Members of this House to the Republic of Somalia was **NOT** a parliamentary delegation.

Honourable Members, I will now address the issue of whether it is mandatory for Members travelling out of the country to inform the Speaker of their intended travel and **why**. There has always been a requirement to this effect in Standing Order 260, which provides as follows –

*"(1) A Member intending to travel outside Kenya **whether in an official or private capacity**, shall give to the Speaker a written notice to that effect, indicating –*

- (a) The destination intended to be visited;*
- (b) The dates of intended travel and period of absence from Kenya; and*
- (c) The email, telephone contact, postal or physical address of the Member during the period of absence from Kenya.*

Honourable Members, as you have clearly heard, these provisions are couched in mandatory terms although they are not meant to punish or put in suspension any Member. The requirement to notify the Speaker of any intended travel outside Kenya is provided for in the Standing Orders as a matter of civility, good order and to ensure that the Office of the Speaker can, at all times, account for the whereabouts of any Member of this House who is out of the country.

For avoidance of doubt, there is no requirement compelling Members of this House to seek consent to undertake private travels. Similarly, there is not a requirement for official parliamentary delegations to obtain consent of other offices, save for that of the Speaker, to undertake official travels. Nonetheless, parliamentary diplomacy ought not be handled casually or in an uncoordinated manner. Indeed, this was one of the reasons that necessitated the 11th Parliament to insert new Standing Order 259A in the Rules of Procedure to provide for recognition of parliamentary caucuses and friendship groups. **As a matter of fact, there are a number of instances where Members who have travelled out of Kenya in private capacities have found themselves in circumstances that required urgent official intervention or assistance from my Office, the office of the Clerk, our Embassies in foreign countries or indeed the specialized intervention of more than one state department of the Executive branch of the Government.**

I invite you, Honourable Members to ponder, in the event that a Member or Members of this House who have travelled out of the country incognito requires assistance of these offices, how would assistance be availed? I must acknowledge that majority of Members have always notified the Speaker of intended travels outside Kenya, whether in their public and private capacities.

As a matter of fact, the register in the custody of the Clerk indicates that there has been over 700 such notification in the last 3 years (September 2017 to date). Allow me, **Honourable Members** to single out particular cases of the Hon. Ester Passaris, Hon. (Dr.) Swarrup Mishra, the Hon. Shakeel Shabbir, the Hon. (Dr.) James Nyikal, the Hon. Paul Ongili Owino and the Hon. Paul Koinange, who consistently notify my Office whenever they travel outside Kenya **in their respective private capacities.**

Honourable Members, whereas there are no sanctions against Members who fail to inform the Speaker whenever they travel out of the country, I urge you to live up to the spirit of the Chapter Six of our Constitution, particularly Article 75 relating to conduct of State Officers whether in public or official life, in private life or in association with other persons, and the oath of office that you all took. However, all Members are reminded to always abide by the provisions of Standing Order 260 requiring Members travelling outside Kenya, whether in official or private capacity to always notify the Speaker.

As I conclude, Honourable members, I would like to implore upon the concerned Members and indeed the entire membership of this House in paraphrasing the words commonly used in the House by the Member for Kisumu Town West, the Hon. Olago Aluoch that, ***"to whom much has been given, much is expected; and to whom much is entrusted, of him all the more will be asked"***.

The House is so guided.

I thank you!



THE HON. JUSTIN B.N. MUTURI, EGH, MP
SPEAKER OF THE NATIONAL ASSEMBLY

Tuesday, 3rd March 2020.

