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EXECUTIVE SUMMARY

Peaceful and orderly transition in administrations is a hallmark of our democracy and a towering statement of our nation's status as a beacon of stability, democracy, and the rule of law.

Since independence, Kenya has every five years, without fail, reaffirmed our democratic credentials. We have done so by returning to the people, the sovereign of our nation, for a mandate to serve. We have in this context put our nation on a consistent and predictable journey of deepening and maturing our democracy.

President Uhuru Kenyatta, C.G.H., emulated that honoured tradition and handed-over the mantle of the leadership of our nation to his successor, His Excellency Hon. William Samoei Ruto, PhD., C.G.H., on 13th September, 2022.

Following the August 9, 2022 General Election, the Assumption of the Office of the President Act (No. 11 of 2012) came to the fore for the third time since the promulgation of the Constitution of Kenya 2010.

The Assumption of the Office of the President Committee is established pursuant to the Assumption of the Office of the President Act and in furtherance of Article 141 of the Constitution. The Committee's core mandate is to facilitate a smooth transition from a current administration to an incoming administration.

The Assumption of Office of the President Committee (2022) held its inaugural meeting on Friday, 12th August, 2022 and its inaugural press briefing on even date. In accordance with the Act, the functions of the Assumption of the Office of the President Committee are to:

- (a) Facilitate handing over process by the outgoing President to the President-elect;
- (b) Organize for the security of the President-elect;
- (c) Organize for the necessary facilities and personnel for the President-elect;
- (d) Co-ordinate the briefings of the President-elect by relevant public officers;
- (e) Facilitate communication between the outgoing President and the President-elect; and
- (f) Prepare the programme and organize for the swearing-in ceremony.

Upon the announcement of the results of the Presidential Election by the Independent Electoral and Boundaries Commission; and the declaration of Hon. William Samoei Ruto as the President-elect and Hon. Rigathi Gachagua as the Deputy President-elect on the 15th August, 2022, the Committee facilitated the enhancement of their security and their briefings by the various public officers including the National Security Advisory Committee (NSAC), the National Treasury, the Central Bank of Kenya, the Public Service Commission, and the Energy and Petroleum Regulatory Authority.

In undertaking its mandate, the Committee established five sub-committees, as follows:

- (a) The Legal Sub-Committee;
- (b) The Security and Logistics Sub-Committee;
- (c) The State Event, Media and Publicity sub-committee;
- (d) The Sub-Committee on Ongoing State Programmes and the Status of Flagship Projects; and

The Budget Sub-Committee.

The sub-committees discharged their mandate exceptionally as evidenced by a successful inauguration ceremony for our nation's Fifth Administration.

The date of the inauguration ceremony is determined by the scenarios set out in Article 141 of the Constitution. The first scenario was that if no presidential election petition was filed within seven days of the declaration of the presidential election results, the swearing-in of the President-elect would have taken place on 30th August, 2022.

With the filing of presidential election petitions, the first Article 141 scenario did not apply. Following the decision of the Supreme Court of Monday, 5th September, 2022 affirming the presidential election results, the second Article 141 scenario was activated and consequently the swearing-in ceremony of Hon. William Ruto as President and Rigathi Gachagua as Deputy President was scheduled for Tuesday, 13th September, 2022.

In that regard, the Committee, through the Cabinet Secretary for Interior and Co-ordination of National Government, declared Tuesday, 13th September, 2022 as a Public Holiday of General Observance throughout the territory of the Republic of Kenya. The Committee, with the concurrence of the President-elect, chose Moi International Sports Centre Kasarani as the venue for the swearing-in ceremony. In discharge of the applicable legal obligations, the Committee, through its Chairperson, published in the *Kenya Gazette* a notice to the members of the public notifying them of the date, venue, and time for the swearing-in ceremony.

In recognition of the prevailing economic situation in the country and the austerity measures implemented by the Government as part of the current financial year, the President-elect set budgetary ceilings of KSh. 250,000,000.00 (to read Kenya Shillings Two Hundred Fifty Million Only) for the all the State events marking the inauguration of our nation's Fifth Administration. However, on account of the unprecedented number of Heads of State and Government and other high level state foreign delegations that were attending the State Ceremonies, the Committee's budget was reviewed upwards with the concurrence of the President-elect to KSh. 330,714,647.00.

By law the swearing-in ceremony of the President-elect and Deputy President-elect is conducted by the Chief Registrar of the Judiciary and witnessed by the Chief Justice of the Republic between 10:00 a.m. and 2:00 p.m. In fidelity with this, the formal part of the Inauguration Ceremony and Swearing-In Ceremony commenced a few minutes past noon. The formal ceremony was preceded by the arrival of the Chief Justice, the Deputy President-elect, the President-elect, and the outgoing President.

Our nation's Fifth President assumed Office at exactly 12:45 p.m. when he concluded taking his oath of allegiance and the oath of due execution of the Office of President. Thereafter, the Deputy-President-elect took his oath of allegiance for and oath of due execution of the Office of Deputy President soon after the President.

The inauguration ceremony was witnessed first hand by nearly 100,000 Kenyans from all walks of life. Even before dawn on Tuesday, 13th August, 2022 the terraces of the stadium were overflowing and the stadium was full to capacity with over 60,000.00 having made it to the Stadium by 3:00 a.m. The State Luncheon held at State House, Nairobi was attended by 7,000 honoured guests.

In affirmation of our place of pride within the community of nations, Kenya was joined by nineteen Heads of State and Government, eight Vice-Presidents and Deputy Prime Ministers, two Speakers of Parliament, two Former Presidents and Prime Ministers, seven Foreign Ministers, six representatives of International Organizations and 12 Special Envoys of Foreign Governments.

Arising from the execution of the mandate of this Committee, it was noted that after the Constitution of the Committee and commencement of its meetings presidential election petitions were filed at the Supreme Court challenging the election of the President-elect, in accordance with Article 140(1) of the Constitution. The Assumption of the Office of the President Act does not address the question of whether the Committee's activities stand suspended pending the decision of the Supreme Court regarding presidential election petition(s) filed, in light of the fact that a successful petition would reverse the mandate of the Committee.

In this context, it may be prudent to amend the existing law to include an express provision on whether the mandate of the Committee is suspended when a petition is filed in Court or whether the Committee should proceed to prepare for the inauguration notwithstanding the filing of a petition and the possibility of a repeat presidential election.

The Committee also recommends that the Kenya Law Reform Commission and the Attorney-General should clarify when the mandate of the Committee commences. Currently, the law is ambiguous as to whether the Committee's mandate begins after the declaration of the presidential election results or whether it commences when the Presidential Candidates are cleared to run for office as President. Therefore, it is proposed that section 1 be amended by introduction of two sub-sections as follows:

"Section 1: This Act may be cited as the Assumption of the Office of President Act, 2012.

Section 1A: The Chairperson shall convene the first meeting of the Committee within seven days upon the nomination and clearance of Presidential Candidates by the Independent Electoral and Boundaries Commission pursuant to Article 138 of the Constitution."

The Committee further recommends amendment to the:

(i) Membership of the Committee:

To create coherence and homogeneity in the ranks of the membership of the Committee that generally comprises of Principal Secretaries and the Solicitor-General, amendments are proposed to section 5 (2) (b) and section 5 (2) (c) which respectively enlist the Attorney-General and the Cabinet Secretary of the Ministry

responsible for matters relating to the registration of persons as Members of the Committee.

(ii) Functions of the Committee:

With regard to functions and powers of the Committee, and mindful that the Committee includes the Clerks of both Houses of Parliament, it is our recommendation that the Committee be given an additional mandate of offering a recommendation to the President on the place and date for the first sitting of the new House of Parliament, which shall be not more than thirty days after the election, as set out under Article 126(2) of the Constitution.

(iii) Succession Generally

The Committee recommends an amendment to Section 18 of the Assumption of the Office of President Act to affirm the enduring nature of the Government of Kenya by expressly providing that all Cabinet Secretaries and Principal Secretaries shall continue in office until their successors are appointed, albeit with such limited executive authority as may be directed by the new President.

(iv) Exercise of Presidential Powers during Temporary Incumbency- Article 134 of the Constitution

Article 134 of the Constitution imposes limitations on the powers of the President from the date of the first election until the date a new President is sworn in (period of temporary incumbency). The Committee recommends that it is worth considering an amendment to the Constitution to have the President's powers restored in full, in the event that the election and declaration of a President-elect is nullified following a petition to the Supreme Court. This will ensure that the President has an express constitutional basis to exercise executive power during the period leading up to a fresh election.

(v) Stewardship of the Committee

Section 5 of the Assumption of Office of the President Act requires that the Secretary to Cabinet shall be the Chairperson of the Committee. In the case of the just concluded assumption of the President process, the Office of the Secretary to the Cabinet was vacant. Instead, the Head of the Public Service acted as the Chairperson of the Committee. While there are minimal risks of successful legal action against a transition process on this account, it is necessary to amend the law to provide for an alternative Chairperson should the Office of the Secretary to the Cabinet be vacant, or in the event that the holder of such Office is absent.

(vi) Budgetary Appropriations to Support the activities of the Committee

The Committee observed that the absence of an earmarked budget may derail the activities of the Committee. The Committee recommends that Parliament should provide for a budget in every fifth financial year, coinciding with the period of the General Election, for purposes of financing the activities of the Committee. This will ensure predictability and certainty in the financing of the Committee's activities, and also provide a clear framework for accountability and independence.

(vii) Handing over of Instruments of Power and Authority

As a constitutional democracy, it is proposed that we better illustrate Kenya's role-model status by amending section 14 of the Act regarding the handing-over of instruments of power and authority.

It therefore proposed that we buttress our democratic credentials by changing the order of precedence in hand-over to be:

- (a) the Constitution;*
- (b) the Presidential Ceremonial Sword; and finally*
- (c) the encased medal for the highest national honour – Order of the Golden Heart – First Class - Chief of the Order of the Golden Heart (C.G.H.).*

In keeping with the constitutional ethos ushered by the 2010 Constitution and for the third time, this year's Swearing-in-Ceremony was conducted in fidelity with the law and in accordance with the Programme developed by the Assumption of the Office of President Committee.

To signify the transition and the change of guard, the President's Military Aide-de-Camp (ADC), Brigadier Timothy Stelu Lekoolool, switched from outgoing President Kenyatta's side to President

William Ruto's side, a symbolic act that boldly testified to the smooth and seamless transition from our Fourth President to our Fifth President.

The last act to mark the change of guard was the simultaneous raising of the Presidential Standard of the Fifth President at the same time as the lowering of the Presidential Standard of the Fourth President as the three stanzas of the National Anthem played. Thereafter, the transition was sealed by a twenty-one-gun salute in honour of the new Commander-in-Chief of the Kenya Defence Forces.

The hand-over of the Instruments of Power and Authority was the last part of a ceremony that was filled with pomp and a rare sense of enthusiasm. On account of the television coverage provided within the East Africa and as well as the South African Regions through DSTV Channel 197, coupled with the enhanced access through digital platforms, the inauguration of His Excellency Hon. William Samoei Ruto as Kenya's Fifth President drew the largest TV audience in the history of presidential inaugurations in the region.

INTRODUCTION

The assumption of the Office of President Committee is established pursuant to the Assumption of the Office of President Act (*No. 21 of 2012*) to provide for the procedure and ceremony for the assumption of the Office of President by the President-elect, in accordance with Article 141 of the Constitution.

Article 141 of the Constitution requires that the swearing-in of the President-elect shall be in public before the Chief Justice, or, in the absence of the Chief Justice, the Deputy Chief Justice.

Our constitutional order also requires that the President-elect shall be sworn in on the first Tuesday following—

- (a) the fourteenth day after the date of the declaration of the result of the presidential election, if no petition has been filed under Article 140; or
- (b) the seventh day following the date on which the court renders a decision declaring the election to be valid, if any petition has been filed under Article 140.

The President-elect assumes office by taking and subscribing to the oath or affirmation of allegiance, and the oath or affirmation for the execution of the functions of office, as prescribed in the Third Schedule of the Constitution, which oaths are reproduced hereinafter.

OATH OF ALLEGIANCE OF THE PRESIDENT

OATH OR SOLEMN AFFIRMATION OF ALLEGIANCE OF THE PRESIDENT/ACTING PRESIDENT AND THE DEPUTY PRESIDENT

I,, in full realisation of the high calling I assume as President/Acting President/ Deputy President of the Republic of Kenya, do swear/solemnly affirm that I will be faithful and bear true allegiance to the Republic of Kenya; that I will obey, preserve, protect and defend this Constitution of Kenya, as by law established, and all other laws of the Republic; and that I will protect and uphold the sovereignty, integrity and dignity of the people of Kenya. (In the case of an oath — So help me God.)

OATH OF DUE EXECUTION OF OFFICE FOR THE PRESIDENT

OATH OR SOLEMN AFFIRMATION OF DUE EXECUTION OF OFFICE FOR THE PRESIDENT/ACTING PRESIDENT

I,, swear/solemnly affirm that I will truly and diligently serve the people and the Republic of Kenya in the office of the President/ Acting President of the Republic of Kenya; that I will diligently discharge my duties and perform my functions in the Office of President/Acting President of the Republic of Kenya; and I will do justice to all in accordance with this Constitution, as by law established, and the laws of Kenya, without fear, favour, affection or illwill. (In the case of an oath— So help me God.)

The Assumption of the Office of President Act, 2012, establishes the Committee to *inter-alia*:

- (a) facilitate the handing over process by the outgoing President to the President-elect;
- (b) organize for the security of the President-elect;

- (c) organize for the necessary facilities and personnel for the President-elect;
- (d) co-ordinate the briefings of the President-elect by relevant public officers;
- (e) facilitate communication between the outgoing President and the President-elect;
- (f) prepare the programme and organise for the swearing-in ceremony; and
- (g) carry out any other activity necessary for the performance of its functions under this Act and perform any other function assigned to it under any other written law.

In furtherance of the realization of the National Values as enshrined under Article 10 of the Constitution of Kenya, the Act has a self-executing accountability mechanism framework in which the Committee is required to submit its Report of the Committee to Parliament. As such, the Committee is required within a period of one (1) month from the date of the swearing-in of the President-elect, to prepare a report of its affairs and specifically how it executed the high mandate.

The Law obligates that the Report should contain:

- (a) the financial statements of the Committee;
- (b) a description of the activities of the Committee;
- (c) such other statistical information as the Committee considers appropriate relating to its mandate; and
- (d) any other information relating to its functions that the Committee considers necessary.

The Committee is further required to submit to Parliament the report and cause the same to be published in the *Kenya Gazette* and in such other manner as the Committee may determine.

ELECTION OF THE PRESIDENT

As set out under Article 138 of the Constitution of Kenya, the Presidential election was held on 9th August, 2022 as part of the General Election of members of Parliament being the second Tuesday in August, in every fifth Year.

In accordance with the Procedure set out under Article 138 (4) of the Constitution, a Candidate shall be declared elected as President if the candidate receives—

- (a) more than a half of the votes cast in the election; and
- (b) at least twenty-five per cent of the votes cast in each of more than half of the Counties.

The Independent Electoral and Boundaries Commission (IEBC) on the 15th August, 2022 announced the Presidential Election Results and declared Hon. Dr. William Samoei Ruto, E.G.H. as the President-elect and Hon. Rigathi Gachagua as the Deputy President-elect who had run for election under the United Democratic Alliance Party (UDA) as having met the constitutional threshold for election as President as follows:

Candidate	Votes Garnered	Percentage	Number of Counties Candidate Attained at least 25%
H.E Hon. William Samoei Ruto E.G.H.	7,176,141	50.49%	39
Hon. Raila Amollo Odinga	6,942,930	48.85%	34
Wajackoyah George Luchiri	61,969	0.44%	0
Waihiga David Mwaure	31,987	0.23%	0
	14,213,137		
	Registered Voters	22,120,458	
	Turn-Out %	64.25%	

On the seventh day following the declaration of the Presidential Results, the runners-up in the presidential election contested the election outcome in the Supreme Court in line with the Procedure set

out under 140 of the Constitution on the validity of Presidential results.

Subsequently, on the 5th September, 2022 the Supreme Court unanimously dismissed the consolidated Presidential Election Petition challenging the Presidential Election held on 9th August, 2022; and upheld the declaration of William Ruto as President-elect.

In view of the foregoing and in accordance with Article 141 (3) of the Constitution, the President-elect would assume office by taking and subscribing to the Oath or Affirmation of Allegiance and the Oath or affirmation for the Execution of the functions of office on Tuesday, 13th September, 2022.

As such, the Assumption of the Office of President Committee mandate was triggered by the declaration of the Presidential Election results and the date of the swearing-in of the President-elect and Deputy-President-elect affirmed by the decision of the Supreme Court.

ADVISORY ON CONVENING OF PARLIAMENT

In accordance with Article 102 of the Constitution, the term of each House of Parliament expires on the date of the next general election. In that regard, following the 9th August, 2022 General Election, the tenure of the Twelfth (12th) Parliament ended on the dawn of the election date, being Tuesday, the 9th August, 2022.

Whereas the sunset date of the term of Parliament is set in law, the date of the convening of a newly elected house is not definite. Arising therefrom, the powers of convening a newly elected house are vested in the President as set out Article 126(2) of the Constitution, which provision provides that:

"whenever a new House is elected, the President, by notice in the Gazette, shall appoint the place and date for the first sitting of the new House, which shall be not more than thirty days after the election."

In that regard, on account of the fact that the General Election was held on the 9th August, 2022, the thirty (30) days within which Parliament should have its first sitting would lapse on the 8th September, 2022.

The Committee considered the position of law as explained by the Attorney-General and noted that the Constitutional duty to convene a newly elected house of Parliament was not one of constitutional prerogatives of the Head of State and Government that was limited in accordance with Article 134(1) (a) on temporary incumbency, which limits the powers of the President during the incumbency period.

Acknowledging the constitutional imperatives of convening parliament due to its unique role as the foremost political institution as the house of representatives and with the guidance of the Clerks of the Senate and the National Assembly on the preferred tentative dates for the first sitting of Parliament; the committee recommended that the Head of State and Government, convenes the newly elected Parliament between the 1st September, 2022 but in any case not later than 8th September, 2022.

In compliance with the constitutional timelines and furtherance of the resolutions of the Committee, the Office of the Attorney-General and Department of Justice prepared draft Gazette Notices for His Excellency's consideration and favour of the signature of the Head of State and Government and transmitted the same through the Chairperson. The Gazette Notices convening both Houses are annexed hereto.

In recognition of the unique circumstances presented by the 2022 General Election, it is the recommendation of the Committee that mindful of the constitution of the Committee that includes both houses of Parliament, the Assumption of Office of the President Act be amended to specifically include a supplementary function of the Committee to be advisory to the President on the date and venue of convening Parliament pursuant to Article 126.

EXECUTION OF THE MANDATE OF THE COMMITTEE

As set out under Section 6 of the Assumption of the Office of President Act, the mandate of the Committee is to:

- (a) facilitate the handing over process by the outgoing President to the President-elect;
- (b) organize for the security of the President-elect;
- (c) organize for the necessary facilities and personnel for the President-elect;

- (d) co-ordinate the briefings of the President-elect by relevant public officers;
- (e) facilitate communication between the outgoing President and the President-elect;
- (f) prepare the programme and organise for the swearing-in ceremony; and
- (g) carry out any other activity necessary for the performance of its functions under this Act and perform any other function assigned to it under any other written law.

In undertaking its mandate, the Committee established five sub-committees, as follows:

- (a) The Legal Sub-Committee;
- (b) The Security and Logistics Sub-Committee;
- (c) The State Event, Media and Publicity Sub-Committee;
- (d) The Sub-Committee on Ongoing State Programmes and the Status of Flagship Projects; and
- (e) The Budget Sub-Committee.

The sub-committees discharged their mandate exceptionally as evidenced by a successful inauguration ceremony for our nation's Fifth Administration.

The terms of reference of each of the Sub-Committee is as annotated hereinafter:

Sub-Committee	Terms of Reference
<p>1. Legal Sub-Committee:</p> <p>Membership</p> <p>The Attorney-General, Chairperson.</p> <p>The Chief Registrar of the Judiciary.</p> <p>The Clerk of the Senate</p> <p>The Solicitor-General.</p> <p>The Clerk of the National Assembly.</p> <p>The Principal Secretary, State Department for Devolution.</p> <p>The Principal Administrative Secretary, Executive Office of the President.</p>	<p>(a) Advise the Committee on legal issues arising out of the execution of its mandate;</p> <p>(b) Prepare Legal briefs to the Committee, the President, the President-elect and the Deputy President-elect;</p> <p>(c) Prepare motions/instruments for the legal part of the Swearing-in Ceremony for the President-elect and the Deputy President-elect;</p> <p>(d) Prepare Gazette Notice on the date and place for the conduct of the swearing-in ceremony;</p> <p>(e) Conduct legal vulnerability assessment by identifying the possible Legal Challenges and obstacles to the Assumptions of the Office of the President; and</p> <p>(f) Perform any other function or tasks as the Sub-Committee may find necessary in order to deliver on its mandate.</p>
<p>2. Security and Logistics Sub-Committee</p> <p>Membership</p> <p>The Principal Secretary, State Department for Interior, Chairperson</p> <p>The Principal Secretary, Ministry of Foreign Affairs.</p> <p>The Chief of the Kenya Defence Forces.</p> <p>The Director-General, The National Intelligence Service</p> <p>The Inspector-General of the National Police Service</p> <p>The Chief Registrar, The Judiciary.</p> <p>The Comptroller of State House.</p> <p>The Principal Administrative Secretary, Executive Office of</p>	<p>(a) Provide Security to the President-elect and Deputy President-elect;</p> <p>(b) Develop a comprehensive Security Operation Plan and Orders;</p> <p>(c) Prepare a venue for Swearing-In-Ceremony;</p> <p>(d) Develop a Swearing-In-Programme;</p> <p>(e) Prepare invitations of Foreign and Local Dignitaries;</p> <p>(f) Prepare a State Luncheon in Honour of the newly Inaugurated President and Deputy President;</p> <p>(g) Print and circulate Invitation Cards for the Inauguration of the Nation's fifth President;</p> <p>(h) Security clearance and accreditation of journalists;</p>

the President. The Clerk of the Senate. The Clerk of the National Assembly.	(i) Protocol Courtesy and Transport arrangement for Invited Foreign Dignitaries; and (j) Perform any other function or tasks as the Sub-Committee may find necessary in order to deliver on its mandate.
3. Budget sub-Committee Membership The Principal Secretary, The National Treasury - Chairperson The Principal Secretary, State Department for Interior and Citizen Service. The Principal Secretary, State Department for Broadcasting and Telecommunications. The Solicitor-General, The Comptroller of State House. The Principal Administrative Secretary – Executive Office of the President.	(a) Prepare a comprehensive budget for the Committee's activities and the Swearing-in Ceremony; (b) To mobilize and provide adequate financial resources for the Swearing-In-Ceremony; (c) Prepare the Financial Statements of the Committee; (d) Perform any other function or tasks as the Sub-Committee may find necessary in order to deliver on its mandate.
4. State Event, Media and Publicity Sub-Committee Membership The Principal Secretary, Communication and Broadcasting, Chairperson The Principal Secretary, State Department for Culture and Heritage. The Principal Secretary, State Department for Interior and Citizen Services. The Principal Secretary, State Department for ICT The Comptroller of State House. The Principal Administrative Secretary, Executive Office of the President. The Secretary, Information The Government Spokesperson. The Secretary, Intergovernmental Relational Technical Committee.	(a) To develop a Communication Strategy in the run-up to and during the Swearing-in Ceremony; (b) Provide the Committee with written updates on items that require the Committee's direction or approval; (c) In consultation with the President-elect, develop the messaging during this period; (d) Media activation for the Swearing-in Ceremony on all platforms; (e) Identification, Audition, Vetting, Transportation and Accommodation of Entertainment Groups/Persons; (f) Rehearsal/Presentation of the Dance Groups/Choirs/Popular Artists to Perform during the Swearing-In-Ceremony; (g) Media Briefings; and (h) Perform any other function or tasks as the Sub-Committee may find necessary in order to deliver on its mandate.
5. The sub-committee on ongoing state programmes and the status of flagship projects Membership Head of the Public Service Chief of Staff, Office of the Deputy President Principal Secretary, The National Treasury Principal Secretary, State Department for Interior and Citizen Services Principal Administrative Secretary, Executive Office of the President	(a) To facilitate any briefings required by the incoming Administration; (b) Preparation of a comprehensive report on all ongoing State Programmes and the Status of Flagship Projects.

THE ACTIVITIES UNDERTAKEN BY THE SUB-COMMITTEE

Legal Sub-Committee

The Legal Sub-Committee considered each of the terms of reference as assigned to it. The Sub-Committee adopted the following positions in relation to each of the terms of reference, in the order listed hereinabove:

(a) Advising the Committee on Legal Issues Arising Out of the Execution of Its Mandate:

(b) The Sub-Committee identified the following as issues that required to be brought to the attention of the Committee:

(a) section 5 of the Assumption of the Office of the President Act requires that the Secretary to the Cabinet shall be the chairperson of the Assumption of the Office of the President Committee. The position of Secretary to the Cabinet is vacant. There may be a risk, perhaps remote, of a legal challenge to the work of the Committee on this account. However, the Sub-Committee is of the considered opinion that there are merited arguments based on the public interest and necessity that would justify the current composition of the Committee, that is, without the Secretary to the Cabinet. The Sub-Committee noted that no court of law is likely to impede the assumption of the Office of the President on account only of there being no Secretary to the Cabinet to chair the Committee.

(b) Section 19 of the Assumption of the Office of the President Act requires that the Committee shall cause to be prepared a report on the affairs of the Committee, which report shall be submitted to Parliament. The Committee should note that the said report shall be prepared within a period of one month from the date of the swearing-in of the president elect. The Sub-Committee agreed that the Executive Office of the President should be requested to provide copies of reports that have been done in relation to previous transitions, to guide the development of the report for the current Committee.

(c) The Sub-Committee noted the requirements of section 20 (5) of the Assumption to the office of the President Act, to the effect that every member and staff assigned to the Committee is required to sign a confidentiality agreement. In this regard, the Sub-Committee has drafted a confidentiality agreement, with the advice that the same should be signed at the next meeting of the Committee. The draft confidentiality agreement is annexed to this report as Annex 1.

Preparing Legal Briefs to the Committee, the President, the President-elect and Deputy President-elect

The Sub-Committee adopted the position that the briefs that may be necessary at this juncture should be those that touch on legal issues pertaining to the transition and assumption of Office by the President-elect and Deputy President-elect. The Sub-Committee noted that all Ministries, Departments and Agencies had prepared handover reports, which would include information relevant to the respective Ministries, Departments and Agencies. However, the Sub-Committee agreed to provide briefs on any other specific issues upon request.

In that regard, the Sub-Committee identified the following issues as among those in respect of which legal briefs may be prepared for the Committee, the President, the President-elect and the Deputy President-elect:

1. The Legal Prescriptions on the Swearing-in Ceremony

The Legal Prescriptions for the Swearing-In include the requirement in section 12 of the Assumption of the Office of the President Act that the swearing-in of the President-elect shall be conducted in a public ceremony held in the capital city; the Committee shall publish, by notice in the Gazette, the date and place for the conduct of the swearing-in ceremony; and requirement in section 13 of the said Act that the swearing-in of the President-elect shall be in public before the Chief Justice, or, in the absence of the Chief Justice, the Deputy Chief Justice.

Article 141 of the Constitution provides that the President-elect shall be sworn in on the first Tuesday following—

(a) the fourteenth day after the date of the declaration of the result of the presidential election, if no petition has been filed; or

(b) the seventh day following the date on which the court renders a decision declaring the election to be valid, if any petition has been filed.

In that regard, if no election petition is filed, the swearing-in should take place on the 30th August, 2022. If a petition is filed and the court renders a decision declaring the election to be valid, the latest possible date for the swearing-in would be the 13th September, 2022.

The Day of the Swearing in Shall be a Public Holiday

The Sub-Committee noted that as per the provisions of Section 12 (3) of the Assumption of Office of the President Act, the day on which the President-elect is sworn-in shall be a public holiday. The Committee should therefore bring this to the attention of Cabinet Secretary for Interior and Co-ordination of the National Government for purposes of gazetting of that day as a public holiday. The Sub-Committee has prepared a draft Gazette Notice for consideration by the Cabinet Secretary. The draft Gazette Notice is annexed to this report as Annex 2.

Composition of the Committee

The Sub-Committee observed that by virtue of section 5 (2) (r) of the Assumption of the Office of the President Act, the Committee should also comprise three persons nominated by the President-elect. The Committee should, therefore, advise the President-elect of this requirement.

First Sitting of Parliament

Article 126(2) of the Constitution provides that whenever a new House is elected, the President, by notice in the Gazette, shall appoint the place and date for the first sitting of the new House, which shall be not more than thirty (30) days after the election. Since the election was held on the 9th August, 2022, the thirty (30) days within which Parliament should have its first sitting shall expire on the 8th September, 2022. The Clerks of the Senate and the National Assembly indicate that the preferred tentative date for the first sitting of Parliament was between the 1st September, 2022 – 8th September, 2022.

In this regard, the Sub-Committee recommends that the Committee should consider advising the President to appoint the place and date of the first sitting of the new House, to ensure compliance with the constitutional timelines. This will avert the risk of delays that may ensue if an election petition is filed to challenge the declaration of the result of the presidential election.

(c) Preparing Motions/Instruments for the Legal Part of the Swearing-in Ceremony for the President-elect and the Deputy President-elect

The Sub-Committee observed that Article 141 (3) of the Constitution provides that the President-elect assumes office by taking and subscribing to:

- (a) the oath or affirmation of allegiance, and
- (b) the oath or affirmation for the execution of the functions of office.

The form and substance of the said instruments is as prescribed in the Third Schedule of the Constitution. The Chief Registrar of the Judiciary informed the Sub-Committee that the Judiciary has prepared drafts of the requisite instruments. Extracts of the said oaths and affirmations, as derived from the Third Schedule of the Constitution, are annexed to this report as Annex 3.

Prepare Gazette Notice on the Date and Place for the Conduct of the Swearing-in Ceremony

The Sub-Committee has prepared a draft Gazette Notice for purposes of indicating the date and place for the conduct of the swearing-in ceremony. The same is annexed to this report as Annex 4.

(e) Conduct Legal Vulnerability Assessment by Identifying the Possible Legal Challenges and Obstacles to the Assumption of the Office of the President

There is the potential that the presidential election result may be challenged at the Supreme Court. Therefore, if a petition is filed, the swearing-in of the President-elect and the Deputy President-elect will necessarily be delayed to allow for the determination of the petition, as indicated hereinbefore.

The Legal Sub-Committee as part of its compliance check of its mandate noted that as follows:

(1) All the Committee members as required under section 20 (5) of the Assumption to the Office of the President Act, signed the Confidentiality Agreement;

(2) The Committee communicated the request for designation of representatives by the President-elect as required under section 5 (2) (r) of the Assumption of the Office of the President Act and the same was effected, signified by the nomination of the President-elect and attendance of Hon. Justin Mururi, Hon. Gladys B. Shollei and Ms. Veronica Maina, in all Committee meetings subsequent thereafter.

(3) The Committee Gazetted Tuesday, 13th September, 2022 as a public holiday of General observance throughout the Republic of Kenya vide *Kenya Gazette* No. 10540, and further Gazetted Moi International Sports Centre, Kasarani vide *Kenya Gazette* Notice No. 10538, as the venue to facilitate the swearing-in of the President-elect, as stipulated under section 12 (3) of the Assumption of Office of the President Act.

As regards the first sitting of Parliament following the general elections as dictated under Article 126 of the Constitution, the Fourth President His Excellency Hon. Uhuru, Kenyatta, C.G.H., vide *Kenya Gazette* Notice No. 10527, convened the first sitting of Parliament for the 8th September, 2022 within the Constitutional timelines.

The Security and Logistics Sub-Committee

The Sub-Committee was charged with security, traffic control, crowd control, transport, venue preparations, programme management and mobilization.

It was therefore the responsibility of the Sub-Committee to plan and execute security coverage of the venue and its environs, the Nairobi City in general and all the routes, general traffic management and crowd control. To achieve this, an elaborate operation order was prepared outlining duties, roles and responsibilities of the security agencies involved in the operation.

In discharge of the mandate vested in the Sub-Committee, a central command Centre was established at the venue of the inauguration ceremony. To secure alignment of the operation order with the commander's intent, the President-elect's team was fully involved in the Sub-Committee's activities.

Securing the State Ceremony

To support the Operation Order as approved, a total of five thousand, seven hundred and twenty-seven (5,727) officers drawn from the following units and formations were involved in the execution and implementation of the operation order as follows:

- (a) Nairobi Area Command (NPS);
- (b) General Service Unit;
- (c) GSU Training School and APTC;
- (d) Rapid Deployment Unit;
- (e) Anti-Stock Theft Unit;
- (f) Anti-Terrorist Police Unit;
- (g) Bomb Disposal Unit;
- (h) National Police Air Wing;
- (i) K9 Unit;
- (j) National Youth Service; and
- (k) Nairobi City County Enforcement.

The laid down security plan ensured that visitors from upcountry who began streaming into the venue on the eve of the inauguration by 18:00 Hrs. on 12th September, 2022, were well secured and at 01:00 Hrs. the stadium gates were opened after security clearance by the security team.

The Moi International Sports Centre, Kasarani Stadium was full to capacity before dawn. In order to avert a stampede, the National Police Service informed members of the public that the stadium was full to capacity through radio stations, TV stations and alternative media outlets. However, more enthusiastic members of the public continued streaming into the stadium necessitating closure of the inner perimeter of the stadium.

Whereas the overall operation plan was executed with minimal variations, there was a stampede at around 08:50 Hrs. at gate 6 and 19 as enthusiastic Kenyans attempted to force their way into the stadium. This regrettable incident was predicated by a delay by contracted service providers' delay in installing outdoor screens for the overflow

as earlier anticipated leading to a standoff between police and members of the public who had no alternative way of following proceedings from the stadium. Arising from the incident, four police officers (One Sergeant and Three Trainees sustained minor injuries after they were pelted with stones), eleven civilians also regrettably sustained minor bruises arising from the commotion that ensued.

Transport and Logistics

The Committee was also tasked with the responsibility of co-ordinating transport for honoured guests to the venue, including the First Family, members of the Outgoing President's Family, members of both houses of Parliament, Executives of State Corporations, Chairpersons and CEOs of Constitutional Commissions and Holders of Independent Offices, Principal Secretaries, Judges and Judicial Officers and Cabinet Secretaries.

To achieve the goal, seventy-seven (77) 60 seater buses were sourced from various institutions and State Agencies with National Youth Service (NYS) providing thirteen buses.

In addition to Transport facilitation for VIPs, the facilitation of visiting Heads of State and Government was exclusively handled by the Presidential Escort Unit.

Protocol Team

The Protocol Team was charged with the task of coordinating all aspects the etiquette, decorum and order required for the ceremony. Its membership was drawn from the Ministry of Foreign Affairs, Government Reception Office, Parliament, GPSO, Council of Governors (CoG) and State House.

Invitations Team

Several Heads of State and Government and Special Guests were invited to the event. Despite the short notice and prior commitments, nineteen (19) Heads of State and Government graced the occasion. Further, 37 delegations were represented at various levels ranging from Prime Ministers, Vice Presidents, Ministers, Ambassadors and Special Envoys. Other special guests included two (2) former presidents. Overall, forty-seven (56) foreign delegations attended the ceremony (Appendix II).

Reception of Foreign Dignitaries and Honoured Guests

Most of the dignitaries were received at the Jomo Kenyatta International Airport (JKIA).

Presidents and Heads of Government were received at the Presidential Pavilion. Non-executive Prime Ministers and Vice Presidents were received through VIP 3 while Ministers and Ambassadors came through VIP 2.

Ambassador-level greeters were available throughout the duration of the arrival and departure of the dignitaries. All arriving Presidents and Heads of Government were presented with a bouquet of flowers. In some cases, the Kenya Defence Forces mounted a Guard of Honour or Troop-in-Line as applicable. The receptions and departures were conducted proficiently and satisfactorily.

Escorts of Honour

Most official delegations were allocated Governors, Senators and ambassador-level escorts of honour as designated by the Office of the President-elect. However, other delegations were allocated additional diplomatic courtesy senior official from the Ministry of Foreign Affairs. The guests were properly chaperoned throughout their stay to guarantee their comfort and easy acclimatization.

Transportation of Foreign Dignitaries

All foreign dignitaries were allocated adequate transport commensurate to their status. Vehicles were allocated as follows:-

- (i) Presidents/Heads of Government, Seven (7) vehicles.
- (ii) Non-Executive Prime Ministers and Vice Presidents –three (3) vehicles.
- (iii) Ministers, Ambassadors, Special Envoys, two (2) vehicles.

Co-ordination of accommodation of foreign dignitaries

All Presidential/Head of Government delegations and their entourages were allocated suitable and adequate accommodation based on their preferences.

Ushering and seating guests at the venues

There were two main venues, the Moi International Sports Centre, Kasarani and State House, Nairobi. At Kasarani, ushering was a joint responsibility between personnel from Ministry of Foreign Affairs, Government Reception Office and Servicemen from the National Youth Service. Guests were chaperoned from their hotels following a well laid out order of precedence.

Heads of State/Government were ushered into a holding room and then escorted to the arena. Other foreign dignitaries were led straight to the dias.

Programmes Team

The Programmes Team was responsible for the smooth flow of the event's activities, time management as well as the preparation of the programmes that guided the course of events of the day. This Committee consisted of representation from the Government Reception Office, State Functions Office, the Judiciary, Kenya Defence Forces and the Regional Commissioner, Nairobi. The preparation of the various programmes was undertaken as detailed below:

Events prior to the arrival of the President-elect at the inauguration venue

This segment of the programme entailed programming with regard to settling in members of the public and offering them entertainment as well as ushering local and foreign dignitaries at the MISC, Kasarani prior to the arrival of the President-elect. This part of the day's programme took care of events that preceded the swearing-in. (See more elaborate details of the entertainment function in the report on Entertainment Sub-Committee).

Ceremonial Parade

The Kenya Defence Forces prepared and displayed a Trio-Service Guard of Honour, Presidential fanfare and 21 Gun Salute in honour of His Excellency the President of the Republic of Kenya and Commander-in-Chief of the Defence Forces on the occasion of his second inauguration. Prior to the event, the KDF conducted adequate parade rehearsals.

Printing of the official programmes and invitation cards

Attendance was open to the general public. However, 18,000 invitation cards and official programs were printed (Appendix IIB).

State Luncheon

A State Luncheon was held at State House Nairobi where approximately 7000 guests were hosted. The luncheon was graced by a number of Heads of State and Government.

Essential Services Team

The Essential Services Team was responsible for the preparation and execution of an effective disaster response, preparedness and management system.

It comprised the following: Ministry of Health, National Disaster Operation Centre, Kenya Red Cross Society, St. John Ambulance and Nairobi City County Government.

The Essential services Operational Committee deployed 19 Ambulances as follows:

- Kenya Red Cross Society – 10.
- St. John's Ambulance -3
- Nairobi City County Government -4.
- Ministry of Health -2.
- Beyond Zero Mobile Clinic -1 (for VVIPs and VIPs),

Aga Khan University Hospital Mobile Clinic -1 (for VVIPs and VIPs)

Ceremonial Presidential Chairs

On account of the unprecedented number of visiting Heads of State, the Sub-Committee was also tasked with provision of Ceremonial Presidential Chairs for use during the state ceremony.

In that regard, a total of forty-nine (49) Presidential Chairs were sourced as follows:

State House 15
Nairobi Region 22
Eastern Region 4
Kiambu County 4
Machakos County 4.

The State Event, Media and Publicity Sub-Committee

The Sub-Committee was charged with co-ordination of media, publicity and entertainment. The mandate entailed formulating messages and publication of articles, press relations, branding and live coverage of the state ceremonies, auditioning and vetting of artists.

Press Briefings

The Committee held five press briefings between 12th August, 2022 and 12th September, 2022 to update the public on the date and venue of the inauguration of our nation's fifth Administration.

The press briefings also apprised the Kenyan public as well as the community of nations on the security arrangements made, number of guests expected for the State Ceremonies, foreign dignitaries expected as well as the traffic operation order.

Media Accreditation

The Media and Publicity Sub-Committee facilitated the media to cover the inauguration ceremony on 13th September, 2022. A total of 900 journalists including media crews were accredited to cover the event through a dedicated link: <https://eventsaccreditation.go.ke/event/1/> and were issued with badges which they used to access the venue.

Messaging and Branding

The Sub-Committee produced Radio infomercials that were played by Kenya Broadcasting Corporation (KBC) and its affiliate radio stations. The themes that were adopted for messaging included: national unity and values. TV infomercials were also produced and aired on KBC's TV Channel One and Y254 TV stations.

The Media Coverage of the State Event

The Inauguration Ceremony was beamed live on all media channels including the digital platforms. The live coverage was made possible by a production by Multichoice which distributed the broadcast signal to both local and foreign houses.

The production also enabled the event to be viewed across the continent DSTV Channel 197. The countries that were covered included: Uganda, Tanzania, Ethiopia, Ghana, Botswana, Zambia, Namibia, Nigeria and South Africa.

The Broadcast quality was High Definition (HD) and had different camera angles providing comprehensive coverage of the entire stadium, the catchment areas, as well as the Procession of the Outgoing President, the President-elect and the Deputy-President-elect from State House and Karen residence to the Stadium.

The digital feed was also provided to both local and international media across the globe. Kenya Broadcasting Corporation (KBC) documented the entire 8-hour event. The media crew were facilitated to take still photographs throughout the event.

On account of the television coverage provided within the East African and as well as the South African Regions coupled with the enhanced access through digital platforms, the inauguration of His Excellency Hon. William Samoei Ruto as Kenya's Fifth President drew the largest TV audiences in the history of Presidential inaugurations in the region.

Media Centre and On-Site Management of the Media

The Sub-Committee successfully activated and managed the Media Centre at the MISC, Kasarani. As part of the activation, the Media Centre was equipped with high-speed Internet that extended to the main dais and Gate 10 for Live streaming. The WI-FI with credentials: inauguration2022 password: President 2022 were provided for both the media and VIP guests seated at the main dais. The foreign press teams accompanying the Invited Heads of State and Heads of Delegation were facilitated accordingly.

Special Publications in MyGov

In discharge of the Sub-Committee's mandate to embed messaging on national unity, the weekly issues of myGov in the run-up to the

inauguration carried embedded articles on national unity and our shared destiny as one indivisible nation.

Souvenirs

The Sub-Committee produced 60,000 miniature Flags and 3,000 branded lapel pins, which were distributed to honoured guests and the public at the stadium.

Presidential Portraits

The Sub-Committee shared the official portrait specifications and samples with the President-elect's team. Upon grant of approval by the President elect, the Sub-Committee facilitated the production of 50,000 copies of the Presidential Portrait in the following Sizes:

A2 Size 30,000 Copies

A3 Size 20,000 Copies.

The portraits have been distributed to all Government offices in all arms of Government and both tiers through the Directorate of Information. However, for Foreign Missions abroad, the distribution has been effected by our nation's foreign office – the Ministry of Foreign Affairs.

Entertainment

In keeping with the traditions and customs during state functions and ceremonies, a part of the programme is allocated to entertainment in celebration of our culture and heritage.

As such various groups are selected for entertaining all those participating in the State ceremony. In regard to the inauguration of the Fifth President, the guiding criteria for identification and selection of performing groups and artistes was based on the following factors, as follows:

- (a) Showcasing the face of Kenya;
- (b) Representation of different genres of music available in Kenya;
- (c) Representation of different age groups and cadres;
- (d) Showcasing Kenyan Musical cultures to the world;
- (e) Enhancing National Pride and Identity;
- (f) Promoting the captivating and entertaining works of art;
- (g) Promoting National Integration and cohesion; and

Giving an opportunity to Kenyan artistes to perform for a national audience.

In fidelity with the foregoing criteria, the main programme stadium performance was packaged into a 22 minutes production that included:

(i) Florence Mureithi performing *Usikiaye Maombi* – A thanksgiving song to God for His faithfulness and for answering our prayers;

(ii) Pop Choral song performed by 100 choristers led by Audiphaxad Omwaka (Guardian Angel) performing a reworked version of the song *Kenya* – celebrating Kenyans for their hard work and resilience and also calls on all Kenyans to come together in unity in order for our country to move forward;

(iii) Three new songs of popular genres created by identified artistes including:

- *Mungu Ameibariki Kenya* – a thanksgiving song celebrating our country, our leadership, our patriotism and a prayer for the country by five gospel popular artistes – Peterson Githinji (Pitson), Ruth Matete, Fred Omondi, Mary Wanjiru (Shiru wa GP) and Florence Andenyi,

- *Twasema Asante* – a patriotic and a thanksgiving song to the almighty God for peaceful elections and for giving us a new President and other great leaders (A new dawn) performed by 10 popular gospel artistes – Solomon Mkubwa, Anastacia Mukabwa, Victor Mbuvi, Laura Karwirwa, Betty Bayo, Hezron Marwa, Mourine Awuor (Nya Jerusalem), Phenny Kerubo, Beatrice Chepng'eno (Mum Cherop) and Charity Nashipae

- *Twafurahia Leo*, a patriotic song celebrating the incoming leaders and all Kenyans done by 5 popular artistes – Sanaipai Tande, Nadia Mukami, Bridget Kioko, Ali Etale (Arrow Boy) and Evans Ochieng;

(iv) Choral Performance incorporating Zabron Singers from the republic of Tanzania performing the song *Mkono wa Bwana* a thanksgiving song to God for the far He has brought us (our Nation); and

(v) A showcase of 100 contemporary dancers' performance complementing the entire production of the performances.

The Sub-Committee on Ongoing State Programmes and the Status of Flagship Projects

The Sub-Committee was established to provide an institutional framework to service all requests from the Office of the President-elect and to facilitate any briefings required by the incoming Administration.

The Sub-Committee prepared a comprehensive report on all ongoing State Programmes and the Status of Flagship Projects and facilitated the enhancement of their security and their briefings by the various public officers including the National Security Advisory Committee (NSAC), the National Treasury, the Central Bank of Kenya, the Public Service Commission, Ministry of Agriculture, Ministry of Public Service, Gender, Senior, Special Programmes and Citizen Affairs being the Ministry responsible for drought mitigation measures, Ministry of Energy and Petroleum and the Energy and Petroleum Regulatory Authority.

The Budget Sub-Committee.

In recognition of the prevailing economic situation in the country and the austerity measures implemented by the Government as part of the current financial year, the President-elect set budgetary ceilings of Ksh. 250,000,000.00 (to read Kenya Shillings Two Hundred Fifty Million Only) for all the State events marking the inauguration of our nation's Fifth Administration.

However, on account of the unprecedented number of Heads of State and Government and other high level state foreign delegations that were attending the State Ceremonies, the Committee's budget was reviewed upwards with the concurrence of the President-elect to KSh. 330,714,647.00, constituted as follows:

The National Treasury Vote 1071	
Executive Office of the President	172,442,631.00
Ministry of Foreign Affairs	55,167,400.00
State Department for Sports	9,400,000.00
State Department for Interior and Citizen Services	35,176,676
State Department for Culture and Heritage	26,999,940.00
State Department for Broadcasting	27,498,000.00
State Department for Information, Communication, Technology and Innovation	2,030,000.00
Judiciary	2,000,000.00
Total	330,714,647.00

The Budget for the Executive Office of the President was appropriated towards the fabrication and setting up of the Presidential Dias and Pavilion, the inauguration Arena VVIP dais, VIP dais that held over 3,000 persons and all the other ancillary décor and fixtures including additional screens as well as defraying the cost of hosting the state luncheon at State House.

VALEDICTORY ADDRESS: A FAREWELL TO THE NATION

On the eve of the inauguration of our nation's Fifth President, President Uhuru Kenyatta, in his last opportunity to address the nation as President delivered his valedictory Speech (farewell address).

In his address, the outgoing Head of State and Government thanked the Kenyan people for according him the profound opportunity to serve as President for two terms of office noting that one's service to their country is the greatest honour any citizen can receive in a democracy.

The outgoing President thanked all Kenyan people for the goodwill they accorded him while in office and for the immense opportunities they accorded him to serve in various public roles over the last two and a half decades, which included: Chairman of the Kenya Tourism Board, Member of the Jomo Kenyatta University Council, Chairperson of Disaster Emergency Response Committee, Member of Parliament for Gatundu, Cabinet Minister serving in the Ministries of Local Government, Trade and Finance, The Leader of the Official Opposition, Deputy Prime Minister, and as President of the Republic.

His Excellency used the address to highlight the achievements of his administration acknowledging that the work of building a nation is a continuous endeavour passed from one generation to another and from an administration to another. The outgoing Head of State further reiterated his mantra and guiding philosophy as seeking to bring the nation closer to its destiny and desiring to give every Kenyan a chance - in all the work that he had done as President, in every presidential decision he made, in every executive action he undertook, in every Bill he proposed and assented to. The shared aspiration being guided by the dream of our forefathers - to eliminate poverty, ignorance and disease, to improve the quality of life of all Kenyans and to create conditions for everyone to achieve their dreams.

The Outgoing President concluded his address by conveying his felicitations to the incoming President and his well wishes in which he stated as follows:

"Mr. President-elect, as you walk the path to your inauguration and beyond, you will be President not just for those who voted for you but for all Kenyans. In the prophetic words of our national anthem - we are all summoned to purposefully dwell in unity, peace and liberty; working hard and together, so that plenty will be found in our borders.

We, therefore, pray for your success, as your success will be Kenya's success." A copy is annexed hereto and marked as Appendix X.

THE SWEARING-IN CEREMONY OF OUR NATION'S FIFTH PRESIDENT

Rehearsals of the Swearing-in

The Judiciary and other Members of the Committee conducted rehearsals both at the Moi International Sports Centre, Kasarani and the Residence of the Deputy President at Karen on 12th September, 2022.

In keeping with our constitutional traditions and democratic ethos, the transition from the outgoing Commander in Chief to the incoming Commander-in-Chief is celebrated with military fanfare by the Kenya Defence Forces.

Kenya Defence Forces scheduled a full dress rehearsal on Saturday 10th September, 2022 at the Moi International Sports Centre, Kasarani commencing at 10:00 O'clock in the forenoon.

The Swearing-In and Inauguration Ceremony

The Swearing-In ceremony was conducted by the Chief Registrar of the Judiciary Hon. Anne Amadi, C.B.S. and witnessed by Her Ladyship the Chief Justice Hon. Martha K. Koome, E.G.H.

As a prelude to the swearing-in ceremony, the Chief Justice introduced the President-elect to the nation by the following invocation:

"I have the honour and privilege to introduce the President-elect of the Republic of Kenya, His Excellency William Ruto to the nation.

William Samoei Ruto was on the 15th of August, 2022 declared as the duly-elected President of the Republic of Kenya pursuant to the provisions of Articles, 136, 138(4) and 138 (10) (A) of the Constitution of Kenya in the August 9, 2022, Presidential Election.

I, Martha Karambu Koome, Chief Justice of the Republic of Kenya, do hereby introduce to the people of Kenya the President-elect His Excellency, Dr. William Samoei Ruto to take his place on the inauguration dais."

Thereafter, the Chief Registrar administered the Oath of Allegiance to the President-elect H.E Hon. Dr. William Samoei Ruto, E.G.H. with Her Excellency First Lady Mrs. Rachel Ruto by his side.

Our nation's Fifth President assumed Office at exactly 12:45 p.m. when he concluded taking his oath of allegiance and the oath of due execution of the Office of President before the Chief Justice.

The Chief Registrar of the Judiciary invited His Excellency William Samoei Ruto, E.G.H., PhD., to take his seat at the Inauguration Dais to sign the Oath of Allegiance, Oath of Due Execution of Office and Certificate of Inauguration in the presence of the Chief Justice.

The Chief Justice then introduced the incoming President to the Nation and presented a set of the Oath of Allegiance, Oath of Due Execution of Office of the President, and the Certificate of Inauguration to His Excellency William Samoei Ruto, E.G.H., PhD. amidst fanfare and celebrations.

Subsequently, the Deputy-President-elect His Excellency Hon. Rigathi Gachagua took his Oath of Allegiance and Oath of due execution of the Office of Deputy President effectively becoming the nation's second Deputy President.

Upon the deputy President-elect assuming Office as the Deputy President, the outgoing President His Excellency President Uhuru Kenyatta, C.G.H., handed over to His Excellency President William Samoei Ruto instruments of power and authority, in the following order:

- (a) the Constitution;
- (b) the Presidential (Commander-In-Chief) Ceremonial Sword;
- (c) Encased medal for the highest national honour – order of the Golden Heart – First Class - Chief of the Order of the Golden Heart (C.G.H.).

To signify the transition and the change of guard, the President's Military Assistant Aide-de-camp (ADC) Brigadier Timothy Stelu Lekoolool switched from outgoing President Kenyatta's side to President William Ruto's side, marking the penultimate symbolic act to signify a smooth and seamless transition from our Fourth President to the Fifth President.

The last act to signify the change of guard was the simultaneous raising of the Presidential Standard of the Fifth President and lowering of the Presidential Standard of the Fourth President as the three stanzas of the National Anthem were played. Thereafter, the transition was sealed by a twenty-one-gun salute.

In accordance with Section 16 of the Assumption of the Office of President Act, the highlight of the State Ceremony was the inauguration address delivered by His Excellency President William Samoei Ruto, PhD., C.G.H. amidst a frenzy of an enthusiastic audience. A copy of the landmark address is annexed hereto and marked as Annex XI.

CONCLUSION AND RECOMMENDATIONS

Arising from the execution of the mandate of this Committee, it was noted that after the constitution of the Committee and commencement of its meetings presidential election petitions were filed at the Supreme Court challenging the election of the President-elect, in accordance with Article 140(1) of the Constitution. The Assumption of the Office of the President Act does not address the question of whether the Committee's activities stand suspended pending the decision of the Supreme Court regarding presidential election petition(s) filed, in light of the fact that a successful petition would reverse the mandate of the Committee.

In this context, it may be prudent to amend the existing law to include an express provision on whether the mandate of the Committee is suspended when a petition is filed in Court or whether the Committee should proceed to prepare for the inauguration notwithstanding the filing of a petition and the possibility of a repeat presidential election.

The Committee also recommends that the Kenya Law Reform Commission and the Attorney-General should clarify when the mandate of the Committee commences. Currently, the law is ambiguous as to whether the Committee's mandate begins after the declaration of the presidential election results or whether it commences when the Presidential Candidates are cleared. Therefore, it is proposed that section 1 be amended by introduction of two sub-sections as follows:

“Section 1: This Act may be cited as the Assumption of the Office of President Act, 2012.

Section 1A: The Chairperson shall convene the first meeting of the Committee within seven days upon the nomination and clearance of Presidential Candidates by the Independent Electoral and Boundaries Commission pursuant to Article 138 of the Constitution.”

The Committee further recommends amendment to the:

(i) Membership of the Committee: To create coherence and homogeneity in the ranks of the membership of the Committee that generally comprises of Principal Secretaries and the Solicitor-General, amendments are proposed to section 5 (2) and section 5 (2) (c) which respectively enlist the Attorney-General and the Cabinet Secretary of the Ministry responsible for matters relating to the registration of persons as Members of the Committee.

(ii) Functions of the Committee: With regard to functions and powers of the Committee, and mindful that the Committee includes the Clerks of both Houses of Parliament, it is our recommendation that the Committee be given a new mandate of offering a recommendation to the President on the place and date for the first sitting of the new House, which shall be not more than thirty days after the election, as set out under Article 126(2) of the Constitution.

(iii) Succession Generally: The Committee recommends an amendment to Section 18 of the Assumption of the Office of President Act to affirm the enduring nature of the Government of Kenya by expressly providing that all Cabinet Secretaries and Principal Secretaries shall continue in office until their successors are appointed, albeit with such limited executive authority as may be directed by the new President.

(iv) Exercise of Presidential Powers during Temporary Incumbency - Article 134 of the Constitution

(v) Article 134 of the Constitution imposes limitations on the powers of the President from the date of the first election until the date a new President is sworn in (period of temporary incumbency). The Committee recommends that it is worth considering an amendment to the Constitution to have the President's powers restored in full, in the event that the election and declaration of a President-elect is nullified following a petition to the Supreme Court. This will ensure that the President has an express constitutional basis to exercise executive power during the period leading up to a fresh election.

(vi) Stewardship of the Committee: section 5 of the Assumption of Office of the President Act requires that the Secretary to Cabinet shall be the Chairperson of the Committee. In the case of the just concluded assumption of the President process, the Office of the Secretary to the Cabinet was vacant. Instead, the Head of the Public Service acted as the Chairperson of the Committee. While there are minimal risks of successful legal action against a transition process on this account, it is necessary to amend the law to provide for an alternative Chairperson should the Office of the Secretary to the Cabinet be vacant, or in the event that the holder of such Office is absent.

(vii) Budgetary Appropriations to Support the activities of the Committee: The Committee observed that the absence of an earmarked budget may derail the activities of the Committee. The Committee recommends that Parliament should provide for a budget in every fifth financial year, coinciding with the period of the General Election, for purposes of financing the activities of the Committee. This will ensure predictability and certainty in the financing of the Committee's activities, and also provide a clear framework for accountability and independence.

(viii) Handing over of Instruments of Power and Authority: As a constitutional democracy, it is proposed that we better illustrate Kenya's role-model status by amending section 14 of the Act regarding the handing-over of instruments of power and authority.

It therefore proposed that we buttress our democratic credentials by changing the order of precedence in hand-over to be:

- (a) the Constitution;
- (b) the Presidential Ceremonial Sword; and finally
- (c) the encased medal for the highest national honour – Order of the Golden Heart – First Class - Chief of the Order of the Golden Heart (C.G.H.).