

The ORANGE

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NEWSLETTER OF THE ORANGE DEMOCRATIC MOVEMENT PARTY OF KENYA

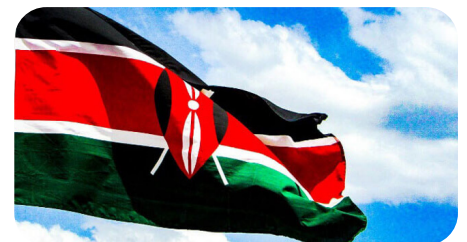


TOP STORIES

- Proportional Representation is Better for Kenya
- Somalia
- ODM news

Proportional Representation Is Good For Kenya

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ODM NEWS

ODM leader Raila Odinga has revealed that former President Uhuru Kenyatta asked him to talk to President William Ruto to resolve the crisis caused by Gen Z protests. He said the country was on the brink of collapse as a result of the demonstrations. "Uhuru said if the country went down, then we have no other country," Raila said. Speaking on Tuesday 13th at Sitotwo Primary School in Keiyo South Constituency during the funeral of Chirchir Masit, the father to former IEBC commissioner Irene Masit, who is in exile, Mr. Odinga said the country was on the brink of burning as a result of the Gen Z protests and that lives were being lost in the hands of the overzealous police officers, a situation that called for statesmanship to avert it. Raila said he spoke with Ruto on phone and agreed to meet him and discuss the security situation.

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Proportional Representation Is Good For Kenya



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The Two Thirds Gender Principle

Among the most important principles in the governance of public affairs that has been a subject of debate over the years in Kenya is the quest to promote participatory democracy and make the participation of previously marginalized groups such as females and persons with disabilities a critical aspect of the system of governance and decision-making. Special emphasis is therefore placed on involvement of women in the CoK 2010.

The CoK 2010 is based on the belief that there can only be real development and progress in Kenya if all citizens fully participate in the governance of the country. Consequently the Constitution of Kenya 2010 provides at article

27(6) that: "To give full effect to the realisation of the rights guaranteed under this Article the State shall take Legislative and other measures, including affirmative action programmes and policies designed to redress any disadvantage suffered by individuals or groups because of past discrimination".

Additionally article 27(8) stipulates that: "In addition to the measures contemplated in clause (6) the state shall take legislative and other measures to implement the principle that no more than two-thirds of the members of elective or appointing bodies shall be of the same gender."

Furthermore Article 81(b) also provides that: "the electoral system shall comply with the principle that no more than two-thirds of the members of the elective public bodies shall be of the same gender."

Notwithstanding this requirement the numerous attempts made so far to enforce adherence to this principle in parliament and especially in the national assembly have failed. Consequently women continue to be under-represented in the parliament.

Twelve years after the enactment of the Constitution of Kenya 2010

(CoK 2010) the promise of the not more than two thirds gender rule in elective public bodies is yet to be realised inspite of numerous attempts in and out of parliament.

Interestingly this problem is not experienced in the county Assemblies because Article 187(1)(b) of the CoK 2010 provides for a top-up mechanism to county assemblies. This involves the topping up of an appropriate number of the disadvantaged gender required to fulfill the no more than two-thirds requirement being added to the directly elected members from pre-existing party lists.

According to a KIPPRA report published on 27th October 2022 entitled **Strengthening the Democratic Participation of Women Candidates in Kenya's Elections** "Kenya is trailing her peers within the East African Community (EAC) in women's political representation, with 21.4 per cent women members of Parliament.

According to the Perline monthly report in reference to the 2017 polls, Rwandese election of 2018 had 49 out of 80 seats in the Lower House going to women, representing 61.3%. In the Ethiopian elections for 2021, with a total of 470 seats, 195 seats went to women, representing

41.5% while Uganda during the election of 2021 women garnered 188 out of 556 seats in Parliament, representing 33.8%."

Legislative Attempts at Implementation

There have been four failed attempts to pass the not more than two-thirds gender bill into law. Hon Adan Duale made two unsuccessful attempts in the National Assembly to pass constitutional amendments known as Duale 1 and Duale 2 bills that would introduce a top-up mechanism similar to the one in Article 177(1)(b) concerning the gender top-up in County Assemblies following a general election.

“**Furthermore Article 81(b) also provides that: “the electoral system shall comply with the principle that no more than two-thirds of the members of the elective public bodies shall be of the same gender.”**

Similarly the “Sijeny Bill” failed twice after the Senate was also unable to raise the required numbers in its favour.

Subsequent to the failure of the Duale Bill the Departmental Committee on Justice and Legal Affairs also developed its own bill referred to as the Chepkonga Bill in April 2015. Even though stakeholders invited to discuss the bill were unanimous in their opinions that the bill was offending the constitution the Chairman declined to withdraw it. He went ahead and the bill failed in parliament.

Kenya’s First Past Post Electoral System that is inherently inequitable and prone to disadvantage the historically

disadvantaged and marginalized is largely to blame for this failure. The failure to craft affirmative statutory or constitutional amendments can mainly be attributed to the fact that the male majority being required legislate the changes are beneficiaries of the inequitable system.

What is the First Past The Post Electoral System?

The First Past The Post (FPTP) system used in Kenya involves dividing the country into geographical constituencies and wards in which individual candidates compete against each other and the winner is the person who gets the highest number of votes irrespective of whether those

votes are the majority votes validly cast in the constituency or not. This implies that the winner could well be representing minority views in the constituency.

Moreover it is a “winner-take-all method” that often produces disproportional results, particularly when electing members of a legislature. This means that political parties do not get representation according to their share of the popular vote. Its results usually favor the largest party and parties with strong regional support to the detriment of smaller parties without a geographically concentrated base.

The FPTP also diminishes gender equity and women’s participation in the political process. Moreover

the FPTP electoral system is also known for marginalisation of small parties and having negative implications for the inclusivity and representativity in legislature and its law making and decision makers functions.

FPTP is used as the primary form of allocating seats for legislative elections in about a third of the world’s countries, mostly in Britain and it’s former colonies and dominion.

According to the **Centre for Rights Education and Awareness (CREAW)** publication *Tracing The Journey: Towards Implementation Of The Two Thirds Gender Principle* “Kenya’s first-past-the-post electoral system or winner takes it all, in a predominantly patriarchal



society, makes it difficult to achieve women’s inclusion in elective offices. It is less equitable compared to the proportionate member representation system

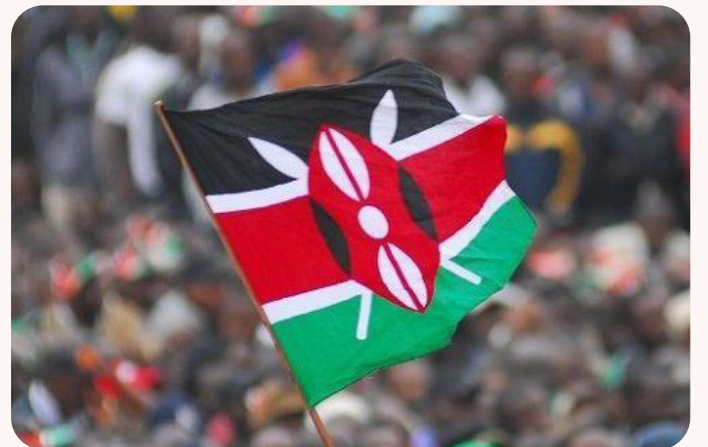


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that provides for inbuilt “gender top up” mechanisms.” Those pushing for the implementation of the not more than two thirds gender principle should aim to mobilise for a change in the electoral system to Proportional Representation.

What is Proportional Representation?

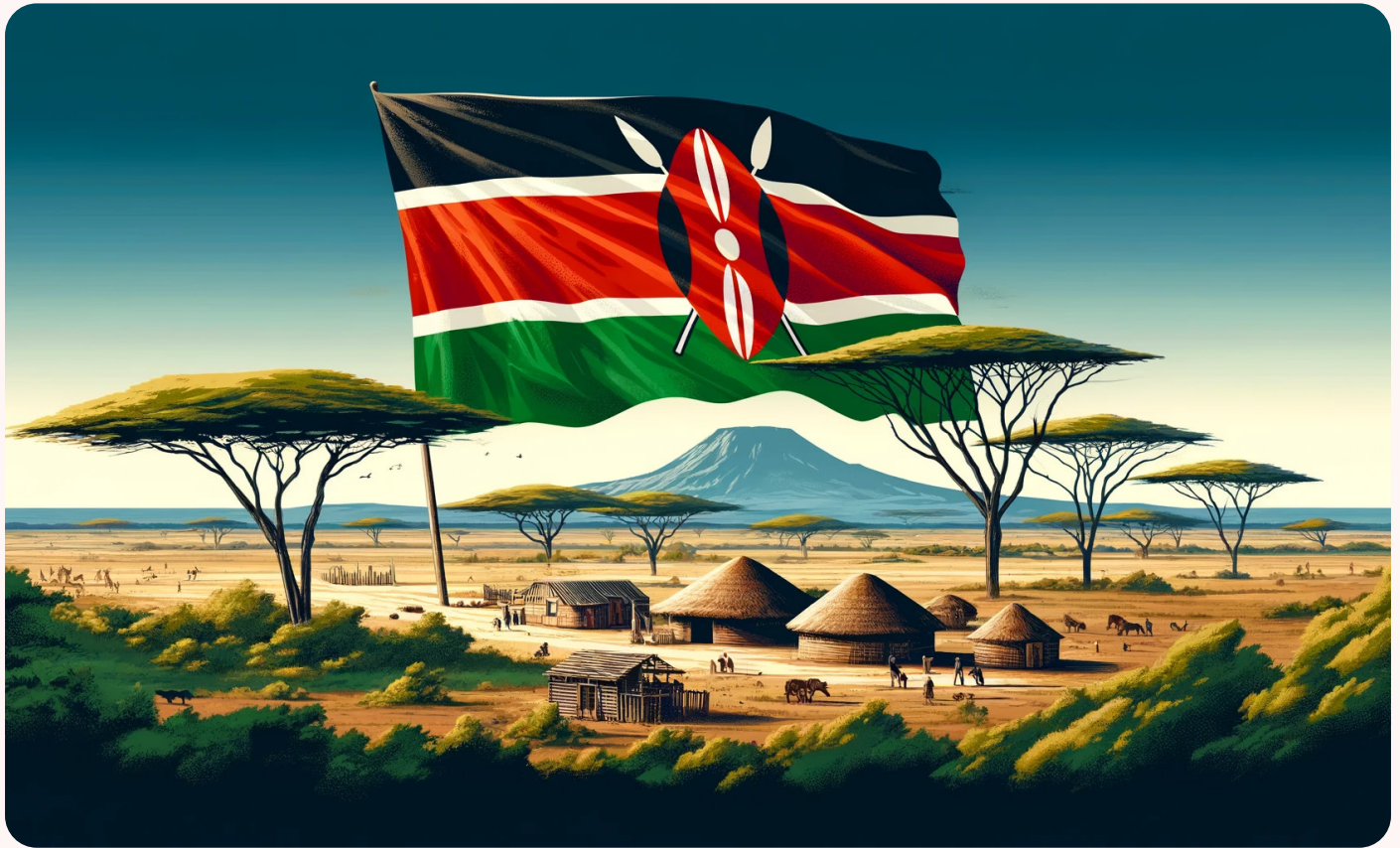
Proportional representation (PR) refers to any type of electoral system under which subgroups of an electorate are reflected proportionately in the elected body. The concept applies mainly to political divisions (political parties) among voters. The essence of such systems is that all votes cast contribute to the result and are effectively used to help elect someone. In the context of voting systems, PR means that each representative in an assembly is elected by a roughly equal number of voters. In the common case of electoral



systems that only allow a choice of parties, the seats are allocated in proportion to the vote tally or vote share each party receives.

The Proportional Representation (PR) has a number of useful features. First the whole country is considered as one single

constituency for the election consequently there is no need for the delimitation of election boundaries this will remove the pressure for the proliferation of geographical constituencies and the growth of parliamentary numbers.



Secondly candidates don't contest elections as individuals, but as party candidates in party lists prepared before the election. Voters therefore do not elect individuals but political parties. The party list of candidates is usually equivalent to the number of seats to be filled. The main purpose of the election is to ensure that the legislature reflects the relative popularity of parties.



In this system the president is an elected monarch and the cabinet is unable to exercise the executive authority vested in it because the president can render them jobless without reference to anyone else.

Thirdly the winner is determined by a calculation of total proportion of votes of each party relative to the overall valid votes cast. Usually there is a predetermined threshold for parties qualifying to enter parliament for example 0.5% of the valid votes cast in South Africa. The qualifying parties are allotted parliamentary seats in equal proportion to their electoral strengths. This will strengthen multipartism and encourage pluralism.

PR systems approximate proportionality much better than other systems and are more resistant to gerrymandering and other forms of manipulation.

PR system therefore produces mixed and balanced representation, reflecting how votes are cast.

The Way Forward

- a) The resolution of the two thirds gender will require an amendment to the constitution.
- b) The nature of the amendment should require an electoral system that departs significantly from the current status and will therefore require a national convention and a referendum.
- c) Additionally if and when such an opportunity arises we ought to review the desirability of the presidential system as presently established.

In this system the president is an elected monarch and the cabinet is unable to exercise the executive authority vested in it because the president can render them jobless without reference to anyone else.

In a parliamentary system however the cabinet is more responsive to public opinion and more accountable to parliament than the presidential experiment we are having in which cabinet secretaries are only sensitive to the feelings of the president as the appointing authority.

On the other hand cabinet ministers who are also members of parliament will remain MPs even when thrown out of the cabinet. and are therefore better placed to exercise independent judgment and render advice to a president/ prime minister who is after all only the first among equals.

Conclusion

Finally the struggle for inclusivity, equity and democratisation must continue and be intensified. Proportional representation (PR) is the best method of constituting parliament that will make it easy to achieve the two thirds gender rule while simultaneously reducing the gerrymandering inherent in the geographical constituencies electoral system based on a first past the post model. This will also strengthen multipartism and plural politics.

STOP BLAMING VICTIMS IN SOMALIA'S GOVERNANCE CRISIS



SOMALIA'S GOVERNANCE CRISIS

The May 13, 2000 issue of The Economist magazine sparked widespread outrage with its controversial cover, which featured a teenage boy carrying a rocket-propelled grenade (RPG) launcher against the backdrop of an African map captioned "The Hopeless Continent." With these three words, the magazine dismissed an entire continent and its diverse populations as hopeless, igniting a debate on the narrative of Africa in Western media.

The article used examples such as Somalia, Liberia, and other conflict-ridden African nations to support its pessimistic view. It also highlighted the heavy toll of HIV/AIDS, natural disasters, and other challenges faced by several African countries. However, this broad-brush portrayal ignored the complex historical, political, and socio-economic factors that contributed to these crises, particularly in the case of Somalia. Somalia, cited by The Economist as a prime example of a "hopeless" state, has faced governance challenges for decades. However, attributing the nation's turmoil

solely to its people overlooks the significant influence of foreign forces and historical circumstances.

The collapse of the Somali state was not merely a result of internal dysfunction but a consequence of a complex interplay between internal contradictions and external interventions. Externally, the legacies of European colonialism, which divided the Somali people into five separate states, left a lasting impact. Cold War politics further exacerbated the situation, with foreign powers supporting a predatory state structure that could not sustain itself. The Ogaden War of 1977-78 between Somalia and Ethiopia, influenced heavily by Cold War rivalries, proved disastrous for Somalia.

Internally, Somalia struggled with the contradictions between a centralised state authority and a fractious kinship system rooted in Somali pastoral culture, where power was traditionally diffused. However, the Cold War rivalry between the United States and

the Soviet Union was decisive in destabilising the region. The U.S. had long supported Ethiopia's Emperor Haile Selassie, whose failure to address the basic needs of his people led to his overthrow in 1974. The subsequent Marxist revolution in Ethiopia saw the rise of Mengistu Haile Miriam, who

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aligned with the Soviet Union, intensifying Cold War tensions in the Horn of Africa.

In Somalia, Mohammed Siad Barre, who had declared Somalia a socialist republic after seizing power in a 1969 coup, found himself caught between these superpowers. Initially aligned with the Soviet Union, Barre shifted his allegiance to the United States after the Soviets began supporting Ethiopia. This realignment led to a catastrophic war between Somalia and Ethiopia over the Ogaden region. Somalia initially gained the upper hand but was eventually overwhelmed by a massive Soviet and Cuban intervention supporting Ethiopia. The defeat left Somalia economically devastated and politically isolated.

The aftermath of the Ogaden War plunged Somalia into economic turmoil, forcing Siad Barre to turn to the Bretton Woods institutions for aid. The International Monetary Fund (IMF) and the World Bank imposed Structural Adjustment Programs (SAPs) on Somalia, which had far-reaching consequences.



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Over the past three decades, the Somali crisis has evolved significantly. What began as a civil war in the 1980s transformed into a broader state collapse, characterised by clan factionalism and warlordism in the 1990s.

SAPs, rooted in neoclassical economic theory, advocated for minimal state intervention in the economy. These programs dismantled state interventions that hindered market-driven economic activity, limiting the state's role in protecting private property and stabilising currency. In Somalia, the implementation of SAPs led to severe economic dislocation, worsening the plight of ordinary Somalis.

The imposition of SAPs was part of a broader trend across Africa, where countries were coerced into adopting these programs to qualify for international loans. While SAPs were touted as tools for economic transformation and poverty alleviation, in reality, they deepened Africa's economic dependency on Western powers.

African countries, including Somalia, were pushed towards trade liberalization, which further entrenched unequal trade relations. The focus on export-led growth forced African nations to continue exporting raw materials at low prices while importing expensive manufactured goods from the West. This dynamic exacerbated the economic challenges faced by African countries, including Somalia.

In response to the harsh economic conditions and the authoritarian rule of Siad Barre, the Somali National Movement (SNM) emerged in 1982, drawing support primarily from the Isaaq clan. The SNM insurgency escalated into a full-scale civil war in 1988, leading to a brutal government crackdown on the Isaaq clan. The conflict

resulted in the deaths of tens of thousands of people and forced hundreds of thousands to flee to neighbouring countries. The civil war marked the beginning of Somalia's descent into state collapse.

Over the past three decades, the Somali crisis has evolved significantly. What began as a civil war in the 1980s transformed into a broader state collapse, characterised by clan factionalism and warlordism in the 1990s. In the new millennium, the conflict took on a globalised dimension with the rise of Islamist movements seeking to establish an Islamic state in Somalia. These movements, ranging from traditional Sufi orders to more radical groups like Al Itihad Al Islamiya and Al Shabaab, have added another layer of complexity

to Somalia's already intricate crisis. The failure of foreign interventions to resolve Somalia's conflict has led to a shift towards exploring autochthonous solutions.

However, the international community's attempts at conflict resolution have often needed to be revised, overlooking the deep-seated historical and socio-economic factors driving the crisis. As Somalia continues to grapple with its challenges, it is clear that simplistic narratives, like the one presented by The Economist in 2000, do a disservice to the situation's complexities. Rather than labelling an entire continent as "hopeless," a more nuanced understanding of the root causes of Africa's challenges is essential for fostering meaningful change.

Raila: Uhuru asked me to talk to Ruto to save Kenya



Speaking on Tuesday 13th at Sitotwo Primary School in Keiyo South Constituency during the funeral of Chirchir Masit

ODM leader Raila Odinga has revealed that former President Uhuru Kenyatta asked him to talk to President William Ruto to resolve the crisis caused by Gen Z protests.

He said the country was on the brink of collapse as a result of the demonstrations. "Uhuru said if the country went down, then we have no other country," Raila said. Speaking on Tuesday 13th at Sitotwo Primary School in Keiyo South Constituency during the funeral of Chirchir Masit, the father to former IEBC commissioner Irene Masit, who is in exile, Mr. Odinga said the country was on the brink of burning as a result of the Gen Z protests and that lives were being lost in the hands of the overzealous police officers, a situation that called for statesmanship to avert it. Raila said he spoke with Ruto on phone and agreed to meet him and discuss the security situation.

The ODM leader said the GEN Zs raised genuine concerns and that they were not mad. "The issues they were raising were genuine. They had to be listened to, not to be shot at by the police", he told the mourners. Some of the issues the protesters wanted to resolve include corruption

and the high cost of living. "When we spoke, I told William that those he put in government, especially in Cabinet were not serving the country and had to be removed," Raila said.

He said even the PSs are not working as required and are a burden to Kenyans. Raila said they agreed to form a broad-based government and not a coalition. He said he talked to Irene Masit, who is currently exiled, on Monday and she is willing to return home. Irene sent Raila her condolences to deliver to the family and residents of Chepkorio where her father was laid to rest. Irene fled as a result of the dispute over the results of the last election.

Raila said Irene confided in her and revealed to her the two issues that stressed her father, one of them being her fate outside the country. "Irene told me she was considered a traitor yet when she served as IEBC Commissioner she did nothing wrong," Raila said. He promised to resolve her situation. Irene was one of the four commissioners who rejected the results of the last elections. Mzee Masit died aged 102. Kapseret MP Oscar Sudi and

Elgeiyo Marakwet Governor Wisley Rotich and the County Woman Representative Caroline Ngelechei were also present. Raila described him as a close friend and a long-time member of ODM. Sudi asked Irene to return home.

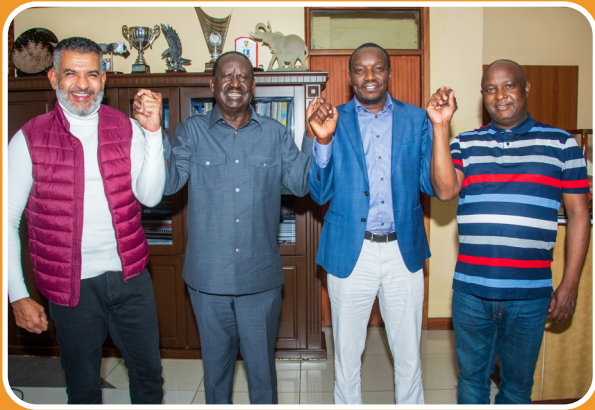
The MP said Irene played her role during the last election and should come back home since the elections are long gone. "We are asking Irene Masit to return home immediately. Politics should not get personal. Irene worked closely with Raila and the ODM chief is now working with Ruto for the unity of the country," Sudi said. He said he considers himself as son to Raila who played a great role in the unity and development of the country.

"There comes a time when Kenyan is bigger than everyone and Odinga has always proved that," Sudi said. He said the recent deal between Raila and Ruto is proof that the two value the country. "What the two leaders did was for the sake of the country and they talked as two people with wisdom and agreed on broad based government to save the country," Sudi said. He described Raila as his friend of more than 17 years.

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ODM appoints new officials to replace CSs



ODM Party Leader Raila with newly appointed Deputy Party Leaders Abdulswamad Sharrif Nassir, Simba Arati and Godfrey Osotsi at his Capital Hill Square office.

Governors Simba Arati (Kisii) and Abdulswamad Sherrif Nassir (Mombasa) as well as Senator for Vihiga are the new Deputy Party Leaders of the Orange Democratic Movement (ODM) party.

This follows a meeting of the party's Central Management Committee (CMC) which was held on Friday 9th August 2024 and chaired by Party Leader Mr. Raila Odinga.

In a communication to the media, the party's top organ also appointed the Governor of Homabay County Ms. Gladys Wanga as the National Chairperson of party while the MP for Kisumu West Ms. Rosa Buyu was appointed Secretary for Political Affairs.

The appointments follow the resignations of previous holders, Mr. Wycliffe Oparanya and Mr. Ali Hassan Joho (Deputy Party Leaders), Mr. John Mbadi (Chairman) and Mr. Opiyo Wandayi (Secretary for Political Affairs) to join government as Cabinet Secretaries.

To ensure regional balancing and vibrancy, the meeting resolved to create another position of Deputy Party Leader to make them three.

Others appointed are the MP for Kajiado East Mr. Kakuta Ole Maimai as Secretary for Special programs and Social Welfare, replacing his Kajiado Central Counterpart Mr. Elijah Memusi Kanchorry, MP for Turkana South Dr. John Ariko Namoit (Vice Chairman), replacing the Governor of Turkana Mr. Jeremiah Lomorkai who publicly declared his disassociation with the party and the MP for Rarieda Mr. Otiende Amolo also as Vice Chairman.

Others are Ms. Rahab Robi (Secretary for Publicity and Information) and Kisumu Woman Representative Ms. Ruth Odinga Busia (Deputy Organizing Secretary). The Central Committee will be making recommendations to the National Executive Committee (NEC) and the National Governing Council (NGC) to embed these changes in the party constitution

Raila: ODM is not in a coalition with UDA

ODM Leader Mr. Raila Odinga has reiterated that the ODM party is not in any coalition agreement with the President William Ruto's United Democratic Alliance (UDA). Speaking in Keiyo South Constituency during the funeral of Mzee Chirchir Masit, father to former IEBC Commissioner Ms. Irene Masit, Mr. Odinga said the decision to send some of its members to work in the Kenya Kwanza Administration was mutual and that it should not be misconstrued to mean that ODM is in a coalition with UDA.



“There is no handshake. I have not any handshake with Ruto. We are just working together for the sake of the country but maintain our statuses in the politics of the country”, he said.

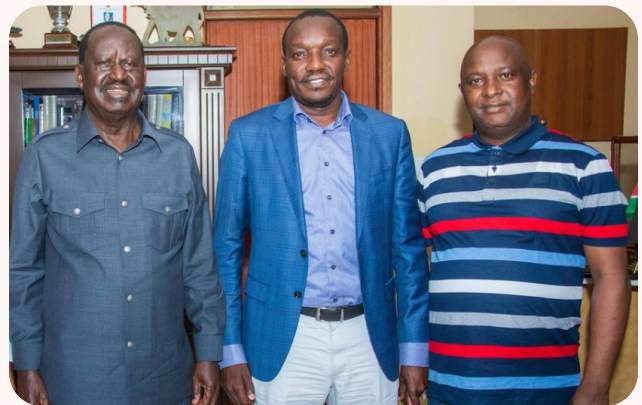
“There is no handshake. I have not any handshake with Ruto. We are just working together for the sake of the country but maintain our statuses in the politics of the country”, he said. His sentiments were echoed by his two Deputies Mr. Simba Arati and Mr. Godfrey Osotsi. Speaking in Kisii County when he hosted President Ruto while on a three-day visit to the Gusii region, Mr. Arati said ODM and UDA are distinct and that they will meet at the ballot in the 2027 general election.

for you. You were a founder member of the party and can always return home”, he said.

Mr. Osotsi who spoke at the Mariakani Church of God in Nairobi said ODM will continue playing its role of providing checks and balances to the Kenya Kwanza administration despite some of its members having been appointed into the government.

“Mr. President, let me make it clear here today that whereas you have some of our members serving in your government, we are opponents and we shall square it out in 2027” he said. Mr. Arati used the occasion to appeal to President Ruto to consider returning home (ODM) if temperatures in UDA continue rising. “Mr. President, if things continue getting hotter in UDA, the door in ODM is still open

“We are a big party, we shall play our role as we have always done”, he said. Mr. Osotsi at the same time called on party members and officials from Western Kenya to remain steadfast in the party saying he will use his appointment to strengthen the party in the region and unite members to avoid squabbles that have recently been witnesses in Kakamega County Assembly. “I will serve all of you equally. I will hold meetings with all of you and make sure we speak with one voice”, he said.



Kakamega to activate party offices in all the 12 branches



The leaders who met on Monday 19th August in Kakamega town under the Chairmanship of the Governor of Kakamega Mr. Fernandez Barasa, resolved to have the existing offices painted and furnished

ODM party officials in Kakamega County have agreed to work together to rebuild and re-energize the party in all the twelve branches in the county. The leaders who met on Monday 19th August in Kakamega town under the Chairmanship of the Governor of Kakamega Mr. Fernandez Barasa, resolved to have the existing offices painted and furnished for operationalization.

Mr. Barasa said he wants to ensure that the party is felt in all corners of the county and that he will work closely with all the party officials in branches with the aim of making it stronger and active.

"We agree that beginning 2nd of September, we shall begin opening, branding and furnishing offices in all the twelve branches" said Mr. Barasa. He said that the exercise will go on for two months during which the branch officials will be empowered and facilitated to continue with the

membership registration exercise. "Where there are existing offices, we shall repaint and furnish them. And where there are none, respective branch chairpersons have been given ten days to identify offices and we shall pay six-month rent, repaint and furnish in readiness for party activities", he said.

The offices shall be opened daily on weekdays and will have staff who will handle party members visiting them for services. The officials at the meeting were drawn from Shinyalu, Ikolomani, Lurambi, Navakholo, Matungu, Mumias West, Mumias East, Lugari, Likuyani, Khwisero, Butere and Malava branches.

The party officials unanimously endorsed the appointment of the Senator of Vihiga Mr. Godfrey Osoti as the Deputy Party Leader and pledged to support him and walk with him in his quest to unite the party in the region.

ODM will be in the race in 2027, Arati, Nassir say

Two ODM Deputy Party Leaders Mr. Simba Arati and Mr. Abdulswamad Sherrif Nassir say the party will be in the 2027 general election. Speaking in Oyugis in Homabay County during the funeral service of Mama Sarah Ayieta Oindo, mother of the Mombasa County ODM Youth Leader Moses Aran popularly known as Civilizer, the two politicians said the ODM party is not in government and that it shall continue to play its role of opposition as it prepares for the 2027 general election.

Mr. Nassir who is the Governor of Mombasa County said ODM was the biggest party in the country and that come 2027, it shall be on the ballot. "We have the will, we have the vision and we shall be there". He said.

He said his aim is to strengthen the party and work closely with other party officials to make sure the party maintains its popularity in the country. "I want all the leaders elected on the party ticket to be firm and decisive in the execution of their mandate in parliament. Point out the ills being

committed by the government, the government must be held to account at all times", he said. On his party, the Governor of Kisii County Mr. Arati said there is no agreement between ODM and Kenya Kwanza and that the two remain on the opposite sides of the political divide. "We have never entered into any agreement with UDA, we are not planning to do so anytime soon, and we shall not do it, we shall meet at the ballot in 2027, God Willing", he said.

He said he will team up with the other party officials to crisscross the country, popularize it, and make it vibrant in readiness for 2027. "We have to make our house stronger, repaint it, and open the doors for others to join", he added. The funeral was also attended by the MP for Kaspul Mr. Charles Ong'ondo Were, members of the County Assembly, Party Youth League led by the Director of the SIGs at the National Secretariat Mr. Benson Musungu, and ODM Youth League NEC members led by Mr. Charles Mark Onguko among others.



Two ODM Deputy Party Leaders Mr. Simba Arati and Mr. Abdulswamad Sherrif Nassir