



Commonwealth Parliamentary Association - Kenya Branch

PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY
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SPEAKER'S REMARKS
ON
TRANSFORMATION OF THE COMMONWEALTH PARLIAMENTARY
ASSOCIATION (CPA) AND THE ONGOING CONTRADICTIONS

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*During the launching of the CPA & CWP Chapters of Parliament of the Republic of South  
Africa, 10<sup>th</sup> September 2021*

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**SEPTEMBER, 2021**

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# TRANSFORMATION OF THE COMMONWEALTH PARLIAMENTARY ASSOCIATION (CPA) AND THE ONGOING CONTRADICTIONS

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## **History, structure and governance**

- 1.** The Commonwealth Parliamentary Association (CPA) was founded in 1911 as the Empire Parliamentary Association and its affairs were administered by the United Kingdom Branch. The original member Branches were Australia, Canada, Newfoundland, New Zealand, South Africa and the United Kingdom. Evolving with the Commonwealth, in 1948 it adopted its present name, changed its rules to enable all member Branches to participate in the Association's management, and established a separate Secretariat to manage its affairs.
- 2.** The CPA collaborates with Parliaments and other organisations to achieve its Statement of Purpose. It brings Parliamentarians and parliamentary staff together to exchange ideas among themselves and with experts in various fields, to identify benchmarks of good practices and new policy options they can adopt or adapt in the governance of their societies.
- 3.** The CPA is composed of over 180 Branches formed in Legislatures in Commonwealth countries which subscribe to parliamentary democracy. CPA Branches are currently grouped geographically into nine (9) Commonwealth Regions for representation on the CPA Executive Committee and for the organization of regional conferences and seminars on parliamentary practice and procedure. The Regions of the CPA are Africa, Asia, Australia, British Islands and Mediterranean (BIM), Canada, Caribbean, Americas and Atlantic (CAA), India, Pacific, and South-East Asia.

4. The General Assembly, the Association's supreme authority, is constituted by delegates to the Annual Commonwealth Parliamentary Conference (CPC). The Assembly has the ultimate authority to determine the policy and management of the Association including the annual membership fee and other financial obligations of the members of the Association.
5. The Officers of the Association are the President and Vice-President; the Chairperson of the Executive Committee; the Vice-Chairperson; the Treasurer; Chair of the Commonwealth Women Parliamentarians (CWP); and the Small Branches Chairperson.
6. The President is nominated by the Branch which is to host the next plenary Commonwealth Parliamentary Conference and the Vice-President by the Branch to host in the succeeding year.
7. The Constitution of the CPA vests the control and management of the activities and business of the Association in an Executive Committee (EXCO). EXCO consists of approximately 35 Members led by the Chairperson of the CPA and meets prior to, and just after, a General Assembly of the Association, to which it reports to. The Executive Committee also holds a second meeting in another Commonwealth country midway between General Assemblies.
8. The Secretariat of CPA's Headquarters is located in London, United Kingdom. It is headed by the Secretary-General who is responsible for interpreting and implementing its policies and enhancing its activities and international relations, and is Secretary to the annual plenary conference. **The current Secretary-General is Mr. Stephen Twigg from the UK.**

9. **The CPA Africa Region** is one of the nine (9) regional associations of the CPA. It is made up of National Parliaments and Provincial/State/Territorial Legislatures of member countries of the Commonwealth in Africa. It is headquartered in Tanzania and is headed by the Clerk of the National of Tanzania as the Regional Secretary. **The current Regional Secretary is Ms. Nanelwa Mwiambi.** The Africa Region comprises eighteen (18) countries, namely Botswana, Cameroon, Ghana, Kenya, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Nigeria, Rwanda, Seychelles, Sierra Leone, South Africa, Swaziland, Tanzania (including Zanzibar), Uganda, and Zambia. In addition, the nine (9) South African sub-branches and over thirty five (35) Sub-branches from Nigeria also form part of the Regional bloc.

## **Transformation of the CPA**

### *Contradictions*

10. The CPA Africa Region, which constitutes a majority of CPA membership has been at the forefront of the movement seeking the change of the status of the CPA on account of **four (4) key contradictions** that exist in and affect the operations of the Association.
11. **First, the CPA is a registered in the UK as a charity.** As such, it is not currently allowed to engage in the promotion of parliamentary democracy which, in itself, is not a charitable purpose under the law of England and Wales. By comparison, the Commonwealth Foundation changed status principally because the nature of its activities precluded it from being regarded as a charity under the law of England and Wales.
12. Sections of the membership of the Association (including CPA Africa Region) have questioned the propriety and legality of making remittances that are

essentially public funds appropriated by their legislatures to a charitable institution. Additionally, as per the current CPA Constitution and English law, a change of the status of the Association without it being granted privileges and immunities would subject it to additional taxation and its existing assets would continue to be used for charitable purposes.

13. **Second**, the Association and its office-holders are not accorded the privileges and immunities necessary to recognize their prestige and dignity in the same manner as other organs of the Commonwealth. A lack of privileges and immunities diminishes the standing of the CPA in comparison with the Commonwealth Secretariat and the Commonwealth Foundation as well as other comparable international parliamentary organizations such as the *L'Assemblée Parlementaire de la Francophonie* and the Interparliamentary Union which have been granted functional privileges and immunities in their host countries.
14. **Third**, the lack of privileges and immunities for the CPA and its office-holders negatively affects the independence of the organization from interference by UK authorities. As a charity, the Association is regulated by the Charity Commission and is subject to general UK law. The regulator possesses invasive powers that are not compatible with the nature of the CPA and its functions.
15. **Fourth**, the lack of privileges and immunities for the CPA negatively affects the expected neutrality and credibility of the Association. As currently constituted, the CPA may become beholden to the regulator or the laws of its UK. It needs to maintain its neutrality in order to discharge its international functions and be seen as a credible organization by its members and others.

*Steps taken to address contradictions*

16. An Expert Committee established by the 62<sup>nd</sup> General Assembly to look into the legal status of the CPA submitted its Report recommending—

- (a) That the Association be reconstituted in the United Kingdom as an inter-parliamentary institution with an international vocation, with functional privileges and immunities to reflect its appropriate status; and,
  - (b) That the Chairperson of EXCO obtain legal, financial and other advice to determine the feasibility of reconstituting the Association, including exploring with the Government of the United Kingdom the enactment of relevant UK legislation that would provide functional privileges and immunities to the reconstituted organization.
- 17.** The recommendations of the Expert Committee were adopted by the 63<sup>rd</sup> CPA General Assembly held in Dhaka, Bangladesh on 7<sup>th</sup> November, 2017.
- 18.** On 15<sup>th</sup> November, 2017 the then Secretary-General of the Commonwealth Parliamentary Association, Akbar Khan, wrote to Lord Ahmad of Wimbledon, the Minister of State for the Commonwealth and the UN informing him of the CPA resolution.
- 19.** On 10<sup>th</sup> December, 2017 Lord Ahmad wrote back acknowledging receipt of the Secretary-General's letter and advised that his office would need a detailed Business Case for the grant of the privileges sought and that the proposed change would require legislation.
- 20.** In March 2018 EXCO recommended the establishment of a small Advisory Working Group composed of the Secretary-General and the representatives from Africa (Hon. Justin B. N. Muturi), British Islands and Mediterranean (Hon. Roberta Blackman-Woods), Canada (Hon. Alexandra Mendes) and South-East Asia (Hon. Kiandee) to prepare the Business Case. The Working Group met in London on June 9<sup>th</sup>, 2018 and agreed on a draft Business Case

requesting the UK Government to recognize the CPA as an international inter-parliamentary organization, and grant it the minimum privileges and immunities needed to carry out its functions as an international inter-parliamentary organization through the introduction and passage of a short Act of Parliament. The core provisions of the Act would—

- (a) confer on the CPA the legal capacities of a body corporate.
- (b) provide that the CPA as an organization shall have the following privileges and immunities—
  - (i) exemption or relief from taxes at least equivalent to those enjoyed by the CPA as a charity;
  - (ii) inviolability of official archives, premises and communications; and
  - (iii) immunity from prosecution and legal process, except in relation to certain civil matters;
- (c) confer on the Secretary General of the CPA the following privileges and immunities, (if the Secretary General is not a UK citizen)—
  - (i) privileges and immunities similar to those afforded to diplomats;
  - (ii) exemption or relief from taxes and rates;
  - (iii) exemption and privileges in respect of official papers and documents equivalent to protections afforded to diplomats; and
  - (iv) immunity from prosecution and legal process in respect of acts or omissions in the course of the performance of official duties, except in relation to certain civil matters.

**21.** The Business Case was adopted by the EXCO on 8<sup>th</sup> November, 2018 and submitted to the UK Government *via* Lord Ahmad of Wimbledon, the Minister responsible for the Commonwealth and United Nations.

**22.** In its Mid-Year meeting held in Ottawa in 2019, the EXCO established a Working Group on Governance consisting of nine Regional Representatives,

(including the Hon. Speaker) supported by their respective Regional Secretaries, with the CPA Chairperson and Treasurer as *ex-officio* members. The Working Group is also supported by the Secretary-General and the Secretariat.

23. The Working Group formally met for the first time in the margins of the 64<sup>th</sup> Commonwealth Parliamentary Conference in Kampala in September 2019 and decided on the Hon. Speaker John Ajaka (Australia) as its chairperson and the Terms of Reference (ToR) as—

*“to identify what governance arrangements will be necessary to implement to support the transition of the CPA to a new international interparliamentary organization and to set a timetable for such work to be undertaken to align with the anticipated bespoke UK legislation establishing the new CPA as soon as possible.”*

24. The Working Group on Governance held a virtual meeting on 12<sup>th</sup> January 2021 to consider—
- (a) a paper to be presented by the Secretary-General; and
  - (b) the Secretary-General’s report on his meeting with Lord Ahmad with regard to the UK government’s consideration of the Business Case.

25. The UK Government had indicated that its exit from the European Union would consume majority of its legislative programme at the time of the submission of the Business Case. **Britain’s exit from the European Union was finalized on 31<sup>st</sup> December, 2020.**

26. **Discussions are ongoing with the UK government** with regard to the introduction of the proposed legislation granting the CPA and its office-holders the necessary privileges and immunities that accord to its proposed



change of status from a charity to an international inter-parliamentary organization.

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