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Learn from DP's oath mistakes to make future ceremonies gaffe-free

One talking point of the recent inauguration ceremony of the president and his deputy was the stumble by the registrar and deputy president-elect during the oath. Most comments after the ceremony involved social media pundits poking fun at the incident and trivialising it for comic relief.

It is the law that the Assumption of the Office of President Committee (AOPC) members conduct a post-mortem after the event to analyse various aspects. The Assumption of the Office of President Act that sets up the AOPC anticipates such a Report under Section 19.

The report helps avert future hitches by proposing changes to the preparation and programming of the inauguration or proposing legislative changes that improve the ceremony - an important ceremony that marks the end of the election process.

Whilst the administration of the two oaths of Allegiance and the Execution of functions of the Office for the president-elect was seamless, the oath for the deputy president-elect had a glitch. The Chief Registrar of the Judiciary, Anne Amadi, preferred to say the words of the oaths and have the oath takers repeat the said words.

Noticeably, the deputy president-elect did not have the written oath before him and was thus relying on the oral lead by Ms Amadi. In the end, Amadi provided the written oath but further confusion came when the registrar misread the order of the oath that led Rigathi Gachagua to read words ahead of the registrar, causing confusion on whether the lead now had to repeat the words already said by the oath taker. The oath was retaken.

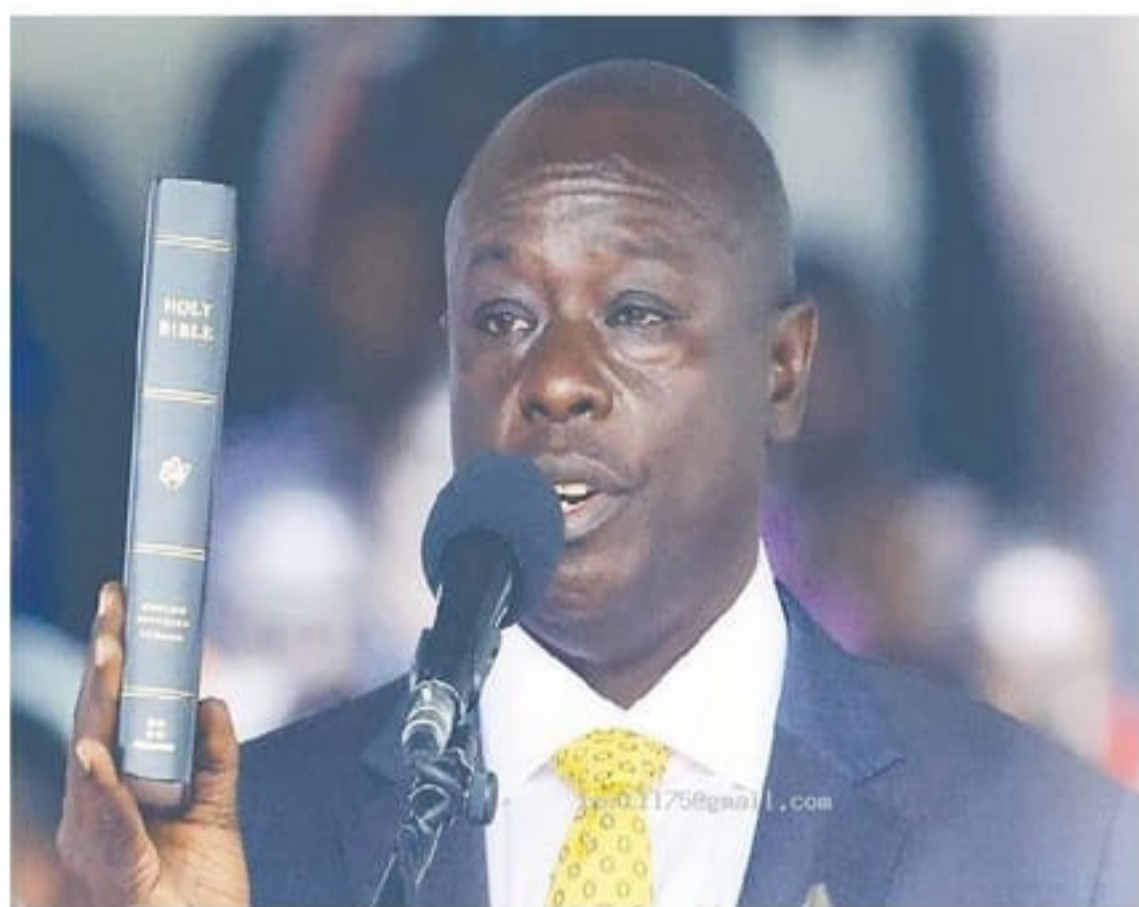
It is not mandatory that the form of the oath be preceded by the words: Repeat after me.

Indeed, one may read the words as it happens in other countries, such as the recent retaking of the Oaths of Allegiance to King Charles III by the Members of Parliament, including the Prime Minister.

The Promissory Oaths Act in Kenya does not make it mandatory for an oath-taker to repeat the words uttered by the officiant.

In the US, where the Chief Justice leads the oath-taking, there have also been botched oaths. In the book, *The Oath*, Jeffrey Toobin reports that Chief Justice John Roberts in 2008 had, in a written copy, marked the places where he would pause and sent the marked version to President-Elect Barack Obama who unfortunately didn't receive it. Amadi was expected to indicate to the oath takers where she would pause and ensure they had advance copies. The registrar is one of the 22 persons who sit in the AOPC together with three staffers selected by the president-elect.

The cure to this would be to ask the oath taker to state the preferred mode of the oath; either to read for themselves or to repeat after the lead and if the latter, to have the designated prepared text of the marked places to pause. That way, there would be no confusion on whether the oath has been properly admin-



istered per the Constitution.

The Assumption of the Office of President Act in section 14 mandates handing over two key instruments of power and authority to the new President: A Sword and the Constitution.

In the order in which the said section lists the two instruments, one anticipates that the sword would be handed over first and then the Constitution. The word 'and' as a coordinating conjunction seems to insinuate the order of the handing over.

During the ceremony, the Constitution to the new president before the Sword Constitution was handed the Sword perhaps as an acknowledgment that one is the president first before they are Commander-in-Chief. In addition, was a green box, whose contents were speculated to be the Chief of the Golden Heart award, though this wasn't publicly stated.

Perhaps the case for reform would be to state the order of the presentations clearly in the Assumption of the Office of President Act by amending Section 14. Judging from the coverage in the daily newspapers the day after the inauguration, with the lead photo being the president holding the sword, it seems the general public takes more note and significance in the sword than in the Constitution - which

may suggest that the sword is superior to the Constitution.

Whilst the Judiciary takes centre-stage at the Inauguration with the administration of the Oaths, it seemed unnecessary to add more procedural pageantry to the ceremony by having the mace carried to the inauguration arena before the oaths.

The legal fraternity in the country is beholden to British traditions that include wearing wigs in judicial functions. It is no wonder that the Judiciary is attracted to the mace used in processions in Parliament and universities. The Kenyan Parliament has used the mace since 1958 when the Speaker of the Legislative Council received the first mace from the Crown Prince. The presumption is that it represented sovereign authority. Perhaps the Judiciary feels that being an arm of government, it needs its mace to showcase the same during one of its highest duties in the land - to crown the president. The legal status of the mace in the inauguration is silent and should be properly defined to avoid traditions not backed by any law.

Considering taxpayer funds directed to AOPC and the high-profile nature of its composition, a detailed post-mortem should be carried out on the inauguration from the planning that went into it to the conclusion as expected by law. This report is presented to Parliament. It is unclear whether there is a place for public participation in such a report to get feedback from the people who watched the event - with comments above being part of our contribution.

There is a resounding need to encourage adherence to the precepts of the law as outlined to ensure the sanctity of the process. Legislative amendments and administrative strengthening are encouraged to fill and address the few gaffes witnessed on September 13, 2022.



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