

**REPUBLIC OF KENYA**



**ELEVENTH PARLIAMENT-(THIRD SESSION)  
THE NATIONAL ASSEMBLY**

**COMMUNICATION FROM THE CHAIR**

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**CONSIDERATION OF THE REPORT OF THE BUDGET AND  
APPROPRIATIONS COMMITTEE BY THE HOUSE**

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**Honourable Members,**

This morning, the Member for Gem, Hon. Jakoyo Midiwo, rose on a Point of Order and raised several issues regarding the place of recommendations of Departmental Committees in the Report of the Budget and Appropriations Committee (BAC). He was supported by contributions from several Members including Honourables Aden Duale, Eseli Simiyu, Benjamin Langat, Peter Kaluma, Ndung'u Gethenji and Richard Onyonka, among others. Hon. Mutava Musyimi the Chairperson of BAC argued that the Committee, in his understanding, is not obligated to take in its entirety the recommendations of the Departmental Committees when submitting its report to the House.

**Honourable Members,**

From the points raised by the Members, I have deduced the following as the issues for determination:-

1. Whether the Budget and Appropriations Committee is at liberty not to take into consideration the recommendations of Departmental Committees on estimates of line Ministries and departments under their purview when discussing and reviewing Estimates;
2. Whether the report of the Budget and Appropriations Committee on Estimates can be amended by the House;
3. The power of Committees to summon persons including Cabinet Secretaries.

**Hon. Members,**

On the First question on whether the Budget and Appropriations Committee do not have to take into account the recommendations of departmental Committees, I am guided by the provisions of Standing Order 235 and particularly paragraphs 4 and 5 which states as follows:-

*(4) Each Departmental Committee shall consider, discuss and review the Estimates according to its mandate and submit its report and recommendations to the Budget and Appropriations Committee within twenty-one days, after being laid before the House.*

*(5) The Budget and Appropriations Committee shall discuss and review the Estimates and make recommendations to the National Assembly, taking into account the recommendations of the Departmental Committees, the views of the Cabinet Secretary and the public.*

My understanding of “taking into account” means that the BAC is expected to consult and acknowledge the views and recommendations of Departmental Committees when submitting its final report to the House.

Honourable Members, given the critical role which Departmental Committees play, the House has assigned them key functions to enable them oversight Ministries and Departments that fall under their mandate. Indeed Standing Orders 216 (5) outlines the functions of the Departmental Committees and to quote some:

- a. Investigate, inquire into, report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
- b. Study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;*
- d. Study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*

Consequently, the Departmental Committees have capacity to objectively assess the successes of ministries and departments in their implementation of the budgets in which programs, objectives and expected results would have been stated.

It is therefore, my view that the contributions of Departmental Committees contained in their reports to the Budget and Appropriations Committee ought to be treated with seriousness it deserve and not just swept under the carpet. This is because those committees are deemed to be experts in the relevant line ministries.

I am aware that the Budget and Appropriations Committee has the onerous task of balancing the requests to fit within the budget envelope. However, the Committee must take into account recommendations of the Departmental Committees when making its final report to the House. Where the BAC wants to deviate from such recommendations,

civility demands that they consult the relevant Committee and explain justification of its decision.

As regards the second issue on whether the report of the Budget and Appropriations Committee on the Estimates of the National Government, the Judiciary and Parliament can be amended by the House, I am guided by the provisions of Section 39 (3) of the Public Finance Management Act, which provides *inter alia* that the National Assembly may amend the budget estimates submitted so long as: -

- (a) *an increase in expenditure in a proposed appropriation is balanced by a reduction in expenditure in another proposed appropriation; or*
- (b) *a proposed reduction in expenditure is used to reduce the deficit.*

In addition, Article 221 of the Constitution of Kenya and in particular paragraphs 3 and 6 in part states that "*the National Assembly consider*" the Estimates and Estimates "*having been approved by the National Assembly*"

The use of the words "*consider*" and "*approve*" in the said Article of the Constitution connotes that, the House when considering the Estimates, has power to amend the Estimates.

From the foregoing, it is my considered view that the report of the BAC is amendable provided that the proposed amendment is informed by a decision of the relevant Departmental Committee.

### **Hon Members**

On the issue of failure by the Cabinet Secretary for Foreign Affairs and International Trade to appear before the Departmental Committee on Defence and Foreign Relations, the Constitution is explicit on this matter. Article 125 read together with Article 153(3) empower Committees to summon Cabinet Secretaries before them to answer questions concerning any matter for which the Cabinet Secretary is responsible. Indeed, Committees have unfettered powers to ask and receive information and demand appearance of the Cabinet Secretary as contemplated in Article 125 of the Constitution.

The Cabinet Secretaries should note that failure to appear before a Committee of the House when required, contravenes the provisions of the Constitution stated above, and more so failing to appear before the relevant Committee to present the budget estimates of the Ministry is so grave that the consequences arising thereof are far-reaching.

I take this opportunity to advise Cabinet Secretaries to accord the Business of the House seriousness it deserves and inform them that the House will not hesitate to take the necessary sanctions.

As elucidated above, I rule that amendments may be submitted by Departmental Committees for the Speaker to consider their admissibility.

And finally, **Honourable Members**, the critical role played by the National Assembly in the Budget Making Process has presented a new experience to all of us; new matters arise

each time we are considering Estimates and related legislations. It therefore follows that we might have to continuously update our manuals and procedures to respond to the changing environment in financial procedures and the challenges that come with it. Indeed, you will notice that for the first time in three years the Report of the BAC and the Order Paper contains a schedule showing the money proposed to be granted to various votes.

**Thank you!**

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

**May 27, 2015**