

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 6<sup>th</sup> June 2019

The House met at 2.30 p.m.

*[The Speaker (Hon. Justin Muturi) in the Chair]*

### PRAYERS

### MESSAGE

#### PASSAGE OF BILLS BY THE SENATE

**Hon. Speaker:** Pursuant to the provisions of Standing Order No.41(4), I wish to report to the House that I have received four Messages from the Senate regarding its decision on the following Bills:

- (1) The County Early Childhood Education Bill (Senate Bill No.26 of 2018);
- (2) The Public Participation (Senate Bill No.4 of 2018);
- (3) The Petition to County Assemblies (Procedure) Bill (Senate Bill No.22 of 2018);  
and
- (4) The Treaty Making and Ratification (Amendment) Bill (Senate Bill No.23 of 2018).

Hon. Members, the first Message is in respect of the County Early Childhood Education Bill. The Bill seeks “to provide a framework for the establishment of systems for the administration of early childhood education within a county.”

The second Message is in respect to the Public Participation Bill which seeks “to provide a general framework for effective public participation, and to give effect to the constitutional principles of democracy and participation of the people”.

The third Message is in respect to the Petition to County Assemblies (Procedure) Bill which seeks “to give effect to Article 37 of the Constitution on the right to petition a county assembly, and to provide procedure for the exercise of that right.”

Further, the fourth Message is in respect to the Treaty Making and Ratification (Amendment) Bill which seeks “to amend the Treaty Making Ratification Act (No.45 of 2012) to set out the role of the Senate of the Republic of Kenya in the treaty making and ratification process.”

The Messages read: “That the Senate considered and passed the Bills with amendments on Wednesday, 22<sup>nd</sup> May, 2019 and now seeks the concurrence of the National Assembly.”

Standing Order No.143(1)(a) requires the Speaker to cause a Bill received from the Senate to be read a First Time upon conveyance of a Message from the Senate. Accordingly, I direct that the four Bills be read a First Time during the next sitting of the House.

Paragraph (2) of Standing Order 143 provides that –

“Following First Reading, the Speaker shall, within reasonable time, pronounce his or her opinion contemplated under Article 114 (2) of the Constitution”.

The opinion envisioned under Standing Order No.143(2) is a pronouncement by the Speaker, as to whether a Bill originating in the Senate is a ‘Money Bill’ in the terms of Article 114 of the Constitution. In this regard, I direct that after First Reading, the Bills be referred to the Parliamentary Budget Office to offer advice that will enable the Speaker to form the opinion contemplated under Standing Order No.143(2). Thereafter, I shall guide the House accordingly on how to proceed with the consideration of the said Bills.

What is your point of order, Leader of the Majority Party?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, you have guided the House as stipulated in the exercise of the legislative powers of the two Houses in Article 109. It is very clear in Article 109(4) where it says that a Bill concerning county governments may originate in the National Assembly or the Senate and passed in accordance with Articles 110 to 113; Articles 122 and 123 of the Constitution and the Standing Orders of the House.

The Chair of the Budget and Appropriations Committee is here. There were a number of Bills from the Senate that we dealt with which were of money nature. Going forward, we must do things with fidelity to the Constitution in the sense that, if a Bill is of a money nature, the Budget and Appropriations Committee and the Parliamentary Budget Office must advise the House on the constitutionality of that Bill.

The Senate has threatened to audit all the Bills that have passed through this House. We are asking you to do things as per the Constitution. The jurisdiction of each House is well-documented in Article 109 of the 2010 Constitution. The Chair of the Budget and Appropriations Committee needs to expedite all those Bills and come back to the House and give us his views.

I thank you for that guidance.

**Hon. Speaker:** We appreciate that the Committee has been quite busy with both the Second Supplementary Estimates as well the Annual Estimates for the 2019/2020 Financial Year. I am sure that going forward, we will have opportunity to look at those money aspects, if there are any, so that we can proceed as required under Article 109 (5) of our Constitution.

Next Order.

### PAPERS LAID

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Legal Notice No. 33 of 2019 relating to the Judiciary Fund Regulations.

Report by the Treasury Task Force on Old Balances Outstanding in Financial Statements for the 2012/2013 Financial Year on National Government Public Accounts; and

Report of the Auditor-General on the Financial Statements of the National Government for the 2016/2017 Financial Year.

**Hon. Speaker:** Let us have the Chair of the Budget and Appropriations Committee.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Budget and Appropriations Committee on the Second Supplementary Estimates for the Financial Year 2018/2019.

**Hon. Speaker:** The Report by the Treasury Task Force on Old Balances Outstanding in Financial Statements for the 2012/2013 Financial Year on National Government Public Accounts is referred to the Budget and Appropriations Committee, while the Report of the Auditor-General will go to the Public Accounts Committee.

Let us have the Vice-Chair of the Departmental Committee on Energy.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Energy on its Consideration of the Nuclear Regulatory Bill (National Assembly Bill No. 27 of 2018).

**Hon. Speaker:** Let us have the Chair of the Departmental Committee on Transport, Public Works and Housing.

**Hon. David Pkosing** (Pokot South, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Reports of the Departmental Committee on Transport, Public Works and Housing on its consideration of:

1. The Statute Law (Miscellaneous Amendments) Bill, 2019;
2. Ratification of Bilateral Air Service Agreements between Kenya and the Hellenic Republic; Kenya and Burkina Faso; Kenya and Cambodia; Kenya and Seychelles; and Kenya and Finland;
3. Ratification of the Protocol to Amend the Convention on Offences and Certain Acts Committed on Board Aircraft (Montreal, 2014).

**Hon. Speaker:** Very well. Next Order.

## NOTICES OF MOTIONS

**Hon. Speaker:** Let us have the Chairperson of Budget and Appropriations Committee.

### ADOPTION OF REPORT ON SECOND SUPPLEMENTARY ESTIMATES/ 2018/2019 FINANCIAL YEAR

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Second Supplementary Estimates for the 2018/2019 Financial Year,

laid on the Table of the House on Thursday, 6<sup>th</sup> June 2019, and pursuant to the provisions of Article 223 of the Constitution of Kenya, Section 44 of the Public Finance Management (PFM) Act, 2012, PFM Regulation 40 and Standing Order No.243, approves:

- (i) an increment of the total recurrent expenditure for 2018/2019 Financial Year by Kshs.79.39 billion in respect of the Votes as contained in the attached Schedule I;
- (ii) a reduction of the total development budget for 2018/2019 Financial Year by Kshs1.24 billion in respect of the Votes as contained in the attached Schedule I; and,
- (iii) an overall increase in the total budget for 2018/2019 Financial Year by Kshs80.63 billion in respect of the Votes as contained in Schedule I.

**Hon. Speaker:** Let us have the Chair of the Departmental Committee on Transport, Public Works and Housing.

REPORT ON PROTOCOL TO AMEND THE CONVENTION OF OFFENCES  
AND CERTAIN ACTS COMMITTED ON BOARD AIRCRAFT

**Hon. David Pkosing** (Pokot South, JP): Hon. Speaker, I beg to give notices of the following Motions:

THAT, this House adopts the Report of Departmental Committee on Transport, Public Works and Housing on its consideration of the Protocol to Amend the Convention of Offences and Certain Acts Committed on Board Aircraft (Montreal, 2014) for Ratification, laid on the Table of House on Thursday, 6<sup>th</sup> June 2019, and pursuant to Section 8 of the Treaty Making and Ratification Act, 2012 approves the Ratification of the Protocol to Amend the Convention of Offences and Certain Acts Committed on Board Aircraft (Montreal, 2014).

ADOPTION OF REPORT ON BILATERAL AIR SERVICE AGREEMENTS

THAT, this House adopts the Report of Departmental Committee on Transport, Public Works and Housing on its consideration of the Bilateral Air Service Agreements between Kenya and the Hellenic Republic; Kenya and Burkina Faso; Kenya and Cambodia; Kenya and Seychelles; and Kenya and Finland, laid on the Table of House on Thursday, 6<sup>th</sup> June 2019, and pursuant to Section 8 of the Treaty Making and Ratification Act, 2012 approves the Ratification of the Bilateral Air Service Agreements between Kenya and the Hellenic Republic; Kenya and Burkina Faso; Kenya and Cambodia; Kenya and Seychelles; and Kenya and Finland.

**Hon. Speaker:** Hon. Members, I know we should be going to Questions, but it is only fair that before we do that, the Deputy Speaker gives notice of a Motion that he has indicated.

EXEMPTION OF PETITIONS SUBMITTED UNDER THE  
FOREST CONSERVATION AND MANAGEMENT ACT

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, pursuant to provisions of Standing Order No.256 on exemption of business from Standing Orders, this House resolves to exempt petitions submitted under Section 34 of the Forest Conservation and Management Act, No.34 of 2016, which are petitions for variations of boundaries or revocation of public forest, from provisions of Standing Order Nos.223 and 227(2) in order to accommodate public participation and provide for obligatory resolution of the House approving or rejecting petitions for variation of boundaries or revocation of registration of public forests or a portion of public forests as contemplated under Section 34 of the Forest Conservation and Management Act, No.34 of 2016.

**Hon. Speaker:** Very well. Hon. Members, allow me to recognise members of staff from the National Assembly of Zambia seated in the Speaker's Gallery. The officers are on attachment in the National Assembly to share experiences with their counterparts on the process of budget-making and approval by Parliament. They are, therefore, welcome to observe the proceedings in the National Assembly this afternoon.

*(Applause)*

Further, Members, allow me to recognise students from the following institutions: Kiamuya Secondary School, Othaya Constituency, Nyeri County; Ongata Royal Academy, Kajiado North Constituency, Kajiado County; Kitale National Polytechnic, Saboti Constituency Trans-Nzoia County; Kanzau Mixed Secondary School, Kitui Rural Constituency, Kitui County; AIC Tulwomoi Secondary School, Rongai constituency, Nakuru County; and those from Mweru Secondary School, Mukurweini Constituency, Nyeri County. They too are welcome to observe the proceedings in the National Assembly this afternoon.

Next Order.

## ORDINARY QUESTIONS

*Question No.237/2019*

**Hon. Ali Wario** (Bura, JP): Thank you, Hon. Speaker. Before, I ask my Question, I seek your guidance.

I appreciate the critical role played by the Table Office in as far as editing Questions that we give to them is concerned, but at times that editing goes overboard leaving out very crucial parts of our questions. I ask your indulgence so that you order the Table Office to submit my original Question to the Departmental Committee on Agriculture and Livestock or to the Cabinet

Secretary (CS). I am saying this because the Question I originally asked was about a rehabilitation project of Bura Settlement Scheme. The Question on the Order Paper is about Bura Irrigation Scheme and these are two different things. Part (c) of my Question was whether there was capacity building or funding for farmers. That aspect has been left out. I, therefore, appeal to you to order the Table Office to submit my original Question to the Committee so that the same will go to the CS.

I, therefore, ask the Cabinet Secretary for Agriculture, the following Question:

- (i) Is the Cabinet Secretary aware that the construction of Bura Irrigation and Settlement Project Scheme initiated in 2013 has since stalled?
- (ii) What components of the project were envisaged during inception and was there any variation of the project components?
- (iii) How much has been spent on this project so far? When is the loan facility for the said project scheduled to be paid out and how has this affected the implementation of the project?

I thank you Hon. Speaker and still ask your indulgence so that you order the Table Office to table my original Question.

**Hon. Speaker:** Well, this is not the Question you submitted.

**Hon. Ali Wario (Bura, JP):** They left out a crucial part.

**Hon. Speaker:** I think the best thing to do because as you say an aspect of it is not included, it should be included and the Question is brought here on Tuesday. That would be better so that at least you have the entire Question. So, we deem it has not been asked. The Table Office should take note.

Let us have the Hon. Member for Tetu, Hon. James Gichuhi Mwangi.

Sorry Hon. Members, I have received communication requesting for deferment of Questions by Hon. James Gichuhi Mwangi and Hon. John Olago Aluoch. So, Question Nos. 240 and 241 are deferred until such time as the Members asking them are present or desiring to be asked.

*Question No. 240/2019*

OMISSION OF NAMES IN THE ELDERLY PERSONS CASH TRANSFER PROGRAMME

*(Question deferred)*

*Question No. 241/2019*

MONEY OWED TO SUPPLIERS BY INSTITUTIONS IN KISUMU WEST CONSTITUENCY

*(Question deferred)*

*Question No.242/2019*

## NON-PAYMENT OF SALARY TO THE ASSISTANT CHIEF OF KAMUTIU SUB-LOCATION

**Hon. Gideon Mulyungi** (Mwingi Central, WDM-K): Hon. Speaker, I rise to ask the Cabinet Secretary for Interior and Coordination of National Government the following Question:

(i) Is the Cabinet Secretary aware that one Mr. Fredrick Kituku Muli of ID No.13098258, an Assistant Chief of Kamutiu Sub-Location, Mwingi Central Sub-County, and Kitui County has never been paid his salary for three years since his employment?

(ii) When will the said Assistant Chief be paid his salary and other dues?

**Hon. Speaker:** This one will be answered before the Departmental Committee on Administration and National Security.

Next Question by the Member for Rongo. Hon. Paul Abuor.

*Question No.244/2019*

## DELAYED CONSTRUCTION OF NYABURU-OBOKE-RANGWE ROAD

**Hon. Paul Abuor** (Rongo, ODM): Hon. Speaker, I rise to ask the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development the following Question:

(i) Is the Cabinet Secretary aware that the construction of low volume seal road, Junction C20, Nyaburu – Oboke - Rangwe, in Rongo Constituency has not commenced despite funds being allocated for road in the Financial Years 2015/16, 2016/17, 2017/18 and 2018/19?

(ii) Could the Cabinet Secretary explain the reasons for the delay in procuring and awarding of the contract for the said road and when the Ministry expects the construction of the said road to be completed?

**Hon. Speaker:** Question to be answered before the Departmental Committee on Transport, Public Works and Housing.

Next Question by the Member for Sabatia; Hon. Agoi.

*Question No.245/2019*DELAY IN ISSUANCE OF BIRTH CERTIFICATES  
AND ID CARDS IN VIHIGA COUNTY

**Hon. Alfred Masadia** (Sabatia, ANC): Hon. Speaker, I rise to ask the Cabinet Secretary for Interior and Coordination of National Government the following Question:

(i) Could the Cabinet Secretary explain why there has been delay in issuance of birth certificates and identity cards in Vihiga County, in particular Sabatia Sub-County, which process has been taking between six to 12 months?

(ii) Could the Cabinet Secretary further explain the ordinary timeframe for processing a birth certificate and identification card following an application and what remedy is available to the applicants in case of delays?

(iii) What measures has the Ministry put in place to ensure that applicants are issued with the said documents within the usual timeframe?

**Hon. Speaker:** Question to be answered before the Departmental Committee on Administration and National Security.

Next Question is by the Member for Embakasi Central, Hon. Benjamin G. Mwangi.

Hon. Members, we have said on numerous occasions that if a Member is unable to attend to ask their Questions, they should just communicate either to the Clerk or to me the inability to be present and just like the other two Members have done and seek for deferment. But, when a Member does not communicate or decides to remain mute, I have no option but do the necessary which is to drop the Question, which I hereby do. Question is dropped because the Member is deemed to be absent.

*Question No.246/2019*

DELAYED ISSUANCE OF TITLE DEEDS IN EASTLANDS NAIROBI

*(Question dropped)*

Let us have the Leader of the Majority Party.

## STATEMENT

BUSINESS FOR WEEK COMMENCING 11<sup>TH</sup> TO 13<sup>TH</sup> JUNE 2019

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, pursuant to the provisions of Standing Order No.44 (2) (a), I rise to give a Statement on the behalf of the House Business Committee (HBC), which last met on Tuesday, 4<sup>th</sup> June 2019, at the rise of the House. As I welcome Members back from the long recess, this second part of the Session is normally a busy one as we will be considering the Budget Estimates for the Financial Year 2019/2020.

This afternoon we will debate a Motion on seven nominees for appointment to the offices of Ambassadors and High Commissioners, which is required to be concluded by the end of today. I urge Members to be present so that we have the requisite quorum for putting the Question since it is the last day as per the Public Appointments (Parliamentary Approval) Act of 2011.

We also hope to start the general debate on the Report of the Budget and Appropriations Committee for the Budget Estimates for the National Executive, the Judiciary and Parliament for the Financial Year 2019/2020. Debate on these Estimates will be undertaken for a maximum of three sittings, which is today, Tuesday and Wednesday next week. As per the HBC, I urge that



the Chairs of the various committees who interrogated the various agencies and government departments to be in the House. Once the Budget and Appropriations Committee moves debate on this Report, they will be given a first opportunity to enlighten the House on their sector analysis. The same process will also be undertaken for the Second Supplementary Estimate once the Report is tabled. I am sure the Chair has tabled it. Thereafter, we will continue with the Second Reading of the Nuclear Regulatory Bill (National Assembly Bill No.27 of 2018) should we not conclude it today.

It is also important for Members to know that on Thursday, 13<sup>th</sup> June 2018, the Cabinet Secretary for the National Treasury and Planning shall be making a pronouncement on the Budget highlights and revenue-raising measures for the Financial Year 2019/2020 to the House, pursuant to the provisions of Standing Order No.244(c).

Finally, the HBC will reconvene on Tuesday, 11<sup>th</sup> June 2019, at the rise of the House, to consider business for the coming week. I now wish to lay this Statement on the Table of the House.

Thank you, Hon. Speaker.

*(Hon. Aden Duale laid the document on the Table)*

**Hon. Speaker:** Next Order!

## **BILL**

### *Second Reading*

#### THE OFFICE OF THE COUNTY ATTORNEY BILL

*(Hon. Aden Duale on 4.6.2019)*

*(Debate concluded on 4.6.2019)*

**Hon. Speaker:** Hon. Members, debate on this Motion was concluded and what remained was the Question to be put, which I hereby do.

*(Question put and agreed to)*

*(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)*

**Hon. Speaker:** Next Order!

## SPECIAL MOTION

REPORT ON VETTING OF NOMINEES FOR APPOINTMENT  
AS HIGH COMMISSIONERS AND AMBASSADORS

**Hon. Speaker:** Order, Hon. Members! Hon. Members, before debate on this particular Report commences, I wish to inform the House that I have received numerous entreaties, including attempts to lobby me, about one of the names that is in this list. Hon. Members, I have looked very carefully at the provisions of Articles 78, 80(c) and 260 of the Constitution. Pursuant to the provisions of Article 80(c), Parliament enacted the law contemplated within the provisions of Article 260, and in this particular regard enacted in the 10<sup>th</sup> Parliament the Leadership and Integrity Act, which is to implement the provisions of Chapter Six of the Constitution. Both Articles 78 and 80 are within Chapter Six of the Constitution. You will look at the constitutional provisions.

In enacting the Leadership and Integrity Act, the House did consider that Article 260 of the Constitution did not provide for a definition of ‘Ambassadors’, ‘High Commissioners’ and ‘consular’. However, as you will appreciate, in Article 260 of the Constitution, Parliament is required, under Article 80 (c), to do exactly what it did. Therefore, Parliament acted within the provisions of the Constitution. The subheading of Section 52 of the Leadership and Integrity Act is “Application of Chapter Six of the Constitution and this Act to Public Officers Generally”. Section 52 provides, *inter alia*, that any public officer will, for the purposes of Chapter Six of the Constitution, except Section 18 of the Leadership and Integrity Act which deals with public collections, which you normally engage in during weekends – *Harambee* –for the purposes of Chapter Six, be deemed to be State officers.

Section 31 of the Leadership and Integrity Act went on to provide that if you hold dual citizenship and you are appointed or elected into a State office, you must, before taking office, renounce your second citizenship or that other citizenship which is not Kenyan. More particularly, I want to thank the Chairman of the Departmental Committee on Defence and Foreign Relations, Hon. Katoole Metito, for having provided us with what is now a decision in the case of one Bishop Donald Kisaka Mwawasi versus the Attorney-General and two others reported in the Kenya Law Reports of 2014. This should put this matter to rest. The appellant, a citizen by birth, became an American citizen in 2011. He described himself as a dual citizen. The appellant was registered as a member of Agano Political Party and applied to be nominated to contest for the Senate seat for Taita Taveta County.

The Independent Electoral and Boundaries Commission (IEBC) published a public notice prescribing the minimum qualifications, one of them being that one must not hold dual citizenship. The appellant filed a petition in the High Court seeking a declaration to quash the notice. The learned judge of the High Court felt that by virtue of Article 78(2) of the Constitution, a person who holds dual citizenship cannot run for an elective office as a Member of Parliament. Having been dissatisfied with that decision of the High Court, the appellant appealed to the Court of Appeal which held as follows:

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“(a) Parliament, in enacting Section 31 of the Leadership and Integrity Act interpreted Article 78(2) correctly...” The said Article is not against a dual citizen being elected or appointed as a State officer. The restriction is against leadership by dual citizen in the specified State offices and it does not all apply unless and until a person is elected and/or appointed to a State office;

“(b) A dual citizen is eligible to seek nomination for election as a Member of Parliament or Member of the County Assembly and to stand as a Member of Parliament or County Assembly in an election and also eligible to hold any State office;

(c) However, a dual citizen is disqualified upon election or appointment to a State office from assuming office before voluntarily and officially renouncing his other citizenship.”

Hon. Members, that is as clear as we know the sun rises from the East and sets in the West. I have taken the liberty to read this Communication because I received many entreaties from people calling themselves ‘Kenya Diaspora’ in the bush somewhere urging me to excuse them. We are told that the courts are the ones that interpret the Constitution in finality and they have done so. I received a proposed amendment from Hon. Sabina Chege seeking to delete part of the Report which was going to allow one particular nominee who holds dual citizenship, so as to allow the House to consider her name without necessarily the proviso that has been made by the Committee. If the House approves that particular nominee, she has to renounce her other citizenship before taking office. If I approved that proposed amendment by Hon. Sabina, I would have been directly against this Court of Appeal decision of 2014.

Hon. Members, I want to urge you that even as you debate, you should take into account that this is a matter that the courts have already settled. Like we would say the law that is said to be trite, it is a settled law. So, there is nothing for us to come and plead with each other to try, as it has been said, to show some mercy or anything. It is just that the law is the law and the Constitution has made it that way.

*(Hon. (Ms.) Cecily Mbarire consulted Hon. Aden Duale)*

Hon. Mbarire, indeed, as you have heard, the Court of Appeal has not said that holders of dual citizenship should not be appointed. It has said that if appointed and/or elected, they must renounce that other citizenship which is not Kenyan before taking office. That is what the Court of Appeal said. The Committee has also done the same. If the House finds it appropriate to approve that particular nominee, the Committee has already recommended that before taking office, she must renounce her other citizenship. If she takes office without renouncing her other citizenship, she will be in violation of the law. That is the correct position. Even as you debate, bear that in mind.

I thank you, Hon. Members. Hon. Katoo.

*(Loud consultations)*

**Hon. Katoo ole Metito** (Kajiado South, JP): Thank you, Hon. Speaker, for making that clear.

Hon. Speaker, I beg to move the following Motion:

THAT, taking into consideration the findings of the Departmental Committee on Defence and Foreign Relations in its Report on the vetting of seven nominees for approval as High Commissioners and Ambassadors, laid on the Table of the House on Tuesday, 4<sup>th</sup> June 2019, and pursuant to Article 132(2) (e) of the Constitution and Section 8 of the Public Appointments (Parliamentary Approval) Act, 2011, this House approves the appointment of the following persons as High Commissioners and Ambassadors-

- (i) Mr. Kariuki Mugwe for appointment as an Ambassador to Abu Dhabi, United Arab Emirates;
- (ii) Mr. Peter Katana Angore for appointment as an Ambassador to Algiers, Algeria;
- (iii) Mr. Michael Mubea for appointment as an Ambassador to Dublin, Ireland;
- (iv) Ms. Flora Karugu for appointment as High Commissioner to Lusaka, Zambia;
- (v) Ms. Diana Kiambuthi for appointment as an Ambassador to Stockholm, Sweden;
- (vi) Ms. Njambi Kinyungu for appointment as an Ambassador to United Nations-Habitat; and
- (vii) Ms. Mwendu Mwinzi for appointment as an Ambassador to Seoul, South Korea, subject to renouncing her citizenship to the United States of America (USA) in compliance with the provisions of Article 80(c) of the Constitution, and Sections 31 and 52 of the Leadership and Integrity Act, No. 19 of 2012, upon appointment and before taking office.

*(Loud consultations)*

I request to be heard in silence. Although you have already settled the contentious issue, Members will agree that the Committee of this House, which I have the privilege to chair, did its research with its legal and research team of the National Assembly. The Committee provided the House with a Report that is in compliance with the Constitution and the relevant laws. The nominees are seven; four women and three men. All the seven nominees meet the educational qualifications as required, although there is no specific academic qualification that is prescribed for one to be an Ambassador. However, I would like to say that they are all Kenyans who are well read. They are all university graduates. Five out of the seven with an exception of Mr. Mubea and Ms. Mwendu Mwinzi, are all career diplomats who have served for a very long time in the Ministry of Foreign Affairs and International Trade. Some have served for as long as 35 years, 27 years, 37 years and the least are 15 years. These are career diplomats in the Ministry who have served this country with dedication and passion. They have served in so many missions. Some have served in Dubai, London, Lusaka, Khartoum, Pretoria, Juba, Brasilia, to name just but a few. These are career diplomats. Each of the five I am talking about has served not in one mission, but as many as four. They have even served as directors in the Ministry of Foreign Affairs and International Trade in charge of some of the pillars of our foreign policy. Some have served as cultural directors and others as Diaspora directors.

Hon. Speaker, all the seven nominees were cleared by the relevant statutory bodies: The Ethics and Anti-Corruption Commission (EACC), the Directorate of Criminal Investigations

(DCI), Kenya Revenue Authority (KRA) and the Higher Education Loans Board (HELB). They have also been cleared by the Office of the Registrar of Political Parties. That is the requirement of the Public Appointments (Parliamentary Approval) Act of 2011.

In terms of ability and understating issues to do with Kenyan foreign policy, all the seven nominees demonstrated before the Committee that they have the capacity to represent Kenya in the missions they have been nominated to serve. Because of the heavy business ahead on the Budget, I do not want to take much time. However, on the issue of dual citizenship, let Members listen to me because this is the first case that has been brought before this House. It is going to set a precedent. Definitely when you have dual citizenship ....

*(Hon. (Ms.) Mabona-Odhiambo spoke off record)*

**Hon. Speaker:** Hon. Millie Odhiambo, how can you talk to another Member from where you are?

**Hon. Katoo ole Metito** (Kajiado South, JP): Thank you, Hon. Speaker. An Ambassador is referred to as “Your Excellency”. The title “Your Excellency” means that an Ambassador represents the State and the Head of State. Therefore, we cannot gamble with an Ambassador who has divided loyalty. So, when an Ambassador with dual citizenship is sent to a diplomatic mission abroad... Dual citizenship is not bad, but we must be prepared because it comes with a cost. There will be positions of leadership that one cannot occupy if one has dual citizenship. One of them is to represent the State or the Head of State. Even as parliamentarians and this is very interesting, I am aware that there is a Member of this House facing a court case because of dual citizenship. This has happened because of lack of disclosure. If one does not disclose information, it is a criminal offence.

When one is nominated for appointment and vetted by Parliament, according to the Constitution, one is provided with a declaration form where one is supposed to declare one’s citizenship. I thank Mwendu Mwinzi for being very honest. She declared in the form that she holds a dual citizenship. It has been said that there are others serving as Ambassadors, Cabinet Secretaries, Principal Secretaries and even Members of Parliament and yet they hold dual citizenship. Some governors also have dual citizenship. I call upon the investigative agencies of the country, the NIS, DPP and the DCI to find out whether that is true. If, indeed, it is true, then that is a criminal offence. If there are diplomats representing our country abroad and they have dual citizenship, they should be recalled and be charged for not disclosing the correct information.

I also want to bring some issues to the attention of this House. My Committee did not just research about the ruling of the High Court and the Court of Appeal; rather it researched about many other things which are interesting to hear. It has been said that it is difficult to renounce one’s citizenship if it is by birth. I remember when the nominee with the dual citizenship appeared before the Committee, she told the Committee that the problem is that she cannot opt out of her citizenship which is by birth.

I respect our Diaspora which is now the highest in terms of revenue generation for this country. They contribute up to Kshs270 billion. They have overtaken tea and tourism in remittances. It has been said that it is difficult to renounce citizenship by birth. That is not true. I want to give the House high ranking examples of individuals who were United States of America (USA) citizens by birth but when they were called upon by their native countries to serve in some positions, they renounced their dual citizenship. One of them is Mr. Kevin Malle an Irish American. He was approved as the USA's ambassador to Ireland. He held dual citizenship of Ireland and the USA. He renounced his Irish citizenship in order to take up the USA ambassadorial role to Ireland.

David Howard was born in Massachusetts and moved to New Brunswick in Canada with his family while he was still young. His citizenship was a birthright citizenship, that is, *jus soli*. He was named Canada Consular-General in Boston in April 2015. He renounced the USA citizenship, which was by birth, to accept the post.

Daphne Barak-Erez was born to Israel parents in the USA and later returned with them to Israel where she grew up. Her citizenship was birth. She was named a Justice of the Supreme Court of Israel in January 2012 which required her to give up any foreign citizenship she held. She renounced her USA citizenship.

Ron Dermer was born in Florida in 1971. He moved to Israel in 1996 and began the process of becoming a citizen there in 1997. His citizenship was by birth. In 2005, the then Finance Minister, Benjamin Netanyahu, appointed him Minister for Economic Affairs in the Israel Embassy in Washington, a post for which he had to renounce his USA citizenship. He is currently Israel ambassador to the USA states. This is very interesting. Members need to hear this because of what is happening in Britain right now.

Boris Johnson was born in New York City in 1964 to British parents but had not lived there since he was five years old. He was elected Member of Parliament in 2001 and Mayor of London in 2008. In 2014, he unsuccessfully protested the imposition of Capital Gains Tax by the USA on his home in London. It is because he had divided loyalty. He renounced US citizenship in 2016 while becoming Foreign Secretary of the United Kingdom.

The sixth is Luis Alberto Moreno who was born in Philadelphia to a Colombian attending a medical school at the University of Pennsylvania. He undertook his earlier education in Colombia before going to the US for further studies. He renounced US citizenship in 1998 after President Andres Arango named him Colombian ambassador to the US.

Finally, Mr. Michael Oren was born in New York City in 1955 and raised in New Jersey. He migrated to Israel in 1979 where he went on to become an historian, military officer and diplomat. He relinquished his US citizenship in 2009 upon taking up his new position as Israel Ambassador to the US. Therefore, I just want to prove that it is possible to opt out. I plead with the House that this is now the time. If there were others who passed through the Floor of this House without them declaring their dual citizenship, let them know that it is a criminal offence. If you do not disclose full information--- The investigative agencies should do their work even if we are Members of Parliament in this House because under the Constitution it is very clear that

with dual citizenship, you can vie for an elective post. You can be appointed to a State office but you cannot take office before you renounce the other citizenship.

I beg to move, and request the House to agree with the Committee. I also request Hon. Peter Mwathi to second.

Thank you.

**Hon. Peter Mwathi** (Limuru, JP): Thank you, Hon. Speaker. I rise to second this Motion and support this Report from our Committee. In so doing, I want from the onset to thank you for giving us direction and clarity on the matter of dual citizenship which we were agonising with over the weekend, and for which we did all those researchers. The seven clear cases of those who have renounced have been ably captured in the Report.

*[The Speaker (Hon. Justin Muturi) left the Chair]*

*[The Temporary Deputy Speaker  
(Hon. (Ms.) Soipan Tuya) took the Chair]*

Hon. Temporary Deputy Speaker, what my Chairman was reading are examples of those who have renounced their citizenship is in our report. It is important to note that in support of this Motion, we have seven nominees. Among them, we have four women and three men. That means the appointments are properly balanced. In any case, if there were any issues arising out of the case that is in question – of Ms. Mwendu Mwinzi – we shall still have three men and three women appointed. Ms. Mwendu Mwinzi will have a very easy option to renounce her citizenship and then she can take up the position. We are not saying that she cannot take it up but we are saying she can renounce her citizenship.

I have noted as well as the Chairman has, that five of these nominees are career diplomats. They have been in the Ministry of Foreign Affairs for as long as they started working and they have risen through the ranks to be in the positions that they hold. Specifically, Mr. Kariuki Mugwe has been in that Ministry for 37 years and is now acting as Consul General in Abu Dhabi in the Republic of United Arab Emirates. He is fit for that position.

Secondly, Mr. Peter Katana has worked for 27 years. So, you can see the service for most of these career diplomats has been long. Currently, Mr. Katana is a senior person at the Ministry of Foreign Affairs. Mr. Michael Mubea has not served in the Ministry, but he holds a Master of Arts in International Relations. It places him in line with the duty that he is going to undertake in the mission that he is being sent to.

Ms. Flora Karugu holds a Masters and has worked for 35 years in that Ministry and has been the Director of UN Multilateral Directorate in the Ministry of Foreign Affairs.

Ms. Diana Kiambuthi who holds Masters in International Relations also has 15 years' experience. Therefore, in accordance with what the Committee established, she is fit to hold the position of an envoy. Together with Ms. Njambi Kinyungu who holds a Masters in Rural and Urban Planning, she is taking her position at the UN Habitat. That position will be quite crucial

especially in her lobbying for the housing agenda which is part of the Big Four agenda. That is why she fits in that position.

In conclusion, I would like Members to know that during the interviews we contacted, Ms. Mwendu Mwinzi also informed the Committee that she is remitting taxes to the US, but she was not sure whether she pays taxes to Kenya. We feel that when she is approved with the caveat, and she will have no divided loyalty, she will be able to take up the position. She will also be able to represent Kenya without having to worry about her other citizenship.

With those many remarks, I beg to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): The Murang'a County Women Representative, you have the Floor.

**Hon. Aden Duale** (Garissa Township, JP): It should be me; I am the leader.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): The Leader of the Majority Party, I have not seen your request. Kindly, let us allow the Member and then you will come next. Place your request now.

Go on, Hon. Sabina.

**Hon. (Ms.) Sabina Chege** (Murang'a (CWR), JP): Thank you, Hon. Temporary Deputy Speaker. I thank the Departmental Committee on Defence and Foreign Relations on this Report. I also thank the Speaker of this House for the Communication he made about the position of Mwendu Mwinzi.

As the Committee did their Report and deliberated, I had an intention to move an amendment this afternoon not to give conditionality for Mwendu Mwinzi to denounce her dual citizenship. We all know, in the Bible, what happened to one Esau who denounced his birthright and lost blessings. That is the Bible.

*(Loud consultations)*

I do not know why I am being intimidated. Everybody who went to Sunday School knows the story of Esau, who lost his birthright. It is in Genesis 25:29-34. He went to look for stew because he was hungry. He lost his birthright. So, I do not know what we are telling Mwendu Mwinzi, who is a US citizen by birth. He is not like some Members we know in this House and even out of this House. There are some public servants who have gone out to seek citizenship. So, it is easier to ask a person who was born Kenyan and went outside the country to look for citizenship. How can anyone opt to lose his birthright? I declare my interest that I have a son who was born in the US. I brought him up in this country. Does it mean he can never serve in any public office because he was born in the US?

As a woman, if I travel and the time of giving birth comes, whether I will be in Kenya, Tanzania, the US or the UK, I will have to give birth. Does that mean that my son has to opt out of that birthright so that he can serve Kenyans? I think we need to look beyond. I will also urge



the Departmental Committee on Defence and Foreign Relations to go back to their records. Mwendu Mwinzi's mistakes were her skin colour, her gender and speaking the truth – she declared about her dual citizenship. We know some who have been approved by the same Committee. She vied for a Parliamentary seat.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order, Hon. Sabina. What is out of order, Hon. Rasso?

**Hon. (Ms.) Sabina Chege** (Murang'a (CWR), JP): I think he can allow me to finish.

**Hon. Ali Rasso** (Saku, JP): Thank you, Hon. Temporary Deputy Speaker. The good Hon. Sabina Chege is misleading the House. We are referring to state officers or public officers and not all officers serving across Government. Please, let her confine herself to the Constitution. The constitutional provision is very clear.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Members, you know the Speaker has already made a ruling on this issue. Clearly, we are guided by the confines of the Constitution and the law. So, let us confine ourselves to that. That is not to gag Members from expressing whatever opinion they have on the issue. So, you can balance the two, Hon. Sabina.

**Hon. (Ms.) Sabina Chege** (Murang'a (CWR), JP): Thank you very much Hon. Temporary Deputy Speaker. The only question I would like to ask is: How was the law when Mwendu Mwinzi was given a go ahead to vie for a parliamentary seat? Is the law applying double standards? She was cleared to vie for a parliamentary seat.

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): ...*(Off-record)*

**Hon. (Ms.) Sabina Chege** (Murang'a (CWR), JP): I hear the Deputy Leader of the Majority Party saying that it is upon election one needs to denounce the citizenship. How many MPs who have dual citizenships have denied their citizenship on record? We even have Senators and ambassadors. How many Principal Secretaries with dual citizenship do we have in this country? I think we need to apply the law equally. We need to stop being biased. If the law is to be followed, let us do so to the letter and not selectively.

I respect the Speaker's ruling; I respect the Committee's decision, but my voice must be heard.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): The Leader of the Majority Party, what is out of order?

**Hon. Aden Duale** (Garissa Township, JP): This is a House of records. Am I in order to ask Hon. Sabina Chege to table the list of MPs, Senators, PSs and CSs who have dual citizenship? Name and table them. This is a House of records, you cannot insinuate. People will think it is Hon. Duale or Hon. Junet or Hon. Wamalwa who have dual citizenship. If she cannot substantiate, can you please order her to withdraw and apologise to the House?

**Hon. (Ms.) Sabina Chege** (Murang'a (CWR), JP): I do not know what I will be apologising for and why Members would suspect it is Hon. Duale, unless he is guilty.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order Members! Order Hon. Sabina! The Speaker has just made a ruling and it is very clear. This is a constitutional issue. The election or appointment is not the issue here. Upon confirmation it will be an issue. It is the law. The person concerned has to denounce this citizenship or the other.

Hon. Sabina, if you know Members in this House or outside who are in violation of the law... Being a representative of the people and a leader, you must come out clearly.

So, Hon. Members, remember that this is a House of records; be ready to substantiate if you make a very substantive and weighty statement. Hon. Sabina, do you want to be informed by Hon. Millie?

**Hon. (Ms.) Sabina Chege** (Murang'a (CWR), JP): Yes.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. I do not have dual citizenship even though I am married in Zimbabwe.

Having said that, I wish to inform Hon. Sabina Chege that the House, with your permission, can take judicial notice of the fact that there is a matter in court. So, Hon. Sabina does not have to name names when the Speaker can take judicial notice of the fact that there is a matter already in court. It is concerning one MP. Men like giving us very difficult stands: That, she has to name names when it is Sabina, and he does not name names when it is Hon. Duale. *Wacha kucheza na sisi.*

*(Laughter)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order Members! Whether or not the Speaker takes judicial notice of matters outside of this House, we have to be serious. Be ready to substantiate when you make a very substantive and weighty matter. We need to agree on that.

Hon. Sabina, proceed.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Speaker. I know I am not allowed to refer to matters that are already in court, but I would like that case to be used as an example.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Therefore, kindly stay clear of that.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): I stand guided, Hon. Temporary Deputy Speaker. All the same, I want to say that we might need to look at the law. The law is made by men and it is for men. We might need to ask ourselves that hard question.

*(Loud consultations)*

Men, this is not a cow market in Narok that you keep shouting in. Can these men allow me to speak, Hon. Temporary Deputy Speaker?

*(Loud consultations)*

Nominee number 001, I respect you and I just want you to keep quiet! We are not in the Narok cow market here. Allow me to speak.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order Members! Hon. Sabina, I was going to give you two minutes, but you are not allowing me to talk to you.

*(Loud consultations)*

Order Members! Everyone has a right to make their contributions. Hon. Sabina, you have backtracked on saying that certain... Please put it on record. I will give you two minutes to take back the statement that some Members have dual citizenship because if you continue with that argument you will have to say who they are.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Speaker, with your guidance, I have withdrawn. We already know that there is a matter in court from this House that I do not wish to discuss.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): You have two minutes to finish your contribution.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Speaker, this is a House that makes laws. My request is that we might need to relook at the laws. We might need to look at the people who might be affected, who might serve this country very well, but because they did not choose to be born where they were born... If their parents gave birth to them when they were in a different country... We know there are students who go out of this country, they give birth and come back to this country. We also have Members who have children born out of this nation. Therefore, we might need to relook at the law.

**Hon. Aden Duale** (Garissa Township, JP): *(Off record)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Yes, Hon. Duale. I do not know why you think that statement will intimidate me.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): You know that you are supposed to be addressing the Speaker. Address the Speaker.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Speaker, let us not apply the law selectively. If somebody is truthful and very sincere, let us not judge her. I rest my case.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Let us now hear the Leader of the Majority Party.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): On a point of information, Hon. Temporary Deputy Speaker.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, I do not want Hon. Rachael Nyamai to inform me. She is my very good Chair.

This is a very important matter and we need to discuss it in a sober way. When the 2010 Constitution gave power to the National Assembly in terms of vetting of State and public officers, there must have been a reason.

Secondly, all of us swore by the bible or the Quran to defend the fidelity of the Constitution and other applicable laws. This morning we spoke. We cannot be the ones who will violate it. If you remember, the last time we approved ambassadors, six months later, they were arrested by EACC. We have been accused of not doing due diligence as a House. What this committee is doing, all these nominees including our very good sister Mwende Mwinzi...

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): What is out of order, Hon. Mbarire?

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): We are talking about an individual, a Kenyan citizen, a woman of high standing and we sit here and listen to Members calling her Mwende Mwinzi. Seriously. It is wrong and we must say no to this kind of behaviour. We must say no to this kind of behaviour when it comes to women.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, the gracious lady is called, Mrs. Mwende Mwinzi. I agree with Hon. Cecily Mbarire, let us not trivialize this matter. Let us respect nominees and let us respect the law. All of them have qualified. They have qualified under statutory requirements of the Parliamentary Approval Act. They were cleared by Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI) and Higher Education Loans Board (HELB). They are also tax compliant and have the relevant managerial and educational qualifications. The House should listen to me.

Section 52 of the Leadership and Integrity Act No.19 of 2012, which I had the privilege to serve in the 10<sup>th</sup> Parliament and participated in the enactment of that law, says pursuant to Article 80(c) of the Constitution and Part 2 of this Act, except Section 18 shall apply to all public officers as if they were State officers. That tells you who a public officer is and who a State officer is. They are the same except in Section 18 of that Act. So, you cannot say we draw a line between a public officer and a State officer. That is the Constitution.

Section 31 is an existing law. You have the powers to amend the Leadership and Integrity Act. A person who holds a dual citizenship shall upon election or appointment of a State officer not take office before officially renouncing their citizenship in accordance with the provisions of the Kenya Citizens and Immigration Act No. 12 of 2011, which this House passed. So, if there is a Member of Parliament in this House who has violated this Section it is not our business to defend them. If there is a public or a State officer serving in the Judiciary or in the Executive or the counties, the law is very clear.

The Committee has presented a Kenyan by the name Bishop Donald Kisaka Mwawasi versus the Attorney-General. He went to court and asked about his citizen of birth. The High Court and the Court of Appeal said, Section 35 of the Leadership and Integrity Act must be complied with. The law is not one that serves you when you want it. I will give you an example. If you are a High Commissioner or an ambassador, you represent a government and you represent a Head of State.

In Particular, assuming Mwende has been posted in Seoul, Donald Trump the President of the American Government which she is a citizen, can one day say, all American citizens must

leave Seoul. That means that your ambassador must leave that country. If President Donald Trump says, I do not want to see any American citizen live in South Korea and in Seoul, I can tell you for free, your ambassador, because she is an American citizen will leave. What happens when there will be a conflict between the country that places Kenya and America in a conflict diplomatically? Who will you serve. Even the Heads of State in the African continent who have dual citizenship, one belonging to the US, when it comes to United Nations General Assembly in New York, they are not allowed to use the US passport. The only person who appears at the UN General Assembly as the President of the US is the President of the US. Even today we cannot give a job to former US President Obama. If we have to give him a job, he must renounce his US citizenship. It is as clear as that.

Nobody is denying Mwendu Mwinzi a job. We are saying the law must be complied with. We have vetted and we are approving her appointment but subject to the law. This morning in the *Kamukunji* we said the House must follow the law and the Constitution. If tomorrow, a report comes and there is something on a nominee from Hon. Junet and I, from our community... In fact, the Committee has not rejected the nominee. They have approved her. They have only said before she takes up the appointment...

In fact, we will go further and bring an amendment to the law that anybody serving in the national or county governments, Judiciary or in the Legislature and did not renounce his or her dual citizenship, the DCI and the DPP must start investigations. That is a breach of the law. In fact, the Committee should have gone further to require that if there is any ambassador or High Commissioner, whether you were born to a foreigner or not, and you have dual citizenship, you are in breach of the law and somebody can go to court. Some of us do not want to embarrass the President. There must have been due diligence. Whoever gives people jobs in this country must do due diligence and read the law. Let us not raise tension. Mwendu Mwinzi has a job as our Ambassador to Seoul subject to her complying with Article 31 of the Constitution.

I want to thank the Chairman. He has given us other jurisdictions. He has talked about the former Foreign Affairs Minister Boris Yeltsin who was born in the US. For him to become a Member of Parliament in the UK, he had to renounce his US citizenship. These are very sensitive jobs. In fact, the Constitution is very clear when it comes to members of the Kenya Defence Forces (KDF). You cannot use the Constitution the way you want. We must not break the law just because some of our colleagues, CSs or PSs have dual citizenship.

Those who sit in this House and have dual citizenship have two weeks to renounce it. If you do not renounce, somebody will go to court and use this law. You have no choice. You cannot just run from the Diaspora after making some little money and you want to vie for governorship. The law is very clear. The IEBC has not committed any crime. They will declare you. But the day you are given the winning certificate by the Returning Officer, the following morning before you are sworn in as a Member of Parliament, you must renounce. That is what the law says. We have nothing against anybody. This House must work to protect the Constitution. Whether somebody comes from your village or they are your friend--- There are many Kenyans from Mwingi who can be given this job if our sister does not comply. She has to weigh. I agree she did not get a green card because she was born in the US.

The amendment was rejected by the Speaker because you cannot bring an amendment that is contrary to the law. So, what is before us is to adopt the report of the committee. The opposite of that is for the House to reject. I am not with the people who say we want to reject. Let us support the recommendations of the committee and give her the benefit of doubt, because she has complied and she is qualified. The only problem is that element of dual citizenship. I am sure being an ambassador or High Commissioner is a more prestigious position than having a US passport or citizenship. What is the big deal? You have been given a job. You vied for the Mwingi West seat and now you are getting a better job. Why do you want to live in America which is very cold and the weather is bad? Now you will be representing a whole country.

I want to ask my sister to take the moral high ground and renounce that citizenship. It is not going to heaven for you to have US citizenship. When our children go to learn in the US, they come back.

Hon. Temporary Deputy Speaker, as I support, you did not ask Hon. Sabina to substantiate. We do not want to mention Members in bad light. Every statement and fact in this House must be substantiated. We do not want to say, "Oh there are Members of Parliament". Hon. Katoo, you have done a good job. We want committees like that. Let us not embarrass the Government or Parliament. Let us not violate the law. If I had a chance, I would have proposed a further amendment.

Again, this is a special report. I am sure we need to bring an amendment to Section 31 and ask the DCI, DPP and EACC to do a forensic audit on all Kenyans who are serving in public and state offices that have dual citizenship. The only time I can get somebody with dual citizenship is if I marry a woman from another country. And she will not be eligible for any State or public office. So I support the Committee. Let us go this route. Let us not cause tension. She has the job. The choice is whether to be an American or a Kenyan. From where I sit, she is a Kenyan ambassador.

We do not want to have a situation where Donald Trump can tweet at 3.00 a.m. and say all Americans living in Seoul should go back to their country. Because she is an American, the Ambassador will be told to go back. So, who will represent our country? I beg to support and urge Members this is a good position. Let us not discuss our sister in bad light. Let us give her the respect she deserves.

Most of the other nominees are career diplomats. They have done this country proud. I am sure they deserve to be High Commissioners and ambassadors. I wish them well. I am sure wherever they are they will serve the interest of our country to their best and in accordance with the law and the Constitution.

**The Temporary Deputy Speaker** (Hon. Soipan Tuya): Yes, the Member for Suna East.

**Hon. Junet Nuh** (Suna East, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I want to first, thank the Committee for the good job they have done and for the Report they have brought. There are highly qualified Kenyans who have been cleared to serve this country in the capacities of High Commissioner and ambassador. But I wish to differ on the matter of citizenship of Madam Mwendu Mwinzi; that she should renounce her US citizenship as the Report says.

When we were writing ourselves the Constitution, there was a reason why it allowed dual citizenship. Dual citizenship was supposed to cure certain problems some Kenyans were facing, from historical backgrounds. There were many Kenyans who were suffering outside this country, in foreign lands. They also wanted to be Kenyans. If you look at, for example, Madam Mwendu, you will find that we are not discussing her integrity. Nobody is saying that she is corrupt. Nobody is also saying that she has done anything that is contrary to leadership and integrity law. We are discussing a constitutional matter of dual citizenship. The issue of dual citizenship is well covered in the Constitution. If you look at Article 260 of the Constitution, it clearly stipulates who is a State officer. To the best of my knowledge, if I understand English well, ambassadors and high commissioners...

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): On a point of information, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Junet, do you want to be informed?

**Hon. Junet Nuh** (Suna East, ODM): I do not want to be informed, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Rachael Nyamai, unfortunately, the Member does not want to be informed.

**Hon. Junet Nuh** (Suna East, ODM): Hon. Temporary Deputy Speaker, to the best of my knowledge, ambassadors and commissioners are not State officers. Secondly, you cannot punish somebody for the crimes committed by, for example, their parents. Today, as a lady, you can leave Jomo Kenyatta International Airport (JKIA) when you are about to deliver and then end up delivering your child, say in the USA. When you travel back to the country, that child will be an American citizen.

That child will be an American citizen when you come back to the country. A good example is this: Parliament can send a female Member of Parliament for a trip when she is, say, nine months pregnant.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): What is out of order, Hon. Pukose?

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Temporary Deputy Speaker. I do not want to interrupt the Minority Whip. However, he has made a serious statement and, as a doctor seated in this House, I cannot allow him to get away with it. He has said that somebody who is expectant and in labour at the JKIA can go and deliver in the USA. That is not possible. That is a statement that he can only make in a *baraza*, but not in a respectable House like this one.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order Members! Let us get serious when we intervene using points of order. I will give the Floor to the Chairperson of the Departmental Committee on Defence and Foreign Relations.

I am ignoring Hon. Pukose's point of order. Let us hear Hon. Katoo. What is your intervention?

**Hon. Katoo ole Metito** (Kajiado South, JP): Thank you, Hon. Temporary Deputy Speaker. I want to inform my good friend that the Speaker has just made a ruling. In his ruling, he referred to Section 52 of the Leadership and Integrity Act. It says that for purposes of Chapter Six, all public officers will be treated as though they were State officers. So, public officers, on matters to do with Chapter Six, are State officers.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Proceed, Hon. Junet.

**Hon. Junet Nuh** (Suna East, ODM): Hon. Temporary Deputy Speaker. I am discussing Article 260 of the Constitution. It supersedes any Act. Once there is an express provision in the Constitution on a matter, we should stick to it.

To conclude my submission, this lady is going to be punished for things that were done by her parents. There are many Kenyans - she is not the only one - with such cases and they may come before this House for approval. This House has passed the nomination of people, including persons with integrity issues. When they were eventually posted to their respective offices, the Ethics and Anti-Corruption Commission caught up with them and arrested them. So, this is a lady who wants to serve her country and the Constitution does not bar her from doing that. When she wanted to contest as a Member of Parliament in Kitui County, she was cleared by the Independent Electoral and Boundaries Commission (IEBC) to run for the seat. Was the IEBC blind to her dual citizenship? Let us not victimize this lady today because it may just catch up with other people in the end. This is an issue that has been addressed properly under the progressive Constitution of Kenya, 2010, which we gave ourselves.

There are people like Prof. Ngugi wa Thiong'o who have stayed outside this country for donkey years. Can we now say that if he comes back, he will not be a Kenyan? There are certain offices that you cannot serve when you have dual citizenship and there are others that you can serve. For example, you cannot serve as a Member of Parliament when you have dual citizenship, but you can serve as an ambassador when you have dual citizenship. In fact, you will be of more value.

On the issue of President Donald Trump saying that he will lock them in, that is neither here nor there. It is a fact that Madam Mwendu Mwinzi is a Kenyan. That is a fact that you cannot take away from her. It is also a fact that she was born in the USA and her mother is an American.

*(Hon. Angwenyi spoke off-record)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order, Deputy Leader of the Majority Party. Proceed Hon. Junet.



**Hon. Junet Nuh** (Suna East, ODM): Hon. Temporary Deputy Speaker, I want to plead with the Members of this House not to victimise Madam Mwendu Mwinzi. The Constitution allows dual citizenship. Let her not denounce her citizenship because she has been given a job as an ambassador. This House should uphold the Constitution. It must look at the rights of every Kenyan. Even though they appeared before the Committee, the nominees cannot appear before us to defend themselves.

As I conclude, I can allow Hon. Rachael to inform me. She has a burning issue. She comes from Kitui County like Madam Mwinzi. Go ahead, I am giving you one minute then I conclude.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order Hon. Junet! Who has given you the authority to hand over the Floor to another Member? Hon. Rachael Nyamai, do you still want to inform Hon. Junet?

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Thank you, Hon. Temporary Deputy Speaker. He has accepted to be informed. I want to appreciate how he has elaborated this matter. I want to inform him as part of this discourse that Article 260 of the Constitution states what State offices are. It is from (a) President to (q) an office established and designated as a State office by national legislation.

Article 234(3) states that:

“Clauses (1) and (2) shall not apply to any of the following offices in the public service—

- (a) State offices;
- (b) an office of high commissioner, ambassador or other diplomatic or consular representative of the Republic”.

Hon. Temporary Deputy Speaker, if there is a matter that needs to be addressed in the Constitution, then we can talk about amending it so that it takes care of the issue of State Officers. However, as it is today, under Article 234(3)(b), an office of high commissioner, ambassador or other diplomatic or consular representative of the republic is not subject to parts (1) and (2) of the same Article.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order Members! Sorry I have to cut you short, Hon. Nyamai. You cannot challenge the Speaker’s ruling. The Speaker has already made a ruling on that matter. We have constitutional provisions and Hon. Junet, I know, you know them. They are provisions of the Constitution and the Ethics and Integrity Act. We are the ones who make laws. So, if you have an issue with the Ethics and Integrity Act, you know what to do. We cannot challenge a ruling that has been made by the Speaker in accordance with the Constitution and Section 52 of the Ethics and Integrity Act.

Proceed with your contribution.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Speaker, I have utmost respect for the Speaker. I am saying this from the bottom of my heart. However, I was informing Hon. Junet. It is important that these matters are brought to the Floor. This can open a Pandora’s box and many people who have dual citizenships serving in high ranking offices in

this country will be affected. Therefore, that is important. I was informing Hon. Junet and the House.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): The Leader of Minority Party, you have the Floor.

**Hon. John Mbadi** (Suba South, ODM): Hon. Temporary Deputy Speaker, first of all, the Report before us is to approve these nominees with only a rider on one name, that that lady should renounce her US citizenship immediately Parliament approves, before taking up the position of being High Commissioner to South Korea. That is the only variation. Otherwise, the Committee is recommending the approval of all the nominees. So, it is not correct to say that we are disapproving the appointment of this lady.

However, allow me to say the following. First, this lady is a Kenyan and that is a fact. Nobody is disputing that she is Kenyan. She is a Kenyan with dual citizenship and that is the difference. She is a Kenyan and also an American. The fundamental question we want to ask ourselves as a House is whether it is in the interest of this country to have an ambassador who has dual citizenship; one who is both Kenyan and American. As a House, we have a responsibility to pronounce ourselves unequivocally to ensure that we tell the whole world that we know what we are doing.

I say so because we have been condemned for making approvals in this House which do not stand the test of time. That takes me to this argument that there are others we have approved who are of questionable citizenship. That we have approved other Kenyans in this House who have questionable character. That is and may be true. However, two wrongs do not make a right. When we discover that something is not right, we need to say it. This is the House to say it. I do not want to be accused later of having closed my eyes on something that I was aware of. I would rather deal with criticism on a matter that I was not aware of or did not have all the facts. In this case, the facts are in black and white in the Committee's Report. How then do we close our eyes on this?

Assuming that the interest of the American Government and the interest of the Kenyan Government conflicts in South Korea, we want to be clear whose interest this lady is going to push through. The American Immigration Act is clear that if you are an American citizen, you must always put, as a matter of priority, and it is permanent, your loyalty to the American State. That is why the people of Kenya were very clear that you can take up that responsibility, but first renounce your citizenship. It is not asking for too much from this lady.

**Hon. Junet Nuh** (Suna East, ODM): On a point of order.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): What is out of Order?

**Hon. Junet Nuh** (Suna East, ODM): Hon. Temporary Deputy Speaker, is my leader in order to mislead the House that the nominee will side with America if the interest of America is in contravention with that of Kenya when the ambassador knows that she is a Kenyan and representing the interest of Kenya in South Korea? Is he right to bring the hypothetical question to the House on something that has not yet happened? We are not going to discuss hypotheses in the House. That is a hypothesis because it is dealing with possible scenarios; what happens when this happens or what if that does not happen?

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order, I think the Leader of the Minority Party is just arguing out his point.

**Hon. John Mbadi** (Suba South, ODM): Today I am finding myself in a very awkward position where the Leader of the Minority Party and the Whip is on the opposite end, but that is democracy. It is allowed. It is an expression. Democratic tenets allow that. However, what I meant, and I think my Minority Whip did not listen to me properly, is that the American law is clear that if you are American citizen, so long as you have not renounced the American citizenship, you remain American.

If my whip challenged me on that Act, it would have been a different story, but he has not challenged me to cite that Act. However, I know for sure that the Immigration Act is clear that if the interest of America conflicts with the interest of any other country, an American citizen is under obligation to promote the American interest.

That is why I was asking if this lady does not renounce her American citizenship and becomes our ambassador in whichever country, whether South Korea or Uganda, what happens if Kenya takes a contrary position to that of the American or Trump Administration? I was asking and this is not hypothetical. It is a real question. That is why we have ambassadors to represent our interest. As a matter of fact, Kenyan Ambassador to South Korea is like the President of Kenya residing in South Korea.

That is why the Kenyan Embassy in South Korea is treated as a Kenyan State. When you are in that Embassy, you are as good as in Kenya and whoever is heading that Embassy is an equivalent and a representative of our President in that place. I would be more confident if the ambassador that represents this nation has 100 per cent allegiance to the people of Kenya and the Kenyan State. That is why I am saying...

*(Loud consultations)*

I know this Report has come out very clearly. My proposal is very simple. If you asked for my personal opinion, I would have rejected this lady's appointment. However, the Committee, in its wisdom, has come with a recommendation.

*(Loud consultations)*

First of all, anyone asking me about the law is contradicting and reprimanding the Speaker. The Speaker has already pronounced himself that the Leadership and Integrity Act is clear on public officers.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Leader of the Minority Party, the Speaker did not say that it was illegal for the Committee to bring the name of Mwendu Mwinzi here.

**Hon. John Mbadi** (Suba South, ODM): I have not said that as well. I am saying that the Hon. Speaker interpreted very clearly, in my view, and said that in as far as such appointments

are concerned, public officer is construed to be the definition of a State officer in the Constitution. By the way, the Judiciary have gone ahead to pronounce itself over the same.

I hear people talk about the Constitution and Article 260. The Constitution has to be interpreted. You can only say the Constitution is supreme where it can be construed that the Act contradicts the Constitution. In this case, the Act is not contradicting the Constitution. It is explaining the Constitution and has gone ahead to define it.

*(Loud consultations)*

The people who are saying “no” and raising points of order... I can allow Hon. Kaluma because he is my personal lawyer. He is not the Orange Democratic Movement lawyer. He is asking to inform me.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order, Hon. Members! You know you are taking the wrong cue from the Minority Whip. You cannot give the Floor to a Member.

**Hon. John Mbadi** (Suba South, ODM): I am not giving him the Floor. I am just saying that I allow the information because I have to allow it. You also cannot give him a chance if I do not allow. He has shouted.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): He did not even catch the Hon. Temporary Deputy Speaker’s eye. Please, you have to stop that trend of passing the microphone to another Member. That is the place of the Speaker.

**Hon. John Mbadi** (Suba South, ODM): What I am saying is simple. In my view, let us support this Report as it is. Let her be appointed, but on condition that she is going to renounce her American citizenship.

Thank you very much.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Let us have the Majority Whip.

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to also add my voice to this very serious debate that is before the House this evening.

I am happy that for the first time and in a long time, we are passing a list of appointees where the majority are women. So, we do not have to fight about the one-third gender rule. That is a good move and I hope this becomes the case going forward.

Hon. Temporary Deputy Speaker, let me first declare my interest by saying that I went to school with the said appointee, Ms. Mwendu Mwinzi. She was my senior in school and a very able leader. I have known her for a very long time. She is a woman of integrity. She worked in the Economic Council during the regime of the former President, Mwai Kibaki. The Council came up with Vision 2030 on which the Big Four Agenda is anchored. The women here will tell you that when time to give birth comes, it does not matter whether you are in a forest or in a toilet. Wherever you are, the baby must come out. It happened she was born when the mother was in America for a visit and so she is an American citizen by birth. We are making her feel

like she has more allegiance to America than Kenya. She has served in a previous Government, ran for Member of Parliament and has been running a foundation called *Tuanatwito*, which has educated over 1,000 children from Kitui County. So, the question here is why we are subjecting her to a law that, in my view, is non-existent.

The Constitution is very clear in Article 260 in terms of who State officers are. Ambassadors are not one of those listed in Article 260.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): On a point of order, Hon. Temporary Deputy Speaker!

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Kaluma, what is out of order?

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Speaker, a ruling founded on law has been delivered by the Speaker and the contributions keep indicating that the Constitution does not contemplate that an ambassador is a State officer. This is the provision of Article 260 of the Constitution, Paragraph (q). It states that a State officer shall include an office established and designated as a State office by national legislation.

Article 260 defines State officers as including officers occupying such offices as are defined by national legislation. That is why the Speaker in his rightful ruling said that the Leadership and Integrity Act defines ambassadors, high commissioners and consular office holders as State officers. I think we need to be clear on that. We want to save the lady, but we cannot run from the law.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): On a point of information, Hon. Temporary Deputy Speaker!

**Hon. Cecily Mbarire** (Nominated, JP): Hon. Temporary Deputy Speaker, I am willing to be informed.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Okay, Hon. Millie.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. I wish to inform Hon. Cecily Mbarire that when the Speaker gives a ruling on a matter, you cannot depart or purport to depart from that ruling, but you can respectfully disagree with the position of the Speaker. Just pretty much the same way as a lawyer, you can respectfully disagree with the decisions of a court, including a decision of the Supreme Court.

May I also inform Hon. Cecily Mbarire that Article 78(3)(b), which has not been cited here, says that “any person who has been made a citizen of another country by operation of that country’s law, without ability to opt out”.

I am hearing an honourable Member saying there is ability. That is a matter of law that must be espoused up to the Supreme Court. Because of that, we can respectfully disagree with the Speaker and advise Mwendu Mwinzi to go up to the Supreme Court to seek interpretation of the section that I have just talked about. So, let Hon. Kaluma not intimidate us with law. Women here are learned. Do not joke with us.

**Hon. Cecily Mbarire** (Nominated, JP): Hon. Temporary Deputy Speaker, I think this House is very well guided.

*(Hon. John Mbadi consulted loudly)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order, the Leader of the Minority Party.

**Hon. Cecily Mbarire** (Nominated, JP): Hon. Temporary Deputy Speaker, please, ask Hon. Kaluma to allow me to continue. We are very well guided by Hon. Millie, who is a learned colleague, and who is a lawyer of high standing. She is a barrister. I want to challenge the Chair of the Departmental Committee on Defence and Foreign Relations, Hon. Katoo ole Metito.

His Committee has in the past passed certain people into offices of commissioners and ambassadors when they have dual citizenship. Go and do your homework. Go back to the Committee and do your homework and do not challenge me to say here who they are. Go and do your homework. It is those double standards that we are up against today. I saw Hon. Sabina Chege being intimidated here and she refused. We will not...

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order, Hon. Mbarire! Hon. Katoo.

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Temporary Deputy Speaker, we are all very clear about our Standing Orders. You will be responsible for the accuracy of the statements you make here. I would like Hon. Mbarire to tell the House who are the persons that we passed in this House with dual citizenship and then we will start from there.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Mbarire, you have three minutes.

**Hon. Cecily Mbarire** (Nominated, JP): Hon. Temporary Deputy Speaker, I have said and I repeat that this is an oversight Committee. Go and check what you did wrong in the past. The reason we are challenging this decision of the Committee is because there are certain things that were done wrongly in the past. We want them to go and rectify. However, do not start asking me to name names. It is the Committee's business to go and look at their work and bring it back here because it is true. We do not want to be intimidated. Let it go on record. We know the reason this is happening is because we are talking about a woman.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): The Member for Kiminini, Hon. Wakhungu, you have the Floor.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Speaker for this opportunity. Parliament is a House of records. This is not the first time we are vetting ambassadors and high commissioners. I acknowledge the good work that has been done by the Departmental Committee on Defence and Foreign Relations under the leadership of Hon. ole Metito. I served in that Committee in the last Parliament.

An ambassador is a representative of the President. He is there to protect the interests of the country. One thing I want to note is that the Committee is in order. Looking at these Kenyans, they have what it takes to do their work. The Committee is in order for putting that rider on nominee No.7, Mwendu Mwinzi, that she denounces her American citizenship. The Committee went further to look at the qualities of Madam Mwendu Mwinzi. She is qualified for that position, but I did not see anything unique that other Kenyans do not have. When you look at

this list, you will see it does not reflect the face of Kenya. We must, indeed, note this, particularly at this time, when we have the Handshake. I expected the list to represent the face of Kenya.

If you look at the list of the nominees, you will find that it is skewed towards some specific direction of this country. This is a message to the appointing authority wherever he is. The 42 tribes in this country are all Kenyans. When it comes to nomination, it is important to consider the face of Kenya. The majority of the people who do not have jobs are the youth. I have gone through the age brackets of these individuals and none is a youth. When the President will be nominating people in the remaining positions, he must consider...

**Hon. Junet Nuh** (Suna East, ODM): Luhyas!

**Hon. (Dr.) Chris Wamalwa** (Kimisini, FORD-K): I did not say the Luhyas. Hon. Temporary Deputy Speaker, Hon. Junet is putting words in my mouth. The nominations should represent the face of Kenya and should have the youth. Currently, many ambassadors left their careers and were appointed to respective regions, but they have now been left on the way without knowing where to go. We know that the Ministry of Foreign Affairs and International Trade is the one which gives the recommendations. We want to see whether there is the face of Kenya in that particular Ministry.

This is also a message to the Principal Secretary and Cabinet Secretary in charge of this ministry. A lot has been said about Ms. Mwende. When you look at the qualifications, provisions of Article 260 of the Constitution and the Leadership and Integrity Act, particularly when it comes to Sections 31 and 52, she is competent. She can do the job. Before she gets it, she must renounce the citizenship of the United States of America. We have been told that her citizenship is not by registration, but by birth. She did not have control over this. Maybe the mum had gone to visit there. We have also been told that her mother is a USA citizen. We expected the Committee to have gone further to give us information or disclosure.

Having said that, we will approve Ms. Mwende Mwinzi. However, before she takes up the position, she must renounce her USA citizenship. The reason is that when you advance foreign affairs matters, there is an issue of foreign policy. When any ambassador or high commissioner goes to a country, he must advance the foreign policy of his country. My colleague, Hon. Mbadi, said it. If you are in Korea and there is a conflict of foreign policy between the USA and Kenya, which one will she advance?

For instance, there is the issue of pro-life in this country. Kenyans are pro-life. We do not advance same sex marriages. Some issues are allowed in the USA. We have conflicts. It is, indeed, important that she renounces her USA citizenship so that we are assured that if we have any conflict of interest when it comes to matters of policy, obviously, she will be on our side. That is very important. I have no doubt because we were told that Ms. Mwende Mwinzi vied for an elective position in Mwingi West and Hon. Charles Nguna Ngusya (CNN) floored her. She was number five because Kenyans did not know who she is. The issue here is that the Constitution allows her to be nominated.

*(Loud consultations)*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Nyamai, what is out of order?

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Speaker, is it in order for the Member for “Kimilili” to bring issues of election into this important debate? This is a matter that concerns our Constitution and an individual who was nominated. I am sure she was properly checked before. Is he in order to trivialise this debate by bringing an issue of election here? We know the reasons. We know what happened for her to be in that position. Is it in order for the Member, who was not even part of the Jubilee Party, to bring a matter of election into this important debate?

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Wakhungu Wamalwa, you cannot decide why the people of Mwingi West did not elect a person. In defending your position, you must desist from making any disparaging remarks on an individual because you cannot say that a person who becomes No.15 in an election is less Kenyan than the one who becomes No.1. That is not right. Go on and complete your contribution.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Speaker. In the first place, I am not a Member of Parliament for Kimilili. I am a Member of Parliament for Kiminini. The point of order does not refer to me. The Member for Kimilili is Hon. Didmus. So, I have no business in that context because I am the Member for Kiminini, but not Kimilili. She referred to the Member for Kimilili who is the wrong person. So, I am not obligated to answer that.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): You are out of order! I said that you are the Member for Kiminini. You are the one on the Floor. I will quash the remaining time that you have, Hon. Wamalwa. Please, you are the one on the Floor and you made some remarks. Hon. Didmus is not in the House. Can you finish your statement?

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Hon. Temporary Deputy Speaker, before I move on, I need the point of information from Hon. Junet.

Thank you.

*(Laughter)*

*(Hon. Junet Nuh stood in his place)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): You are out of order, Hon. Junet and take your seat. Hon. Wamalwa, I am only giving you one more minute. The Speaker is the only one who has a right to give the Floor to a Member. Hon. Junet, you are the one who picked the trend, the Leader of the Minority Party picked it and now you are really stretching it. You have no right to give the Floor to anybody. You have one minute. Finish your contribution.



**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Thank you, Hon. Temporary Deputy Speaker. After we approve Ms. Mwendu Mwinzi, she must renounce her USA citizenship before she takes up that position for the reasons I had already given. The nominating authority should know that the list does not represent the face of Kenya. The youth and people from other regions must be looked into next time so that the face of Kenya can be represented, particularly at this time of the Handshake.

I thank you and I support the Motion.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): On this side, we have Hon. David Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Temporary Deputy Speaker, for giving me this particular opportunity to voice my concerns on this very important matter. I want to pick from where Hon. Wamalwa has left. He has said that the nominees list does not represent the face of Kenya and the youths. I am a Member of the Jubilee Party which is the appointing authority and I am getting tired of reminding them that we should have representation of persons with disabilities.

At the moment, we do not have a single ambassador, Cabinet Secretary or Chief Administrative Secretary (CAS) living with disability. It is tiring to be reminding the appointing authority every now, and this goes to deaf ears, that we need representation of persons living with disabilities, which is in our Constitution. It is not Hon. Sankok who talks about representation of persons living with disabilities, but Article 54 of our Constitution provides that. When we get names in this House, we always pass them thinking that the appointing authority will hear our voice and appoint persons living with disabilities in the next appointment. Let us have persons living with disabilities.

Let me come to the matter of nominee No.7. Hon. Sabina Chege kept on referring to Esau in the Bible. If you went to Sunday school, Esau sold his birth right. He did not renounce it, but sold it. For this case, the law, Hon. Speaker's ruling and the Report of the Committee are very clear. We will approve her, but let her renounce her USA citizenship. If she cannot do that, I have heard that she is a very good and intelligent lady. However, it does not mean that we only have one good intelligent lady from Mwingi. We have many other ladies, especially the youth, who are jobless and can be given this job. So, I support and thank the Departmental Committee on Defence and Foreign Relations for doing their homework very well. The Committee dug into each nominee's past. It has given us examples of people who renounced their dual citizenship yet they were very good leaders in their countries. So, we want to tell her that we are just following the law.

The issue of some Members saying that there are cabinet secretaries and some of us here with dual citizenship, is simply hearsay. We cannot rely on hearsay in this House. If such persons exist, the EACC, the DCI and the DPP should do their work and, if possible, report those who hold dual citizenships and are serving in this House or elsewhere. Simply because somebody has broken the law, it does not mean that we have to break the law ourselves. The law is very clear that one must renounce one's other citizenship to serve this country, especially in a capacity where one is given the title, "Your Excellency". You know that means that you

represent the State and the Head of State. When you are given that title and you have loyalty to another country, it is risky.

A Member read part of the American Constitution, which states that loyalty to America is foremost. If there is conflict between our country and the one she holds citizenship of, where will her loyalty be?

I urge the House to follow the Speaker's Ruling. Let us also support the Report of the Committee of the Departmental Committee on Defence and Foreign Relations. If we have evidence of the Committee having erred earlier, please, let us table it here so that we can correct the mistakes. If you steal and you are caught, you will face the law. You will not go to court and say that the person who had stolen before you was not arrested.

As far as I support Hon. Millie Odhiambo's point of information, and she has said that she is married to a Zimbabwean, she should also declare her interest. If she has dual citizenship, then we will start from there because we do not have to dig much.

Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I totally support the Report of the Committee.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Akoth, I am giving you a chance not because you are declaring interest, but because you are next in line. So, you can combine everything, including your contribution.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. Let me start by declaring my interest. I have a very serious interest in this matter. I do not know Mwinzi Mwendu personally, but she is a woman and I am one. That is my first interest.

Secondly, I am sad that the Member is leaving before he hears what he asked me to do. He asked me to declare my interest. My husband is Zimbabwean. I do not have dual citizenship. The reason I do not have dual citizenship is because I am still negotiating with my husband to allow me to marry a second and a third husband like men have done. When he allows me, I will come and change the law. If I change the law, I will declare my dual or triple citizenship. These men can sit here and judge us women and tell us to declare citizenship. Some of them are married to women in Uganda, Eritrea, Somalia, Tanzania and the USA, but we are not telling them to declare their interests. Do not joke with us!

When dealing with this matter, I want to look at it as the law is, whether we should change the law or not. On the law as-is, Article 78(1) of the Constitution says that a State officer or a member of the defence forces shall not hold dual citizenship, but Article 78(3) says that clauses (1) and (2) do not apply to: "(b) any person who has been made a citizen of another country by operation of that country's law without ability to opt out." The reason I am saying that this is something that is up for the courts to interpret is that the ability to opt out is very wide. The fact that I may not have requisite time may be an ability not to opt out because America also has its process for renouncing. I can also argue that if I have a running stomach, I do not have time to opt out. The law can be interpreted widely.

Give that woman a chance so that the courts can interpret that matter. I am sure it has not been espoused in that appeal decision. Parliament has done an enabling legislation and if one

looked narrowly at the law, then I would agree with the Committee. However, if the law is looked at widely, then the lady has options, especially in a fast and changing world that is globalised. I know I sat in the Committee that came up with this Constitution, but what informed our minds then was a different set of circumstances. The world is moving too fast. Half of the Members of Parliament have children who have other citizenship. So, perhaps, it is time to look at the law as it ought to be and not the law as is.

I may agree with the Committee that if you take a purist approach of law, you can go that way. But I am a naturalist; the law was made for man and not man for the law. So, we should look at the law in a manner that serves Kenyans.

I agree with Hon. Sabina Chege that the problem is that we always follow double standards. I am not saying that we should disobey or disregard the law, but I do not know why people are excited that whenever we are talking about integrity and other issues, when it comes to women, we are so fast to throw stones. Even within this list, the male Members have come to tell me: “We should remove this one. He is corrupt”. Why are you not saying it here loudly? It is because he is a man! But when it is woman’s dual citizenship, suddenly the Constitution is primary. Issues of leadership and integrity in the Constitution that touch on a male nominee, we are not bold enough to say it. Why? Because you see women as low-hanging fruits.

Today, I really was on fire with my own Members of Parliament who have made it their business... Instead of focusing on their legislative, oversight and representation roles, some of them were busy “oversighting” women’s private parts. I have told them that they did not come here to do that. They do not have a mandate to “oversight” women’s private parts. They are making my sister, Hon. Passaris, not to come to Parliament because all of them are busy talking about her over things which are not even proven or of allegations that we do not know. Let them focus on representation, legislation and oversight roles and leave women Members to do their work.

*(Hon. Junet stood in his place)*

I know Hon. Junet wants to support his male colleagues. He is my leader, but on this one, in terms of ranking, I am his senior. “Private parts” is parliamentary language. I want to repeat to the male Members that they were not elected, even the ones not in the House, to “oversight” women private parts. I want to tell the Speaker of the National Assembly a play was brought to this country called the V-Monologues. Let it be brought back so that men can discuss the V-Monologues and leave women alone and focus on their primary roles as male Members of Parliament. Leave women alone!

**Hon. Junet Nuh** (Suna East, ODM): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): What is out of order, Hon. Junet?

**Hon. Junet Nuh** (Suna East, ODM): Thank you, Hon. Temporary Deputy Speaker. We must respect the House and debate with decorum. Is it in order for the Member to say that male

Members of Parliament are sometimes “oversighting” female private parts in the glare of cameras in the House? That cannot go unchallenged. It must be expunged from the records of the House. This is not a village assembly.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Millie, did you say that male Members are “oversighting”?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Speaker, I told him and he should listen carefully. I said that this morning I warned the male Members from “oversighting” women’s private parts. That is a matter of fact. I said it. So, you cannot tell me to withdraw what I said. It is a matter of fact that I said it in another forum. The reason I said it is in relation to double standards. The other time when Hon. Sonko attacked Rachel Shebesh, we were not able to speak on the Floor. Now, he is on Hon. Esther Passaris and you want us to keep quiet. Nobody is talking. Some of these men have 10 or 20 women. Nobody is talking about them, but when you hear that Esther Passaris has said “I love you”, how are you interpreting the “I love you”? There is agape love and other forms of love.

I want to tell you, Madam Temporary Deputy Speaker that I love you, but I am not a lesbian. So, let them not interpret for us “I love you” in their own words. Do not joke with us. You are the reasons that women cannot come up and seek leadership because you know there are no women brave enough to say the things they are saying here. When you say it, you are ranked insane. They call Hon. Millie Odhiambo insane. When I am protecting women, I will be insane. Leave Hon. Esther Passaris alone. In the same manner, leave this woman alone.

If you look at what we are discussing, there is more than one nominee, but who are we talking about? You would think it is only one person that we are talking about in the appointment. Who are the names of the others? I do not know because we are all talking about this one woman like there are no other people. Let us leave women alone! Somebody here is telling me there are four women. You will always pick one, the same way you picked me on the Floor of the House. We will deal with you perpendicularly. We are not going to joke with you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): You have made your point, Hon. Millie. Let us have Hon. Kioni.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Hon. Temporary Deputy Speaker, I know we use the House for purposes of entertainment. It is not good to group everybody under the same category. If you choose to join social groups that are discussing things that are not useful, that is your own choice. If those discussions were going on somewhere, how is it that some of us did not get to know? It is because we chose not to sit in those discussions. If you choose to sit in those discussions, do not come and make it an issue on the Floor. When we do that, we are demeaning the status of this House.

Allow me to say that I thought we were discussing something else. It becomes difficult to deal with issues of gender because when you pick on an issue of this nature, it is personalised to the point where you do not even want to make any contribution. You just vote and refuse. The important thing is that when it comes to issues of representing the interests of Kenyans, we have the law and it has been cited by those who quoted various sections accurately and correctly. We have different views and interpretations of different sections, but there is also the question of

common sense. You want to go and represent the interest of Kenyans. You will be representing the President of this republic. If the President cannot have dual citizenship, how is it that we allow his personal representative, if I may use that term, to have dual citizenship? This issue has been argued enough. We have had the ruling of the Speaker and I think common sense will help us now and going forward. We cannot allow people with dual citizenship to go and represent us out there.

Worst still, when they have the citizenship of America, the Immigration Act requires them to have their allegiance to the USA and it is permanent. The law says that allegiance is permanent. So we cannot play games with it here unless we want to become a banana republic. It does not matter whether it is a woman or a man. We cannot allow that. If we do that, we will have to pay for it later. I do not know whether we have quorum, but if we had quorum, I would be asking you that you put this issue to rest. It is calling in unnecessary statements that are not useful to us. Those issues that were being disused last night have no room on this Floor.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Kioni, you stood up to make a contribution, but now you want to sneak in closure of debate. I am going to the Member for Mwingi West, Hon. Nguna.

**Hon. Charles Nguna** (Mwingi West, WDM-K): Thank you, Hon. Temporary Deputy Speaker. Before I contribute to this Motion, I would like to declare three interests in the matter: One, Ms. Mwende Mwinzi is my aunt. Two, she is my political opponent. I floored her during the last elections. Three and most importantly, Ms. Mwende Mwinzi comes from my constituency and is a Kenyan. She worked with the Kibaki administration for many years and she was cleared to run for a parliamentary seat. I am confused, but let me confess that the President was right. If you look at the list, there is the issue of gender and regional balance. Why are we vilifying my aunt just because of dual citizenship?

*(Laughter)*

I urge this House to pass this list now. We are wasting time. I am suggesting that we put the Question as it is the mood of the House.

Hon. Temporary Deputy Speaker, I am not exporting my problems to South Korea. The issue of ambassadors and high commissions should only be based on integrity, which Ms. Mwende Mwinzi has.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Kaluma, what is it?

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Speaker, we never want to interfere with colleagues particularly when they declare interest, but there is a tendency developing that Members contribute and at the end of their contribution, they ask that the Question be put. Where are Members getting this authority to take over the seat of the Speaker? We may not disagree with Ms. Mwende Mwinzi being an aunt, having run or having

worked before, but what does the law say? This is why sometimes this Parliament is not being taken seriously.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): You made a good point.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): I thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order, Members! Hon. Members, when you stand up to make a contribution, you have no further authority to call for closure of debate. If you want to talk about closure of debate, you stand substantively on that. Hon. Nguna, are you done?

**Hon. Charles Nguna** (Mwingi West, WDM-K): Hon. Temporary Deputy Speaker, I would like to invoke Article 78 of the Constitution, which provides that clearly that a person is not eligible for election or appointment to a State office unless the person is a citizen of Kenya. However, there is a provision below which says that this provision will not apply to appointment of high commissioner, ambassador, as they are not State officers. Why are we applying the law selectively and discriminatively?

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Speaker, he is reading the Uganda Constitution.

**Hon. Charles Nguna** (Mwingi West, WDM-K): No! The Constitution is very clear.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Nguna, you only address the Speaker. Leave Hon. Kaluma alone. Hon. Kaluma, you are intimidating the Member.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Speaker, he is reading to the House the Constitution of Uganda!

*(Laughter)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Kaluma, you are out of order! You cannot harass a Member and stop him from contributing. Why are you snooping into his phone?

**Hon. Peter Kaluma** (Homa Bay Town, ODM): With those few remarks, I would like to request you to go with the mood of the House.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Katoo.

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Temporary Deputy Speaker, this is a House of records. Hon. Kaluma, please, this is a House of records. I do not know which Constitution the Member for Mwingi West was reading. Article 78 of our Constitution does not mention anything to do with an ambassador or high commissioner. Maybe, he was not reading the Constitution of Kenya. Maybe, he was reading the constitution of the Wiper Democratic Movement (WDM-K).

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order, Members! It is a serious issue, Members. I will just use my discretion to recall Hon. Nguna to tell us which constitution he was reading. You can only read the Kenyan Constitution in the House.

**Hon. Charles Nguna** (Mwingi West, WDM-K): Hon. Temporary Deputy Speaker, I was referring to Article 260.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Members, he is making a correction.

**Hon. Charles Nguna** (Mwingi West, WDM-K): Yes, it is clear. Why are we educating Members on how to read the Constitution?

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Nguna, which provision of the Constitution were you reading?

**Hon. Charles Nguna** (Mwingi West, WDM-K): It is Article 260. It is very clear.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): That is good enough. That is clear. Let us have Hon. Amos Kimunya.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, I rise under Standing Order No.95 to move that the Mover be now called upon to reply. As you can see, we are basically repeating ourselves. We are contradicting the earlier ruling of the Speaker. We are almost turning this debate into some entertainment theatre rather than discussing a serious matter.

So, would I be in order to ask that that the Mover be now called upon to reply?

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order, Members! There is nothing out of order. I am the one talking. There is a Motion which has been moved by Hon. Kimunya. We have to prosecute it.

*(Question, that the Mover be now called upon to reply,  
put and agreed to)*

Hon. Mover, you have the Floor.

**Hon. Katoo ole Metito** (Kajiado South, JP): Can I, with your permission, donate two minutes? I will not take two minutes. If you allow me, I will donate two minutes to each of the following Members: The Member for Tharaka, the Chair of the Committee on Education, and Hon. Kaluma. I will be left with one minute.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Come again, Hon. Katoo. To whom are you donating part of your time?

**Hon. Katoo ole Metito** (Kajiado South, JP): I am requesting that I donate two minutes to the Member for Tharaka, the Member for Tinderet, the Member for Mandera North and Hon. Kaluma. Then I will be left with two minutes.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Kaluma spoke. No? Okay. Hon. Murugara.

**Hon. George Gitonga** (Tharaka, DP): Thank you, Hon. Temporary Deputy Speaker. Let me start by thanking the Chairman of the Departmental Committee on Defence and Foreign

Relations. I rise to support this Motion as presented with the rider that is included. I am a strict observer of the law. There is absolutely no doubt that you do not qualify to hold a State office, under the Leadership and Integrity Act, when you hold dual citizenship. In that Act, a State office includes that of a high commissioner and an ambassador. For record purposes, I know Ms. Mwendu Mwinzi, who comes from Mwingi. That is my neighbourhood. She is a very good lady; a lady of integrity who is learned.

She came to this country in the late 1970s with her parents, who were living in America. That is the only reason she has dual citizenship. The correct position is that she has lived in Kenya ever since. Therefore, she has even schooled in Kenya. That makes it mandatory that we appoint her, but she must have total loyalty to our country by being a citizen of this country only.

With those remarks, I support the Motion with the rider that she denounces her American citizenship before she is appointed Kenya's Ambassador to South Korea.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Let us now hear the Member for Tinderet.

**Hon. Julius Melly** (Tinderet, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Report. I thank the Departmental Committee on Defence and Foreign Relations led by Hon. Katoo ole Metito for the good work.

We swore to protect the Constitution when we took the Oath of office as Members of Parliament. The Constitution is very clear, especially on appointment of ambassadors and high commissioners. It says that officers who would like to take this office must remain citizens of this republic. I think the Committee went ahead to do a very good job. It has given us the precedents of other nations. When high commissioners and ambassadors are appointed, they are supposed to renounce their dual citizenship.

The case of Madam Mwinzi is very clear. She has very good credentials and qualifications. The President will only need to appoint her if she renounces her US citizenship. One becomes a representative of this country when in foreign land. If she is having dual citizenship, her allegiance is to two Governments. So, I do not want to belabour this matter. We need to rest this discussion by making sure that she is appointed only if she renounces her American citizenship. If she does not, she should lose that position. The Constitution is very clear. I ask the Members that we do not canvass to break the law. We need to maintain the law and ensure that we approve the appointments that are within the law.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Kaluma.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Speaker, the provisions of Article 78 of the Constitution are clear. It is to the effect that no person enjoying dual citizenship can be appointed as a State officer. In fact, it uses the words "shall be appointed a State officer..." The provisions of Article 260 of the Constitution enlist all officers. Sub-Article (q) provides for Parliament, by legislation, to introduce a category of persons who are also State officers. The Leadership and Integrity Act is very clear that ambassadors, high commissioners and consular officers are categorised as State officers. We are dealing with a person who is a citizen of the US by birth. She is a citizen of Kenya because her father is Kenyan. She is also a Nigerian because she is married to a Nigerian. For purposes of State office,



that loyalty will be divided and cannot be accepted for a State office. We are dealing with a person who has those number of allegiances.

*(The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya)  
left the Chair)*

*(The Deputy Speaker (Hon. Moses Cheboi)  
took the Chair)*

*(Several Hon. Members stood in their places)*

**Hon. Deputy Speaker:** What is out of order, Hon. Junet? In fact, it is not you, the card I am seeing is for Hon. Seroney. Okay, let us hear you.

**Hon. Junet Nuh** (Suna East, ODM): Hon. Deputy Speaker, you were listening to your colleague, when Hon. Kaluma was contributing. Is it in order for Hon. Kaluma to say that the lady is a US citizen by birth, a Kenyan citizen by naturalisation and Nigerian by marriage? How do you become a Nigerian because your husband is a Nigerian? I know Hon. Kaluma is married to two Ugandans and has never become Ugandan.

**Hon. Deputy Speaker:** I actually never understood you. You are saying that Hon. Kaluma said that this lady is a US citizen by birth, a Kenyan citizen by naturalisation and a Nigerian by marriage. What is it Hon. Duale? We want to close this debate.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, now that you are the second in command after the substantive Speaker, I was watching from my office and what Hon. Millie Odhiambo said this afternoon must be expunged. She said that there are male Members of Parliament who have other functions like overseeing the private parts of some other Members. We are people who believe in God. You cannot say these kind of things in the august House with the Mace. Can you order that those statements by Hon. Millie Odhiambo be expunged? I wish you heard that verbatim. It is live everywhere.

**Hon. Deputy Speaker:** Hon. Duale, you realise it is a bit difficult for me. First, the HANSARD is gone. She has spoken. It is too late. She is on record. It is difficult for us to expunge what she has said. Other than the HANSARD, whatever she has said - I did not hear - is already in the public domain because we are live on television. It is something that I need to consult, but it is rather late. I wish somebody raised it at that particular point in time and it would have made sense to discuss it. You just raised a point of order. Let us get somebody else.

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Deputy Speaker, I was called upon to reply and I had donated a few minutes. I am just left with two, but there is one Member I had donated a minute to and has not spoken. That is Hon. Bashir.

**Hon. Deputy Speaker:** I want to confirm from the clerks whether the debate was cut or it was time for you to... Just wait a minute I consult.

*(Hon. Deputy Speaker consulted with the Clerks-at-the-Table)*

Hon. Katoo, you obviously do not have the powers to donate. You cannot donate because the House was called to respond. There were circumstances that enabled you to get an opportunity to donate a few minutes, but now you will have your time to reply. Finish with the reply.

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Deputy Speaker, thank you very much. I want to thank Members who have contributed. I request the House to agree with the Committee in the Report and I am sure if this goes through, it is going to set precedence for the grey areas. Of course, they are not grey areas because the courts have pronounced themselves on that matter. Therefore, I beg to reply.

**Hon. Deputy Speaker:** I am just about to put the Question, but what I am concerned with is the statements that were made by Hon. Millie Odhiambo. I am trying to satisfy myself if they were parliamentary or otherwise. So, it does not matter really if it was raised at that point. I am about to put the Question. This is what we will do. It cannot be late. There is nothing late for the Speaker to rule on. I will make that decision after a brief consultation, so that we are able to capture the numbers. Allow me to put the Question and then look at what is in the Standing Orders and decide whether or not we are going to expunge. Even at that point in time, there is nothing that can be late because the issue is probably not affecting what the Members will vote one way or the other. We are trying to make sure that we have good language in the HANSARD. We should use parliamentary language. It is true that what was said by Hon. Millie Odhiambo is probably not right. So, I will put the Question because we have the numbers. I will put the Question and then we will rule on that other matter.

*(Question put and agreed to)*

**Hon. Deputy Speaker:** Next Order!

*(Loud consultations)*

Hon. Kaluma, relax. That one has passed, but we will look at what is on the record.

**MOTION**

## ADOPTION OF REPORT ON BUDGET ESTIMATES FOR 2019/2020

*(First Allotted Day)*

**Hon. Deputy Speaker:** Order Members! That is the Budget and Appropriations Committee. Let us have the Chair.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Deputy Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Budget Estimates for the national Executive, the Judiciary and Parliament for the Financial Year 2019/2020, laid on the Table of this House on Tuesday, 4<sup>th</sup> June 2019, and pursuant to the provisions of Article 221 of the Constitution, Section 39 of the PFM Act, 2012 and Standing Orders 235 and 239, approves the issuance of a sum of Kshs1,928,865,282,319 from the Consolidate Fund to meet the expenditure during the year ending 30<sup>th</sup> June 2020 in respect of the votes contained in the First Schedule and further makes the policy resolutions contained in the Second Schedule in the Order Paper.

It is good to point out to Members that both Schedules that have been attached have been amended to reflect changes that were not in the Schedules that were in the Report that we earlier tabled. Therefore, I want to ask the Members to be guided by the Schedules that are attached to the Supplementary Order Paper. The changes emanated from a slight oversight by the technical people. When they were putting together the Schedules, they missed one column in the summations. That is why there is a difference of almost Kshs8 billion between the Schedule that was in the Report and the Schedule that is now attached to the Supplementary Order Paper. The Departmental Committee on Trade and Cooperatives also had issues that were not reflected in the earlier Schedules in the Report.

The 2019/2020 Budget was presented against a backdrop of what was seen to be an impressive economic growth performance for the year 2018. In the recently released Economic Survey for 2018, it is reported that the economy grew by 6.3 per cent. Agriculture value added grew by 6.6 per cent from 1.8 per cent in 2017. About 840,600 jobs were created, of which 83.6 per cent were in the informal sector. Inflation averaged 4.7 per cent and the current account deficit narrowed to 5.0 per cent in 2018 from 6.3 per cent in 2017.

In the 2019/2020 Budget Estimates, it is expected that policies and programmes that will be implemented therein as contained in the Medium-Term Plan III will be operationalised mainly through the Big Four Agenda projects to accelerate economic growth, create opportunities for productive jobs, reduce poverty and income inequality and provide a better future for all Kenyans.

The Committee, in review of these Budget Estimates, sought to establish the extent to which the BPS, the Vision 2030, the MTP III, the Big Four Agenda and other policy documents

of the Government have formed the basis of preparation of the annual Budget Estimates for 2019/2020 and the Medium-Term. Though the National Treasury is required by law to take into account the resolutions of this House on the BPS, as it finalises the Budget Estimates, the Committee has established in this review that many of the sectors did not adhere to the expenditure ceilings set by Parliament in the BPS.

The 2019/2020 Budget is pegged on an economic growth projection of 6.2 per cent in 2019, single-digit inflation of 5 per cent plus or minus 2.5 per cent, low and stable interest rates as well as strengthening external position due to narrowing of the current account deficit. The key drivers of this favourable economic growth outlook include stable weather conditions, a strong service sector, stable macro-economic environments, ongoing infrastructural investments and sustained business confidence.

The Committee is, however, concerned that the economic projections for the FY 2019/2020 appear to be premised on very weak fundamentals. Stable weather conditions is indicated as a key driver of economic growth in 2019 despite the already very apparent erratic performance of the March/May long rains season and the impact this may have on food production, fodder for livestock as well as water and electricity supply.

Furthermore, the manufacturing sector is mainly agro-processing based and, therefore, dependent on agricultural performance. It, therefore, means that if our agricultural performance in the next financial year is not as good as has been envisaged, it will not just affect our food production, but also our manufacturing sector.

The slow pace of implementation of infrastructural projects across the country is a concern as it delays the benefits that these projects may yield to the economy. You will note that many of the roads projects, especially in the infrastructure sector, are contracts for a period of three years and a number of them have been moving at a slow pace of implementation across the country. The Committee has, therefore, noted that the slow implementation of these infrastructural projects will not allow Kenyans to enjoy value for the money that has been invested in the particular sectors.

Foreign exchange reserves face a risk from a worsening trade balance as commodity export prices are currently unfavourable. Credit to the private sector may also remain low, especially if the national Government does not check its appetite for borrowing and continues to crowd out the private sector. If these risks materialise, it is possible that the GDP growth may be much lower than the 6.2 per cent that has been projected.

Hon. Members are aware that there has been a court-sanctioned review of the interest rates capping law. It is good to remind the Members that we have a responsibility, especially the Member for Kiambu, who moved this amendment to the Banking Act, to ensure that we are able to rationalise what was provided for in that law to comply with the court ruling and the Constitution. We also have a responsibility to continue encouraging the Government not to crowd out the private sector by borrowing from the domestic market. That over-emphasises the need to continue with the fiscal consolidation policy that the Government has started to ensure that we reduce on both external and domestic borrowing.

The total budget for the three arms of the Government, including the county allocation of equitable share and the Consolidate Fund Service (CFS) during the Financial Year 2019/2020, is estimated at Kshs3.02 trillion. This is a 4.2 per cent reduction of the 2018/2019 Budget, mainly due to reduced allocation to the CFS from Kshs962.6 billion in 2018/2019 Financial Year to a low of Kshs805.8 billion in the 2019/2020 Financial Year. As a share of GDP, the overall Budget has reduced from 32.4 per cent to 28.1 per cent in nominal terms. The main expenditure highlights for FY 2019/2020 are as follows:

National Government, Kshs.1,841.30 billion; Parliament, Kshs.43.78 billion, although you notice from the schedule that has since been reviewed by the Committee to Kshs40 billion. Judiciary, Kshs. 18.88 billion. You will notice from the schedule that, that has also been adjusted by the Committee. The county allocation, inclusive of conditional grants, will be Kshs371.6 billion. As much as we are still in mediation with our colleagues in the Senate, we are hopeful that in the next few weeks, we will conclude the mediation process on the Division of Revenue Bill. We hope we may end up with a figure close to the figures that we have provided here. The Equalisation Fund will take Ksh5.8 billion and the Consolidated Fund Services (CFS), as I had mentioned earlier, Kshs805.8 billion.

*[The Deputy Speaker  
(Hon. Moses Cheboi) left the Chair]*

*[The Temporary Deputy Speaker (Hon.  
(Ms.) Jessica Mbalu) took the Chair]*

Lower expenditure proposals are a welcome development as they signal the Government's commitment towards the fiscal consolidation path. Indeed, the fiscal deficit for the FY 2019/2020 is estimated at 5.6 per cent of GDP and it is expected to decline to 3 per cent of GDP over the medium term in line with the East Africa Convergence criteria, as it has been spelt out in the Medium-Term Plan (MTP) III. If this path is actually followed, it will reduce our reliance on borrowing, lower debt levels and enhance efficiency in public spending. The Committee's concern is that the actual budget implementation may adjust expenditure upwards. From history, it is clear that every year we pass the Budget, the first and the second supplementary budgets - as it is testament with the second supplementary budget that is also before this house - go towards increasing expenditure. Therefore, it basically negates what has been done during the budget process. We hope that the National Treasury and the Government, this year, will indeed, take seriously that aspect of fiscal consolidation to ensure that we do not negate what we are doing now.

Already, as indicated, the FY 2019/2020 Budget is higher than the Budget Policy Statement's (BPS) approved ceiling by Kshs78 billion. This indicates the Government's propensity to spend despite the need for austerity. The higher expenditure levels have been accommodated through upward adjustments in the revenue projections from the BPS level by approximately Kshs35 billion. The total revenue in the FY 2019/2020 is projected at

Kshs2,115.9 billion which was 18.3 per cent of the GDP. This means that, should the country miss revenue target, there will be need to adjust the expenditure downwards and that will undermine the credibility of the Budget. That is the main reason behind pending bills and stalling of projects.

Hon. Members, you will notice from the report attached to the main Report of the Budget and Appropriations Committee, all our departmental committees expressed concern with a number of stalled projects across the country in almost all sectors from infrastructure to health. A case in point is on health; the Mathare and Korogocho hospitals that were started almost 10 or 11 years ago are incomplete. The Mtihani House, under the Ministry of Education, was started over 30 years ago and it is still incomplete. All that we are saying is that these issues and issues of pending bills are as a result of us, as a country, not meeting our revenue projections. Therefore, as Committee, we express this concern to our National Treasury and Kenya Revenue Authority (KRA). I am happy to note that today I have seen in the media, a Gazette notice appointing a new Director General at KRA. It is a welcome move. We have expressed concerns that KRA has not done justice to this country by failing to meet our revenue projections. When we do not meet our revenue projections year in, year out, it leads to accumulation of pending bills. A lot of projects that are budgeted for are procured because the law provides that, so long as a project is budgeted for, Ministries, Departments and Agencies can go ahead to procure and contract people. That is what leads to accumulation of pending bills thus ending up with many stalled projects.

The Big Four Agenda accounts for approximately 14.6 per cent of the total Budget. The bulk of these resources, about Kshs374.1 billion is for implementation of the enablers while Kshs76.1 billion is for the drivers. However, the Committee is concerned that the resources made available for the implementation of the Big Four Agenda may not be adequate as per the projections in the MTP III. It provides an indicative FY 2019/2020 budget for agriculture and livestock estimated at about Kshs55.97 billion; Manufacturing estimated at Kshs125.42 billion; Health estimated at Kshs82.8 billion; and Population, Urbanisation and Housing estimated at about Kshs103.15 billion. That is against the Kshs76.1 billion that has been provided for in this Budget for the drivers.

Much progress has been made in allocating resources for the implementation of the Big Four Agenda. However, the Committee is concerned that during the FY 2018/2019 Budget Report, a request was made for a results matrix as well as a monitoring and evaluation framework to be published and a framework of collaboration between the national and county governments to be established. Mr. Speaker, that is yet to be done. We must realise that a number of the Big Four Agenda items like agriculture and health care are devolved functions...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order! Hon. Chairman. As you move the Report, please take note that there was a change of Chair. You have addressed me as Mr. Speaker. You will make Hon. Millie Odhiambo to raise a point of order.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Madam Speaker. The last time I looked up towards your direction, Hon. Moses Cheboi was on the Chair. I am now well guided.

Hon. Temporary Deputy Speaker, the results matrix that we sought – it was a resolution of this House in last FY Budget – is yet to be complied with. I have pointed out that we must realise that two of the Big Four Agenda items, that is health care and agriculture are, indeed, in line with our 2010 Constitution on devolved functions. Therefore, if there is no clear framework on how the two levels of government will collaborate and work together in implementation of these Big Four Agenda, we express concern that we may not fully realise all the benefits that we ought to if we have a proper collaborated framework between the two levels of government.

The total revenue for the FY 2019/2020, as I mentioned earlier, is estimated at Kshs2,115,90 billion. This is Kshs35 billion higher than the BPS 2019 revenue projections of Kshs2,080.9 billion. The Committee is concerned that these revenue projections are not anchored on clear and quantifiable revenue raising measures. It is reported that higher revenue will be achieved through strengthening of tax administration to seal loop holes and safeguard the revenue base under the Revenue Enhancement Initiative (REI) Programme that is being implemented by the KRA. According to the National Treasury, these measures are expected to yield good results and, therefore, reverse the trend of declining revenues through broadening the tax base and improving revenue administration in the medium term.

Hon. Temporary Deputy Speaker, the Committee noted that these measures have not been quantified in the budget summary provided and thus cannot be adequately assessed in terms of how much revenue enhancement they are likely to yield. Therefore, this could just be very colourful statements. If they cannot be quantified, we cannot clearly project how much revenue is likely to be collected from the revenue enhancement measures that have been stipulated.

Hon. Temporary Deputy Speaker, as I welcome the appointment of a new Director General to the KRA, they have huge responsibility. We must appreciate the recent efforts that have been made by the Director of Criminal Investigations (DCI) and other investigative agencies in dealing with issues of tax evasion at the KRA, but it is not enough to just deal with junior officers. They must come to Times Tower and deal with the real culprits who aid tax evasion in this country. It is not enough to just deal with very young and junior officers at the KRA. We must deal with the real big cats who are not necessarily out there in the posts but are at Times Tower here. That is a huge responsibility that the Ethics and Anti-Corruption Commission (EACC) and the DCI have to ensure that we realise all our revenue projections to be able to finance this Budget.

The Consolidated Fund Services expenses are mandatory expenses that form a first charge to the Consolidated Fund. These primarily relates to public debt, pensions and salaries of constitutional offices. They, therefore, have an impact on the revenues available for other budgetary activities and subsequently determine the flexibility of the national Budget. Therefore, it is a welcome thing that we are seeing this reduce by almost Kshs100 billion from Kshs962 billion last year to about Kshs805 billion. That means that more resources will be available towards the implementation of this Budget, towards financing development activities across the country at both levels - the national and county levels of governments.

Hon. Temporary Deputy Speaker, if you allow me to move straight to the Committee recommendations, we have made a number which are basically informed by what was presented

to us from the departmental committees. Top among them are policy recommendations touching on healthcare on the Kshs4.6 billion that the Ministry of Health had earmarked for the rollout of the Universal Health Care (UHC) to 43 counties. This money should only be released subject to the provision of a summative report on the progress of the Universal Health Care rollout in the four pilot counties.

The Departmental Committee on Health had expressed concerns and indeed reallocated this money to other sectors within the same Ministry. But we thought maybe at this stage it is not wise to reallocate because if you were to later in the year roll out the UHC to the other 43 counties, we may not have resources provided for in the Budget. So, we have asked the Departmental Committee on Health and the Ministry of Health to work together and ensure that when this summative report is provided, they go through it and satisfy the Committee that they are, indeed, ready to roll out the UHC to the other 43 counties outside of the four pilot counties.

Hon. Temporary Deputy Speaker, I do not need to go through all the policy recommendations because Members can read for themselves. I will skip all those recommendations and go to other financial recommendations on page 23 of the Report. The departmental committees appeared before us for two days, this year we accorded each departmental committee at least a minimum of one hour to do their presentation and engage with the Committee. We also engaged in two meetings with the National Treasury.

Given the resource constraints, the Committee could not provide for each and every expenditure request that came to us from the public because we also conducted public participation exercises in 12 counties. It is also good to note that outside the 12 counties that we visited this year including Nyeri, Laikipia, Taita Taveta, Trans-Nzoia, Uasin Gishu, Lamu County, which I was privileged for the first time to visit, Kakamega, Kisumu, Isiolo, Embu, Wajir and Bomet, the 12 that we visited last year lost the resource allocation that was provided to them in Budget Supplementary I. But we have endeavored to provide adequate resources in this Budget to cater for public hearing resources that were allocated both this current and the next financial year. In 2019/2010 we have provided about Kshs2.4 billion shillings which will cater for about Kshs100 million per county for the 24 counties visited last year and this year.

Hon. Temporary Deputy Speaker, we were not in position to provide for each and every request that came from either the public hearing or the additional request for resources that came from the departmental committees. We have endeavored to provide within the limited resources for the few items that are contained in the schedules attached to the Report. All requests from the public have been compiled and can be found in Annex I of this Report.

Hon. Temporary Deputy Speaker, it is also good to note as has been mentioned on the introductory part of the Report that we also received a lot of written memoranda from members of the public, institutions and civil society organisations including professional bodies. We take this opportunity to thank them for having taken their time to give submissions to this year's Budget Estimates.

The Committee's recommendations are outlined from page 23 of the Report. The Committee considered the requests by various departmental committees. After consultation and reconciliation with the budget framework which includes projected revenue realisation and the



target deficit, the following are our recommendations whose details as I said are contained in schedules I and II that were attached to the Report.

On deductions, that the amount of Kshs21.701 billion be deducted from the votes and programmes as shown in Schedule I as per the justifications provided. You notice in the schedule that we have indicated the description of what is being deducted and the justification for that. We have also included additions to the amount of Kshs44.066 billion that are increased to the votes and programmes as shown again in schedule I and justifications are provided against each of those increments. As I indicated, the budget allocation for Parliament for the Financial Year 2019/2020 is Kshs40.594 billion. As I had mentioned earlier, you will realise that is almost Kshs3 billion because what was submitted by the Parliamentary Service Commission was Kshs43.78 billion and what we have submitted for approval is Kshs40.594 Billion.

Hon. Temporary Deputy Speaker, the Judiciary and Parliament submit their budget estimates directly without having to go through the National Treasury. The Judiciary had submitted Kshs18.88 billion in the Estimates. That is what has been submitted from the National Treasury. Its allocation for the Financial Year 2019 /2020 that is in the Report is Kshs19.422 billion which was an increment to the Judiciary to support the ongoing war against corruption.

Further, the Committee recommends that this House resolves to:

(a) Approve the Report and the recommendations of the Budget and Appropriations Committee on the Budget Estimates for the National Government, the Judiciary and Parliament for the Financial Year 2019/2020.

(b) Approve that Schedule III attached to this Report forms the basis of the Appropriations Act for the Financial Year 2019/2020.

(c) Approve that the National Treasury finalises the required Budget documents as per the Public Finance Management Act on the detailed Estimates.

Hon. Temporary Deputy Speaker, I do not want to say much more so as to allow Members to contribute before the end of business today.

With those remarks, I beg to move and request my very able, and always available Vice-Chair, Hon. Moses Lessonet, to second the Motion.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Lessonet, please, just second the Motion on the Report of the Budget and Appropriations Committee on the Budget Estimates for the Financial Year 2019/2020.

**Hon. Moses Lessonet** (Eldama Ravine, JP): Thank you, Hon. Temporary Deputy Speaker, for this opportunity to second the Motion on this wonderful Report of the Budget and Appropriations Committee on the Budget Estimates for the Financial Year 2019/2020.

At the outset, allow me to take this opportunity to congratulate all the Members of this House for they did a good job within a very short time under pressure to deliver this Report. You will note that the role of the Budget and Appropriations Committee is to listen to departmental committees, which would have interrogated line Ministries and independent commissions in terms of arriving at these figures. The Budget for this financial year is basically not very different from that of the current financial year. The expenditures at the national and county levels of government total Kshs3 trillion. We are talking of a Kshs3 trillion Budget with various

components. Out of this Budget of Kshs3 trillion, close to Kshs280 billion are monies which will be appropriated to the 47 county governments. There are mandatory payments in this Budget, which even without the approval of this House will have priority in the Consolidated Fund, popularly known as Consolidated Fund Services.

This House, through this Report, is making a decision in terms of how to spend an amount close to Kshs1.9 trillion. You will equally realise that this Budget has met the requirements of our Constitution and the Public Finance Management Act, especially in making sure that a reasonable amount will end up in development. You will note that over 30 per cent will end up in Development Expenditure in terms of road infrastructure, construction of dams, electrification, including the very popular initiative of providing skills to our youth. We have voted and agreed as the Budget and Appropriations Committee that we need to set aside resources for Technical and Vocational Education and Training (TVET) institutes. We want to have a technical institute in every county. With that in mind, in this Budget, you will realise substantial resources both for infrastructure and technical institutes. Equally, substantial resources have been set aside for grants to students who will be studying at those technical institutes.

The technical institutes are very important for those who want to be in the labour market in the future. You realise that just close to 8 per cent of all the students who sit for Form Four examinations end up in universities. We must get a solution for the 92 per cent. We must get a place for them in this nation. That is why we have identified the technical institutes as national Government to be one of the places where some of the 92 per cent of Kenya Certificate of Secondary Education (KCSE) candidates will acquire skills. We also expect the county governments to equally play their roles in financing the polytechnics so that those who drop out in Form One or Form Two, and those who do not score adequate grades in Form Four, including those who do not succeed to go to Form One, can at least acquire certain skills from what are popularly known as polytechnics.

In this Budget, we have continued to make sure that there is a minimal increment to National Government Constituencies Development Fund (NG-CDF). The NG-CDF...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order! You know you are just seconding. I will give you a minute to just pronounce yourself as seconding but in future just plan your time.

**Hon. Moses Lessonet** (Eldama Ravine, JP): Hon. Temporary Deputy Speaker, I was talking about the most important fund called the NG-CDF...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Use your one minute well.

**Hon. Moses Lessonet** (Eldama Ravine, JP): Hon. Temporary Deputy Speaker, I just wanted to inform Members that there is adequate resourcing of the NG-CDF. So, be ready to do what the Chair of the Committee on NG-CDF will tell you. You need to work on your project proposals so that they can be in this House by July so that you start to spend that money as soon as possible.

With those remarks, I beg to second the Motion.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, before we make any contributions to the same, allow me to remind you the resolutions of this House on Wednesday, 13<sup>th</sup> February 2019, which were as follows:

“THAT, pursuant to the provisions of Standing Order No. 97 (4), each speech in a debate on the Report of the Budget and Appropriations Committee on the Budget Estimates contemplated under Standing Orders 239 and 240 be limited as follows:

(a) General Supply Debate - A maximum of three sitting days with 30 minutes for the Mover in moving and 15 minutes in replying...”

You have the same in the Order Paper in your computers. Each Member is supposed to speak for only 10 minutes. Please, prepare yourself. You can read the rest of your own resolutions as of 13<sup>th</sup> February 2019 in terms of the General Supply Debate and the Committee of Supply. In the same resolutions, we will give an opportunity to the Departmental Committees listed in the Second Schedule of our Standing Orders. I would like to start with the first committee, namely, the Departmental Committee on Administration and National Security. Let us have the Chairperson. That is the procedure. Let us have Hon. Metito. What is the point of order, Hon. Makali?

**Hon. Makali Mulu** (Kitui Central, WDM – K): Thank you, Hon. Temporary Deputy Speaker. I wanted to find out whether we are in a Committee of Supply. I hope this is just a general debate. We can just debate and then later come to the Committee of Supply. I need to be guided, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Makali, we must follow the procedures of the House. Hon. Members, allow me to remind you. For the purpose of procedures, we cannot change any procedure for anybody. The General Supply Debate and Committee of Supply follow the whole procedure. Members, allow me to inform you that each Member only has five minutes to debate this. We will start with Hon. Metito. Member for Bomet, you know if you are the Chair of a Committee. Let us have the Member for Bomet, the representative of the people of Bomet.

**Hon. Ronald Tonui** (Bomet Central, JP): Thank you, Hon. Temporary Deputy Speaker for this opportunity. I am rising on a point of order to seek your guidance because I proposed some amendments on 10<sup>th</sup> May and forwarded the same to the Clerk of the National Assembly. Similarly, I also forwarded a copy to the Cabinet Secretary of the National Treasury. I even have certified copies of the same. I am surprised I do not see them featuring anywhere. I am seeking your guidance on the stage when we will introduce these amendments. Is it that issues of the Budget are never changed in any way or are never tampered with? Are we only here to rubberstamp but cannot introduce amendments? I seek your guidance because I thought that my proposed amendments which I gave in very good time should have been captured. Now that I cannot see them in the Order Paper today, I wish that you would guide us on how Members introduce amendments to these Budget Estimates. Are they cast in stone? Are they rigid? Are we only here to rubberstamp?

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Thank you, Hon. Tonui. Order Chairman! You already did your work. You moved it, it was seconded and I have already proposed the Question. You cannot be the one to bake the cake and eat it for yourself along with the other Members. If I require a point of information, I will order that we get information from others.

Thank you, Hon. Tonui for raising such a point of order. Hon. Tonui, let me inform you that we are only on the General Supply Debate. For your other proposed amendments and any other Members' amendments, the procedures provide that they will come during the Committee of Supply. That is where they fall. Your proposed amendments are not in vain. They are still part of the procedure.

Hon. Members, we are on the General Supply Debate. Chairpersons, please note that you have 10 minutes to debate this and then Members have five minutes to debate this.

**Hon. Katoo ole Metito** (Kajiado South, JP): Thank you, Hon. Temporary Deputy Speaker. I stand to support this Motion.

From the outset, I thank the Budget and Appropriations Committee for the tireless work which they have done to review the submissions from the 15 departmental committees which have greatly informed this Report. I thank them for complying with Article 221(5) of the Constitution that requires public consultation. They have done that in 12 counties which is great work. I congratulate the Budget and Appropriations Committee.

I am speaking on behalf of the Departmental Committee on Defence and Foreign Relations. This Committee oversees four agencies, namely, Defence, Foreign Affairs, the National Intelligence Service (NIS) and the East African Community (EAC) and Regional Development Ministry. In the Medium-Term Expenditure Framework (MTEF) sector classification, there is the Defence and NIS classified under the national security sector. Foreign Affairs is classified under the public administration and international relations whereas the Ministry of EAC and Regional Development is classified under the general economic and commercial affairs. These are very key sectors in delivering goals and objectives of the pillars of Vision 2030 and Sustainable Development Goals (SDGs) as well as the Big Four Agenda. Additionally, the sectors are critical enablers to the Big Four Agenda plan.

Before I speak on budgeting, let me say a few things on these two agencies, namely, defence and national intelligence. These are about our security forces and our intelligence, particularly the Kenya Defence Forces which have managed to keep the *Al Shaabab* threats at bay. The attacks on our soil have reduced significantly in this second term of Jubilee administration compared to what we experienced or witnessed in the first term. We are alive to the threats that the militants still pose to our people and nation at large. Therefore, this calls for more resources. Our forces remain alive to these threats and are determined to neutralise the militants completely.

On the diplomatic front, that is where we have the Ministry of Foreign Affairs and the EAC because it is also a regional ministry. Kenya is on the offensive, especially with the opening of more missions including in Accra, Ghana which will be the second in the Economic Community of West African States (ECOWAS) region. In the whole of West Africa, we only

have Abuja in Nigeria. More missions are proposed for opening like Dakar in Senegal, Djibouti and Rabat in Morocco among others.

Now coming to the Budget, I plead with this House that they agree with what we presented to the Budget and Appropriations Committee. I am happy to note that the national security sector had been funded to a tune of Kshs157 billion with the Ministry of Defence having a proposed allocation of Kshs121 million. This may sound big but this is against a resource requirement of Kshs150 billion. The NIS was given a proposed allocation of Kshs36.7 billion against a requirement of the service of Kshs43 billion. The upsurge in the allocation to this sector is in tandem with the security operations expected from these agencies at a time when we face threats of terrorism in our region and all over the world.

As I have explained, these allocations are below the resource requirements of the two agencies. We believe that the sector can deliver its mandate given the limited resources we have against the competing needs of our society. These allocations will be utilised to provide a secure environment that is safe and conflict-free to promote public confidence and integrate the various sectors of the economy. I am talking about the Ministry of Defence and the National Intelligence Service put together because, as I said, they both fall under the national security sector and the work they do complement's each other. A secure environment attracts investment in a country as no investor wants to invest in a troubled and conflict-infested society. That is what the NIS and the Ministry of Defence are trying to achieve.

National security is a prerequisite in providing an enabling environment for implementing the flagship projects for Vision 2030, ensuring the exploration of our natural resources for our development, protecting the population and other assets against the ever-growing threat of terrorism. Improved security will also contribute to a better environment of doing business and bring in more tourists. This is, therefore, critical to the survival and development of our country and for the realisation of our national goals, including the Big Four Agenda. We feel that the proposed allocation in the Budget is justified. We may even plead for more resources, if it is possible, because they have a big mandate.

As I said, the proposed allocation to the Ministry of Foreign Affairs and International Trade is Kshs18.2billion against a resource requirement of Kshs39billion. That is not even half of the resources required. This gap is huge and may affect operations in our foreign missions abroad. We just passed a Motion containing names of seven nominees this afternoon who are destined to our foreign missions abroad. If we do not resource them efficiently, it will not be possible for them to achieve the mandate of representing our country abroad. In view of the limited resources against many wants, my Committee is optimistic that the Ministry will be considered for additional resources either in this Budget or in the Supplementary Budgets. We highlighted this as we presented some requests from the Ministry. These are some of the requests that the Chair of the Budget and Appropriations Committee said that he had received when he was moving the Motion. Posting and recall of officers in missions abroad, replacement of protocol vehicles and foreign exchange risk assumption facility need to be funded. As a Committee, we felt that there are some very critical activities and duties of this Ministry that were not funded because of Budget constraints.

The other agencies are the East African Community and Regional Development Authorities (RDA). The EAC is very critical in this region. We always say that we are a leader in the EAC. The State Department of EAC requires Kshs3billion but what has been allocated is Kshs571million. We requested the Budget and Appropriations Committee for additional funding. Otherwise, the Ministry will not attend regional meetings where decisions are made on economic, political and social integration in the region. Unfortunately, the core mandate of the Ministry of EAC and Regional Development, specifically the EAC State Department and the Ministry of Foreign Affairs and International Trade is travelling because they attend meetings and conferences. The decisions that are economically viable in a way to the nation are made in these meetings. When we have these austerity measures, they always affect those travels across the board.

Finally, because my time is ending, the RDAs are six in this country and they need Ksh30billion but only Kshs5billion was allocated for them. They can be enablers for national Government to implement the Big Four Agenda. At times, we are told that they do functions of the county governments. My Committee has asked the Cabinet Secretary in charge of the RDA to fast track the development of a Regional Development Bill to streamline their operation, functions and mandate. If you have a regional authority like Lake Basin Authority which covers 18 counties, those functions cannot just be left to a county government. Therefore, we need to streamline the operation and amalgamate the Acts that form the RDAs because they are six.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Through my discretion, Chairman, I have given you one minute.

**Hon. Katoo ole Metito** (Kajiado South, JP): Thank you, Hon. Temporary Deputy Speaker. I was saying that each of the six RDAs was established by its own Act. They are as old as 1974. Therefore, there is need to amalgamate all of them and have a Regional Authority Bill enacted by this House. That will streamline what is for national Government and the county government.

I also want to say that we looked into the Supplementary Budget of these agencies and we approved it. We request the Budget and Appropriations Committee and the House to approve it the way it is.

Thank you, Hon. Temporary Deputy Speaker. I beg to support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. The Chairperson, Departmental Committee on Health.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Speaker. I want to inform Hon. Kimunya...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order. Do not address Hon. Kimunya. Address me.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): I want to thank the Leader of the Minority Party for giving me an opportunity to speak before him. He is supposed to get the first priority. I want to first and foremost thank the Budget and Appropriations Committee for giving us a chance to go and do the presentation before them. There have been a lot of talks on health

because it is devolved. There has been a huge misconception that a lot of money goes to the national Government *vis-a-vis* what goes to the counties.

I would like to thank the Members of the Committee and the Ministry of Health. We scrutinised the Financial Year 2019/2020 Budget thoroughly. We also notice that there is a lot of money that goes to the counties as conditional grants but it is not accounted for. So, we will move an amendment to the Public Finance Management Act to make sure that the money that is meant to go to health in this Republic of Kenya is ringfenced and goes straight to the health facilities. Part of the Big Four Agenda of this nation is the UHC. As a Committee, we noticed that a lot of money up to about Kshs29billion has been allocated to cater for UHC. I would also like to urge and request both the national Government and the county government where UHC will be implemented to be keen to make sure that the money allocated goes for the right purpose. As a Committee, one of the questions we ask ourselves is: what is UHC? It is meant to ensure that our healthcare is affordable, accessible and of good quality.

When we looked at the Budget and the way the Ministry had allocated this UHC money, we noticed that this House passed a Motion on our referral facilities namely Kenyatta National Hospital (KNH), National Spinal Injury Referral Hospital, Moi Teaching and Referral Hospital and Mathari National Teaching and Referral Hospital where the Committee took time to visit and determine the status of those facilities. We agreed with a report that was passed by this House that we need to improve the status of these facilities. When I presented the budget and the recommendations of the Committee, there were two major recommendations. One was the amount of money, about Kshs4.2billion that is allocated to 11 Level 5 hospitals in this Republic of Kenya as conditional grants. Some of these counties receive more than half a billion shillings. There is no proper criterion on how this money is allocated. They only gave statistics on bed capacity dated back to 2012. The Ministry did not have even a report on an evaluation on how the conditional grants have been utilised in the four years we have allocated them to the Level 5 facilities. Are we giving money meant for health to be deposited in county accounts and governors choose what the money should be used for like building roads or things that may make them more popular other than health? So, it is my prayer that the House and the Senate will reconsider it. The Ministry should give us a report on how the money is utilised and how we can reach the Level 5 hospitals.

Out of over Kshs29 billion, the Committee found it prudent to reallocate Kshs4.6 billion to UHC support. If you go to Kenyatta National Hospital and find no bed or no space in the Intensive Care Unit (ICU), then why are we talking about UHC?

His Excellency the President spoke about mental health. I would like Members of the House to take time and visit Mathare Mental Hospital where remandees do not live like human beings. They have no shelter even in this rainy season they sleep on concrete. The Ministry does not take responsibility for them because they are sent there by the Judiciary. The Prisons Department does not own them because they say they receive a letter from the Judiciary to release them to go to Mathare Mental Hospital. They do not have food. So, with such conditions, we asked ourselves if the UHC works if we are not able to facilitate Mathare Mental Hospital for patients and secondly to fight the stigma on mental illness. Mathare can mentor Level 5 hospitals

so that they can establish a mental health department and services are available to Kenyans. Our prayer, and I will move an amendment on this, is that the Kshs4.6 billion the Committee had asked the Budget and Appropriations Committee to reallocate is allocated to Kenyatta National Hospital so that it can have enough personnel like pharmacist. Majority of people who mix cancer drugs at Kenyatta National Hospital are students. How can we be talking about UHC if we do hire specialists to do that? I appreciate the fact that the Budget and Appropriations Committee takes one week to cover every ministry. We took one week to go through our ministry and found the gaps. We are not reallocating the money for the UHC to any other work but we want to make sure that even far flung places like Dadaab and Wajir have their facilities upgraded so that the people there get them. That will be the true UHC we aim to achieve.

As I will move the amendments, I will give special consideration to spinal cord injury patients whose only referral hospital in Kenya has a bed capacity of 32 beds. We have a facility in Korogocho that is 80 per cent complete and needs about Kshs500 million to be completed to which we can move the spinal cord injury ward to. It is a 300-bed facility which can accommodate spinal cord injury patients. So, I will beg the House especially the Chair of the Budget and Appropriations Committee and its Members to re-consider the advice that we have to wait for reports from 43 counties in December. Why should we plan for the unknown when we already have gaps in UHC? Why should we wait until December for the pilot programme of four counties to be done then the Ministry writes reports which we may get in February after the long recess then implementation will follow and we, of course, shall have reached the next financial year? So, I plead with the Chair of Budget and Appropriations Committee to support the Committee so that we reallocate the money that was meant for upscaling in the 43 counties because the report is not ready. We should address the grave gaps that we have like in the spinal cord injury units in Kenyatta National Hospital and Moi Teaching and Referral Hospital. Let me go on record that the treatment of tuberculosis is not funded by donors any more. We have a shortfall of Kshs1 billion. The donors have withdrawn from Kenya because we are now a lower middle-income country.

We are also not funded on blood services. The donor who was giving blood services has withdrawn. Do we want to tell Kenyans that for the next one year we will be waiting for UHC and therefore we will not have any blood bank in Kenya? That is why we need reallocation of the money so that such gaps can be addressed.

I beg as the Chair of the Departmental Committee on Health that as we look at TB treatment, emergency vaccines that are supposed to be funded that the donors no longer fund should be part of the UHC. The money should not be reallocated to other areas. We want to support UHC and see it become a reality. So, I beg that the Kshs4.6 billion is reallocated as we agreed as a Committee then cross the bridge when we get the full report of the pilot programme and when we have a report on how we are going to implement UHC.

I rest my case and I support. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Member for Suba South, the Leader of the Minority Party.



**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to the Report of the Budget and Appropriations Committee of which I am a Member.

There is no Member of Parliament who has served in the Budget and Appropriations Committee longer than I have. I have been in the Committee since Kenya formed the Budget and Appropriations Committee in 2008 with only seven months' break when I was an assistant minister between August 2012 and March 2013.

My experience in the Committee is that this year the Budget and Appropriations Committee took its work more seriously than previous years. There is a lot of engagement with departmental committees, thorough scrutiny of budget lines, much of scrutiny on deficit financing and many other issues that are fundamental or things that Kenyans have been complaining about over the years were considered.

I fault the Government on public participation. In fact, on public participation, we need to hold the Government more accountable because many issues including what the Chair of the Departmental Committee on Health has spoken about have a lot to do with public participation. I do not even know when we intend to roll out UHC in all the 47 counties. I do not know whether we have done enough public participation for people to understand what UHC is all about. Have we even done public participation to make them aware of how the national Government is funding Level 5 hospitals through conditional grant? Something needs to be done on the public participation.

In February during the discussion of the Budget Policy Statement Report in this House, I actually raised concerns on the level of public debt in the country. Though there are modest efforts towards fiscal consolidation, the deficit is still high and estimated to be 5.6 per cent of the GDP in the Financial Year 2019/2020. This is a stark reality that achieving the 3 per cent budget deficit to the GDP in the medium term as envisaged in the East African convergence shall remain a mirage if bold interventions are not instituted. Therefore, although there has been some progress in the implementation of the Big Four Agenda, and Kenyans have hope that its full implementation shall herald good tidings to our economy and the citizens, the allocation of resources to areas that shall contribute to the achievement of the Big Four Agenda seem to lack the budgetary commitment and conviction.

The money allocated to the Big Four Agenda sectors is not adequate when linked to the medium-term plan as envisaged. Looking at the quantum resources allocated to the Big Four Agenda, you find that it is still not sufficient to carry forward the Big Four Agenda to some reasonable realisation. Going back to public participation, we have not understood exactly what the Government wants to do with the Big Four Agenda. Whether the Government wants to involve the private sector in implementing most of these programmes is still not clear. The Government needs to be very clear on the Big Four Agenda. Which ones is the Government going to try to implement as Government in terms of budgetary provisions and which is the national Government going to provide enablers and allow the private sector to come in?

I want to speak to the issue of pending bills. Pending bills and financial commitments by Government agencies is an issue that is adversely affecting the economy at both the national and

county levels. We have seen a lot of reports on people having their property being auctioned because the Government cannot pay them for goods already supplied or contracts already accomplished and concluded. There are multiplier effects which will be triggered by the pending bills along the supplier chain and in the wider economy. There is no doubt that there will be slacken economic growth and development. If the reports coming from the various ministries and Government regarding pending bills are factual, then the settlement of those bills is a matter that must be quickly addressed notwithstanding what the President has said. It is becoming the norm that Supplementary Budgets are substantially geared towards payments of the escalating pending bills. Even Supplementary Budget II, which is currently before this House, has not disappointed in this regard. It has addressed more or less a lot in terms of pending bills. There is no better time than now to criminalise the unnecessary creation of pending bills that are often times created by the delay in settlement of outstanding commitment. There is no justification for county governments and the national Government to accumulate pending bills to the extent that it is denying the economy some financial flows. The moment there is payment to contractors and suppliers, you affect economic growth and development of the country.

The Public Finance Management Act spells out clearly that pending bills should be the first charge in the next financial year but this is not being followed. I ask the Controller of Budget, together with National Treasury, to make sure that this is enforced. That before Ministries, Departments and Agencies start spending on other procurement, they need to settle any pending bills first. I know that the Public Sector Accounting Standards Board is reviewing our public finance management system so that our country also follows accrual basis of accounting because the cash basis of accounting that we have been following is the one that gives these gaps and loopholes.

The reality of scarcity of resources is a matter that is being felt across all the agencies involved in any budgetary process, including households. In line with this understanding, the Budget and Appropriations Committee has risen above the level and reduced the Budget of Parliament in some areas such as foreign travel allocations in order to reallocate funds to areas of more priorities. This was a painful decision but had to be taken. Kenyans must appreciate that hard times call for such painful decisions. If the Budget and Appropriations Committee can raid the pocket and coffers of Parliament and reallocate resources meant for parliamentary work, including a huge slash on the budget line of foreign travel and other lines, that is an indication that even Parliament has realised that we are facing hard times. Therefore, I urge my colleagues that in realisation of this, we should have an understanding that we have also to rein in the escalating expenditure of Parliament as an institution.

In recognition of the crucial role that Judiciary plays through its judicial process, the Budget and Appropriations Committee increased the Judiciary's budgetary allocation. All of us have been complaining that the Judiciary is the missing link in terms of fighting corruption in this country. We want to give the Judiciary more resources to be able to execute the functions they have been given – of trying cases in this country – so that cases are speedily concluded. This is with the understanding that budgetary support to the Judiciary shall yield better results

that shall translate into effective and efficient judicial processes, including those relating to economic crimes like I have just mentioned – that is, corruption cases.

The impact of climate change is getting felt across the entire country and it is no longer a matter of concern only in the northern frontier of this country. It is now a fact of life almost in the entire country. Even in Suba, where I come from, the vagaries of drought are often times felt, just like is the case in the central region, where the Chairperson of the Budget and Appropriations Committee comes from. As interventions are made towards addressing the problems of water scarcity, care must be taken to ensure that distribution of such resources reflects the face of Kenya so that all needy citizens equally benefit.

I want to talk about insecurity in the country. The levels of insecurity are high. There is no doubt that this decimates investor confidence. I can see that my time is almost up. I just want to conclude by saying that we will go to the Committee of Supply, where we will discuss in detail the budgets of the various Ministries and Departments.

I would want to stop there and say that I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I give the Floor to Hon. (Dr.) Makali Mulu.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Speaker. Let me also add my voice to this important debate. I join my colleagues in appreciating the hard work which the departmental committees have gone through to make sure that we have this Budget. This year, we were able to have serious debate on the budgets of the various Ministries and Departments. I want to focus on areas where my colleagues have not mentioned.

Hon. Mbadi has talked about pending bills. I want to briefly talk about stalled projects and programmes. In this country, we have a lot of projects which have stalled. Some have stalled for over 10 years, others 15 years and others five years. As the Budget and Appropriations Committee, it is important that we provide resources so that those projects can be completed. Unless they are completed, we will not realise value for money. I really want to appreciate the Budget and Appropriations Committee for making provisions to complete projects like Umaa dam, Badassa dam and other projects which have stalled for many years.

The other point I want to talk about just briefly is on the public debt. We all know now as Kenyans that every Kshs100 collected, you find Kshs66 is being used to pay public debt. What that says is that we have only about Kshs36 remaining for other important national activities. I am sure this position cannot hold for long if as a country we want to develop. I really urge that even as we move forward, we know the international indicators are showing that we are still safe but we need to start being careful about how we are managing our debt.

I got very concerned when I heard the contribution of the Chair of the Departmental Committee on Health on the Level 5 hospitals. We started listing them as Level 5 hospitals in 2014. We have done this for about five years. Just to come and say at this point that we do not have clear framework on how to monitor use of these resources is a bit worrying. We need to take this seriously as a House with the money which is released to Level 5 hospitals. The question I ask myself is we have been releasing this money every year. Have we improved the quality of services which Kenyans are accessing and if not so, then we need to seriously raise

very serious questions on this programme. If we are not getting value for money as Kenyans, then we just forget about it and move forward.

The other point is public participation. When we went out there, Kenya made several observations. I want to single out two. I beg that my colleagues listen to this. One of the things which Kenyans singled out is the issue of duplication of efforts. There are so many activities which are being carried out by the county governments and at the same time, the national Government is also implementing projects. The public is saying that it is important they are educated or awareness is created in terms of what the county government and the national Government are doing to avoid double funding of the same project which will lead to corruption. That is an important observation.

The other observation which came out is the issue of the Budget implementation. Kenyans out there are saying every year we budget for money but they are really worried about its implementation. Even though the funds are put in the books, implementation is quite low. They would want to see improvement in implementation. The other point is the issue of these funds which target the youth. We have the Ajira Fund and the Youth Enterprise Development Fund. What is coming out is that these funds are so many that we can easily lose the efficiency of the use of these resources.

The other point is the issue of the funds for the elderly. We need to come up with a monitoring framework so that the money reaches the right target in terms of targeted distribution of those resources and it is also timely because there are a lot of delays.

Last but not least is that in this Budget, there is a provision for money for internship programme under the Public Service Commission. This is very important. Kshs1 billion is allocated to make sure that our young people go through internship and they are paid Kshs25,000 every month for six months. This is something that we need to support because it will help our young people.

Because of time, I want to finish by saying that we need to get equal distribution of technical teaching institutes (TTIs) because it is somehow skewed in this country. Time has come where we need to ask as a House about the distribution of these TTIs so that we have proper regional balance to make sure that we do not leave some Kenyans behind.

With those remarks, Hon. Temporary Deputy Speaker, I want to support. Thank you.

**The Temporary Deputy Speaker** (Hon (Ms.) Jessica Mbalu): Very well, Hon. Makali. You have rich information on your area of study. Hon. Members, I cannot see the Chairpersons of Committees. The Second Schedule is on the Education and Research. The Chairperson, Departmental Committee on Education and Research, Hon. Kimunya.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the good work done by BAC and the report they have done and all the committees that worked on this Budget. I want to highlight, because I am sure as we look at these recommendations which have been shared with the Treasury and which will form the basis of the revised Estimates that will come, that it is very clear that there is some discrepancy between the policy pronouncements and the financing. Unless this gap between the pronouncements and intentions and the financing is resolved, we are going to end up with the pronouncements that

have been made being rendered a nullity. I want to give a couple of quick examples, specifically within the education sector.

The first one is we know we have promised a certain capitation for students in primary and secondary schools, TVETS as well as in the universities. The figures are known. We also know the number of students. So, it is a no brainer to just multiply. We have so many children in primary schools times Kshs1,430; we have so many in secondary schools times the Kshs22,000 plus and provide that funding. If that money is not provided, we basically end up sending half the resources to the schools and it compromises on education. The TVETS, for example, we now have 183,000...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order, Hon. Kimunya. Hon. Millie Odhiambo, I can see you on intervention or was it before?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. I had been told that I do not appear on the main intervention slot, so I had been told to put the...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I am the only Speaker here. I do not know who told you.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): I had been told earlier. That is why I put that one.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): That is out of order. Yes, I can see you both on regular and intervention requests.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): There is nothing out of order.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Thank so much. Hon. Kimunya, carry on.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you. I was just giving the example of the TVETS. We have 183,000 students who have enrolled, partly because we have hyped it and shown people the need. We promised to pay capitation of Kshs30,000 per student, which works out to about Kshs6 billion. But in the Budget, it is about half of that. We were even forced as the education committee to reallocate some money from elsewhere to try to fill that gap. But we will still require an extra Kshs2 billion. We have not even provided for the internships, which we have promised them upon finishing training for between six and 12 months and they will be paid a certain amount of money. Basically, I am just giving that as an example. If we do not provide for those resources now or plan to provide for them in the course of the year, we are going to have students without funding.

The other thing I want to mention, I know some Members have been asking about it, is that the 100 per cent transition to secondary schools is very good and has now resulted in children getting to leave school at a mature age of 18 years instead of 14. But it has also put a strain on the infrastructure. We do not have enough classes, laboratories and teachers. Unless we provide money for that to even at least cover the gap of teachers that we have of about 25,000 that should have been recruited in the last two years, we are going to compromise on education standards, which basically puts our future in jeopardy.

I want to urge that even at this point, before we do the supply, there is still room for the Treasury to look for extra funding and bring in an amended form some extra money for teachers. We need some extra money to close the gap within the universities and all those stalled projects. We have all these statutory deductions that they have not even financed. We cannot continue thinking of education much as we are spending about 28 per cent of the total Budget on it, if it is not properly funded. We are actually jeopardizing our kids whom we are preparing to take over this country in future. I am aware that we need to take a break then we will take guidance from you.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Kimunya you are right. It is not a break as such but a break because of the procedures of the House. Guided by the procedures of the House and the time being 7.00 p.m., on behalf of the Departmental Committee on Education and Research, you will have a balance of five minutes in the next sitting to make your contribution.

Hon. Members, the time being 7.01 p.m., the House stands adjourned until Tuesday 11<sup>th</sup> June 2019 at 2.30 p.m.

I thank you all.

The House rose at 7.01 p.m.