

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 26<sup>th</sup> June 2019

The House met at 2.30 p.m.

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

### PRAYERS

### PETITION

#### HISTORICAL LAND INJUSTICES IN KIMULOT

**Hon. Speaker:** Hon. Members, Standing Order 225(2)(b) requires the Speaker to report to the House any petitions other than those presented by a Member. I, therefore, wish to report to the House that my office has received a Petition from representatives of the families of Tapsimate araap Borowo and Kipsoi araap Chemorore, both deceased, regarding alleged grave historical land injustices meted out on residents of Kimulot Area, presently in Kericho and Bomet counties, by the colonial government between 1948 and 1953.

The petitioners allege that, on August 1, 1951, the British Colonial Government awarded Kimulot Tea Company, now known as James Finlay (Kenya) Limited, a division of Swire Group, United Kingdom, a 999-year lease on the Kimulot land, without consent from nor compensation to the owners. The land comprised of various consolidated parcels of land acquired from residents and registered as LR No. 8804 measuring approximately 4,500 acres occasioning massive and forcible displacement of residents from their ancestral home without compensation.

The petitioners aver that the late Tapsimate arap Borowo and the Late Kipsoi arap Chemorore, who felt unfairly deprived of their rights over their ancestral land refused to relocate, thereby necessitating action to forcibly remove them. In October 1951, the Colonial Administration prosecuted the duo under Criminal Case No. 346 of 1951 (*Rex vs Tapsimate araap Borowo*) and Criminal Case No. 461 (*Rex vs Kipsoi araap Chemorore*). Both cases were decided in favour of the petitioners in two successive hearings, including an appeal filed by the applicants. The petitioners state that in early 1952, the colonial administration filed a third case before an allegedly 'friendlier' court in Kisumu. The Kisumu Court decided the matter in favour of the colonial administration, effectively causing the petitioners to lose over 4,500 acres of prime land in an ensuing merciless eviction that was executed from 26<sup>th</sup> February 1952, without allowing the residents time to appeal the decision.

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

Hon. Members, the petitioners state that both Mzee Tapsimate araap Borowo and Mzee Kipsoi araap Chemorore were kept behind bars to hinder any attempts on their part to interfere with the evictions. They further aver that while some evictees accepted alternative land from the colonial administration, both Mzee araap Borowo and Mzee araap Chemorore declined and maintained their focus on Kimulot, the land of their ancestors. Until their death, they remained landless and so are all their descendants, who live in squalor right by the land that they would otherwise have exploited for sustenance of their livelihoods and economic gain.

Hon. Members, the petitioners are, therefore, praying that the National Assembly, through the Departmental Committee on Lands, opens up fresh and transparent investigations into the matters raised in this Petition, particularly the forcible dispossession of both the Borowo and Chemorore families without compensation, and the circumstances relating to the eviction, without compensation, of the Kipsigis community from their ancestral land in Kimulot in an operation which commenced in February 1952, with a view to ensure that the land rights of the petitioners are upheld as stipulated in the Constitution and the United Nations Universal Declaration of Human Rights.

Hon. Members, pursuant to the provisions of Standing Order No.227, this Petition, therefore, stands committed to the Departmental Committee on Lands. The Committee is requested to consider the Petition and report its findings to the House and the petitioner in accordance with Standing Order No.227(2).

I thank you, Hon. Members.

I suppose that there are no comments. I see Hon. Seroney desires to make some comments.

**Hon. Sammy Seroney** (Nominated, WDM-K): Thank you, Hon. Speaker for allowing me to put a comment on that Petition. Hon. Speaker, there are so many Kenyans who were forced out of their ancestral land. (*Technical hitch*) Sorry, I was interrupted by my colleague here. I know so many people who are squatters and landless because of forceful eviction both by the colonialists and the Kenyan Government. For example, there is a case in Eldama Ravine where people were evicted on 27<sup>th</sup> May 1998 and have never been resettled up to now. There are also other areas that are affected in Baringo and Nakuru. I support this Petition because if we do not put our records straight, we will keep on hurting Kenyans and yet, they have a right like any other person.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Kilifi North.

**Hon. Owen Baya** (Kilifi North, ODM): Thank you, Hon. Speaker. I would like to say something about this Petition. The issues of ancestral land, eviction of people and historical injustices in this country need to be resolved going forward because they are emotive. Kilifi is an area that has suffered heavily under agreements that were entered into many years ago and people lost their land.

If you go to Kilifi, over 75 per cent of the land belongs to other people. A few days ago, you saw in the daily newspapers that the Oman Arabs have started demanding money from the coastal people in terms of billions for compensation of land which they claim is theirs. The people are expecting anything and want to see if the Oman Government and Kenya Government

will agree. The people of that area will be evicted from land which belonged to them since time immemorial. This is a sad thing and this House should go into history as one that solved land issues at the Coast and many other parts of this country.

For example, you will see very many people going in bus loads to Kilifi because they have been told there is land which they can subdivide and take. I want to tell them to do that at their own risk. The people of Kilifi will not allow people to come from wherever and take land which ancestrally belongs to them. I want to say this for free because I cannot have lived there for all those years...

**Hon. Speaker:** You know we are commenting on the Petition. We are not talking about Kilifi.

**Hon. Owen Baya** (Kilifi North, ODM): No! I am only telling people to try. Hon. Speaker, can I continue?

**Hon. Speaker:** No! You have finished your contribution. Hon. Milemba.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Speaker. As you have realised, the land issue in Kenya is very emotive. But I would wish to make a very quick comment especially to the Committee which will be looking at this particular Petition. This just touches on what we call the colonial land ordinances as they existed. I know that if you will be unable to completely solve the case study in question, you should be able to bring to the House knowledge of how those ordinances affected land ownership in Kenya.

I would also wish to ask the Committee to look at the history of how people first owned land and, maybe, look at the works of Arnold Toynbee on the first Occupancy Theory in so far as land ownership is concerned. I think that will help us even if we do not completely tackle that Petition. But the House should be knowledgeable on how the ordinances affected the occupancy of land by the original people in Kenya moving forward.

Thank you, Hon. Speaker.

**Hon. Speaker:** Even as we make our comments, I think we should also be alive to the constitutional provisions relating to who is entitled or obligated to deal with issues of historical land injustices, given that there is a constitutional commission which is independent and execution of its functions is not subject to control or direction from anybody or authority. I am just wondering whether we may find ourselves acting in futility. But, of course, we deliberate on issues of concern. I just wanted us to be alive to that possibility that we could find ourselves acting in vain. Just in the interest of having come a little earlier, let me recognise the father of the House, Member for Kitutu Chache North.

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): Thank you, Hon. Speaker. I believe the Member who has presented this Petition should have sought from this House the Report on historical land injustices. So, we can make any amendments if we find that some aspects of historical land injustices are not included in that Report and discuss them fully for the benefit of all Kenyans. We need resources provided so as to carry out historical evidence of migrations. For example, I know my ancestors passed through Kilifi. We need to know exactly where people came from and assign that land to their ancestors.

With those few remarks I beg to support.

**Hon. Speaker:** Hon. John Mbadi.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. As I contribute to this Petition, I just want to say that issues of land are emotive and we are alive to them. I think this country almost slide into ugly chaos because of issues or questions around land ownership and historical land injustices. We thought we were fixing this by taking two routes. Route “A” was to create a commission. Remember in the 2010 Constitution, we decided to create commissions which were actually forming a fourth arm of Government.

However, I think I would not be out of order by saying that the greed of Kenyans as usual got into this commission and messed it up. I think as the Committee deals with this matter, they should address the bigger question of whether the National Land Commission (NLC) is still helpful in its current form or there is something we need to do. Not really to do away with it but, maybe, to reform it and have a commission that can serve us.

Finally, I think what the father of the House who happens to be my former teacher was talking about is the Report of the Truth, Justice and Reconciliation Commission (TJRC). I would want to urge my counterpart, the Leader of the Majority Party, that this Report probably needs to be brought here for proper debate so that it is implemented. I think it has been resisted for too long and it can help address some of these issues.

Thank you, Hon. Speaker.

**Hon. Speaker:** Let me hear the Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Speaker. I think Hon. Mbadi has put it well that we can discuss all the issues in the TJRC Report. I am sure Hon. Mbadi is also a Member of the House Business Committee (HBC) and the Speaker is our Chair. So, we will see when to bring it after recess. My senior and deputy needs to be very clear. There is no way you can migrate from Congo going to Kisii and then you pass through Kilifi. That route does not exist.

*(Laughter)*

If you come from Congo, you will directly go to Kisii. If you are migrating from Congo, what business do you have at the Coast? I want to tell the people of Kilifi that historically, since time immemorial, the Kisii Community... You know the moment they pass through Kilifi, then next time they may pass through Garissa. So, I would like to confirm that their route is known by those who did history in this House. There is no way you can come from Congo and then pass through Kilifi on your way to Nyamira.

**Hon. Speaker:** Let me hear the Member for Funyula.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Speaker, for giving me this opportunity to weigh in on this Petition. I want to make two comments.

First, it is the issue on how we treat petitions in this House. Indeed, we have received so many petitions that are so important and so critical to the welfare of the people of Kenya. Unfortunately, we never have an opportunity to conclude those petitions to the satisfaction of the people of Kenya. Probably, in due course, we might have to look at our Standing Orders because it seems the Public Petitions to Parliament Act seems to rely so much on the Standing Orders on how to treat these petitions. I am sure the family that has raised this Petition will be extremely

disappointed if time lapses before the Petition is presented in this House and they are not given a chance to be heard.

Secondly, the issue of historical land injustice, more or less, seems to fall within the purview of Article 67(2)(e) of the Constitution of Kenya, which donates those powers to the NLC. I am sure, and all of us know, that the outgoing NLC has not lived up to its mandate. I urge the Committee of the House in charge of land and related matters that, as they seek to constitute a new NLC, special attention needs to be paid on the integrity, professionalism and commitment of the new commissioners.

Lastly, looking at historical land injustices in this country we will, more or less, be rewriting the history of this country. We must look at it very carefully because even us, where we come from, have claims of our people extending all the way to eastern Uganda. So, we could make that claim to extend that far. I have read all over about the Maasai Community claims. It claims that all the land in Kenya belongs to the Maasai Community. So, we must be very careful on how we deal with this matter. We have a lot of reference materials. There is the TJRC Report, the Njonjo Commission Report and the Ndung'u Report. There are quite a number of reference materials. I would urge the Committee to use those materials as a reference point so that we start rewriting - if we so wish - the history of this country. But, most importantly, I would wish to hear the report of the committee in respect to that Petition because it will be precedent-setting and it will form very good academic material for research and teaching at the university.

Thank you, Hon. Speaker.

**Hon. Speaker:** Do not worry about the possibility of time lapsing because the Committee is aware that it can apply for extension of time if they need time to do research and hear the petitioners or as many people as may desire to be heard by the Committee.

That concludes the matter of that Petition. Before we go to the next Order, allow me to recognise the presence of students and pupils from the following institutions in the Speaker's Gallery: Queen of Rosary School Thika, Thika Town Constituency, Kiambu County and Kiangua Secondary School, South Imenti Constituency, Meru County. In the Public Gallery, we have Olooseos Girls' Secondary School, Kajiado West Constituency, Kajiado County; Ruthimitu Mixed Secondary School, Dagoretti South Constituency, Nairobi County and Kasafari Secondary School, Runyenjes Constituency, Embu County. They are all welcome to observe the proceedings of the National Assembly this afternoon.

Next Order!

## PAPERS LAID

**Hon. Speaker:** Leader of the Majority Party.

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

The Reports of the Auditor-General and the Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2018, and the certificates therein:

1. Assets Recovery Agency;
2. The National Council for Children's Services;

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

3. Child Welfare Society of Kenya;
4. National Museums of Kenya;
5. National Industrial Training Authority;
6. Kenya Energy Sector Environment and Social Responsibility Programme Fund;
7. Kenya National Library Service;
8. Kenya Copyright Board;
9. Kenya Medical Research Institute;
10. Kenya Cultural Centre;
11. National Humanitarian Fund;
12. Jaramogi Oginga Odinga University of Science & Technology;
13. University of Nairobi Press;
14. State Department for Trade; and,
15. Mt. Elgon Lodge Limited.

**Hon. Speaker:** Let us have the Chairperson of the Departmental Committee on Justice and Legal Affairs.

**Hon. William Cheptumo** (Baringo North, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Reports of the Departmental Committee on Justice and Legal Affairs on:

1. The Instrument for ratification (Accession) of the Agreement for the establishment of the International Anti-Corruption Academy as an International Organisation;
2. Sessional Paper No.2 of 2018 on the National Ethics and Anti-Corruption Policy; and,
3. The Petition by Mr. Julius Kipkoech Bores to amend the Constitution of Kenya to alter the system of representation.

**Hon. Speaker:** Let us have a Member of the Departmental Committee on Health, Hon. Tongoyo Gabriel.

**Hon. Tongoyo Gabriel** (Narok West, CCM): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Health on the National Hospital Insurance Fund (Amendment) Bill (National Assembly Bill No.5 of 2019).

**Hon. Speaker:** Let us have the Chairperson of the Departmental Committee on Defence and Foreign Relations, Hon. Katoo.

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Reports of the Departmental Committee on Defence and Foreign Relations on its consideration of:

1. The Agreement for the setting up of a Regional Maritime Information Exchange and Sharing Mechanism in the Western Indian Ocean Region and Explanatory Memorandum and the Regional Agreement on the Co-ordination of Operations at Sea in the Western Indian Ocean and the Explanatory Memorandum; and,
2. The Agreement between the Government of the Republic of Kenya and the Government of the Italian Republic on the Luigi Broglio-Malindi Space Centre.

**Hon. Speaker:** Let us have the Chairperson of the Departmental Committee on Communications, Information and Innovation, Hon. Kisang.

**Hon. William Kisang** (Marakwet West, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Reports of the Departmental Committee on Communications, Information and Innovation on:

1. The delegation to the National Association of Broadcasters 2019 in Las Vegas;
2. The Participation at the World Summit on the Information Society Forum 2019; and,
3. The Consideration for Ratification of the Beijing Treaty on Audio-Visual Performance.

**Hon. Speaker:** Next Order!

### NOTICES OF MOTIONS

**Hon. Speaker:** Let us have the Chair of the Departmental Committee on Justice and Legal Affairs.

#### REPORT ON SESSIONAL PAPER ON NATIONAL ETHICS AND ANTI-CORRUPTION POLICY

**Hon. William Cheptumo** (Baringo North, JP): Hon. Speaker, I beg to give notices of the following Motions:

THAT, this House adopts the Report of the Departmental Committee on Justice and Legal Affairs on the Sessional Paper No.2 of 2018 on the National Ethics and Anti-Corruption Policy, laid on the Table of House on Wednesday, 26<sup>th</sup> June 2019.

Hon. Speaker, I have another one. Can I proceed?

**Hon. Speaker:** Yes.

#### ADOPTION OF REPORT ON ESTABLISHMENT OF INTERNATIONAL ANTI-CORRUPTION ACADEMY

THAT, this House adopts the Report of the Departmental Committee on Justice and Legal Affairs on the Instrument for Ratification (Accession) of the Agreement for the establishment of the International Anti-Corruption Academy as an International Organisation, laid on the Table of House on Wednesday, 26<sup>th</sup> June, 2019.

**Hon. Speaker:** Let us have the Chairperson of the Departmental Committee on Defence and Foreign Relations.

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Speaker, I beg to give notices of the following Motions:

REPORT ON ESTABLISHMENT OF REGIONAL MARITIME INFORMATION  
EXCHANGE AND SHARING MECHANISM

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on its consideration of the Agreement for the Setting Up of a Regional Maritime Information Exchange and Sharing Mechanism in the Western Indian Ocean Region and Explanatory Memorandum and the Regional Agreement on the Coordination Of Operations at Sea in the Western Indian Ocean and The Explanatory Memorandum, laid on the Table of the House on Wednesday, 26<sup>th</sup> June 2019.

ADOPTION OF REPORT ON LUIGI BROGLIO-MALINDI SPACE CENTRE

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on its consideration of the Agreement between the Government of the Republic of Kenya and the Government of the Italian Republic on the Luigi Broglio-Malindi Space Centre, laid on the Table of the House on Wednesday, 26<sup>th</sup> June 2019.  
Thank you, Hon. Speaker.

**Hon. Speaker:** Let us have the Leader of the Majority Party.

MANDATE OF THE NATIONAL ASSEMBLY WITHIN THE BICAMERAL SET UP OF PARLIAMENT

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to give notice of the following Motion from the House Business Committee. This Motion is co-signed by the Leader of the Minority Party and the Leader of the Majority Party. I really want the House to listen to me carefully.

AWARE that Article 93 of the Constitution of Kenya establishes two Houses of Parliament, each with a distinct mandate as outlined under Article 95 and 96 of the Constitution respectively;

WHEREAS Article 95 of the Constitution specifically mandates the National Assembly to:

- (a) represent the people of the constituencies and special interests in the National Assembly;
- (b) deliberate on and resolve issues of concern to the people;
- (c) enact legislation in accordance with Part 4 of Chapter Eight of the Constitution;
- (d) determine the allocation of the national revenue between the levels of government as provided in Part 4 of Chapter Twelve of the Constitution, appropriate funds for expenditure by the national Government and other national State organs;
- (e) exercise oversight over national revenue and its expenditure;
- (f) review the conduct of the Office of the President, the Deputy President and other State officers and initiate the process of removing them from office, and



(g) exercise oversight over state organs;

AND WHEREAS Article 109 (2) of the Constitution provides that any Bill may originate in the National Assembly and Article 109 (3) of the Constitution provides that a Bill not concerning county governments is considered only in the National Assembly and passed in accordance with Article 122 of the Constitution and the Standing Orders of the National Assembly;

AND WHEREAS the National Assembly of the 12<sup>th</sup> Parliament has, pursuant to the powers conferred by the same Article 109 (3) of the Constitution, passed several laws that do not concern county governments as contemplated by the Constitution;

AND WHEREAS Article 110 (1) of the Constitution defines a Bill concerning...

*(Hon. Alfred Keter and Hon. (Ms.) Rachel Nyamai consulted loudly)*

Hon. Speaker, you should tell Hon. Alfred Keter and the Chair that if they want to discuss, they can go very far away from where I am.

**Hon. Speaker:** If you could discuss in low tones.

**Hon. Aden Duale** (Garissa Township, JP): Whereas Article 110(1) of the Constitution defines a Bill concerning county governments as:

- (a) a Bill containing provisions affecting the functions and powers of the county governments set out in the Fourth Schedule;
- (b) a Bill relating to the election of Members of a County Assembly or a county executive; and
- (c) a Bill referred to Chapter Twelve affecting the finances of county governments;

AND WHEREAS Article (4) provides that a Bill concerning county government may originate in the National Assembly or the Senate and is passed in accordance with Articles 110 to Article 113, Articles 122 and 123 and the Standing Orders of the Houses;

AND WHEREAS Article 110(3) provides that before either House considers a Bill, the Speakers of the National Assembly and the Senate shall jointly resolve any question as to whether it is a Bill concerning counties and, if it is, whether it is a special or an ordinary Bill;

COGNIZANT THAT, the matter of whether the question as to whether a Bill concerns counties will routinely arise has been addressed by the High Court of Kenya in the matter of Nation Media Group Limited & 6 others versus Attorney General & 9 others (Judicial Review Misc. Appl. No. 30 of 2014), where the court held that the requirement contained in Article 110(3) comes into play when there is a question or doubt as to whether or not a Bill concerns counties - that is, the question must arise; where there is no question then the two Speakers have no jurisdiction to sit. The absence of consultation and resolution between the two Speakers of the House on whether or not a Bill concerns counties is not in itself unconstitutional nor a violation of the Standing Orders.

COGNIZANT THAT, the powers of the Speakers of the Houses of Parliament under Article 110(3) is limited to resolution of a question as to whether a Bill concerns county governments or not;

AWARE that in furtherance of Article 110(3) of the Constitution, the House, through Standing Order No.121, has mandated the Speaker to determine in that instance whether a Bill concerns county governments as and whether a question arises and to establish an appropriate framework for jointly resolving the question with the Speaker of the Senate;

FURTHER AWARE that the Speaker has and continues to actively engage the Speaker of the Senate on the establishment of an appropriate framework for jointly resolving any question as to whether a Bill concerns county governments, as and when the question arises;

COGNIZANT THAT, in accordance with Article 109(5,) a money Bill may be introduced only in the National Assembly in accordance with Article 114;

AND FURTHER WHEREAS Article 114(2) of the Constitution provides that if, in the opinion of the Speaker of the National Assembly, a Motion makes a provision for a matter listed in the definition of a money Bill, the National Assembly may proceed only in accordance with the recommendation of the relevant committee of the National Assembly, which is the Budget and Appropriations Committee, after taking into account the views of the Cabinet Secretary responsible for finance;

AND FURTHER WHEREAS Article 121 of the Constitution provides that the quorum of Parliament shall be fifty members, in the case of the National Assembly, or fifteen members, in the case of the Senate;

AND FURTHER WHEREAS Article 122 (1) of the Constitution provides that except as otherwise provided in the Constitution, any question proposed for decision in either House of Parliament is to be determined by a majority of the Members in that House, present and voting;

CONCERNED that contrary to the express requirements of Articles 121 and 122 of the Constitution and with regard to the quorum required for the convening of a session and voting on any question proposed for decision by the House of Parliament, the Senate has and continues to convene sessions and vote on questions proposed for decision without the requisite quorum and thresholds being met and thus prejudicing the legality of National Assembly business that is subject to the bicameral process;

AND WHEREAS Article 108 of the Constitution establishes the offices of the Leader of the Majority Party and the Leader of the Minority Party, being the person who is the leader in the National Assembly of the largest party or coalition of parties and the person who is the leader in the National Assembly of the second largest party or coalition of parties respectively;

AND WHEREAS the said Article 108(4) of the Constitution exclusively accords a certain order of precedence to be observed in the National Assembly,

being the Speaker of the National Assembly, the Leader of the Majority Party and the Leader of the Minority Party... Hence the ones in the Senate are unknown to this Constitution and any written law;

*(Applause)*

CONCERNED that despite the provisions of Article 108 of the Constitution, the Senate has irregularly established and caused the Parliamentary Service Commission to facilitate and continues to irregularly facilitate the offices of the Leader of the Majority Party and the Leader of the Minority Party that are unknown to the Constitution and any of the written laws in Kenya;

AND WHEREAS Article 132 of the Constitution generally mandates the National Assembly to receive names of persons nominated for appointment to the public office by the President, vet their suitability or otherwise and to appoint or reject their appointment;

CONCERNED that despite the express provision of the Constitution, the Senate continues to participate in the approval of appointment of persons to State offices through a duplicate process, resulting in a procedure unknown to bicameral parliaments anywhere in the world, since in bicameralism vetting of persons for appointment to State and public offices is exclusively vested in one House only;

CONCERNED THAT despite the express provisions of Article 95(5)(b) of the Constitution, the Senate has established parallel committees duplicating the mandate of the committees in the National Assembly and county assemblies and has on diverse occasions sought to exercise oversight over State organs in a manner that does not accord with the functions of the county governments outlined under Part 2 of the Fourth Schedule of the Constitution;

*(Applause)*

FURTHER CONCERNED that in complete disregard of the provisions of Articles 109 and 114 of the Constitution mandating the origination of a money Bill only in the National Assembly, the Senate has on various occasions introduced and considered Bills which have money Bill effect;

COGNISANT THAT pursuant to Article 3 of the Constitution, every person has an obligation to respect, uphold and defend the Constitution and that Article 94 of the Constitution requires Parliament to protect the Constitution;

FURTHER COGNISANT that Article 110(3) of the Constitution requires the Speakers of the Houses of Parliament to resolve any question as to whether a Bill is a Bill concerning county governments as and when such a question arises;

FURTHER COGNISANT that Article 229(6) of the Constitution requires the use of public funds in a lawful and effective manner;

FURTHER AWARE that the continued engagement of the Senate in matters outside its express mandate, its irregular duplication of the mandate of the National Assembly and county assemblies and its establishment and facilitation of irregular and unconstitutional offices constitutes imprudent use of public funds;

RECOGNISING THAT the Speaker of the National Assembly has always implemented the provisions of Article 110(3) of the Constitution and Standing Order No. 121 with regard to resolving questions as to whether a Bill concerns county governments or not;

NOW THEREFORE, this House-

1. REITERATES AND REAFFIRMS its commitment to respect, uphold and defend the Constitution in terms of Article 3 of the Constitution;

2. FURTHER REITERATES AND REAFFIRMS the exclusive role of the Speaker of the National Assembly and the relevant committee of the House in the consideration of any Motion that makes provision for a matter listed in the definition of a money Bill under Article 114 of the Constitution;

3. FURTHER REITERATES AND REAFFIRMS Further its oversight role over national revenue and its expenditure, including the lawful and effective use of public funds by all State organs;

4. URGES the Speaker to continue engaging the Speaker of the Senate on the establishing an appropriate framework for jointly resolving any question as to whether a Bill concerns county governments as and when such a question arises;

5. REAFFIRMS THAT, pursuant to the provisions of Article 95(4) and (5) of the Constitution, the mandate of oversight of State organs exclusively rests in the National Assembly and the duplication of such committees at the Senate as their role is unconstitutional;

6. The House RESOLVES:

(a) THAT, the House will continue upholding the provisions of Article 109(3) of the Constitution in the passage of Bills that do not concern county governments;

(b) THAT, the House will continue upholding the provisions of Articles 109(5) and 114 of the Constitution and Standing Order 143 in considering Bills originating from the Senate as to whether they are money Bills;

(c) THAT, in the first instance, the Houses of Parliament always explore alternative mechanisms of resolving any dispute that may arise between the two Houses from time to time as is the practice in other comparative jurisdictions;

(d) THAT, in the event of failure of the alternative dispute resolution mechanism, the National Assembly will institute legal proceedings to seek interpretation of the Constitution with respect to the foregoing concerns and also with respect to the scope of its mandate *vis-a-vis* that of the Senate including -

(i) whether it is lawful for the Senate to continue duplicating in entirety the National Assembly's legislative, representative and oversight mandates and its organisational and institutional structures with the resultant pressure on public resources;

(ii) the enforcement of Articles 108 (Party Leaders), 121 (Quorum) and 122 (Voting in Parliament) of the Constitution with regard to the operation of the Senate;

(e) THAT in the meantime, the House Business Committee which is chaired by the Speaker, upon the resolution of this House, inquires into the foregoing concerns and presents a report to this House as soon as practicable.

Hon. Speaker, I have given the notice of the Motion. We will slate it for debate next week before we head to the courts for interpretation.

*(Laughter)*

They have started the war. They should be ready to face us and get the interpretation of the war.

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

**Hon. Speaker:** Hon. Members, the Leader of the Majority Party was giving a notice of Motion. The Motion is available in the Table Office and every Member is encouraged to pick a copy. I can see that the Leader of the Minority Party has a copy of it. The Motion is co-sponsored by the Leader of the Majority Party and the Leader of the Minority Party. We will allocate it a date for debate. I encourage every Member to go through the Motion and prepare appropriately.

Before we proceed, Hon. Members, allow me to recognise the presence, in the Public Gallery, of students from the schools represented as follows: Muruka, Kiranga, Naaro, Mugecha, Kaburugi, Muiri-ini, Mahutia, Gatitu, Nguthuru, Kenyoho and Kiawambutu, all from Kandara Constituency, Murang'a County and those from Enkakenya Centre Primary School, Kilgoris Constituency, Narok County. They are welcome to observe the proceedings in the National Assembly this afternoon.

Next Order!

### QUESTIONS BY PRIVATE NOTICE

**Hon. Speaker:** Member for Ainabkoi, Hon. William Chepkut.

*Question No. 31/2019*

MURDER OF RONALD KIPKURUI ALIAS CHEPKUT AT NAIBERI TRADING CENTRE

**Hon. William Chepkut** (Ainabkoi, Independent): Hon. Speaker, I wish to ask Question No. 31/2019 to the Cabinet Secretary for Interior and Coordination of National Government.

(i) Is the Cabinet Secretary aware that on 17<sup>th</sup> June 2019 at 8.00 p.m. one Ronald Kipkurui alias Chepkut of Identity Card Number 34475501 was murdered at Naiberi Trading Centre in Ainabkoi Constituency?

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

(ii) Could he consider establishing a police station at Naiberi Trading Centre as a lasting solution to the rising cases of insecurity at Naiberi in view of the fact that the area police station is currently located far away in Eldoret Town CBD?

Thank you.

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

The next Question is by the Member for Tharaka Nithi County, Hon. Beatrice Nkatha.

*Question No.32/2019*

NON-GAZETTEMENT OF REGULATIONS ON COUNTER-TRAFFICKING IN PERSONS

**Hon. (Ms.) Beatrice Nyagah** (Tharaka Nithi CWR, JP): Hon. Speaker, my Question is No.32/2019 to the Cabinet Secretary for Public Service, Youth and Gender Affairs.

(i) Is the Cabinet Secretary aware that the Regulations under the Counter Trafficking in Persons Act, No. 8 of 2010 are yet to be gazetted nine years since the law came into force, and state when this will be done?

(ii) Could he state what measures have been put in place to rescue and provide care and shelter for victims of trafficking who are currently being held in police cells or prisons?

(iii) Is the Government expected to report on the status of this matter, specifically on Sustainable Development Goal 8 on human trafficking at the next meeting of the High-Level Political Forum in July this year?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Labour and Social Welfare.

The next Question is by the Member for Naivasha, Hon. Wanjiru Kihara.

ORDINARY QUESTIONS

*Question No.296/2019*

NON-PAYMENT OF PENSION TO FORMER EMPLOYEES OF KENYA RAILWAYS CORPORATION

**Hon. (Ms.) Jayne Kihara** (Naivasha, JP): Hon. Speaker, I rise to ask Question No.296/2019 to the Cabinet Secretary, National Treasury and Planning.

(i) Is the Cabinet Secretary aware that many former employees of Kenya Railways Corporation have not been receiving their pensions for a long time?

(ii) What measures has the Ministry put in place to ensure that all the pending pension payments belonging to former employees of the Kenya Railways Corporation are paid without further delay, since most of the said pensioners do not qualify to benefit from the senior citizens' cash transfer programme (commonly known as *Pesa ya Wazee*) on account of being pensionable?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question will be responded to before the Departmental Committee on Finance and Planning.

The next Question is by the Member for Dagoretti North, Hon. Simba Arati.

*Question No.298/2019*

UPDATE ON THE MATTER OF CONTAMINATED SUGAR

**Hon. Simba Arati** (Dagoretti North, ODM): Hon. Speaker, I rise to ask Question No.298/2019 to the Cabinet Secretary for Industry, Trade and Co-operatives.

i) Could the Cabinet Secretary provide details of the whereabouts of the 1.2 million bags of contaminated sugar confiscated in the months of May, June and July 2018 by the Government's Multi-Agency Team at various points across the country and whether it was destroyed?

ii) What mechanism has the Multi-Agency Team put in place to further rid the market of the contaminated commodity as well as prevent it from accessing the market?

Thank you, Hon. Speaker.

**Hon. Speaker:** It is referred to the Departmental Committee on Trade, Industry and Co-operatives.

Member for Vihiga County, Hon. Beatrice Adagala.

*Question No.299/2019*

SAFETY OF KENYANS SEEKING EMPLOYMENT ABROAD

**Hon. (Ms.) Beatrice Adagala** (Vihiga CWR, ANC): Hon. Speaker, I rise to ask Question No.299/2019 to the Cabinet Secretary for Labour and Social Protection.

i) Is the Cabinet Secretary aware of pamphlets, letters and posters being circulated in Vihiga County in the month of May 2019 asking the general public to apply for domestic jobs in the Middle East?

(ii) Could he explain whether the advertisements were genuine and if not, what measures have been put in place to protect Kenyans, particularly the people of Vihiga County, from such incidences?

(iii) What measures has the Ministry put in place to guarantee the safety and welfare of Kenyans seeking employment abroad?

**Hon. Speaker:** It is referred to the Departmental Committee on Labour and Social Welfare.

Next Question is by the Member for Gichugu, Hon. Gichimu.

*Question No.300/2019*

## TRADE AGREEMENTS BETWEEN KENYA AND UGANDA

**Hon. Gichimu Githinji** (Gichugu, JP): Hon. Speaker, I rise to ask Question No.300/2019 to the Cabinet Secretary for Industry, Trade and Co-operatives.

(i) Could the Cabinet Secretary explain whether there were any trade agreements signed between our Government and the Government of Uganda during the recent visit by the President of the Republic of Uganda?

(ii) Could he provide the details of the said agreements and explain how the country is set to gain from such agreements?

(iii) What measure is the Ministry taking to ensure that there is no trade imbalance between Kenya and other East African and Common Market for Eastern and Southern Africa (COMESA) countries to the detriment of Kenya?

**Hon. Speaker:** It is referred to the Departmental Committee on Trade, Industry and Co-operatives. Hon. Members, that concludes the Questions that were there. Hon. Katoo to make some statement.

**STATEMENT**

## KENYA'S POSITION ON UTTERANCES MADE BY HON. CHARLES NJAGUA

**Hon. Katoo ole Metito** (Kajiado South, JP): Thank you, Hon. Speaker, for allowing me to make this Statement. I will request that Members follow it keenly because it is an issue about our relation with our neighbours. This issue was discussed yesterday and even today in the Parliament of the United Republic of Tanzania.

Hon. Speaker, pursuant to Standing Order 43, I wish to make a Statement reaffirming Kenya's open-door policy with regard to all our foreign nationals. Kenya is an open and democratic society that has for decades been an icon of admirable warmth and a long-standing culture of hospitality. As a nation, we have prospered and made great strides in development, not only on account of our work, but also on account of opening our borders to the global community. Kenya firmly believes in the importance of free movement of people, goods and services. Our ceaseless championing of East African Community and the continental free trade area is a living testimony and testament to this. I am sure Members are aware that we are signatory of both the East Africa Community and Preferential Free Trade Area in Africa.

The fact that we have hosted and continue to host hundreds of thousands of refugees and have also become the investment destination of choice globally is a clear testament of the confidence that the international community has in this peaceful country.

It is on the background of this renowned hospitality that His Excellency the President, in his inaugural address to the nation at the commencement of his second term in November 2017, gave our brothers and sisters from across the continent, the privilege of travelling to Kenya without visa restrictions. He did even more for our East African sisters and brothers. They can come, work, live and in his words, if they should find a willing partner, settle down. That is who



we are. This historic initiative that is spearheaded by none other than the Head of State is what people's leaders should echo. It goes without saying that we naturally expect the same cordial welcome and brotherly treatment from our neighbours and international community as well. We strongly condemn any reckless utterances that deviate from this firm position that defines us as a nation and, additionally, reaffirms the country's open-door policy to all foreign nationals. Our long standing and absolute endeavour to the international community is summarised in three words: *Karibu Kenya* any time.

Therefore, I want to lay on the Table of the House this Statement as the official position of this country with regard to foreign nationals living in this country. I strongly condemn in the strongest words possible those utterances that are saying the opposite.

*(Hon. Katoo ole Metito laid the Statement on the Table)*

Thank you.

**Hon. Speaker:** Hon. Mbadi.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. It is in order for this House to express itself strongly in support of the Statement by the Chair of Departmental Committee on Defence and Foreign Relations regarding utterances attributed to one of us and, unfortunately, a Member of this august House who has brought unnecessary friction, unnecessary conflict and unnecessary misunderstanding and disagreement between two important neighbouring nations – Kenya and Tanzania.

Matters foreign relations must be treated carefully and cautiously. I urge my colleagues, Members of Parliament, that much as we may want to seek publicity and popularity; much as we would want to seek for votes, we must remember that the wider interest of the country overrides any other interest.

It was reckless for an honourable Member to start threatening those he called “foreigners” residing and doing business in our country. The relationship between Kenya, Tanzania, Uganda and, indeed, all African nations is strong. In fact, some of us are thinking that we should not even have these borders because these imaginary borders were created by colonialists. As a Continent, we need to promote cross-border movements and interactions. Kenyans should go to Tanzania to seek employment and do business so long as the business that they conduct there is legal. Those Tanzanians who are conducting business in Kenya should also conduct business as long as the business they are conducting in Kenya is legal and within the law.

I just want to wind up by saying the following two issues: One, as the Leader of the Minority Party, I want to associate myself with the sentiments by Hon. ole Metito that it was not Kenya's policy to chase away Ugandans, Tanzanians, Somalis or Sudan Sudanese or even Ethiopians so long as they are here legally and are doing business legally.

Two, I want to advise those who are seeking cheap popularity that majority of those who have behaved like that in the past have never made it back to Parliament. There is a former Member of Parliament from a neighbouring constituency - and I will not mention his name –

who came to this House dressed in tattered clothes thinking he was seeking sympathy. He went for a by-election and lost.

**Hon. Member:** On a point of order, Hon. Speaker.

**Hon. John Mbadi** (Suba South, ODM): What is out of order? I am just advising. How can I be out of order when I am offering advice? Let me conclude by saying that this country and, especially, elected leaders must come out strongly to condemn what Hon. Kanyi said in a public rally which has now brought diplomatic misunderstanding between Kenya and Tanzania.

Thank you.

**Hon. Speaker:** Hon. Members, just to remind you that where you are seated, there is a place for contribution and there is another one for interventions. When you have placed your card on intervention slot, I see. Do not shout “point of order”. That is why I do not look at you when you are doing that because I can see from here. Just relax. Hon. Nyamai.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Thank you, Hon. Speaker, for giving me an opportunity to comment on this matter and support the Statement that has just been read by the Chair, Hon. Katoo ole Metito. I do not know whether our colleague thought about the weight of the words that he uttered yesterday and the fact that those who are working here from other nations and, more so, Uganda and Tanzania, are bringing us foreign exchange and giving our people a lot of business.

Hon. Speaker, the fact is that our people in both countries enjoy doing business and living together. We cannot forget that, recently, we had the issue of xenophobia in South Africa. We saw people being beaten up and asked to go back to their countries. This country, which we respect, and which is loved the world over, should never be associated with such statements. I would like to support my colleague, the Chairman, and utterances that have been made by Hon. Mbadi. We would like our people to enjoy where they are living; I mean Kenyans who are working across the border. Also, those who have opened shops and other forms of businesses within our country should enjoy. Therefore, I associate myself with the Statement. It is important that when our colleague, Jaguar, gets an opportunity, he apologises to foreigners doing business in Kenya and to Kenyans doing business outside this country.

Thank you, Hon. Speaker.

**Hon. Speaker:** Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I join my colleagues in condemning the utterances of our colleague. I agree with the Chairman of the Departmental Committee on Defence and Foreign Relations and Hon. Mbadi that it is not a position in the Kenyan foreign policy as a member state of the East African Community (EAC).

But, as the people’s representatives, this must be a discussion that this Parliament and the Government of Kenya must discuss honestly: That, Kenya is not a dumping ground. We must discuss that. Kenya’s top professionals are not getting jobs in Tanzania. I will give an example: Vodacom International appointed Sylvia Mulinge as the Head of Vodacom Tanzania, but the President and the Government of Tanzania rejected her. She came back. She now works with Safaricom. I can give examples of up to 10 Kenyans. Even our business companies are subjected to the equivalent of Kenya Bureau of Standards (KEBS) in Tanzania. Today, this country is flooded with fruits. Even the fruits you eat in Parliament are from Tanzania. Our farmers cannot

sell their fruits in either Uganda or Tanzania. We are here and we must protect them. We will not involve ourselves in hate speech but this House must discuss. We are here to protect the people of Kenya. We must call a spade a spade if our people are losing jobs, if our people are losing business and if our people are not getting jobs in neighbouring countries. We have seen Chinese doing hawking. We have seen hawking business being taken up by people from other countries. We are under obligation to protect our people.

Ask anybody and they will tell you that Kenya is an exporter of the hospitality industry. Anywhere you go, even in West Africa, the CEOs of most of the hotels are Kenyans. Today, under the current Government in Tanzania, Kenyans cannot do business. These Members must have memory. Our chicken was burned in Tanzania. Our cows were auctioned in Tanzania. Let us call a spade a spade. We should not be the country which suffers. We are a member state of the EAC, but our first obligation is on the people of Kenya. This House and the Government are first and foremost supposed to make sure that the lives of Kenyans in this country are improved.

The Member must have done it in a very crude way, but we must discuss. The Committee on Regional Integration must go to Namanga. If you go there, you will see on the Tanzanian side, the trucks coming to Kenya forming a queue of over five kilometres. On the Kenyan side of Namanga border, you only see Tanzanian registered trucks going back. Why are our goods not going to Tanzania? Today, Farmers Choice Limited cannot sell sausages in Tanzania. It is because there are high tariffs imposed by the Tanzanian Government. Brookside cannot sell milk in Tanzania. Our top professionals cannot go to work in Tanzania, neither can they go to Uganda. We are the people's representatives. We should not act with emotions. We must protect *Wanjiku* in Gikomba; we must protect *Halima* in Eastleigh. We must bother that there is *Halima* in Eastleigh. Our people have been victims of a fake thing called counterfeits. Even a United States of America company called EPO goes to China and produces generic products. How can you tell which one is fake amongst the suits that we are wearing? If you look at the suits won by Hon. Speaker and Hon. John Mbadi, how can you differentiate them? Everybody is wearing clothes. We allowed *mitumba* to be brought into this country. It is better to buy a low-quality generic product. We agree with Government that they must protect the safety of the products. There was something called "multi-agency". They started killing all our businesses. There was what was called consolidation in the whole world.

We must have the Regional Integration Committee of this House and the Members we selected to sit in the East African Legislative Assembly telling us, what is our value as members of the EAC? Is Kenya getting value for its membership?

I am shocked. We are not just here. We are representatives. That is why we have issues with the Senate. They protect counties. We protect individual Kenyans and their businesses. Yes. Today, our people can do business. You guys, Members of Parliament, you eat oranges from Tanzania. Even the cabbage you eat is from Tanzania. You eat fish from China. We eat eggs from South Africa. We must, as a House, decide and bring legislation to protect our small and medium businesses.

(Applause)

I can tell you for free! You might condemn Jaguar, but he is tonight and today the most popular Member of Parliament in his constituency. In fact, if I was him, when they were waiting for him at the entrance of Parliament, I wanted him to come out and put on those *pingu* things and then walk away. That is how you get votes. It is by standing with your people. I am telling you. It is by standing with your people.

The Ministry of Foreign Affairs and International Trade, the Departmental Committee on Defence and Foreign Relations and the Committee on Regional Integration must walk from here to Busia. Why is maize from Uganda being dumped in Kenya? Why are animal feeds being dumped in Kenya? I will give you a good example. Vimal Shah of BIDCO has a factory in Jinja and another one in Thika. He supplies all edible oils from his factory in Jinja to the whole of Western Kenya, the Rift Valley and Nyanza. That is what he is doing. By doing that, our Kenyan people in Thika lose. People are being laid off at his factory in Thika.

So, colleagues, we agree that the statement was hate speech in some ways. That is not how we should behave but we are under obligation. As the Leader of the Majority Party, I am ready to defend *Wanjiku* in Gikomba. I am ready to defend those guys who are in Eastleigh. I am ready to defend the people who sell small items in our country, our farmers of eggs, milk and so forth.

Hon. Speaker, I think you need to direct the Departmental Committee on Defence and Foreign Relations, and the Committee on Regional Integration, to go and talk to people in Gikomba. We should form a select committee to bring a report. That report must be discussed. This is a matter which is very serious. It is affecting businesses in Western Kenya. Our people cannot sell. They cannot get their money. There are pending bills. So, you want to kill our people. The Departmental Committee on Defence and Foreign Relations must ask why Sylvia Mulinge, a competent professional lady, became a CEO of Vodacom and Magufuli and his Government refused to allow her in. There are many such cases. There are many Tanzanians, top guys, who work in Kenya. We have never denied them the opportunity to work in Kenya. Kenyans are being denied work permits. You ask our people and they will tell you. I am talking because the CEO of Barclays Bank Tanzania comes from my constituency. I talk to him every day. He tells me what Kenyans go through in Tanzania. You are not MPs of Tanzania. Tanzanians have their MPs. They are in Dodoma. This Committee is supposed to protect Kenyans. You are not sitting here on behalf of Magufuli or Museveni.

*(Applause)*

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Ugenya.

**Hon. David Ochieng** (Ugenya, MDG): Thank you, Hon Speaker. I want to join the Hon. Katoo ole Metito in the Statement he has made. Our relations with our neighbours in East Africa are governed by the EAC Treaty, the protocols thereunder and our Constitution. This treaty provides for a couple of things that must be done by Kenya and their neighbours. We do not operate in a vacuum. I thought that during our induction, as Members of Parliament, we were told what we can do and what we cannot do. I am surprised that the Leader of the Majority Party

can be talking about President Magufuli in this House without bringing a proper Motion to discuss him.

The issue in question is whether we are allowing foreigners in this country without vetting. Under the EAC Treaty in the Common Market Protocol, there is a right of establishment. A Tanzanian or a Ugandan can come to Kenya and establish a business and *vice versa*. The failure is ours as a country. Today, it is easier and cheaper to produce an egg in Uganda than in Kenya. It is easier to produce one sack of maize in Tanzania than in Kenya. That is failure of ensuring that when we liberalise, we follow Government policies that will ensure we produce cheaply and in a manner that promotes trade. That is important. How many Kenyans are in Tanzania today? They are many. So, the moment we start making statements that are inflammatory and show that we are at war, we are not helping Jaguar and anybody in Eastleigh or anywhere else. We are endangering the lives of Kenyans in Tanzania. We do not know what will happen tomorrow. This House is a House of laws. We have made laws and we must respect our own laws before we think of breaking laws of other countries.

What happened yesterday is a case of ignorance and lack of capacity to understand that what one is doing is wrong. We must condemn it as we condemn the Government of Kenya for liberalising the opening up of our borders without a proper plan. The issue is not the person in Eastleigh. The issue is the Government of Kenya making commitments out there without ensuring that, as a country, we are well protected. This country has laws. In the last Parliament, we passed a law called the Kenya Trade Remedies Bill, 2017. The law is meant to ensure that if any imports are endangering our local products, we can take action. We have enough laws. We are just not enforcing them. It pains me that every time this kind of issue arises, people want to whip up emotions about imports to Tanzania or whichever place. We are not doing the right thing here. In the next four months, you will hear farmers from the Rift Valley saying that they cannot sell maize. Then two months later, the Government will say that we have no maize. Why do we want to blame Ugandans and Tanzanians?

I grew up in Ugenya. It is 40 kilometers from Busia border. We get fish from Busia cheaper than the ones we get from Kenya. We get maize from Busia cheaper than the ones we get from Kenya. That is the truth. So, the issue is: Can the Kenyan Government ensure that it cushions its citizens against these kinds of malpractices and not blame anybody? I want to make it clear that when this Parliament set up a Committee on Regional Integration, it was meant to help us address such issues. I wish that the Member is advised. I want to request the Leader of the Majority Party, and this is a member of his political party, to ask Hon. Jaguar to take his sentiments to the Committee on Regional Integration so that they can be investigated.

The issue of migration is one of big concern. We are allowing people to come to this county without following the law. It is not about lack of laws; it is about enforcement of those laws and corruption. We are allowing people to come here to sell goods in the streets. You cannot blame the Tanzanians for that. It is because of our weak enforcement system. We are not vetting the people who are coming into this country. The Tanzanians are doing their job and that is why they are able to know that, probably Mulinge does not qualify because of one or two reasons. If you can remember, that lady had a case in court. Probably, she was convicted.

*(Hon. Members spoke off-record)*

No! No! No! The truth is that a country must apply its laws. You cannot allow anyone to come into your country. We must apply our laws rightly. Tanzania is right to apply its laws. If we want to be corrupt by allowing criminals to enter through our borders, we cannot blame other countries.

So, on this one, I want to state clearly that two wrongs do not make a right. Kenya must walk the right path by doing the right thing. Be it the Chinese, Senegalese, Americans or Indians, the law must be applied equally. Two weeks ago, our Cabinet Secretary for the Ministry of Interior and Coordination of National Government admitted that there are Chinese in this country who came in illegally and he deported them. How did they get in? Did President Magufuli help them get in? It was the failure by the Government to enforce its rules and laws.

This Parliament must put its feet down. Where Kenya is liberalising and going into international trade agreements, a couple of things must be done. Parliament must know how deep the integration is, how it is affecting our trade and service provision and the programmes that the people in the Government of Kenya have to ensure that the implication of the trade agreements are catered for. Otherwise, we will complain until the chickens come home to roost.

As I finish, as Kenyans, we have always welcomed everybody else within our borders. We cannot stop doing that because someone wants to be popular. In fact, this House must start disciplining its Members that bring its name to disrepute. You cannot go out there making statements that bring our country into disrepute and then come back and we clap for you saying that you are winning your votes. That is misconduct. It is not populism; it is misconduct. This Parliament has many Members who have cases in court based on this thing called “populism”. We must behave honourably. This is a House of honourable Members; not horrible Members. We must start behaving as our titles demand. If you have issues to address, there are channels to use to address them.

As an integrationist, as a person who has advised Kenya for a long time on integration, I will advise Kenya to use the right channels to handle this matter, so that it does not get out of proportion. You know how Tanzanians behave sometimes. You do not want that to happen in Uganda. You have had countries bragging about trade deficits. We are allowing Uganda and Tanzania to trade with the rest of the world while we are being shafted. We are being screwed. As a regional power house, we must behave well but ensure that we protect our citizens from the vagaries of liberalisation.

Thank you.

**Hon. Speaker:** Let me tell you that I am disappointed by all of you. This is not the business that brought you to this House this afternoon. The business is as it appears on the Order Paper. This is a Statement issued by the Hon. Chairperson of the Departmental Committee on Defence and Foreign Relations. He tabled the Statement for onward transmission to your counterparts.

*(An Hon. Member spoke off-record)*

No! There are no short comments. Can you look at your Standing Orders? There is nothing called “short comments”.

*(Laughter)*

Where did you get that from?

Sorry, Hon. Members, there is a serious business that needs to be transacted today. That matter ends there.

Next Order!

Hon. Members, if you cared to listen to the Statement, it does not address a Member. If Hon. Katoo did that, I would not have approved it. He would need to bring a substantive Motion. Now, I can hear some of you beginning to mention some name. That is not the way to go about it. Some of you are shouting about some things to be done here and there. You are likely to begin breaching the Standing Orders which some of you have already done. You cannot discuss the conduct of a Head of State of a friendly country. I think it was the Leader of the Majority Party who began by making that mistake. So, let us proceed to the next Order.

This is to save yourselves from yourselves! I have realised the danger of allowing you to say the things you want to say.

## MOTION

### CONSIDERATION OF THE PRESIDENT’S RESERVATIONS TO THE INSURANCE (AMENDMENT) BILL

THAT, this House do agree with the Report of the Committee of the whole House on its’ consideration of the President’s Reservations to the Insurance (Amendment) Bill (National Assembly Bill No. 21 of 2018).

**Hon. Speaker:** Is the Member for Dagoretti North Constituency limping? So soon after consulting with the Leader of the Majority Party you have started limping. What has happened to you after the consultation? I am informed by the Member for Kilifi North that Hon. Simba Arati was getting a little concerned by the mention of Chinese.

*(Laughter)*

I do not know why, but the Member for Kilifi North whispered that Hon. Simba Arati was a bit uncomfortable with the mention of the Chinese. Be that as it may, Hon. Simba Arati, the matter is settled. You can relax.

Hon. Members, I confirm that there is Quorum as we always do. Debate on this Motion was concluded yesterday and what remains is for me to put the Question, which I hereby do.

*(Question put and agreed to)*

**BILLS***Second Reading*

THE NUCLEAR REGULATORY BILL

*(Hon. Aden Duale on 20.6.2019)**(Resumption of Debate interrupted on 25.6.2019)**(Question put and agreed to)**(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)**First Readings*

THE IMPEACHMENT PROCEDURE BILL

THE PREVENTION OF TERRORISM AMENDMENT BILL

THE PREVENTION OF HUMAN DIGNITY AND  
ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL

THE TEA BILL

THE CARE AND PROTECTION OF OLDER MEMBERS OF SOCIETY BILL

*(Orders for First Readings read - Read the First Time and ordered to be referred to the relevant Departmental Committees)**Second Reading*

THE APPROPRIATION BILL

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Speaker.

I beg to move:

THAT, the House does consider the Appropriation Bill 2019 for the Second Reading.

We concluded the debate on the Report about two weeks ago, and last week, we concluded the Committee of Supply. This Appropriation Bill is just a result of everything that we did in the Committee of Supply. The Schedule that is in the Bill is as we passed it in the



Committee of Supply up to Thursday, last week. It is a very short Bill with only three clauses, but we intend to introduce a fourth clause which will touch on amendments that I will be speaking to. These are the only things that have changed from what we did in the Committee of Supply, last week.

We will consider the amendments that have been proposed when we go to the Committee of the whole House. I beg to appraise the House on the following. Pursuant to Article 114(2), the following proposed amendments were forwarded to the Budget and Appropriations Committee, and were considered during the committee sitting this morning, Wednesday 26<sup>th</sup> June, 2019, with the permission of the Speaker being a parliamentary day. In this regard, the committee proposes that the Committee of the whole House, when we get there, should proceed and consider the following amendments.

One, in respect of the First Schedule, re-alignment of Vote 1041, the National Treasury by effecting the reduction of Kshs1.8 billion from recurrent and not development. This relates to an amount of Kshs1.8 billion that the Departmental Committee on Finance and Planning had proposed to be reallocated from the Kenya Revenue Authority (KRA) to the National Government, Constituency Development Fund (NG-CDF) kitty. It is good to confirm to the House that the proposed amendment does not touch on NG-CDF because it is a realignment of the Kshs1.8 billion that had been reduced from the development expenditure of KRA which has only Kshs450 million. Therefore, we cannot take Kshs1.8 billion from it and reduce the same from the recurrent vote within KRA. That is why it is under the National Treasury.

Two, is the transfer of Kshs800 million to Vote 1066 - State Department for Early Learning and Basic Education from Vote 1064 - State Department for Vocational and Technical Training.

This follows consultations with - Hon. Injendi is here representing the Chair of Departmental Committee on Education and Research who is away - the Departmental Committee on Education and Research and the National Treasury which sought to reallocate Kshs1.5 billion that had been reallocated by the Departmental Committee from this Vote on Basic Education and Early Learning. This will deal with digital learning. A figure of Kshs1.5 billion was to reallocate to the State Department of Vocational and Technical Training for capitation for our TVET students. We have considered the matter and I am informed by the Chair of the Departmental Committee on Education and Research that in line with the proposal, the Committee and the National Treasury have since consulted and agreed to take back some money to be able to provide adequate resources for Digital Learning Programme, and also leave about Kshs3 billion which will be adequate to cater for about 100,000 students. That is the capitation at the rate of Kshs30,000 per student for the first half of the year.

I am informed there is an average of 90,000 students. With the envisaged growth, as we complete our TVETs in our constituencies, until the Supplementary Estimates of Kshs3 billion the amount should be adequate to cater for that capitation.

The third amendment relates to what I have alluded to. We intend to add a third clause to the Bill which I want to speak to. This relates to Vote 2041 being increased by Kshs500 million under the Senate Affairs Programme for the county oversight programme. This will be utilised to undertake oversight activities by our sister House, the Senate. There is need for the two

Houses of Parliament, both the National Assembly and the Senate to effectively understand that the National Assembly has a bigger and larger oversight role than the Senate.

The Senate oversees resources of over Kshs300 billion, while the National Assembly has appropriated over Kshs1.9 trillion to various activities within Government. Therefore, Members of the National Assembly have more functions, even constitutionally, if you look at Schedule Four of the Constitution. Indeed, more functions are vested in the national Government and the National Assembly oversees them.

Hon. Speaker, appreciating that we both have a role in oversight, the Committee recommends the following.

That, in order to complement the allocation of Kshs500 million to Vote 2041 for undertaking Senate oversight activities, a sub-programme be established under Vote 2042 for the National Assembly, known as the National Oversight Program and be allocated Kshs50 million. This will be composed of Kshs25 million reallocated from domestic travel and Kshs25 million reallocated from foreign travel for Vote 2042 for National Assembly.

*(Loud consultations)*

Hon. Members, I am now going to what you are asking. This is a programme that does not exist as we speak and we are, therefore, seeking to create a new programme and give it some seed money. I will be explaining why if you get a bit patient. Once we create this seed capital, it is this House that will still appropriate or re-appropriate resources subject to the amendment that we seek to introduce to the Bill. The amendment will be to create what was in the...

We have created a caveat that the disbursement of these resources, namely the county oversight and the national oversight programmes will be subject to the tabling of respective comprehensive regulations for approval and concurrence by the two Houses; that is the Senate and the National Assembly. I am sure many of us understand why it is important to create that proviso that we need to agree. We need to create a framework and agree on how this money will be utilised for oversight both at the national and county levels. So, it will be crucial that we formulate regulations that will be agreed upon by the two Houses. This is so that we do not end up with a situation where money is being given to us or Senators that is not clearly defined in law what it is meant for.

It should be clear what the money is meant for and how it will give value to the role of oversight that has been bestowed upon Parliament. We know that one of our roles is to oversight the Executive in its implementation of the budgetary provisions every year. So, those are the only things we intend to achieve through our proposals. There were other proposals which were brought before the Committee. For instance, we had a proposal from the Chairman of the Departmental Committee on Justice and Legal Affairs, Hon. Cheptumo to create provisions for one of the constitutional commissions, that is the office of the Ombudsman but because of resource constraints, we did not find anywhere to raise the resources. So, we have deferred that hopefully to the first Supplementary Budget.

With those very many remarks, I beg that we support the proposed amendments when we get to the Third Reading. I beg to move that we consider this Bill for Second Reading. I request the Leader of the Majority Party to second.

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Speaker. The Chairman of the Budget and Appropriations Committee (BAC) has said it all. The passage of the 2019/2020 Appropriations Bill will give legal backing and allow the national Government, Parliament and the Judiciary to withdraw funds from the Consolidated Fund in line with the Budget Estimates that this House has approved under the Committee of Supply which we prosecuted last week.

Hon. Speaker, in the 2019/2020 Appropriations Bill, the national Government will have the authority to spend money towards funding the various agencies and Government departments in line with the Big Four Agenda so that the other social economic interventions contained in the 2019/2020 Budget Estimates are achieved. We are passing this Budget for those interventions so that at the end of the day Kenyan citizens can grow and also help grow the economy.

We are not passing this Budget for other countries. So, we must at every time protect Kenyan farmers be they in Nyandarua planting potatoes, western Kenya growing sugar, or the pastoralists in the livestock sector. That is why we are allocating money to all these things. If you sit here and imagine that you represent a foreign country, then you better make a choice. I represent farmers in central Kenya, western, Rift Valley, North Eastern and so on. I have no other business.

Hon. Speaker, this House has passed the money. This House and its committees must follow up on how this money is spent. I want to challenge committees of this House that our business does not end here. The moment we pass the Appropriations Bill 2019, and we give the Executive, Parliament and the Judiciary the legal backing to withdraw money from the Consolidated Fund, it is only this House and not the Senate...

*(Hon. Cornelly Serem said something)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, the Vice-Chair of the Departmental Committee on Trade, Industry and Co-operatives is discussing the Tanzanian matter.

We have given the Executive, Parliament and the Judiciary the legal backing to withdraw this money. It is incumbent upon the committees of this House to follow up on the use of this money. On the money allocated for security purposes, the Departmental Committee on Administration and National Security should tell us how many vehicles have been bought and if Kenya is safe. On education, we want to see the money allocated to TVETs in use. Our children must get capitation. Money for infrastructure education must go to every constituency. This is because even our NG-CDF money is clearly doing something.

People are talking about corruption, but the problem we have in our country is that we do not follow up on the utilisation of the money. When we follow up and get the culprits, we turn to our ethnic cocoons that a particular tribe is being targeted. So, our committees can deal with the corruption narrative. The PAC, the PIC and all our departmental committees, please, let us follow this money to the last penny.

Hon. Speaker, this House has shown that it works. The whole of last week, in the Committee of Supply, we dealt with the votes of every Government agency. Many people were asking me what was going on and why for a whole week we were in the Committee of the whole House. We were ensuring that the figures were right and we were giving the legal backing. In fact, today the 26<sup>th</sup> June is the deadline for us in terms of law to finish. We also passed the Supplementary Appropriations Bill the other day. One of the directives the President gave during Madaraka Day was that Kenya business people must be paid the money they are owed as pending bills.

As I walked in town this week, there is no money being paid either by the national Government or county governments. Let us be very frank when money is paid out or even when you go with a Kshs500 note to your constituency, in that village money is felt. Last week, we gave the national Government Kshs9 billion to pay pending bills. It is four days to the end of the financial year and no one has been paid so there is no money in the market.

We are telling the President that his Cabinet Secretaries (CSs) and Principal Secretaries (PSs) are not implementing the directive of paying Kenyans. The Budget and Appropriations Committee must be given a list. I do not know where the Chair is. Maybe, he is busy with the Senate's amendment. But we have put a proviso that they cannot access that money until there is a legal framework.

The County Women Representatives (CWRs) brought a legal framework. We cannot give you money if there is no law backing you. So that, my Senator goes to my constituency with Kshs1 million and buys people *mandazis* or *injera* in my case. This cannot happen. We are appropriating money and there are votes.

I told the Chair to bring an amendment. How can he tell us he is giving us Kshs50 million and giving them Kshs500 million? You think you can convince us. So, we are telling you to take your Kshs50 million back. In fact, had we agreed we could have given you your Kshs50 million. We do not want it because it is an insult. You should either give us Kshs500 million the way you gave them... But Kshs50 million is the expenditure of running the Office of the Leader of the Majority Party in Parliament. You know Hon. Kamket is not in the cattle rustling area. He buys the animals they steal. So he is a 'butcher and cattle rustler'.

So, Hon. Ichung'wah you are insulting us. My friend, go back with the Kshs50 million and we will make amendments. The good thing he has done is putting a proviso. He said that the Kshs500 million can only be accessed when they have a framework and when the two Houses decide through a resolution. You know that word is like going to heaven when your books are not in order. It is good that Hon. Millie Odhiambo convinced me. I was wondering why she was refusing. She asked my friend, why are you are giving Kshs1 million to somebody to go and dish out?

Right now, we are victims of our sisters the CWR. You know I am now being forced to buy umbrellas because women in my constituency were asking me why the CWR is buying umbrellas and I cannot. The NG-CDF cannot allow me, and so I bought umbrellas. The next day she brought tanks and I was also forced to buy tanks. The following day she brought something else. So, this is my problem. In fact, we should even specify how our sisters can use that money.

You know they have a free blank cheque and some of them are competing with governors. So we have to be very careful.

They are holding workshops and giving people money, but we cannot do the same with NG-CDF. So, I think elected constituency members are the ones who appropriate money. So, our brothers' money must come and we are not denying them. The Member for Ijara being one of the few elected women like Millie Odhiambo when she hears CWR...I am sure every Member here will tell you that the problem in the constituency is our sisters blank cheque. I go to build a classroom and next to me tanks are being distributed. I cannot deal with water so I become a victim. But they are doing good social work.

Before I finish, I want to say that, please, follow this money and protect Kenyan farmers because it is our obligation. You know President Uhuru Kenyatta had to pay the Kenya livestock farmers whose animals were confiscated by Tanzanian authorities and auctioned. Yes, he paid them from our taxes. You guys when it comes to the interest of our people we must stand together.

This thing called East African Community (EAC) collapsed when Njonjo was the Attorney-General. That is why all the planes which were stationed at Jomo Kenyatta International Airport (JKIA) were taken over by Kenyans. Tanzanians took over all the ships together with the harbor. I know the Ugandans also took something. We took the East Africa Airlines that time. The President of the most powerful nation Donald Trump says all politics is local and he will fight for Americans. You are in a third world country and you do not want to fight for your people. So, we must fight for our people and this budget must enhance their livelihoods.

I beg to second and ask the Chair to return his Kshs50 million.

*(Question proposed)*

**Hon. Speaker:** Hon. John Mbadi, you have the Floor.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. Basically what we would have done is very simple. The budget-making process started a while ago realistically with the Budget Policy Statement (BPS), then the Budget Estimates, we went through the Committee of Supply and now we are in the Appropriations Bill, which is just the summation of figures and amounts appropriated to various votes.

However, I am aware there are a few amendments which will come. Some of them are harmless because they are just trying to align budget lines supposed to be effected. I think one amendment which stands out is the one to give Senate Affairs an oversight vote of Kshs500 million. I want to be very clear that I am one person who has been very consistent in opposing the Kshs500 million which is going to the Senate.

My reasoning is very simple. You know the problem is dishonesty from the Senate. They should have just opened up some years ago and told us that they do not have enough pocket money to hold public *barazas*. This terminology and baptism they are giving this money as Senate Affairs Oversight is just trying to play around with our psychology. The truth is that Senators feel they need money to go to the counties and hold *barazas*. This may be necessary

because as a legislator and politician I understand and appreciate, but we need to ask ourselves how much.

Initially, Senators wanted Kshs2 billion. If you divide Kshs2 billion by the 67 Senators and decide to give them the same amount, it comes to over Kshs2.4 million per month per Senator. I asked myself: “How do you give Senators Kshs2.5 million every month just to go hold public *barazas* and call people around?” We are the ones who lowered it to Kshs500 million. That still comes to Kshs624,000 per month per Senator. My worry is this.

*(Hon. Aden Duale consulted loudly)*

The Leader of the Majority Party is holding another *baraza* here which Senators want to hold. I need to be understood properly. Members of Parliament, especially those of us from the 290 constituencies need to understand. You have other elected leaders. We have the governors whom we know very well take public money and conduct Harambees and hold meetings with them illegally. Almost all of them do that. You have the Senators who also want money to go and hold those *barazas*. You also have our colleagues, 47 MPs, whose allocation is so liberal. In fact, for the first time, I have seen a case where you can call women in a market and use government money to give them handouts of Kshs1,000 and they go back home. That cannot happen with scarce government resources.

Look at the NG-CDF that people keep on talking about. It has a proper procedure of procurement. In fact, you have an independent committee and those MPs who have ever tried to get involved are always in problems, but now your other colleagues will be calling people and giving them lunch allowance and transport back. How many people will attend your meetings?

Hon. Speaker, you know we are exposing ourselves to a situation where you will call a meeting to explain yourself to people and you will have five people. No one will come to your meetings if when they go to the governor’s meeting, they are given pocket money. The women representative gives them handouts. Senators now are going to give them handouts. In fact, soon members of county assemblies will start giving handouts they will get from governors. The only person who will not be giving money is the Member of Parliament. You will have problems.

So, you have to give money for oversight to everybody who is a Member of Parliament. I do not know where this distinction of Senate and National Assembly is coming from. My Chair has come with a figure here. You know my Chair surprises me at times. I do not know where he got the Kshs50 million from because I sit in the Budget and Appropriations Committee. I think they have just consulted with Hon. Millie and agreed on Kshs50 million. That is not the figure we talked about, but if this House can agree to start with Kshs50 million, I have no problem as long as we have a budget line. We can see how to deal with that budget line going forward.

I am okay with this one for the Senate but let us be realistic. Why do we not get regulations on how the Kshs500 million will be spent? If not, then we give them a realistic figure. You cannot give people another Kshs600,000 per month for nothing. Maybe if you give them Kshs100,000 or Kshs200,000, I can understand. But Kshs600,000 no! So, if there is no regulation, then the Kshs500 million is too much. It has to come down to Kshs100 million or Kshs50 million. In fact, I think this Kshs50 million was mistaken. It should have been the Senate

figure. I think the Chair must have mistaken the Senate figure for the National Assembly. That is my comment.

I am not so opposed to those amendments but I am opposed to giving the Kshs500 million without regulations. If we are giving it without regulations, it must be a far much lower figure. With regulations, we will understand and appreciate how and where it is spent. That one is a different story.

I support.

**Hon. Speaker:** I think it is good for me to also inform the House. Hon. Members, it is good for somebody who understands this background to explain. I have already approved the proposed amendment so that it tallies with what Hon. John Mbadi is saying that it shall not be disbursed until the Cabinet Secretary for National Treasury makes, with the approval of Parliament, regulations to provide a framework for the disbursement of the monies. Let me give the chance to Hon. Millie Odhiambo to speak to this.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Speaker, for giving me this opportunity. I will limit myself to the issue relating to vote R2041 which is the Senate oversight. I sit in the Budget and Appropriations Committee and we have had a history that when this matter has come before the House, it has either failed or it has been pended somehow. We have had a lengthy discussion with Members and the concern that Members have had, because we have had discussions outside, is actually what has been said by the Leader of the Majority Party and Hon. Mbadi.

If you look at the Constitution, you will find that our primary role is legislative, oversight and representation. Currently, if you look at the NG-CDF Act, you will find that the entire amount we have for the year for oversight is Kshs30,000. If you reduce that to a monthly cost it comes to about Kshs2,000 to do oversight on national Government projects because overseeing national Government projects is not even limited to your constituency. We are overseeing the funds relating to national Government but we only have Kshs2,000 a month.

Our brothers and sisters in the Senate proposed Kshs500 million which translates to Kshs900,000 per month per Senator. We were saying that if you have Kshs900,000, in principle, we are not opposed to any Member of Parliament including National Assembly or Senate undertaking their oversight role. We support but we must have a regulatory framework, otherwise, people will misuse this money. We are in politics. If you give somebody about Kshs1 million per month with no regulations, that person will determine who will be the governor, the Senator, the women representative, the MP, the MCA, the chief and sub-chiefs including the pastors of that area, and who will be the voter.

What we have, therefore, said is because we do not want to perpetually be at war with our brothers, we have agreed in principle that if because they have said they are overseeing counties, this money can be passed but with an amendment that the Chair will move for the Committee that it shall not be disbursed until the CS for National Treasury makes, with the approval of Parliament, regulations to provide a framework for the disbursement of the monies. That is one.

I urge Members to listen to me carefully on this. As the Budget and Appropriations Committee, we were of the view that slightly more money or at worst an equivalent amount be given to the National Assembly to also undertake oversight roles. However, I was advised that

because of the budgetary process and where we were, we cannot do that right now, but we can do it later.

In the current Budget, there is no Vote for oversight for the National Assembly. There was a view that we wait for the next budget cycle so as to include it. Most of us in the Budget and Appropriations Committee felt that we symbolically need to have our foot in so that we are able to negotiate. Even if that “foot” is only Kshs50 million, it is a symbolic amount that we can use to negotiate with during the Supplementary Budget. It is not possible to negotiate with our feet outside.

I suggest two options. I want to inform Hon. Mbadi, who is the Chair of my party that I am not the one who negotiated for the Kshs50 million but because of other factors I am not able to discuss here, and because of the short period... If you were in the Committee earlier you would know that I was a hardliner. I was not willing to negotiate anything less than Kshs500 million or more.

Just the other day, my constituency launched the bursary for the public without me. I had to go into my pocket to pay members of the public to come and receive bursaries. Which national Government functionary does that? You are going to do Government work, you go into your pocket and pay the public for coming and going, pay for the chairs, pay for the tents and pay for every single thing, even photocopying. It is unheard of.

We want to play our oversight role well. Many Members are asking why we are not getting Kshs500 million like the Senate. Why not Kshs700 million or Kshs1 billion? If you asked me, the National Assembly should get Kshs1 billion or Kshs1.5 billion. However, at this point, even if you drop it, we cannot incorporate it in the Budget at this point in time. We have two options; to have our foot in with Kshs50 million or to drop it altogether.

*(Loud consultations)*

Hon. Members, listen to me. There are other factors which I can explain to you one by one. We have really been negotiating. Maybe this would be the better way to go instead of dropping all of them altogether.

With those few remarks, I beg to support the Bill with amendments.

**Hon. Speaker:** Hon. Members, we need to understand the process we are in. That is why in making his contribution, Hon. John Mbadi began by stating what happens. I do not know whether all of you recall what happened before 15<sup>th</sup> February. There was before that date, tabled before this House, the Budget Policy Statement (BPS). If you can recall the process that he went through, which Hon. Millie is trying to explain, we have walked a long journey. There are certain resolutions that you have adopted as a House. At this point, there is not a lot of leg room. I agree that Hon. Makali will explain. Do not raise your hands. There is a screen here. I am assuming that every Member whose name appears here wants to speak. I will go to the person who appears on top. This is a coincidence. It is Member 001.

**Hon. David ole Sankok** (Nominated, JP): Hon. Speaker, it is not a coincidence. Thank you very much, Hon. Speaker. I always come on time. I support this amendment but there is something I want to be clear about. The amendment states that this regulation will be set by the



National Treasury with the approval of Parliament. If you say “with the approval of Parliament”, does it mean both the Senate and the National Assembly or does it mean that the National Treasury can decide to get the approval from the Senate, which is also part of Parliament and that is it? That is the only thing I want to be clear on. Is it both the National Assembly and the Senate or can it only be the National Assembly? We are deciding about the Senate. The Senate cannot shoot themselves in the foot. We should be clear. The amendment should state “with the approval of the National Assembly”.

**Hon. Speaker:** Hon. Members, I believe the Members of the Budget and Appropriations Committee will explain to you. Hon. Makali Mulu, could you elaborate? We are not in the Committee. Hon. Members, you need to first of all understand what is being done even before we move to the Committee of the whole House because we have to put the Question for the Second Reading. I am not too sure. Maybe Hon. Makali could explain. Hon. Mbadi assumed everybody was aware of the journey. Perhaps you could explain.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Speaker. You have put it right that we are in the Second Reading. The Second Reading is not just debate. At the end of the day we will vote “yes” or “no”. The issue of the money for the Senate has been clearly explained by Hon. Mbadi, Hon. Millie and the Chairman. This money was there this year and we removed it during the Supplementary Estimates. The reason we removed it is because of what is written in this amendment - “subject to regulations”.

From my experience, we are likely to be doing the same towards the end of next year. We have given the National Treasury the responsibility of preparing the regulations. We have pushed the ball to their court. We are the people who are expected to use the money. The way we have framed this conditional appropriation might cause problems. We are saying that we want to achieve something that we might not be able to. Nevertheless, I do not want to dwell on that one. I want to make the following observation.

Looking at where we started from the Budget Policy Statement to the Estimates, the Committee of Supply and now we are at the Appropriation Bill stage, I get concerned when I see that we are still making amendments. As we move to the future, we will need to avoid this scenario. I have been in the Budget and Appropriations Committee for the last five years. What is happening today has never happened before. Never have we made amendments at the Appropriation Bill level. I do not know what I would say. The consultations are coming in too late. At the end of the day, they make the budget and planning process a bit complicated. I urge the National Treasury, our Parliamentary Budget Office and the Budget and Appropriations Committee that we make all our final decisions at the level of the Committee of Supply. When it comes to this level, it should just be a matter of passing the Bill and getting the Act. Allowing amendments at this stage is not good practice. It will not be good for the House.

As Hon. Mbadi said, we agreed on Kshs200 million for this item where we have put Kshs50 million in the Budget and Appropriations Committee, and now we see that it has been reduced to Kshs50 million. The question is: Who reduced it to Kshs50million? It might now open some window for people to start thinking that the budget-making process has become an individual exercise other than the House activity. I just want to make that observation as we move to the future because it is important. I agree with the amendment. Let us have this item

where it is. Let us deal with Kshs50million now and we see how it goes as we move to the future.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Barasa Mutua, you have the Floor.

**Hon. Didmus Barasa** (Kimilili, JP): Thank you, Hon. Speaker, for giving me this opportunity to contribute. I am completely lost. If you look at the mandate of the two Houses, the Senate and the National Assembly, you will see that the National Assembly oversees close to 85 per cent of Government revenue leaving county governments with about 15 per cent. When we say that we allocate Kshs500million to the Senate and Kshs50million to the National Assembly and then the Chair of the Budget and Appropriations Committee explains to us that we want to put one leg inside and another one outside, it does not become clear.

Secondly, I really want to ask my friend, the Chair of the Budget and Appropriations Committee, that when he is bringing something for us to support, let him consider convening his fora elsewhere to lobby and explain to us, so that we can understand and read from the same page. Otherwise, I oppose these amendments. I suggest that we put the regulations first and then we allocate this money. I know that we may have some Members of Parliament who want to be Senators in future. So, that is why they are supporting these amendments but I want to be clear. I know that county governments have a lot of financial mismanagement.

**Hon. Speaker:** Hon. Mutua Barasa, you said that you oppose the amendment but it has not been moved. It is good for Hon. Members to understand where we are. I thought that after almost two years, we will be familiar with this process. We are still at the Second Reading of the Bill. For avoidance of doubt, the Chair of the Committee has decided to inform Members at this point of what he intends to do when we move into the Committee of the whole House so that he carries the House with him. If you want to speak to the amendment, you should wait until we get into the Committee of the whole House.

The debate is on the Second Reading of the Appropriation Bill (National Assembly Bill No.46 of 2019). Hon. Millie Odhiambo got the opportunity to explain as a Member of the Budget and Appropriations Committee. It was again explained by Hon. Makali Mulu. When we get to the Committee of the whole House Hon. Barasa, you will still be at liberty to speak to it. Do you want to continue to contribute on the Appropriation Bill?

**Hon. Didmus Barasa** (Kimilili, JP): Yes. Thank you, Hon. Speaker, for the kind direction. I am properly guided. As I wind up my contribution on this Bill, we should always be very clear. We should not go round on issues which are straightforward like what we were discussing here in the morning. As a representative of the people, I believe that any foreigner who is in this country illegally and hawking, running a shop or doing things which Kenyans can do should be put in the next plane back to his country, so that we protect our businesses, and we become very clear about things that are straightforward.

**Hon. Speaker:** Hon. Members, let us avoid things which do not add value. You are actually irrelevant. We are not discussing that issue. Somebody wrote that our size is bigger than a double stream of a normal high school which would be taken to have 40 students per class which would total to 320. Now that we are more than 320, you can imagine that the problem

must be bigger than running a double stream high school. Even though we are that many, let us try to be relevant to the rules and subject matter, so that we do not take too much time.

Let us now hear the Member for Ijara, Sophia Abdi.

**Hon. (Ms.) Sophia Noor** (Ijara, PDR): Thank you very much, Hon. Speaker, for giving me a chance to contribute to this very important information that we were given by the Chairman of the Budget and Appropriations Committee. I want to support it.

I understood that we have an oversight role and we oversee majority of the resources that are approved by this House. Being a budget-making House, we are blessed. We, as a House, have a responsibility to oversee those resources. We have been talking and pleading with the Budget and Appropriations Committee to give us more resources. They have listened to our cry and agreed that we do not have enough resources to go out and do our oversight role properly. Putting a vote head in the Budget to cater for our oversight role is very important for this House. We must listen to each other, Members.

Putting that vote head and planning to move an amendment is a great issue. We must learn the Budget-making cycle. If we, as a House, do not understand it, then we are doomed because that is one of our responsibilities. We must familiarise ourselves with the process that we go through. I want to thank the Budget and Appropriations Committee and its leadership for introducing this vote head at this very late hour because it is very important to us. If we stand here and we do not know the Budget cycle, then we better resign and go home because we do not have any responsibility to do in this House as Members of this House.

You have advised this House several times this afternoon. You have been bringing us back to the Budget cycle. A Member of Parliament said that he wanted money from this vote head. Putting that vote head in the Budget is very important. I want to congratulate the Budget and Appropriations Committee. We are happy with them because they have done a great job. We have our mandate which we can do now because we have a vote head. This is the time we have the capacity and the power to negotiate with other partners. We should bring them on board, for example the National Treasury. This is the time we, as a House, can bring money to this vote head, so that those resources will take us round this country to undertake our oversight role.

*(An Hon. Member spoke off-record)*

There is a Member who is telling me that I am lying.

Protect me, Hon. Speaker. The Member should go to school to learn about the budget-making process.

**Hon. Speaker:** I confirm that you are not lying. If it was whispered or said on social media that you are lying, because I have not heard it, ignore it.

**Hon. (Ms.) Sophia Noor** (Ijara, PDR): Hon. Speaker, when some Members were contributing, they talked about the National Government Affirmative Action Fund (NGAAF). I was the first Chair of the Fund and I know the kind of activities the County Woman Representatives are undertaking.

It is the responsibility of the County Women Representatives to propose an amendment to put more social services into our Fund because it cannot cover everything with the little

resources they have. If every time a County Women Representative wants to buy a water tank, she has to use her money, it will be difficult. That is what the Leader of the Majority Party alluded to when he said that when his County Women Representative buys a tank, he also buys one. To avoid that, we need a percentage of the money to cater for social services, like we have a certain percentage of money for emergency.

Thank you very much.

**Hon. Speaker:** Hon. Junet.

**Hon. Junet Nuh** (Suna East, ODM): Thank you Hon. Speaker.

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

**Hon. Speaker:** Hon. Kaluma what is your point of order?

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Speaker, I am always very quick to understand. This matter has been explained to me by Hon. Millie Odhiambo and our colleagues from the Budget and Appropriations Committee. I understand where we are coming from. Indeed, it is better if we can put our feet in and see what we can do to move up.

My concern upon which I seek clarification is based on the interpretation of Article 206(3) of the Constitution looked at together with the proposed amendment. What Article 206(3) of the Constitution says:

“Money shall not be withdrawn from any national fund other than the Consolidated Fund, unless the withdrawal of the money has been authorised by an Act of Parliament”.

I understand that we are doing the Appropriation Bill and my understanding is that the Appropriation Act will send the money to the Consolidated Fund. My interpretation of Article 206(3) of the Constitution is that what the Chair of the Budget and Appropriations Committee needs to have as his proposal in the last line that instead of proposing regulations, he should talk about Parliament coming up with a Senate Oversight Fund and a National Assembly Oversight Fund or just a Parliamentary Oversight Fund Act. Otherwise, my believe on the interpretation which I am seeking is that this is the reason we had issues with the NG-CDF where we were forced to do the National Government Constituencies Development Fund Act. We did the Judiciary Fund Act the other day. Appropriation does not mean that this money will go to the Fund by regulations. My interpretation is that Article 206(3) of the Constitution requires a parliamentary oversight fund in whatever nature we want to put it in.

With your clarification, Hon. Speaker...

**Hon. Speaker:** This is not creating a fund. It is a vote head. Of course, the Judiciary Fund is already established in the Constitution like many other funds like the NG-CDF and NGAAF. This is not seeking to establish a fund. So, it is not offending Article 206(3) of the Constitution. Article 206(3) says: “...except as provided for in an Act of Parliament.” This amendment is to a proposed Act of Parliament which is now a Bill.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): ... upon which this money will be accessed. The Chair says:

“These amounts shall not be disbursed until the Cabinet Secretary for National Treasury makes, with the approval of Parliament, regulations to provide a framework for disbursement of the monies”.

That is why I was thinking we should be talking about an Act of Parliament and not regulations. Just that, Hon. Speaker.

**Hon. Speaker:** Hon. Mbadi, help Hon. Kaluma understand this.

**Hon. John Mbadi** (Suba South, ODM): Hon. Speaker, first, what Hon. Kaluma is referring to is a situation where it is envisaged, and as you have rightly advised him, of creating a national public fund. That must be done through an Act of Parliament. In fact, if Hon. Kaluma just took a little more time to read what he read, it says:

“Money shall not be withdrawn from any national public fund other than that Consolidated Fund unless the withdrawal of the money has been authorised by an Act of Parliament”.

So, if you are withdrawing money from any other fund apart from the Consolidated Fund, then you need an Act of Parliament to do so. But it is prescribed under Article 206(2) of the Constitution how to withdraw money from the Consolidated Fund.

On the issue he has raised regarding what is before us it is where the Chair of the Budget and Appropriations Committee says that, the money shall not be disbursed until the Cabinet Secretary for National Treasury makes with the approval of Parliament regulations to provide a frame work for the disbursement of the monies.

My understanding, which I think is correct, is that we are just putting a condition before the money on that vote is disbursed for use. Actually, this money is going to be in vote head and we have many vote heads with various regulations governing them. In fact, I would say that even the money for mileage has regulations. You have to prove that you went to your constituency and came back and there is a rate applied to it. Those are regulations even though they were not tabled here but they were brought from the Salaries and Remuneration Commission (SRC). The amounts we get weekly are actually figures that were given to us through a gazette notice by the SRC. You can treat that as regulations.

So, for this money to be disbursed there must be regulations from the National Treasury and the regulations must be approved by Parliament. I want to persuade Hon. Kaluma that what he is speaking to is slightly different from what we are handling. This money will come from the Consolidated Fund, but what we are approving is just a vote head which will have the money. If we do not add this, from tomorrow after this Bill becomes an Act of Parliament, the money can be disbursed, but we are saying that before it is disbursed, you must bring regulations. This is what we were talking about to indicate how the money is going to be used.

Thank you.

**Hon. Speaker:** Hon. Kaluma, I think it is now very clear.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): I did not need the interpretation of the others. I am satisfied.

**Hon. Speaker:** Hon. Junet was on the Floor. Let him be brief because I see there is a Member with an urgent point of order.

**Hon. Junet Nuh** (Suna East, ODM): Thank you, Hon. Speaker. I rise to support the Bill. I am one of the champions of the House who has been opposed to Senators getting money. But, now my position has changed because things have also changed.

*(Hon. Onyango Oyoo and Hon. Elisha Odhiambo consulted loudly)*

Hon. Speaker, there are Members here speaking *dholuo*.

**Hon. Speaker:** The Member for Muhoroni and the Member for Gem, please allow Hon. Junet to be heard.

**Hon. Junet Nuh** (Suna East, ODM): Hon. Speaker, first, I am very happy today because we have been saying that this House is superior in budget making. We are discussing Members here who cannot defend themselves. We want to allocate money to them and we are telling them how much we can give them. *Hata tunaona haya kusema kweli*. They were saying that these two Houses have equal powers but today it is the National Assembly discussing how much money to give to the Senate.

Today, I am very clear in my mind which House is superior to the other. This Senate Fund, in accordance with the amendment that has been brought by the Chairman, I remember even in the last budget we had put more money than Kshs500 million. I think it was Kshs900 million and we still gave the condition that regulations must be brought to the House before the disbursement of the funds. They did not know that regulations are supposed to be done only by Cabinet Secretaries. They sat somewhere and wrote their own regulations and brought them here. We dismissed them. I do not know whether you remember. We told them things are not done this way: "Colleagues we respect you a lot but things are not done in this manner."

I want to bring it to the attention of my colleagues that there is no cause for alarm. Let these things go through the way they are. The conditions are still the same. The money is less than what we gave them in the last Budget. We have even gone further and put what is called seed money for the National Assembly. In the National Assembly, that is how all the monies began. They began as seed money. I am told when they were beginning NG-CDF, they began with seed money of Kshs6 million. Today, they are talking about Kshs130 million. This seed money has a lot of hidden issues that Members need to keep quiet about for now until the seed germinates and becomes maize that you can eat.

I plead with Members that the Question should be put as fast as possible and adopt this Bill. Then they will tell me much later that *kumbe* we knew what we were doing. I do not want to add anything. Put the Question as fast as possible, Hon. Speaker.

**Hon. Kuria Kimani** (Molo, JP): On a point of order, Hon. Speaker.

**Hon. Speaker:** The Member for Molo, what is your intervention?

**Hon. Kuria Kimani** (Molo, JP): Thank you, Hon. Speaker. I rise under Standing Order No.95 that since we seem to have consensus, the Mover of this Bill be called upon to reply.

**Hon. Speaker:** Hon. Members, Hon. Kimani Kuria rose in his place and claim under Standing Order No.95 that enough has been explained on this Bill and that I should put the Question.

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

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Speaker. I beg to reply and thank Members.

*(Hon. William Kamket approached Hon. Kimani Ichung'wah)*

Hon. Speaker, the Member for Tiaty was asking me to donate one minute and I was apprising him that the Standing Orders do not allow me to donate a minute when somebody has called for the Mover to reply.

**Hon. Speaker:** The Member for Tiaty, we are not yet through. As you know, with this Bill, we can clear all the processes. As long as you remain here, you will be able to contribute. When we get to the other stage, you can make that point, Hon. Kamket. There is still time for us to hear your opinion.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Speaker. I thank Members for the contributions they have made and as I mentioned earlier, Members still have an opportunity when we go to the next Stage to ventilate on the issue that I know a number of Members want to contribute to.

Let me apprise Members on what Hon. Millie said in regard to putting your foot in to negotiate, that we are better placed when we have our foot in the room where the negotiation will be than when we do not have our foot in the room for negotiations later.

Two, is the proviso that is there, that we had alluded to, that it will be subject to agreement by the two Houses. It is important that Members appreciate why we insist on the two Houses agreeing for these funds to be made available. If we do not understand that, we may be subject to a lot of misinformation.

As I reply, let me thank Members and beg that we support as we move to the next stage.

Thank you.

**Hon. Speaker:** Hon. Members, as you will appreciate under Article 122, this is an important Bill, which we cannot just push when we do not have the requisite quorum. The staff and I have confirmed that we have the quorum.

*(Question put and agreed to)*

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

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

## IN THE COMMITTEE

*[The Temporary Deputy Chairman  
(Hon. Patrick Mariru) took the Chair]*

## THE APPROPRIATION BILL

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order Members! We are now in the Committee of the whole House. This is a fairly brief Bill. We shall move very fast.

*(Clause 3 agreed to)*

*Schedule*

**Hon. Kimani Ichung’wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule be amended as follows:

(a) R1071: THE NATIONAL TREASURY

*Programme 0717000 - General Administration Planning and Support Services*

- (i) THAT, the allocation under the programme in respect of Recurrent Supply Estimates, Kshs66,347,501,139 be deleted and substituted thereof with the figure, Kshs64,547,501,139;
- (ii) THAT, the allocation under the Vote R1071 (The National Treasury) in respect of total Recurrent Supply Estimates, Kshs77,491,757,205 be deleted and substituted thereof with the figure, Kshs75,691,757,205; and,
- (iii) THAT, the consequential amendments be effected in the relevant class sub-totals and the cluster sub-totals.



## (b) D1071: THE NATIONAL TREASURY

*Programme 0717000 - General Administration Planning and Support Services*

- (i) THAT, the allocation under the programme in respect of Development Supply Estimates, Kshs349,892,155 be deleted and substituted thereof with the figure, Kshs2,149,892,155;
- (ii) THAT, the allocation under Vote D1071 (The National Treasury) in respect of total Development Supply Estimates, Kshs27,566,991,724 be deleted and substituted thereof with the figure, Kshs29,366,991,724; and,
- (iii) THAT, the consequential amendments be effected in the relevant class sub-totals and the cluster sub-totals.

## (c) R2041: PARLIAMENTARY SERVICE COMMISSION

*Programme 0722000 - Senate Affairs*

- (i) THAT, the allocation under the programme in respect of Recurrent Supply Estimates, Kshs6,715,144,400 be deleted and substituted thereof with the figure, Kshs7,215,144,400;
- (ii) THAT, the allocation under the Vote R2041 (The Parliamentary Service Commission) in respect of total Recurrent Supply Estimates, Kshs13,132,600,000 be deleted and substituted thereof with the figure, Kshs13,632,600,000; and,
- (iii) THAT, the consequential amendments be effected in the relevant class sub-totals and the cluster sub-totals.

## (d) D1066: STATE DEPARTMENT FOR EARLY LEARNING AND BASIC EDUCATION

*Programme 0501000 - Primary Education*

- (i) THAT, the allocation under the programme in respect of Development Supply Estimates, Kshs715,701,500 be deleted and substituted thereof with the figure, Kshs1,515,701,500;
- (ii) THAT, the allocation under the Vote D1066 (The State Department for Early Learning) in respect of total Development Supply Estimates, Kshs6,201,669,353 be deleted and substituted thereof with the figure, Kshs7,001,669,353; and,
- (iii) THAT, the consequential amendments be effected in the relevant class sub-totals and the cluster sub-totals.

(e) R1064: STATE DEPARTMENT FOR VOCATIONAL AND TECHNICAL TRAINING

*Programme 0505000 - Technical and Vocational Training*

- (i) THAT, the allocation under the programme in respect of Recurrent Supply Estimates, Kshs14,795,031,125 be deleted and substituted thereof with the figure, Kshs13,995,031,125;
- (ii) THAT, the allocation under the Vote R1064 (The State Department for Vocational and Technical Training) in respect of total Recurrent Supply Estimates, Kshs15,000,212,992 be deleted and substituted thereof with the figure, Kshs14,204,212,992; and,
- (iii) THAT, the consequential amendments be effected in the relevant class sub-total and the cluster sub-totals.

(f) IN RESPECT OF GRAND - TOTAL;

- (i) THAT, the sum of the grand total in respect of supply estimates, Kshs1,474,787,296,764 be deleted and substituted thereof with the figure Kshs1,475,287,296,764.

As I mentioned earlier, the first one relates to the clean-up of the Kshs1.8 billion under the National Treasury moving from development to recurrent expenditure, and the Kshs800 million that relates to the vote for Technical and Vocational Education and Training and the digital literacy programme.

I beg to move.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Ichung'wah, I think it is important you see that you have not alluded to the one on the Parliamentary Service Commission (PSC). It is important you allude to all the amendments you make.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Sorry, Hon. Temporary Deputy Chairman. The last one is for the Parliamentary Service Commission which is the one that many Members had discussions on. We will move a further amendment to it, as a new clause to the Bill. Therefore, all those amendments are as contained in the Order Paper.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): I will put the Question. There seems to be no much interest on this schedule.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Schedule as amended agreed to)*

*New Clause 4*

**Hon. Kimani Ichung’wah** (Kikuyu, JP); Hon. Temporary Deputy Chairman, I beg to move:

THAT, the following new clause be inserted immediately after clause 3—  
Conditional 4. The amounts in the Schedule of—  
appropriation.

(a) five hundred million shillings appropriated under Vote R 2041 under programme 0722000 (Senate affairs), earmarked for the County Oversight Programme; and

(b) fifty million shillings appropriated under Vote R 2042 under programme 0721000 (National legislation, representation and oversight), earmarked for the proposed National Oversight Programme,

shall not be disbursed until the Cabinet Secretary for National Treasury makes, with the approval of Parliament, regulations to provide a framework for the disbursement of the monies.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Members. It is important we move together. So, the Clerk-at-the-Table has called the New Clause 4. I will now call the Chair to move for the Second Reading. The Hon. Chair will explain. Please take Members through the New Clause 4.

**Hon. Kimani Ichung’wah** (Kikuyu, JP): Sorry, I had to cross to where the “Nays” were coming from to just explain something, especially to the Member for Bomet Central, the Hon. Tonui.

I beg to move that we read the New Clause 4 a Second Time.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is it Hon. Millie? What is out of order?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairman. I think the Members are not moving with us. They need to understand what the Chair is doing. You need to be informed that, whichever way you are voting, you need to be very informed. What the Chair is doing is moving this amendment. If you do not like the amendment, you will say “Nay”. If you are okay with the amendment, you will say “Aye”. There are people who are walking out saying it is already passed. It is not passed.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Indeed, Hon. Millie Odhiambo, that was not a point of order. It was a point of information that was very important. I want to bring Members to speed. Members, you will remember that during the Second Reading,

there was an amendment that the Members were alluding to. That amendment had not been moved because that was Second Reading. This is the time the Chair is formally moving the Second Reading of the amendment Members were referring to during the Second Reading. Then, I will propose the Question and put it. So, it is very important you listen very keenly to what the Hon. Chair is saying.

Hon. Chair, Second Reading of the new clause.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): I beg to move that we read the new clause a Second Time.

*(Question of the new clause proposed)*

*(New Clause read the First Time)*

*(Question, that the new clause  
be read a Second Time, proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Kamket.

**Hon. Kassait Kamket** (Tiaty, KANU): Thank you, Hon. Temporary Deputy Chairman. I rise to support this amendment. Like explained earlier by Hon. Millie Odhiambo, we are being a bit untidy in our understanding of the budget-making process. It is like we are building a house up to completion then we all of a sudden realise that we did not have provisions for windows and doors. But, since we have given ourselves this opportunity, I think this is a very important amendment. The avenues for oversight provided to both this National Assembly and the Senate are very limited. Hon. Members will agree with me that the oversight role we have been playing has mostly been through the Public Accounts Committee (PAC) and the Public Investments Committee (PIC). All that we have been doing as Parliament over the years is postmortem oversight. So, with this new proposal, I believe that we will as a Parliament be able to do real time oversight moving forward.

Therefore, I believe with the explanation given earlier we begin with one foot in, let us not be jealous of our brothers in the Senate, that they have more money than us. We are just but at the beginning. We are the ones in charge of the budget-making process. I believe, even at the supplementary budget level we are at liberty, as a House, to appropriate more money to ourselves to do real time oversight of national Government functions.

Finally, I want to allude to what Hon. Kaluma stated earlier. This is what we will do in the meantime: We will allow the Cabinet Secretary for the National Treasury to come up with regulations to operationalise the utilisation of this money. But, moving forward, we will have to come with an appropriate legislation to deal with this kind of oversight that we have created using this amendment. That is the long term but, for now, we can use this amendment to achieve what we want to achieve.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let us have Hon. Omulele?

**Hon. Christopher Omulele** (Luanda, ODM): Hon. Temporary Deputy Chairman, I am in support of this amendment because, as is evident from my leader here, he knows that I was not

in support of providing these funds to the Senate. This amendment is going to provide a safeguard for these funds to be used in an orderly way. Without passing this amendment, we would be in a situation where this money would be appropriated and provided to the Senators without any regulation or holding them to account for the utilisation of the funds. So, it is very critical, now that we have in principle accepted that this Vote be created, we put in place this amendment so that the regulations can be put in place.

I support.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Shall we go up there to Hon. Injendi, Member for Malava?

**Hon. Moses Injendi** (Malava, JP): Thank you, Hon. Temporary Deputy Chairman. I rise to support this amendment.

Previously, the last speakers did not make it very clear to me. Actually, I was opposing this amendment. As it is now, it has been explained and I have understood what it is. I urge Members to support it.

*(Loud consultations)*

Hon. Temporary Deputy Chairman, there is a lot of interference from *Mhe. Waluke*.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Hon. Members. We must hear Hon. Injendi in silence. Allow him to finish then you will get your chance.

Proceed Hon. Injendi.

**Hon. Moses Injendi** (Malava, JP): Thank you, Hon. Temporary Deputy Chairman. I know why most of the Members are agitated. The amendment is not clear. Up to now, Hon. Waluke and Hon. Tonui are not clear. The position is that, if we do not approve this amendment, we will have given Senators money to spend without any regulations. So, I urge Members to support this amendment.

Thank you.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Before I go to my left, let me give the Floor to the Leader of the Majority Party. Do not worry, I will also come to my front. I will give you a chance.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, it is good that we know what we are dealing with. We put the money in the Schedule and it is already passed. If we do not support this further amendment which will make sure Senators adhere to regulations as they spend the money, we will be giving them money for free. So, let us pass this amendment. On our seed money, in the next Budget we will have a vote that we can ride on.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): I will give the Floor to only two more Hon. Members so that we make progress. Hon. Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Deputy Chairman for giving me this opportunity. I stand to support this amendment. It does three important things. One, it provides some funds to the Senate for supervision. The truth is that the Senate has a big job in supervising the counties. Two, we have had issues between us and the Senate. For once, the fund we are bringing in will bring peace between us. Three, we also have an oversight

committee within the National Government Constituencies Development Fund (NG-CDF) which is not working because of limited funds. Although we are starting with a little amount, it is important that it is established then we can move to populate it. Finally, the most important thing is that it is providing regulations. This money is a lot and there is a danger of it being misspent.

I support.

*(Hon. (Ms.) Fatuma Gedi crossed the Floor without bowing)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Gedi, I have been attracted to what you did. If I am not wrong, you crossed the Floor without bowing. That is unacceptable. You will have to go to the end, bow and then come back. That is basic.

**Hon Aden Duale** (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is your point of order, the Leader of the Majority Party?

**Hon Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, are you attracted to her or you are attracted to how she moved? You said that you are attracted to her. Is it how she moved or how she violated the Standing Orders? Where is the attraction?

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order! Hon. Leader of the Majority Party, you are completely unable to get the Chairperson into that conversation.

Hon. Zadoc, you have the Floor.

**Hon. Ronald Tonui** (Bomet Central, JP): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is your point of order, Hon. Tonui? We must make progress. We will give you the microphone in a minute. Can you give Hon. Tonui the microphone?

*(Hon. Junet Nuh spoke off-record)*

Hon. Junet you cannot have a point of order on another point of order. Hon. Tonui, I want to know what is out of order. You now have the microphone. Please proceed.

**Hon. Ronald Tonui** (Bomet Central, JP): Thank you, Hon. Temporary Deputy Chairman. I am seeking your guidance on this matter. There is information moving around that already the Kshs500 million intended for the Senate has been approved. Can you make it clear by clarifying if we have already approved the Kshs500 million, so that we know the next course of action in protecting the Kshs500 million? That is what we need to be clear on. As you saw, it is the reason why many Members were moving around here causing commotion, especially in this corner where we have specialised in opposing matters by being on the “No side”. Kindly clarify.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Very well. The Question will be put. Hon. Zadoc was on his feet. I will give a chance to the Chairperson of the Budget

and Appropriations Committee at the end to respond to the issue Hon. Tonui has raised then the Committee of the whole House will vote.

Hon. Zadoc, you may use the Dispatch Box

**Hon. (Prof.) Zadoc Ogutu** (Bomachoge Borabu, Independent): Thank you, Hon. Temporary Deputy Chairman for giving me this opportunity to contribute to the amendment. Hon. Tonui has alluded to the fact that it is not clear to most of us the steps that have been taken on the Kshs500 million. In future, it is important that, that is done in a way that Members are on board. Having said that, I want to appeal to my colleagues that what is happening here is answering a number of questions. We know that the county governments have been having challenges, especially on spending and demonstrating the transformation that we expected them to make with the funds that we give them. The question to be answered is this: Are we clear that the Senate has a supervisory role and is it so with this House? If it is yes, then we are saying that we create a vote from which this responsibility will be delivered.

With those remarks, I support.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Chairperson of the Budget and Appropriations Committee you have the Floor. Respond in light of what Hon. Tonui has raised.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Temporary Deputy Chairman. You know, when Hon. Tonui was speaking the Whip of the Minority Party who is a serious legislator was insinuating that when Hon. Omboko Milemba speaks, that is the Kenya Union of Post Primary Education Teachers' (KUPPET) position.

The Hon. Member for Bomet Central Constituency has raised an issue that is bringing confusion. On matters to do with the budget, there can never be confusion. We only deal with facts and figures. One of the facts that we are dealing with is that first, the amendment has already been voted for and passed. We have already given the money to the other House. The other fact is that this amendment is what is creating a caveat for the proviso that I had alluded to earlier. Therefore, without this new clause, we will have effectively given money to the Senate without any regulations to do whatever they want with it.

I, therefore, beg that you put the Question and beg all the Members to support it including the Member for Bomet Central Constituency.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we must make progress now.

*(Question, that the new clause be read  
a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be added to  
the Bill, put and agreed to)*

*Clause 2*

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 2 be deleted and substituted thereof with the following-

“2. The Treasury may issue out of the Consolidated Fund and apply towards the supply granted for the service of the year ending on the 30<sup>th</sup> June 2020, the sum of Kenya Shillings one trillion, four hundred and seventy-five billion, two hundred and eighty-seven million, two hundred and ninety-six thousand, seven hundred and sixty-four, and that sum shall be deemed to have been appropriated as from 1<sup>st</sup> July 2019, for the services and purposes specified in the Schedule.”

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 2 as amended agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we are done with that part. Mover.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, I beg to move that the Committee do report to the House its consideration of the Appropriation Bill and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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



**REPORT AND THIRD READING**

## THE APPROPRIATION BILL

**Hon. Patrick Mariru** (Laikipia West, JP): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Appropriation Bill and approved the same with amendment.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Speaker, I beg to move that the House do agree with the Committee in the said Report. I request Hon. Millie Odhiambo to second the Motion for agreement with the Report of the Committee of the whole House.

**Hon. (Ms.) Odhiambo- Mabona** (Suba North, ODM): I second.  
*(Question proposed)*

*(Question put and agreed to)*

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Speaker, I beg to move that the Appropriation Bill be now read the Third Time. I request, Hon. Millie Odhiambo to second.

**Hon. (Ms.) Odhiambo- Mabona** (Suba North, ODM): I second.  
*(Question proposed)*

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

**MOTION**

## REPORT ON STATUS OF NATIONAL REFERRAL HOSPITALS

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Vice-Chairperson of the Departmental Committee on Health.

**Hon. Swarup Mishra** (Kesses, JP): Thank you, Hon. Temporary Deputy Speaker. I beg to move the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Health on the Status of National Referral Hospitals, laid on the Table of the House on Thursday, 9<sup>th</sup> May 2019.

In efforts to streamline operations of health facilities that are under the management of the national Government, the Committee embarked on an inquiry on the operations of the four national referral hospitals and a factfinding mission to visit and meet with their management and staff. The four hospitals include:

- i) Mathari National Teaching and Referral Hospital;
- ii) National Spinal Injury Hospital;
- iii) Moi Teaching and Referral Hospital;
- iv) Kenyatta National Hospital.

You will remember that the Committee had earlier tabled its Report on the newest and 5<sup>th</sup> referral hospital, the Kenyatta University Teaching and Referral Hospital earlier in the year and the House adopted the Report. Among the recommendations of that Report was that the Treasury was to release funds to jumpstart operations of the hospital, to ease pressure on Kenyatta National Hospital (KNH). I am glad the Treasury and the House passed this resolution in the just concluded Supplementary Budget. The President has since signed an Executive Order for its establishment as a legal entity and its operationalisation is underway.

The Constitution of Kenya 2010 in the Fourth Schedule devolved provision of health services, save for national referral health facilities and the National Health Policy. The country's health policy is currently driven by the Kenya Health Policy 2014-2030, which intends to see the attainment of the highest standard of health. It is under this ambit that the Government has embarked on a roll out of Universal Health Coverage (UHC), with a 100% target by 2022. The Committee is pulling its weight towards this Big Four Agenda of UHC and has visited and met with the boards and management of the hospitals in this pursuit.

In this mission, the Committee observed that:

The only major mental health hospital in Kenya, the Mathari National Teaching and Referral Hospital, does not meet international standards based on the entire status of the facility, including services offered and the staff ratio. It lacks standards for a functional health institution.

The hospital has an acute shortage of staff in all cadres. The available staff does not meet international ratios. For example, at the maximum-security unit, one female nurse is in charge of 147 patients.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order, Hon. Mishra. There is an intervention by Hon. Kaluma Opondo. I could hear him shout, but he has now done the right thing.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Speaker, the language for parliamentary communication is English and Kiswahili. I have difficulties getting what my brother, the Mover of the Motion, is saying. I do not know whether he is talking in English or Kiswahili. This is made worse by the fact that the Report he is talking about is not available online to help me read through now that I am totally unable to understand what he is doing. Could we request the Mover to be a bit clearer, knowing the language sanctioned by Parliament and how it is communicated?

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Kaluma, the Chairperson, who is moving the Report, is of course speaking in English. I am also not very sure that he understands you because you are all speaking and communicating in English.

*(Laughter)*

**Hon. Swarup Mishra** (Kesses, JP): Hon. Temporary Deputy Speaker, with due respect, I will try my best so that my colleague understands me. I will try and improve my English, but I believe we should interact more in the tea club so that he gets to understand my English better.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): There is another intervention by the Member for Keiyo South.

**Hon. Daniel Rono** (Keiyo South, JP): Hon. Temporary Deputy Speaker, I am not sure if this falls under a point of order, but I want to protect the speaker who is also the Vice-Chair of the Departmental Committee on Health. We all have what we call mother tongue interference. Hon. Kaluma is out of order to insinuate that he cannot understand the speaker who was talking on the Floor and yet he equally suffers from the same mother tongue interference.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. I had already ruled on that and I am sure Hon. Kaluma said it on a light note. He is clearly speaking in English.

**Hon. Swarup Mishra** (Kesses, JP): Thank you, Hon. Temporary Deputy Speaker.

Secondly, the hospitals buildings are old, dilapidated with cracks on the walls, leaking roofs and lack essential facilities such as toilets, bathroom sinks and ventilations. The hospital has a poor drainage and sewerage system.

Third, the hospital caters for a huge number of capital offenders due to delay by the legal system in collecting these patients even after their letters of culpability to stand trials have been issued. This has overstretched the facility's meagre resources.

Fourth, a majority of the patients at the facility are those who have been abandoned by their families due to the stigma associated with mental illness.

Fifth, one major cause of the Mathari National Teaching and Referral Hospital's financial challenges is as a result of it serving patients referred by the Judiciary and the National Police Service for mental assessment for suitability to take plea and such patients do not pay the facility neither do the referring agencies make any compensation to the hospital for the expenses incurred.

Sixth, the Maximum Security Unit of the hospital where patients are referred to from police custody and the Judiciary is overcrowded and is faced with security challenges. In addition, patients in this unit have overstayed in the facility as their discharge requires court orders.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order, Hon. Members. I will not accept your points of order if you do not cite the relevant Standing Order. Please, cite the relevant Standing Order because you keep disrupting the Member while he is moving his Report. Hon. Kolosh, Member for Wajir West, what is out of order?

**Hon. Ahmed Kolosh** (Wajir West, ODM): Hon. Temporary Deputy Speaker, we are supposed to have a paperless Parliament where all orders of the day are displayed on the screens. What is being discussed is not available. We cannot access it. Either we have the papers or we go electronic. We have nothing in between.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I want you to be informed by the Member.

**Hon. Elisha Odhiambo** (Gem, ODM): Thank you Hon. Temporary Deputy Speaker, I want to inform my brother, Hon. Kolosh, that before he comes to the House in the morning...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Kolosh, do you want to be informed?

**Hon. Ahmed Kolosh** (Wajir West, ODM): *(Inaudible)*

**Hon. Elisha Odhiambo** (Gem, ODM): I just want to advise you. Maybe you do not know how to search for it.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order! Hon. Kolosh does not want to be informed by you. Hon. Kolosh, I know you know how to use your machine. We were taken through that during orientation. The Mover of the Report can read it and you know where to access it. Hon. Kolosh, we have computers and we are paperless. I hope you know how to access your computer. If you do not know, we have free training somewhere.

Thank you. Hon. Mishra, please, carry on.

**Hon. Swarup Mishra** (Kesses, JP): Thank you Hon. Temporary Deputy Speaker.

As a training institution, Mathari offers its training facilities to other hospital workers without commensurate compensation or facilitation.

Although teaching and research is one of the core functions of the hospital, the high demand for training has overstretched the hospital's available training facilities.

Though classified as a national teaching and referral hospital, the facility has no autonomy as it is still managed as a unit in the Ministry of Health.

Many of the patients are not registered with the National Hospital Insurance Fund (NHIF) due to lack of identification cards. Further, the NHIF took inordinately long to refund the facility. As at the end of April, the insurer owed the hospital Kshs100 million.

The public health system in Kenya has failed to adequately care for mental health patients.

The National Spinal Injury Hospital, on the other hand, is built on a small piece of land and with no room for expansion. The hospital also lacks autonomy and faces the same challenges of inadequate staff, lack of equipment and low funding.

The hospital's capacity is overstretched since it caters for patients being referred from hospitals in East and Central Africa.

The hospital has a limited bed capacity of 35 and at any given time the beds are always full hence lengthening the admission period for the waiting patients.

The facility is built on a small parcel of land with no room for expansion, wards are small hence limited physiotherapy space for patients who require enough space to exercise.

The hospital has an acute shortage of staff in all cadres coupled with stagnation of staff due for promotion. This has affected the staff morale.

Though classified as a national referral hospital, the facility has no autonomy as it is still managed as a unit in the Ministry of Health.

Inadequate medical equipment including orthopedic hospital beds, ICU/HDU, laboratory machines, incineration services and spine operation sets amongst others.

The hospitals laboratory runs only basic test as it depends on one small hemogram machine. For the laboratory to run efficiently, the facility requires well equipped and advanced apparatus, including an appropriate hemogram machine.

Most of the hospital's equipment donated by well-wishers are inoperative and lack service contracts hence making it hard and expensive for the hospital to repair them.

The facility's kitchen space is limited. It lacks a cold room to store vegetables and the nutritionists are also overworked as they double as caterers.

Due to delay of NHIF reimbursements, the agency owed the hospital between Kshs5 million to Kshs6 million.

The hospital benefited from the Ministry Managed Equipment System (MES) where it acquired essential equipment such as MRI scan, digital x-ray, fluoroscopy C-Arm machine and theatre equipment.

The Moi Teaching and Referral Hospital (MTRH) in Eldoret suffers the burden of serving patients from 21 counties in the Rift Valley and western regions of the country. The hospital has had relative success in staff management, donor partnerships and has a vision for expansion.

The facility covers over 21 counties in western Kenya region and patients from neighbouring counties which translate to over 25 million people in the catchment area.

Like other referral hospitals in the country, MTRH also faces the issue of overcrowding. Despite having a bed capacity of 900, the facility experiences a daily patient work load of 1,500 outpatients and 1,200 inpatients and a bed occupancy of 110% because of high patient number occasioned by dual function of the hospital as referral and primary healthcare centre.

The hospital's cash flow has been greatly affected by waivers and bad debts. As at 31<sup>st</sup> January 2019, corporate debtors stood at Kshs313,839,862 while individual debtors stood at Kshs514,580,335.92.

Delivery of academic and administrative services at the hospital's colleges had been hampered by a number of reasons including a freeze on recruitment of personnel and demotivation as a result of disparity in payment of practice allowances between student registrars and lecturers.

The relationship between international partners and the hospital risks being jeopardized as a result of issues concerning double taxation subjected to the expatriates, delay in processing expatriates visa and work permits which sometimes take up to one year to process and delay in signing the agreement between Kenya- United States Government in regard to funds meant for the Academic Model Providing Access to Healthcare (AMPATH) Plus Programme for chronic diseases.

Despite these challenges, the hospital had realised savings and increased efficiency as a result of its decision to embrace 'placement contract model' for its equipment. The hospital has enhanced service delivery and collaboration in research and training by utilising its partnership with both local and international institutions. Compared to other referral hospitals, MTRH has experienced successes on projects that have been finalised and ongoing, clinical services and general operations.

The Kenyatta National Hospital, the biggest not only in the country, but in the region, has for a long time operated without a substantive chairperson of the board, as well as a Chief Executive Officer (CEO). We are, however, glad that the hospital currently has a new chairperson while the recruitment of a CEO is awaiting a court decision. The hospital is unduly

overstretched and has previously faced several crises, caused by grossly inadequate funding, industrial action, outdated equipment, staff inadequacy and suffers the burden from an almost collapsing county healthcare system.

The hospital was severely constrained due to perennial underfunding. This has seen lack of plant and equipment maintenance and replacement. The hospital currently needs Kshs3.6 billion, plus an additional Kshs4.9 billion for the upcoming financial year.

Lack of critical equipment has seen services severely hampered. The CT-scan project by the Ministry that is earmarked for the hospital is yet to be delivered while procurement of MRI scan has taken inordinately long.

The hospital faces a staffing shortfall of near crisis proportions. A current shortfall of 1,456 staff has seen services greatly compromised.

The hospital is overcrowded due to a broken referral system. The hospital also closed its outpatient clinic that had been previously used to decongest the main hospital. This is compounded by the poor delivery of services at lower level hospitals, especially the nearby Mbagathi Hospital that closes its doors at 5.00 pm.

The patient waiver system for indigents was impaired by the lack of adequate social workers at the points of entry. This led to accumulation of bills, and even patients being detained.

The National Land Commission (NLC) and the Kenya Urban Roads Authority (KURA) had annexed land of approximately 7 acres at the hospital without the requisite compensation of approximately Kshs4.2 billion.

The hospital had several incomplete projects due to inadequate Exchequer release of Government of Kenya (GoK) counterpart funding.

The lack of a complete ICT system had affected efficiency and effectiveness at the hospital. The stalled Health Care Information Technology (HCIT) system under MES had left the hospital with no solutions for its needs.

The Committee makes varied recommendations for the respective facilities. In a nutshell, the Committee recommends full autonomy for Mathari and Spinal Injury hospitals, with improved funding and equipment. Mathari hospital must review the status of the maximum security wing together with the State Department of Correctional Services. The hospital should also acquire its title deed.

The MTRH should be equipped to cater for the numerous patients, and funded to bridge budgetary shortfalls. Development partners who have faced administrative challenges must be facilitated by the Ministry of Foreign Affairs. The Ministry should ensure that KNH gets an enhanced budgetary allocation at sector level. The NLC and KURA should immediately compensate the hospital for the land acquired for road construction.

The NHIF and the Kenya Medical Supplies Authority (KEMSA), as enablers of the Universal Health Coverage should immediately boost their capacity, among other recommendations detailed in this Report.

Finally, allow me to echo the sentiments that I have since stated on this Floor, and most importantly to the Budget and Appropriations Committee. From the foregoing, it is evident that the Committee diligently diagnosed the problems facing the health sector and made varied

prescriptions to cure the ills. Central to this is the provision of adequate resources. A majority of these problems can be partly solved by increase in resource allocation, even within the Ministry's ceiling through prioritisation. This was the basis of the Committee's re-allocations in the just concluded budgetary Estimates that the Budget and Appropriations Committee declined to adopt. I plead that recommendations of the departmental committees should be seriously taken into account, lest we go around the country playing oversighting role then nothing comes out of it. The problems I have enumerated here can only be solved when we seriously address them and put resources where they are needed.

I now call upon Hon. (Dr.) James Murgor to second the Motion.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have Hon. Murgor Kipkosgei, the Member for Keiyo North to second the Motion.

**Hon. James Murgor** (Keiyo North, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to second.

As a Committee, in our oversight role, we visited all these national referral institutions and engaged the staff and management in depth over what is happening in those institutions. We did not go and sit in the boardroom only. We visited everywhere in those institutions, from the kitchen and the wards up to the mortuaries. The Committee has come up with this Report.

Mathari National Teaching and Referral Hospital is the only mental referral hospital. If you go there, you will wonder how the institution is. It is too old, and yet it was established during the colonial time. The buildings and the roofs are leaking. The walls have developed cracks and there is serious understaffing. There is shortage of drugs in the hospital too. The situation is the same in terms of equipment. This is the case and yet you have to carry out various investigations on a person who has mental illness. This is because you do not just come to a conclusion that that individual is mad. There are other diseases which can cause mental disturbance. Somebody can appear mad because of a tumour in the brain, and yet that hospital has no equipment to perform CT scans. Even X-ray machines are old.

We went to the Spinal Injury Hospital, which has 35 beds and yet it is supposed to be a national referral hospital. Knowing the number of accidents in this country, that is a serious inadequacy. After all, it caters for the whole of Eastern Africa. It suffers from the same problems namely, understaffing, lack of equipment and funding.

The other one is Kenyatta National Hospital (KNH). Although it is the main referral hospital in the country, it is really sad that is also understaffed. There is shortage of about 700 nurses and 150 doctors. There is shortage of staff in all cadres and in terms of equipment. Every now and then, CT scan equipment and cancer machines break down. It is difficult to repair them because the institution is underfunded.

I hope you recall, Hon. Temporary Deputy Speaker, that there was a case where a patient who was not supposed to be operated was operated. I know people were accusing the doctors and the nurses as being on the wrong. Actually, they were not. If you have an institution which has a shortage of 700 nurses and 100 doctors, what do you expect? You would expect such a problem to occur. All these challenges I have pointed out are experienced even at the Moi Teaching and Referral Hospital (MTRH). Although this institution is trying, it is still understaffed like the other hospitals. Even the negotiated Collective Bargaining Agreements (CBAs) have not been

effected. That is why staff in those institutions go on strike. A CBA is negotiated, money is not appropriated and, therefore, you get into problems.

I would not like to contribute for long, but who is to blame for all the problems which are occurring in our national referral hospitals? There are two main culprits. The first one is the Ministry of Health and the second one is this House. Why do I say this House? We are not appropriating funds to these institutions. The main culprit in this House is the Budget and Appropriations Committee. I know that this year we tried to reallocate funding to areas which we thought, as a Committee, needed attention. You saw in the newspapers that this country is running short of vaccines, but as a Committee, we had seen that and we had made a reallocation to that area. What happened? The Budget and Appropriations Committee ignored it. Sometimes I wonder what the committees of this House are doing. Are they supposed to be there if their input can be ignored?

With those few remarks, I second. Thank you.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The first Member to speak to this is the Member for Kinangop, Hon. Thuku Kwenya.

**Hon. Zachary Thuku** (Kinangop, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to speak on this Report that has been compiled by the Departmental Committee on Health. From the outset, I congratulate our Committee for a job well done. It really burned the midnight oil to come up with this Report in the interest of Kenyans, having realised that we cannot achieve the UHC without addressing the issues that are ailing our referral hospitals. Some are not popular especially the Spinal Injury Hospital, the Mathari National Teaching and Referral Hospital, the MTRH and the famous KNH. There is a raft of recommendations that if this Report is adopted, will be the game changer in terms of achieving UHC. The KNH is one of the hospitals that everybody looks to in terms of apex health solution provisions, but you will realise that it experiences very many challenges.

As my colleague, Hon. (Dr.) Murgor, has put it, the issue of staffing is quite serious. The period that a patient takes from the time he is admitted to the time he receives treatment is long. It is not less than two weeks before a patient starts receiving serious medical attention because of understaffing. There are issues of the ratio of nurses to patients, doctors to patients and all other cadres. If for sure this House cannot stamp its authority and make sure that we fund KNH adequately, then patients will die. The mortality rate will only increase as we hope that our people will receive any form of treatment. The issue of understaffing cannot be wished away. It needs to be addressed.

The other issue is that of underfunding. Access to medicines and all other facilities that should be accorded in hospitals is a challenge at KNH. The other issue is that KNH needs a serious overhaul in terms of standard operating procedures so that we can upscale and realign ourselves with the new realities in the world today. We also came to realise that there is a big challenge when it comes to referral systems. Access to healthcare is a constitutional right.



Article 43 of the Constitution provides that every Kenyan is entitled to the highest level of medical care up to and including reproductive health. If that is the case, there is not a single patient who will walk to KNH as much as it is a referral hospital, and be turned away. We need to have a system of referral. Let us know the kind of people who are supposed to be treated in our referral hospitals, namely, MTRH, KNH, the NSIH and the MNTRH, failure to which, we will have the influx that we have been experiencing in those facilities.

The other issue is that of the National Spinal Injury Hospital. There is little publicity. Many Kenyans do not know that there exists such a referral hospital. Because of underfunding, it is unable to publicise its existence. The Mathari National Teaching and Referral Hospital has had negative publicity whereby people think that those who are taken there are insane. People have not come to appreciate that mental illnesses are diseases that can be cured. These people need to be incorporated in the society and be taken to hospital so that they can receive the highest level of medical care.

If you sit pretty and assume that people know about these facilities, you will have too many people who are mentally unwell living among us. As representatives of the people, we should fund this facility quickly and upscale it to international standards. Most Kenyan nurses working abroad, in pursuit of the American or European dream serve in these kinds of facilities, where they take care of mentally-challenged people. These are people going through some phases of depression and those kinds of mental illness. Over time, due to good care, such patients get discharged to join their families fully healed.

We also found out that many trainee doctors and registrars work within these hospitals and are not paid because it is taken that they are training and so, they should pay universities. The hospitals are not giving them incentives so that they can encourage them to continue or motivate them to work. You would expect some kind of apathy because working without pay while you are giving services is a big challenge. We are of the opinion that registrars be paid from the National Treasury. There should be some programme where they are well-remunerated so that we can upscale the number of health workers that we have in the cadre of doctors in our referral hospitals.

Finally, I pray that this Report is adopted. We have adopted too many other reports, but little action is seen. This House must stamp its authority. We cannot just be sitting here to waste time. The Committee that is responsible for the implementation should not sleep on such a wonderful Report that is aimed at changing the lives of our people. I propose that every Member in this Chamber reads this Report carefully and helps us adopt it. Maybe through your authority, Hon. Temporary Deputy Speaker, we should have it followed up for implementation as soon as possible, so that we can assist our brothers and sisters.

With those remarks, I support the Report.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have the Member for Mathare, Hon. Oluoch.

**Hon. Anthony Oluoch** (Mathare, ODM): Thank you, Hon. Temporary Deputy Speaker.

From the outset, this Report is very timely. I support the many recommendations that are in this Report. The observation that catches my eye most is 2(1). I am going to narrow myself to the Mathari National Teaching and Referral Hospital because it is the only public institution in

the country that offers psychiatric services, forensic services, drug rehabilitation services and training psychiatry for doctors and other health workers. This observation of the status of this hospital and what it was meant to achieve being the only institution that offers the services that have been put here do not match the status of the institution.

The Mathari National Teaching and Referral Hospital is in such a state of disrepair that it is an embarrassment that we have such an institution. The Vice-Chair has been there and will agree with me. In fact, it is a forgotten medical institution in this country. It does not match the potential that it has at a time when we are talking about serious cases of depression that continue to afflict our people; serious cases of homicide; people killing each other and suicide. This is the hospital that our Government ought to be investing a great amount of finances in.

There is a very simple reason why I am interested in this facility. This facility happens to be in my constituency. I wanted to tell a short story in one minute. Now that we have the handshake, I hope I will find an opportunity to meet the President and ask him. They usually say that when the late Mzee Jomo Kenyatta visited the mental hospital, he was accompanied by nearly 30 *askaris*. One day, one of the mental patients stopped him and asked him: “*Mzee, na wewe umekuwa escorted na askari wengi namna hii, umefanya nini?*” They must have gone there for one reason or another. Mzee Kenyatta looked at the patient and said: “I am the President of the Republic of Kenya”. This was in response to the patient’s question: “*Na wewe ni nani?*” The patient looked at him and said: “*Pole sana mzee. Hata mimi wakati nilikuja hapa nilikuwa ninafikiria mimi ni Mandela. Lakini pole sana mzee utapona.*”

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order Hon. Oluoch! Are you quoting someone?

**Hon. Anthony Oluoch** (Mathare, ODM): I am quoting somebody who said that to Mzee Kenyatta. I have said I will ask the President one day when I meet him whether this story is true. It was a reported speech and I am using that analogy to show that...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): If it is reported speech and you are quoting what was said...

**Hon. Anthony Oluoch** (Mathare, ODM): This facility is as old...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order, Hon. Member! When the Speaker is speaking, you do not just continue. You also do not interrupt. I was trying to protect you for you to pronounce that you are quoting. The reason Hon. Oluoch is using Kiswahili is because he has pronounced himself that he is quoting what the patient said. Do not copy him if you are not quoting. The rules of Parliament are that we use one language. You either start debating in Kiswahili and finish in Kiswahili or you start in English and finish in English. He has gone on record saying that he was quoting what the patient said. Carry on.

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

*[The Temporary Deputy Speaker  
(Hon. Patrick Mariru) took the Chair]*

**Hon. Anthony Oluoch** (Mathare, ODM): Thank you, Hon. Temporary Deputy Speaker, for the guidance and protecting me. I was making a quotation and I used that advice. The Mathari National Teaching and Referral Hospital is within my constituency. I have said that this is being said against the background that this institution is as old as our Independence. Mzee Jomo Kenyatta was there when the facility was started. It is noted in this Report that this facility started off in 1904, and in 1924 and 1978, it was upgraded to its current status.

There is a second facility that adjoins or shares the same compound. I hope the Committee at an appropriate time will visit it. That is the Kenya Medical Training College (KMTC), Mathare Campus. In terms of the status of the Mathari National Teaching and Referral Hospital, it ought to complement what the Committee is contemplating that it should achieve. The KMTC, Mathare Campus is equally in a dilapidated state that ought to be given consideration. If you are looking at the question of funding facilities and improving this institution, we ought to consider a situation in which KMTC will be merged with the Mathari National Teaching and Referral Hospital, so that there is one complete unit to complement each other.

I am also concerned that we have only five referral hospitals in this Report, and the last one is the Kenyatta University Teaching and Referral Hospital. At a time when we have 47 counties, we should be speaking of elevating all Level 4 hospitals and district hospitals to Level 5 hospitals. I am happy because Hon. Kaluma is here. I know he has been very keen and passionate about Homa Bay Hospital that is in a bad state. If all our district hospitals were elevated to referral hospitals and given Level 5 status and the necessary funding, it will go a long way towards achieving the Government's Universal Health Care Policy that we all support now.

As I support this Report, I would like to suggest that the Committee goes back and looks at not only the hospital which is in a bad state, but also the KMTC which adjoins and shares a compound with this institution. I am glad this budget process begins immediately when this one ends. When we come to the Financial Year 2020/2021 budget cycle, this institution should be considered greatly in terms of funding, so that we can deal with cases of suicide, homicide and depression that have become the norm on our television stations.

Otherwise, I support the Bill. I want to congratulate the Committee for doing a good job. There was a provision when you were making the budget for the Mathari National Referral Hospital. How I wish the money that was allocated was not deducted so that some of the facilities that are in dire need of repair should be in a state that we can use them as we wait for the Financial Year 2020/2021.

Thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): We will have Hon. Mbithi, the Member for Masinga.

**Hon. Joshua Mwalyo** (Masinga, WDM – K): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute. I support the Report of the Vice-Chair, Hon. Mishra. Even pronouncing his name is difficult. This is a very detailed Report from the Departmental Committee on Health. They must have burned some midnight oil to go into the details of every hospital. I am surprised that you had that time. That shows how committed that Committee is. Therefore, this Committee needs all our support, so that our referral hospitals can

be renovated and equipped with modern equipment, so that our people can be taken care of as far as their health is concerned.

This being one of the Big Four Agenda of the President, we should put a lot of effort and interest in hospitals, especially referral hospitals. The Level 3, 4 and 5 hospitals should also be equipped and personnel like doctors and nurses employed to decongest a referral hospital like KNH. For example, in my constituency, people are referred to Machakos Level 5 Hospital. When they reach there, they are referred to KNH. If all the constituencies refer people to KNH, then there will be no space and doctors to treat them. Levels 3 and 4 hospitals in the constituencies should be equipped and staffed, so that we can decongest referral hospitals. This can go a long way in taking care of the people we represent because we are their voice.

The money that has already been set aside, as stated by the Departmental Committee on Health, should be used to renovate all the facilities. The roofs are leaking. The cold rooms have broken down and the mortuaries are congested. Renovations should be done to make our facilities healthy for the sick people. You can go to some hospitals with a headache and get out with a worse situation because they are in pathetic state. We need to emphasise on the need to renovate our hospitals so that people can be treated well. Drugs should also be available.

If county governments can take the issue of health seriously, the national Government can take care of referral hospitals. We have strikes in our hospitals every day. I have seen as I am seated here that some nurses and doctors have said that they will call a strike because they have not been paid for some time. They are not taken care of. This should be a thing of the past in a progressive country like Kenya. We need to take care of our hospitals because people are dying in our constituencies due to lack of medical care. They are misdiagnosed. One is treated for headache and yet he or she has a tumour. So, the patient is given medicines for headache and referred to a referral hospital, only to be found that that was a wrong diagnosis. We need to have facilities in which all these sicknesses can be properly diagnosed.

I support the Motion.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well. I will come there, but I have to get to my right side now.

It is your chance, Hon. Gakuya Wanjiku.

**Hon. (Ms.) Mercy Wanjiku** (Kasarani, JP): Thank you, Hon. Temporary Deputy Speaker. I want to thank the Departmental Committee on Health for the good work on the Report on the Status of National Referral Hospitals.

I am a Member of the Committee, and it is true we did much starting with visiting KNH, MTRH, NSIRH and MNTRH. The findings were quite shocking. The hospitals are underfunded. It is unfortunate that during the budget, a lot of money was removed from the facilities.

Let me start with Mathari National Teaching and Referral Hospital where you find sick prisoners. The facility's state is pathetic. The roofs of the hospital are leaking and the sick prisoners are tortured both mentally and socially. They have no hope of life. So, it is good if we support the Report so that these hospitals can receive enough money.

The KNH is congested. We know that almost everybody who comes to the Capital City goes there for treatment except for those with medical insurance. Ninety per cent of Kenyans go

there. We do not have many referral hospitals, and yet KNH has never decline to admit patients even those who have been involved in road accidents. They have been kind enough to admit patients. So, we should do something.

We also found out that the NHIF does not remit money that it is supposed to give to the hospitals. They owe hospitals a lot of money. So, something needs to be done about that.

The training of medical students, for example, University of Nairobi medical students, is done at the KNH. Unfortunately, there is not sufficient co-ordination. There is money from the universities, but co-ordination between the hospital and the university is wanting. The university does not allocate resources to the hospital, and so it gambles with the limited resources.

In the case of Mathari National Teaching and Referral Hospital, I have already highlighted the lack of repair and maintenance. I do not know why in Africa we welcome new buildings, development and good infrastructure, but when it comes to repairs, we are pathetic. Much more needs to be done.

We have five referral hospitals only including the new Kenyatta University Teaching and Referral Hospital. We need more of them because the situation will soon turn pathetic. Health is basic, but I do not know why people consider development and education basic. The basics are food, shelter and clothing. If your body is ailing, there is no way you can go to school, provide labour and be of any help to the society. We should all know that if a country is sick, it cannot progress or produce anything. We know that health starts from the day one is born until the day one's life expires.

As a House, let us ensure that KNH is like it was in the 1960s and 1970s when everybody looked for a chance to work or be treated there. Of late, very few people would choose to go to KNH, if at all they have an option. Since the majority of Kenyans do not have an option, it is good for us to ensure that our hospitals are good.

On NHIF, it is good to have universal health coverage. As we roll out the programme, we should make sure that KNH, Mathari National Teaching and Referral Hospital and Kenyatta University Teaching and Referral Hospital are at par in offering services. There is no way we can talk about universal health coverage when referral hospitals do not offer the best services. It is not that they do not have good doctors. They do. They lack enough facilities.

For a cancer patient to get an opportunity to be treated, they have to book and wait for months. What happens later is a disaster. The KNH offers maternity emergency services and it is the biggest hospital in the country. So, it is our task to ensure that everyone is covered and KNH is put to a standard that we want so that we can have a healthy nation.

I support the Report on the status of national referral hospitals, so that we can be productive, as a country. Thank you very much.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. Arbelle Malimo, the Member for Laisamis.

**Hon. Marselino Arbelle** (Laisamis, JP): Thank you Hon. Temporary Deputy Speaker for giving me this opportunity to add my voice to this Report of the Departmental Committee on Health. I wanted to contribute to the earlier Motions discussed in the House like the one on the

Appropriation Bill and the Statement read out by the Chairman of the Departmental Committee on Defence and Foreign Relations, Hon. Metito, with regard to Hon. Njagua who had issued a statement to expel foreigners out of Kenya. I could not get a chance to speak that time and I thought it was a bad day for me. But now that you have given me a chance to add my voice, I thank you very much and appreciate that I caught your eye.

I have listened carefully to the debate although my colleague, the Vice-Chair of the Departmental Committee on Health, spoke in an Indian dialect and I could not grasp his words properly. However, I commend the work the Committee has done in coming up with this elaborate Report that details the status of our national referral hospitals.

Provision of health is devolved except for referral hospitals, namely, KNH, MTRH, NSIRH, MNTRH and the KUTRH. The Report says that hospitals lack land for expansion and do not have enough equipment or facilities like beds and laboratories. We must welcome the Report with both hands as opposed to treating it like the other reports which are normally brought to our attention and then taken to the shelves to gather dust.

In the Big Four Agenda, which was introduced by the President, health is one of the components. It is unfortunate that since Independence, the status of our hospitals is unimaginable. If you go there, you will be surprised and wonder whether you are in another country. I might not be able to say which country, but you might not be in Kenya. It is high time we made sure that our hospitals have been upgraded to ensure that our people are covered. The President is trying to safeguard the issue of the UHC to ensure that by 2020, it is attained at 100 per cent.

Hon. Temporary Deputy Speaker, I need your protection from my colleague here who is pressuring me to wind up. He has to wait for his time. Please, intervene.

**Hon. Ahmed Kolosh** (Wajir West, ODM): Wind up!

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): It is a persuasion, but it is not binding on you.

**Hon. Marselino Arbelle** (Laisamis, JP): He is interfering with my concentration.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Kolosh, give him his space. He is a good neighbour.

**Hon. Marselino Arbelle** (Laisamis, JP): Hon. Temporary Deputy Speaker, you can imagine that our Kenyan patients are seeking medical services outside Kenya, preferably India, and yet we have the best doctors in the world. But because we do not have facilities and equipment in our hospitals, we are losing billions of money to foreign countries. If only we can upgrade the status of our hospitals, we will be able to build Kenya, and in future, we will have many patients coming to the Kenyan referral hospitals from around the world.

Without taking much time, I would like this Report to be adopted. We should direct a lot of funds towards referral hospitals to ensure that, at least, we have improved the image of our country and the image of our referral hospitals.

I support. Thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): We shall have Hon. Wambura.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. My colleagues, Members of the Committee and other Members,

have outlined the problems that our referral hospitals face. I would like to look at a few policy issues. Referral hospitals are a national function and their main function is teaching and national referral if they are working properly. They are Kenyatta National Referral and Teaching Hospital, Moi Teaching and Referral Hospital, The National Spinal Injury Referral Hospital and Mathari National Teaching and Referral Hospital.

Let me talk about the National Spinal Injury Hospital and Mathari National Teaching and Referral Hospital. We have been told the Spinal Injury Hospital is dilapidated, but there is even a major policy issue that it has no legal structure. It is being run from the Ministry. That alone makes it very difficult if we were to fund it. The Committee has recommend that we need to give them legal structures to run as autonomous institutions.

It has no proper referral system. This is where you take care of all the people's spinal injuries who are on wheel chairs and cannot move. It is important that when they have been treated and they have healed, they should be taken back to their homes and have a system that will help. That does not exist. What, therefore, happens is that people stay there longer than they need. That is something we should look at.

If you look at Mathari National Teaching and Referral Hospital, Hon. Oluoch was right when he said that a patient asked the former President, Mzee Kenyatta, whether he was there as a patient also. The big thing is that it is old, dilapidated and congested, but it also got a major issue - the maximum security part. The patients in the maximum security section are patients who are unwell, have had criminal offenses and have been sent there by court. These are patients who will not be discharged by medical staff. You have to go through the judicial system to actually get them discharged. Part of the hospital is working as a mental hospital, as a remand for these people and as a prison. These three structures have not been harmonised. We are saying that this hospital should have its own structure.

All these hospitals have one thing in common namely, they are congested, their equipment are poor and they have low funding. Therefore, they have problems. The other issue is that of a national referral system. However much money we put in Kenyatta National Hospital, it will not improve if the surrounding county structures are not working. If Kiambu, Machakos, Kajiado and Makueni are all sending their patients to Kenyatta, there is no way Kenyatta National Hospital will work.

Within Nairobi, there are about eleven health facilities and about three hospitals and all of them are not working optimally. So, everybody is going to Kenyatta National Hospital; even those who should not go there. So, that referral function needs a system where the only people that need to go to Kenyatta National Hospital will be the ones going there. It is just not a national Government function. The KNH has a problem with county institutions that are not working and need to do their job.

There is a training role at the KNH. We have said that the doctors who work there as postgraduates are being referred to as students, but they are fully trained doctors. They are doing a postgraduate training and they are the main staff of the hospital, and yet some are not paid because they are considered students. Some are sponsored by counties and are paid by those counties. Look at this. Why would a person who is working at Kenyatta National Hospital be paid by Kisumu County or Makueni County and yet the work they are doing in Kenyatta

National Hospital belongs to Kenyatta National Hospital? We have recommended that we get training positions which are paid for by the national Government so that when these doctors go for postgraduate training, they are paid through that and the counties can have their money back and even employ doctors on contract and not employ doctors for Kenyatta National Hospital. That has been said many times and we need to do it. Nobody should do full time work at no pay merely because he or she is being called a student.

The other hospital that we have that will be a referral hospital and is just starting is Kenyatta University Hospital. The two main referral hospitals, both Moi and Kenyatta have a dual management where all the senior staff are university staff, while the hospital is a parastatal under the Ministry. This has always been a problem.

In the case of Kenyatta University, the Committee recommends that for once, we should have a fully university hospital run and managed by the hospital. That recommendation came to this House. This recommendation was given here. Unfortunately, a Legal Notice was signed and once again, we are going to have a referral hospital where one part is a parastatal and the other part is a university.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Nyikal! Obviously, your contribution is very enriching and helpful to the Members. But it is 7.00 p.m. This does not mark the end of that particular item. If you look at the Order Paper, you will find that there is a notice that this may appear on the Order Paper tomorrow. Hon. Members, you still have an opportunity and space to contribute to this important Report. When this comes back, Hon. Nyikal, you shall have four minutes.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, the time being 7.00 p.m., this House stands adjourned until Thursday, 27<sup>th</sup> June 2019, at 2.30 p.m.

The House rose at 7.00 p.m.