

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 10<sup>th</sup> September 2019

The House met at 2.30 p.m.

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

### PRAYERS

### COMMUNICATION FROM THE CHAIR

#### REGISTRATION OF MEMBERS IN THE BIOMETRIC SYSTEM

**Hon. Speaker:** Hon. Members, I wish to welcome you back from the one-month long recess and hope that you are refreshed and rejuvenated for the third part of this Session.

As we resume this part of the Session, may I remind Members about my Communication made on Tuesday, 5<sup>th</sup> June 2018 in which I asked all Members to register in the Chamber Biometric System. The registration is for purposes of recording Chamber attendance in the House.

In addition to the record of attendance developed through the biometric system, I am glad to convey that since 24<sup>th</sup> July 2019, the Members' log-in panel has been configured to record any entry made by a Member upon logging in. This is the second layer of confirming attendance should the biometric system fail to capture Chamber attendance of a particular Member. In this regard, I urge all Members to register with both the biometric system as well as ensure they use their cards to log in, even if a Member is not wishing to speak to any matter in the House.

May I, however, caution that this new addition is not an alternative to the registration of Chamber attendance through the biometric system. It serves to complement the system.

I, therefore, urge all of you who are yet to register in the biometric system or those who have misplaced their log-in cards to urgently make the necessary arrangements with the Chief Serjeant-at-Arms. This may be done at the entrance of the Chamber during working hours when the House is not sitting.

I thank you.

*(Several Hon. Members walked into the Chamber)*

Members making your way in, just come in and take your seats.

### MESSAGES

#### REFERRAL OF PRESIDENTIAL MEMORANDUM ON THE PARLIAMENTARY SERVICE BILL, 2018

**Hon. Speaker:** Hon. Members, I have two Messages from the President. You may recall that on 4<sup>th</sup> July 2019, the National Assembly passed the Parliamentary Service Bill (National Assembly Bill No. 6 of 2018). This Bill sought to make further provisions as regards the Parliamentary Service Commission and the Parliamentary Service as re-established under the Constitution of Kenya 2010 and to repeal the Parliamentary Service Act of 2000.

Thereafter, the Bill was presented for assent to His Excellency the President in accordance with the provisions of the Constitution and our Standing Orders. However, in exercise of the powers conferred to the President under Article 115(1)(b) of the Constitution, His Excellency the President, by way of a Memorandum dated 16<sup>th</sup> August 2019, has since referred the Bill back to the National Assembly for reconsideration.

In the Memorandum, the President has expressed reservations on:

- (a) Clause 20 of the Bill regarding the facilitation of activities held outside the precincts of Parliament by Members and staff of Parliament; and,
- (b) Clause 43 of the Bill on the remuneration of employees of the Commission.

Consequently, the President recommends amendments to the said clauses and the Bill.

Standing Order 154(2) requires the House to consider the President's reservations within 21 days upon receipt of the Memorandum. In this regard, the reservations of the President as contained in his Memorandum now stand committed to the Departmental Committee on Justice and Legal Affairs for consideration. The Committee should table its Report soonest to allow the House to consider the President's reservations within the said timeline.

May I, at this point, remind the House of the Speaker's Communication delivered on 28<sup>th</sup> July 2015 concerning the consideration of President's reservations to a Bill and amendments thereto. I particularly draw your attention to my guidance that the voting threshold for the passage of amendments proposed by a Committee or an individual Member that may have the effect of fully accommodating the President's reservations is a simple majority as contemplated under Article 122(1) as read together with Article 115(2)(a) of the Constitution.

On the other hand, an amendment that does not fully accommodate the President's reservations or indeed one that has the effect of total override of the President's reservations, including negating his proposed text, would require a two-thirds voting threshold to be passed in keeping with the provisions of Article 115(4) of the Constitution.

I wish to further reiterate that only the specific sections of the Bill that have reservations ought to be considered.

I, therefore, direct now that the Clerk circulates the Memorandum from His Excellency the President to all Members. That is so that you can familiarise yourselves with its contents.

I thank you.

*(Several Hon. Members walked into the Chamber)*

I may resume my seat so that those Members can make their way in.

NOMINATION OF PERSONS TO THE OFFICES OF CHAIRPERSON  
AND MEMBERS OF NATIONAL LAND COMMISSION

**Hon. Speaker:** Hon. Members, I have this further Message from the President on the nomination of persons to the offices of Chairperson and members of National Land Commission (NLC).

Pursuant to the provisions of Standing Order No. 42, I wish to convey a Message from His Excellency the President relating to the nomination of persons for appointment to the offices of the Chairperson and members of the National Land Commission. The Message, which was received in my Office on 16<sup>th</sup> August 2019, conveys that in exercise of the powers conferred by Article 250(2) of the Constitution, as read together with Section 12 of the National Land Commission Act, 2012 and Section 5 of the Public Appointments (Parliamentary Approval) Act, 2011, His Excellency the President nominated the following persons for appointment to the respective offices in the National Land Commission:

- |    |                                   |   |              |
|----|-----------------------------------|---|--------------|
| 1. | Mr. Gershom Otachi Bw'Omanwa      | - | Chairperson. |
| 2. | Hon. (Ms.) Esther Murugi Mathenge | - | Member.      |
| 3. | Prof. James K. Tuitoek, PhD       | - | Member.      |
| 4. | Ms. Gertrude Nduku Nguku          | - | Member.      |
| 5. | Mr. Reginald Okumu                | - | Member.      |
| 6. | Hon. Samwel Kazungu Kambi         | - | Member.      |
| 7. | Ms. Hubbie Hussein Al-Haji        | - | Member.      |
| 8. | Mr. Alister Murimi Mutugi         | - | Member.      |
| 9. | Hon. (Ms.) Tiyah Galgalo Ali      | - | Member.      |

In this regard, therefore, His Excellency the President now seeks the approval of this House of the nominations.

Standing Order No.42 (2) states:

"(2) If a message is received from the President, at a time when the House is not in session, the Speaker shall forthwith cause the message to be transmitted to every Member and shall report the message to the House on the day the House next sits."

In accordance with the said Standing Order, I notified all the Members of this House of the nominations via a Message dated 18<sup>th</sup> August 2019. Pursuant to the provisions of Standing Order 45, I refer the Message together with the Curriculum Vitae of the nominees to the Departmental Committee on Lands for consideration.

Paragraph 6 of the First Schedule of the National Land Commission Act (No.5 of 2012) requires the National Assembly to either approve or reject any or all of the nominees to the respective positions within 21 days of the day it next sits. In this regard, the Committee should expeditiously notify the nominees and the general public of the time and place for holding the approval hearings, make public notifications in at least two newspapers of national circulation inviting any person with representation regarding the process of nomination of the candidates and their suitability for appointment to the offices so nominated to make submissions before the Committee. Thereafter, the Committee should commence the necessary approval hearings and submit its Report to the House by 26<sup>th</sup> September 2019 to enable the House to consider the nominees within the statutory timelines.

I thank you.

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

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

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Speaker. I rise to seek your guidance regarding the role of the National Assembly in vetting of persons for appointment to various offices, particularly the authority of this House to approve a nominee conditionally.

If you may recall, during the approval of the appointment of nominees as High Commissioners and Ambassadors to Abu Dhabi in the United Arab Emirates; Algiers in Algeria; Dublin in Ireland; Lusaka in Zambia; Stockholm in Sweden; UN Habitat; and, Seoul in South

Korea on 6<sup>th</sup> June 2019, the House approved the nominee to Seoul in South Korea of Ms. Mwendu Mwinzi, subject to her renouncing citizenship to the United States of America (USA) in compliance with the provisions of Article 80(c) of the Constitution and Sections 31 and 52 of the Leadership and Integrity Act, No.19 of 2012, upon appointment and before taking office.

Information available is that the same nominee intends to take up the appointment without renouncing her citizenship to the USA notwithstanding the conditions set by this House. Therefore, I request that you order the Chairpersons of the Departmental Committee on Defence and Foreign Relations and the Committee on Implementation to confirm this fact and inform this House the actions they intend to take on the same.

I further want to invite you, Hon. Speaker, to give guidance on the matter and give the way forward regarding approval of appointments with such conditions. If the nominees to the offices of chairperson and members of NLC that you have referred to Departmental Committee on Lands have a similar condition, will it be best to reject their appointment instead of giving a conditional approval?

Thank you.

**Hon. Speaker:** Well, you have raised a serious constitutional issue, but more importantly, there has been a judicial pronouncement on such a matter which arose out of the contestation by a person to run for the office of the Senate in 2013. The person was running on Agano Party ticket for the Senate position in Taita Taveta County. He was denied nomination and he went to the High Court which pronounced itself on the matter. The person not being satisfied with the decision of the High Court proceeded to the Court of Appeal. The Court of Appeal held, *inter alia*, that a person holding dual citizenship in Kenya may run for office and indeed, if the office is elective, be elected, but may not take office before renunciation of their other citizenship in accordance with the provisions of Sections 31 and 52 of the Leadership and Integrity Act, 2012. That decision of the Court of Appeal has not been vacated. Therefore, any person who may be in violation of those two provisions is material for Judiciary in a criminal process because they are in violation of the law.

For purposes of Parliament, this House in particular, I would not direct that matter to the Departmental Committee on Defence and Foreign Relations because, as far as they are concerned, they are spent; they are *functus officio*. Since the House has resolved itself in a particular way, that should now be addressed by the Committee on Implementation to see how the Executive, particularly those responsible for those appointments, has complied with the conditional approval that this House gave and in compliance with the two provisions of the Leadership and Integrity Act, 2012, and Article 80(c) of the Constitution as you have said.

So, that matter should be handled by the Committee chaired by Hon. ole Kenta. It should go and find out more about the matter. You have said, in your own words, “information available”. The information is now available to me. Of course, Hon. Pukose will appear before that Committee, and in better and greater detail, proffer that information to the Committee. Then the Committee will make its decision known to the House.

I think that would be the proper way to deal with the matter. But since you raised another issue, I would request that Hon. Pukose also appear before the Lands Committee and proffer the information that he may have regarding any of the nominees whose names I have just read out. I think the House should proceed that way. Hon. ole Kenta’s committee will take up the matter and find out what has happened so that the House is able to debate the matter on the basis of information and knowledge.

Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, Hon. Pukose has raised a very substantive issue as you have ruled. But he cannot also take the House through rumours. He should have done research and present to this House whether an agrimour has been sent to South Korea with the nominee's name. Hon. Junet is saying the lady is working? Where is she working? This is a House of records. I want to confirm that I was invited to the closure of a training programme for those officers and I was with the Chair of the Defence Committee. On that day, that lady was not part of it, even though I was told just a few minutes before I arrived, she had sneaked out. I cannot confirm. She was not there.

So, as Hon. Pukose appears before the Committee on Implementation, he should present facts and figures. You cannot come and say that the Government has done this and that. From where I sit, he has not presented any facts or agrimour. He has no photo of the lady presenting her credentials to the President of South Korea. So, let him prepare his facts. With your permission, Hon. Speaker, maybe the Defence Chair should have called the CS for Foreign Affairs and asked the status before we even send the matter to the Committee on Implementation. Now that it is going to the Committee on Implementation, the man from Endebess, one of the few medical doctors and a surgeon in the House, must also carry his tools of trade and facts and figures to show that the lady is working. Maybe, the lady we are discussing has relocated to the US or she has renounced her US citizenship and now she is a Kenyan.

**Hon. Speaker:** Hon. Members, awaiting some rectification to my machine, I am not in a position to know who has made an intervention request. I will allow a few Members to make some comments. But let us not prejudice anybody's rights.

Hon. Members, allow me to recognize the presence, in the Speaker's Gallery, of pupils and students from the following institutions:

1. Kanjira Primary School, Karachuonyo Constituency, Homa Bay County.
2. Ndung'u Njenga Boys' Secondary School – Limuru Constituency, Kiambu County, and
3. Jirandi Education Centre, Embakasi North Constituency, Nairobi City County.

They are welcome to observe proceedings in the National Assembly.

Hon. John Olago Aluoch.

**Hon. Olago Aluoch** (Kisumu West, FORD-K): Thank you, Hon. Speaker. The issue that has been raised by Hon. Pukose is very fundamental. From my recollection, there has been no precedent in the National Assembly on that issue. It is coming up for the first time. I also agree with your ruling and it is quite in order. Some of the Members in this House are familiar with the decision of the Court of Appeal that you have referred to, but not all Members are familiar with it.

Since it is going to set a precedent in the House, my humble request is that you issue that ruling by way of a formal communication to the House so that all Members may have the time to consume and understand all that you have said. In my understanding, it is very fundamental and

it is likely to arise again in the future unless this communication from you is made clearly for all Members to understand.

Thank you.

**Hon. Speaker:** Yes, a formal ruling will be made. In the meantime, given the allegations by Hon. Pukose, I think the Committee on Implementation can get seized of the matter and, more particularly, to consider not just what is in Article 80, which merely gives the authority upon which the leadership and integrity law was made, but Article 78 as read together with Sections 31 and 52 of the Leadership and Integrity Act. Those are the four areas of the law that would need to be considered while still, of course, we will be quoting in extensor, the decision by the Court of Appeal regarding this matter. I think it is an important matter that should be put on record in the manner that you have suggested, Hon. Aluoch.

Hon. Members, I have just said that I am a bit handicapped because my machine is not able to show me whether there is anybody who is making an intervention. While waiting for the machine to be rectified, I will give an opportunity to Hon. David Ochieng’.

**Hon. David Ochieng’** (Ugenya, MDG): Thank you so much, Hon. Speaker. I shudder to think that what the Member for Endebess has raised can even arise. We are dealing with lawlessness and cases of us simply refusing to abide by the law. This week has been an interesting one and it is just the second day of the week. Yesterday, we saw the DPP refusing to accept a court order. There are so many cases in this country every day where people willfully refuse to respect the letter of the law. So, while you made a ruling about the Member for Endebess going to the Committee on Implementation, I think this is a very straightforward matter. You are going to give your ruling, yes, but if, indeed, any officer of the Government allowed this lady to appear and work in Seoul, it would be a travesty of law and of justice and it would be basically a spat on the face of Parliament. We have made a decision as Parliament and the courts have spoken on what needs to be done. Sometimes, we do not even need to wait for this kind of situation where we know this has happened and then we take a very long time to ensure that public officers respect the law. I agree, yes, let the Member appear before the relevant committee, but to do what when it is very clear what the law says? We only need to ascertain whether, indeed, that lady has reported. If she has without renouncing her US citizenship, then we will be basically wasting Parliament’s time.

So, Hon. Speaker, I want you to put your feet down and make it clear to the Executive that the rule that you must respect the Constitution is not a choice; it is not something that people can circumvent. Once laws are made, they must be respected. I am also looking forward to what the Committee will say on this.

Thank you so much, Hon. Speaker.

**Hon. Speaker:** Well, of course, it is within the powers of this House to also do other things, because we will not be the ones to implement that particular law. In the detailed communication that I will be making, I will give some more information relating to this subject matter so that the House can be informed.

It is important that the House gets to know everything around this saga. As we wait for the technicians to come and make corrections here, I will allow you to raise your hands – something which I normally do not allow. Hon. Sankok, you have raised your hand but I also saw the Leader of the Minority Party raise his hand. He takes precedence over lesser mortals.

*(Laughter)*

Hon. Sankok, that is on a light touch. Let us allow Hon. John Mbadi.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker.

*(Loud consultations)*

Hon. Speaker, there are loud consultations. Hon. Speaker, allow me to agree with Hon. John Olago Aluoch. I request you as well that this matter is precedence-setting and so it would be important that you make...

*(Loud consultations)*

**Hon. Speaker:** Order, Hon. Members, particularly those around the Leader of the Majority Party.

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): Team *Kieleweke* and Team *Tanga Tanga*.

**Hon. Speaker:** Do not bring stories from churches and funerals to the House. I have not heard it from mosques. Let us just deal with the issue that is important, as Hon. John Mbadi had begun saying.

**Hon. John Mbadi** (Suba South, ODM): Hon. Speaker, before I was interrupted, I was saying that I also want to plead with you to make a comprehensive pronouncement in form of a ruling on this matter because it is precedence-setting.

Hon. Speaker, although this is a matter we disposed of and made a decision, Committees need to be very clear going forward. The idea of approving appointment subject to... Is it procedural and constitutional? Is it legal? The people of Kenya gave this House the vetting power and authority because this is where the peoples' representatives sit. Therefore, the decision that we take here should be informed by law – the Constitution and all the statutes – such that when we pronounce ourselves, it should be definite. Now, it is like we have surrendered part of our responsibility to other authorities elsewhere and we are waiting for that authority to execute. We have put ourselves in a very awkward situation. However, it is water under the bridge but I request that, going forward, we come out clear through your ruling that Committees must make definite decisions so that when this House approves or rejects a report, we know what we have done.

Thank you, Hon. Speaker.

**Hon. Speaker:** What Hon. John Mbadi is raising is that the House may have committed the second sin, the original sin having been committed by the nominating authority. So, it calls for introspection.

Hon. Sankok, be brief like Hon. Mbadi.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Speaker for giving me this opportunity. I will be very brief. We have three arms of Government and they must respect each

other. Parliament, being an arm of Government, had pronounced itself on the issue of Ms. Mwinzi. We had said that she must renounce her citizenship. If by any chance she has assumed office, we must take drastic action as an arm of Government. I propose that Hon. (Dr.) Pukose follows it up and gives us facts so that if need be, we can even impeach the Cabinet Secretary responsible for foreign affairs. This is because they cannot go against the pronouncement of this House, which is an arm of Government just like the Executive and the Judiciary. They should respect our pronouncements as a House.

Thank you, Hon. Speaker

**Hon. Speaker:** Hon. (Dr.) Pukose may not be the one to follow up. The one to do that, on behalf of this House, is the Committee on Implementation. Hon. (Dr.) Pukose should appear before the Committee to provide the information that he has.

Let us have Hon. Millie. Let us hear another voice. We have been mainly hearing bass.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Speaker. You never go wrong when you stand on principle.

Hon. Speaker, I supported Ms. Mwinzi when her case was brought here but my voice was in the minority. However, the House spoke to it and pronounced itself. Once the House does that, that voice must be respected. However, even in respecting that voice, we must also follow the procedures and rules of the House.

**Hon. Speaker:** Member for Budalangi, you have forgotten the rules of the House. You may have stayed in Budalangi for too long. Continue Hon. Millie.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Speaker, I think there is a spiritual excitement related to churches. I supported this lady. Her name was brought to the House, but I was one of the minority voices. This House, having pronounced itself on it, even though I am a minority voice, the rule of law must stand.

Hon. Speaker, if you stick by the rule of law, you need to stick knowing that it will follow you like we have seen of late. Hon. Speaker, we should not look like we are hounding this lady, criminalising her and making her feel as bad as the young man from Murang'a who spoke on Citizen TV yesterday. He spoke and the English "disappeared" a little, and Kenyans have been hounding him and yet he is a young man. English came to this country on a ship. It is not a native language.

Hon. Speaker, so that we do not look like we are hounding this lady, let us not, as a House, act on rumours. Let Hon. (Dr.) Pukose bring evidence on what he has said so that even when you make your decision, it is not made based on gender bias. I have never seen so much passion and commitment in following somebody like the way we are following this lady. As I said before, I have never met her. I do not know her even to date. However, I would want us to be fair across the board. Whether she is in Jubilee Party, which I am told she is, or in Orange Democratic Movement (ODM); whether one is a woman or a man, let us be consistent in following our rules. Parliament must be respected, but we must also respect our own rules. If you allege that she has taken up a position, where is the evidence that she has taken up that position? Otherwise, we are hounding this lady unnecessarily.

Thank you, Hon. Speaker.

**Hon. Speaker:** There is a Member whose hand is up. It is the one who appears to be taller than the other Hon. Haji?

**Hon. Ali Adan** (Mandera South, JP): Thank you, Hon. Speaker. I would like to add my voice to this matter. Recently, the Departmental Committee on Agriculture and Livestock vetted the Chairman for Kenya Marine Fisheries Authority, and we found ourselves in a situation where



we could not make a decision at that point. That was on the issue of tax compliance. We were made to understand that tax compliance certificates are issued from June to June. We vetted that Chairman in August. We reported to the House that the Chairman, subject to him being cleared from June of 2019 up to August or September or whenever he was ready to get this appointment letter, he was qualified to be given the job.

Hon. Speaker, Parliament only gives guidance during vetting. We do not issue appointment letters to public officers. At the time of issuing appointment letters to those public officers, the onus rests on those who are issuing the appointment letters to get this or the other document subject to what Parliament has passed. Before the appointment letter is issued, the public officers should be asked for all those other details. It is at that point in time when the person who is issuing the appointment letter can be able to verify whether all the conditions have been met.

As Parliament, we set the guidelines and do vetting. I think at the time when these letters are being issued, those other finer details must be cross-checked by those who issue appointment letters.

**Hon. Speaker:** Now I have to balance regions. Hon. Junet may not speak. Let me hear from the Amani National Congress (ANC), Hon. Omboko Milemba.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Speaker, for giving me this chance. As I add my voice, a few things come out very clearly that, when we are doing the vetting as Parliament and as committees, we need to do our work very clearly and in a very exact way like the way Hon. Mbadi has almost alluded to. I like the President because whenever we make a law here and the President feels it is not correct in his perspective, he just returns it like what we always see here. So, Parliament must also be very clear when it is doing its work so that we do not become a Parliament that is too lenient. That is because when we were passing the name of that lady, there was a little bit of leniency on the issue of dual citizenship. So, to some extent, we failed and this is a wakeup call not only for Hon. Pukose and that Committee, but the entire House so that when we are doing the vetting – and the nominees to the NLC are here – we are very clear on the voice we give to Kenyans.

Lastly, I must caution that it would be too early to vilify this lady too much without the proper evidence that we require so that, when we pronounce ourselves on her, we are actually basing ourselves on facts. Thank you, Hon. Speaker.

**Hon. Speaker:** May I know the Vice-Chair of the Committee on Implementation. I do not see the Chairperson. Hon. Osotsi.

**Hon. Godfrey Osotsi** (Nominated, ANC): Hon. Speaker, thank you for that directive. I want to confirm, on behalf of my Chair who is not here, that the Committee on Implementation will take up this matter and it will examine all the facts around it and provide feedback to this House in the shortest time possible. Thank you.

**Hon. Speaker:** Hon. Tuwei.

**Hon. Vincent Tuwei** (Mosop, JP): Thank you, Hon. Speaker. At the outset, I thank you for making a ruling on this matter. I am also in the Departmental Committee on Defence and Foreign Relations. The matter came to us when we were vetting Mwinzi and a few weeks ago, in her own submission to the Committee, the Cabinet Secretary (CS) said that the training was going on and the said designate ambassador was among those who were actually being taken through. For sure, we raised the issue as to whether the caveat that had been passed by Parliament was effected. She said she was going to check, meaning that what Hon. Pukose is saying is true. As a Member of the Committee, that is the position; that nothing had been done

and the information she passed was that the communication that the House did to the Head of Public Service was not communicated to her on what to do on the matter. That is the position that I, as a member of the Departmental Committee on Defence and Foreign Relations, have and I can confirm as a fact.

**Hon. Speaker:** Hon. Members, maybe, not many of us are actually addressing the matter. I can see we may be leaving out certain issues. More importantly, Hon. Osotsi and your Committee, also invite before you the Chief Executive Officer of the Ethics and Anti-Corruption Commission (EACC) because this a matter of ethics. Article 78 is in the Chapter on Leadership and Integrity. So, it is they who should actually be taking up this matter. This matter is not very right. It is important because it is a matter in which the second highest court on the land has expressed itself on.

Hon. Otiende Amollo.

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): Thank you, Hon. Speaker. Allow me to lend my voice to this matter which you have made a ruling and to urge that, as the Committee looks at it, there are three critical things we must look into.

The first one is the decision of the court that you allude to. Indeed, the court determined that while you could be eligible, you cannot take the oath of office. I urge that, as a House, we examine that decision further because Article 78 of the Constitution says that you are not eligible. If you are not eligible, should this House that takes the time of all Kenyans consider a person who is not eligible for some office? I want to urge that this might be one of these areas where we may need to have a departure from that court decision. While the court decision is right in terms of taking the oath of office, for us, we must consider whether we want to act in vain as a House that detain the time of Kenyans.

Hon. Speaker, I urge that you might consider that if you are not eligible, then we cannot debate your appointment because we will be acting in vain. If we debate your appointment and pass it with conditions, then we are giving the President a discretion that he does not have under the Constitution. There are many offices where the Constitution says once we approve, then the President appoints. If we pass with conditions, then we are introducing a rider that the President is at liberty to consider whether that condition has been met. I urge that in future, we might want to reconsider that.

Secondly, I also urge that we reconsider the conditions and preconditions that we put to some of those officers. I was not around at the time of the debate and of course this House acts in all its wisdom and it must have been well instructed, but that instruction does not flow from the constitution. On the face of the Constitution in Articles 78 and 260 that define state officers, ambassadors are not state officers on the face of it. However, in its wisdom, the House decided that she had to relinquish her position. While it may not be expressly put on the face of the Constitution, once this House makes that demand, I suggest that she only had two options; either says I do not agree and, therefore, I will not take that job but, if she agrees, then she has to comply. For us, I think it will be a question... Do we want to expand the ambit of state officers as defined in the Constitution? This is because right now, ambassadors are not in the Constitution. If we do, is it wise or is it not wise? There might be perfect situations where we might actually, and this happens in some countries. In these countries, there are states that do not have ambassadors. They actually have Kenyans acting in the place of their consulate. Is it conceivable that even we as a country might want to be in a situation where we use proxies? If we look at that we might want, in future, to reconsider our insistence that all ambassadors must not hold dual citizenship.

Having said that, I agree with the observations to the extent that the appointment was passed with conditions. If that condition is not met, then that appointment is void - *ab initio*. It means whether or not she has taken the position to the extent that it does not comply with the directives of Parliament, then she would not be a substantive ambassador. Thank you, Hon. Speaker.

**Hon. Speaker:** To add, Hon. Otiende Amollo, if you read the entire Article 260 of the Constitution, you will see that it gives authority for Parliament, through legislation, to put certain categories of offices as state officers. That is what the Leadership and Integrity Act of 2012 did through Sections 52 and 31. That is why the Court of Appeal departed from what is in Article 78. Many Kenyans, particularly those in the diaspora, have only been reading Articles 78 and 260 without going into the Leadership and Integrity Act which is the legislation that placed ambassadors in the category of State officers. That is the only addition.

I see Hon. Wamalwa is dying to say something.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Thank you, Hon. Speaker. When this matter was on the Floor of this House, some of us opposed it. We followed the Report of the Departmental Committee on Defence and Foreign Relations because when that lady appeared before the Committee, she said that in case her name was approved by Parliament, the first thing she would do is to renounce her citizenship. If this lady has already gone, that shows that she has already failed the Leadership and Integrity Act test. Without wasting too much time, we need to start the process of recalling her because this matter was in the Report.

I remember I questioned Hon. Metito, who was the Chairman then, and he repeated it several times. Hon. Millie supported the aspect of gender saying that we should approve the lady. We agreed that this lady would honour her word. This matter having gone through Parliament, the very first thing for her to have done, with due respect, was to renounce her citizenship. Now that she did not, we do not need to debate and waste a lot of time. An ambassador is a representative of the President. In terms of patriotism, we cannot allow somebody who has dual citizenship to serve as an ambassador. We should start the process of recalling her. We have so many Kenyans who can do that job. It is not just the Committee on Implementation. The Departmental Committee on Defence and Foreign Relations has a role to play in this matter.

**Hon. Speaker:** The problem is that the House has already resolved itself. Once a resolution is passed, it goes to the Committee on Implementation. It will mean that the Committee that dealt with the matter will never do anything else. Let us go to the Committee on Implementation.

Hon. Junet, do you also want to weigh in on this?

**Hon. Junet Nuh** (Suna East, ODM): Thank you, Hon. Speaker. You have properly ruled on the matter. This is a matter for the Committee on Implementation. One thing I am aware of is that the lady was trained. As a citizen, I have access to information. Access to information is guaranteed under the Constitution. The information I have is that she has been trained together with other ambassadors at Safari Park Hotel. I want to share that with the House. Whether she has gone to Seoul or not is a different matter. Renouncing citizenship is a very serious matter. She might be consulting her husband, mother and sisters.

**Hon. Members:** Is she married?

**Hon. Junet Nuh** (Suna East, ODM): She is married. I have the right information. Take it from me. She is consulting many of her people like the husband and others. Her husband is a *mzungu*. He is not even an African, I think.

The Resolution of the House is final even though it was not very firm on the matter. Instead of disapproving or approving it, the House acted like these people who were being counted in the census. What are they called? The ones who are not male or female? Transgender! We gave a resolution that looks like the transgender. We said: "Let us approve her name, but subject to..." Now, the other person who was supposed to deal with our resolution is now taking advantage of that and saying that they are working on fulfilling that condition. The House now finds itself in a difficult situation. The House should have disapproved her name and told the appointing authority to let her first renounce her citizenship then bring her name back for fresh vetting. But when we gave that transgender kind of resolution, the President now feels he can take his sweet time.

**Hon. Speaker:** Very well. Hon. Members, let us have the Member for Mandera North, Major Retired.

**Hon. Major (Rtd.) Bashir S. Abdullahi** (Mandera North, JP): Thank you, Hon. Speaker. I am a Member of the Departmental Committee on Defence and Foreign Relations just like my colleague Tuya said.

We are aware - and this information is official - that the lady underwent training like the rest of the nominees. When we asked why she was undergoing training and yet she has not fulfilled the requirements, the information we gathered was that there is a difference between going for training and taking up office. You can be trained as you continue with the process of taking up office, which includes renouncing the citizenship that this House demanded. We might also be here talking about "subject to other conditions", but was that "subject to" to be clarified by this House or the Executive? We might even be in a situation whereby the Executive has documentation to say that the process of renouncing has started and that she has satisfied the Executive at that point and that she is able to take up that seat. However, that requires the Committee on Implementation to confirm that she has undergone training. The question is: Has she really been deployed as an ambassador yet? It is important we get that clarity. As a Committee, we are very focused on that. The House passed that condition. It is up to the Committee on Implementation to confirm whether that nominee has taken up that position. If that has not fulfilled the condition, then as a Committee, we have a task to take up with the Executive to confirm whether somebody who has not met the conditions as set out by the House has reported on duty. Let us differentiate between the two, that is, reporting for training and reporting on duty. Do we have confirmation that she has reported on duty as an ambassador or high commissioner?

**Hon. Speaker:** She is reporting for training to be trained as what? I saw the Chair of Committee on Implementation walking in. You may not have benefited from what has been said by many other Members, but the matter has been referred to your Committee. Hon. ole Kenta, please, deal with it as appropriate. Hon. Kenta, because Article 78 of the Constitution is within the leadership and integrity chapter, read it together with the Leadership and Integrity Act, especially Sections 31 and 52. You need to find out from the Chief Executive Officer of the Ethics and Anti-Corruption Commission (EACC) what it is that they are doing with regard to this matter. It may be important even as you find out from the Ministry of Foreign Affairs and any other person that may be involved in that appointment.

Hon. Members, we do not need to debate this matter anymore. We will be issuing a comprehensive Communication on this matter, Hon. Pukose.

Next Order!

## PAPERS LAID

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I was talking to the ladies from Embrace on how they should improve their coverage of the country and compete with *Inua Mama*.

Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Legal Notice No. 89 of 2019 on the Civil Aviation (Aircraft Accident and Incident Investigations) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 90 of 2019 on the Civil Aviation (Air Worthiness) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 91 of 2019 on the Civil Aviation (Safety Management) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 92 of 2019 on the Civil Aviation (Air Operator Certification and Administration) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 93 of 2019 on the Civil Aviation (Approved Training Organizations) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 94 of 2019 on the Civil Aviation (Aircraft Nationality and Registration Marks) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 95 of 2019 on the Civil Aviation (Approved Personnel Licensing) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 96 of 2019 on the Civil Aviation (Approved Maintenance Organizations) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 97 of 2019 on the Civil Aviation (Operation of Aircraft- Helicopter) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 119 of 2019 on the Civil Aviation (Aeronautical Search and Rescue) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 120 of 2019 on the Civil Aviation (Units of Measurement to be used in Air and Ground Operations) Regulations, 2018 and the Explanatory Memorandum;

Legal Notice No. 124 of 2019 on the Civil Aviation (Rules of the Air) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 125 of 2019 on the Civil Aviation (Certification of Air Navigation Service Providers) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 126 of 2019 on the Civil Aviation (Operation of Aircraft for Commercial Air Transport) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 129 of 2019 on the Civil Aviation (Certification, Licensing and Registration of Aerodromes) Regulations, 2018 and the Explanatory Memorandum;

Legal Notice No. 131 of 2019 on the Civil Aviation (Instruments and Equipment) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 132 of 2019 on the Civil Aviation (Aeronautical Information Services) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 133 of 2019 on the Civil Aviation (Surveillance and Collision Avoidance Systems) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 134 of 2019 on the Civil Aviation (Aeronautical Charts) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 135 of 2019 on the Civil Aviation (Communication Procedures) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 136 of 2019 on the Civil Aviation (Aeronautical Radio Frequency Spectrum Utilization) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 137 of 2019 on the Civil Aviation (Air Traffic Systems) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 145 of 2019 on the Civil Aviation (Radio Navigation Aids) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 146 of 2019 on the Civil Aviation (Communication Systems) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 165 of 2019 on the Civil Aviation (Operation of Aircraft-General Aviation-Aeroplanes) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 166 of 2019 on the Civil Aviation (Meteorology Services for Air Navigation) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 167 of 2019 on the Civil Aviation (Licensing of Air Services) Regulations, 2018 and the Explanatory Memorandum.

Legal Notice No. 99 of 2019 on the Energy (Licensing of Petroleum Road Transportation Business) (Amendment) Regulations, 2019.

Legal Notice No. 100 of 2019 on the Petroleum (Liquefied Petroleum Gas) Regulations, 2019 and the Explanatory Memorandum, and

Legal Notice No. 132 of 2019 on the criteria for the determination of the electricity Rebate 2019 and the Explanatory Memorandum.

Thank you, Hon. Speaker.

**Hon. Speaker:** The next one is by the Member of Pan-African Parliament (PAP), Hon. Jude Njomo.

**Hon. Jude Njomo** (Kiambu, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House: Reports on the Kenyan delegation to the PAP on:

The First Ordinary Session of the Fifth Parliament of PAP held in Kigali, Rwanda, on 18<sup>th</sup> October to 2<sup>nd</sup> November 2018;

The Second Ordinary Session of the Fifth Parliament of PAP held in Midrand, South Africa, from 6<sup>th</sup> to 18<sup>th</sup> May 2019.

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. At the appropriate time when the Reports are ready, the Chair of the Departmental Committee on Finance and National Planning, Hon. Limo, will be permitted to table the report of his Committee today, this afternoon. When the reports are ready today, you will table them.

Next Order! Hon. Jude Njomo.

## NOTICES OF MOTION

### NOTING OF REPORTS OF PAN AFRICAN PARLIAMENT

**Hon. Jude Njomo** (Kiambu, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House notes the Reports of the Kenyan Delegation to PAP on the Fifth Ordinary Session of the Fifth Parliament of the PAP held in Kigali, Rwanda, from 18<sup>th</sup> October to 2<sup>nd</sup> November 2018 and the Second Ordinary

Session of the Fifth Parliament of PAP held in Midrand, South Africa, from 6<sup>th</sup> to 18<sup>th</sup> May 2019, laid on the Table of the House on Tuesday, 10<sup>th</sup> September 2019.

Thank you, Hon. Speaker.

**Hon. Speaker:** Next Order.

### ORDINARY QUESTIONS

**Hon. Speaker:** The first ordinary Question is by the Member for Matayos, Hon. Odanga.

*Question No.355/2019*

#### STATUS OF IMPLEMENTATION OF ADULT EDUCATION PROGRAMME

**Hon. Geoffrey Odanga** (Matayos, ODM): Thank you, Hon. Speaker. This is a Question to the Cabinet Secretary (CS) for Education and Research:

(i) Could the CS provide details of the implementation of the Adult Education Programme in the country including funding, administration and the number of persons enrolled in the programme per county?

(ii) What measures has the Ministry put in place to popularise adult education in counties in order to give a second chance to the Kenyans who dropped out of school for various reasons and who would wish to improve their literacy levels?

Thank you, Hon. Speaker.

**Hon. Speaker:** This Question will be responded to before the Departmental Committee on Education and Research. The next Question is by the Member for Murang'a County. You appear to be still in the weekend, now that it is about Murang'a County.

*(Laughter)*

*Question No.371/2019*

#### DELAYED CONSTRUCTION OF KANGEMA-KANYENYAINI-KIRIRI-KARURUMO ROAD

**Hon. (Ms.) Sabina Chege** (Murang'a (CWR), JP): Thank you, Hon. Speaker. I beg to ask a Question to the CS for Transport, Infrastructure, Housing, Urban Development and Public Works.

(i) Could the CS explain why the construction of Kangema-Kanyenyaini-Kiriri-Karurumo Road which serves thousands of farmers, traders and motorists in accessing Kanyenyaini Tea Factory, Gakira and Kanyenyaini markets has stalled despite having been funded?

(ii) What measures has the Ministry put in place to ensure that the said road is constructed and completed on time?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question will be responded to before the Departmental Committee on Transport, Public Works and Housing. The next Question is by the Member for Lamu East, Hon. Sharif Athman Ali.

*Question No.373/2019*

## COMPENSATION FOR LAND ACQUIRED FOR LAPSSET IN LAMU COUNTY

**Hon. Ali Sharif** (Lamu East, JP): Thank you, Hon. Speaker. Pursuant to the provisions of Standing Order No. 42A, I wish to ask the CS for Transport, Infrastructure, Housing, Urban Development and Public Works:

(i) What is the status of compensation to persons affected by the acquisition of land for the development of the Lamu Port – South Sudan – Ethiopia - Transport (LAPSSET) Corridor Project in Lamu?

(ii) What plans has the Ministry put in place to ensure that the affected persons in Kwasasi Area in Lamu East Constituency are compensated?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question will be responded to before the Departmental Committee on Transport, Public Works and Housing. The next Question is by the Member for Bonchari, Hon. John Oroo Oyioka.

*Question No.380/2019*

## CRITERIA FOR SETTING NHIF PREMIUMS

**Hon. John Oyioka** (Bonchari, PDP): Hon. Speaker, I rise to ask the Cabinet Secretary for Health the following Question:

(i) Could the Cabinet Secretary explain how the National Hospital Insurance Fund (NHIF) premiums of Kshs500 for self-employed persons and Kshs150 for people who are employed and earning not more than Kshs5,999 as stipulated in Legal Notice No.14 of 2015 (The National Hospital Insurance Fund (Standard and Special Contributions) Regulations, 2015) were arrived at?

(ii) Could the Cabinet Secretary consider classifying self-employed persons into various categories based on the amount of their earnings?

(iii) Are there plans to address challenges faced by the majority of self-employed persons whose gross income is below Kshs5,999 per month in paying the stipulated premiums?

Thank you, Hon. Speaker.

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

The next Question is by the Member for Bomet County, Hon. Joyce Korir.

*Question No.381/2019*

## PROVISION OF DETAILS ABOUT FULIZA SERVICE BY SAFARICOM



**Hon. (Ms.) Joyce Korir** (Bomet CWR, JP): Hon. Speaker, pursuant to the provisions of Standing Order No.42A(5), I rise to ask the following Question:

(i) Could the Cabinet Secretary provide details concerning the recently introduced *Fuliza* service by Safaricom Limited, including its credit-related mechanism and overall financing system?

(ii) What is the legal status of the service and its impact to the country's economy?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question will be responded to before the Departmental Committee on Communication, Information and Innovation.

Next is the Question by the Member for Baringo Central, Hon. Joshua Chepyegon Kandie.

*Question No.382/2019*

WAIVER OF OUTSTANDING FEES ARREARS BY STUDENTS

**Hon. Joshua Kandie** (Baringo Central, MCCP): Hon. Speaker, I rise to ask the Cabinet Secretary for Education, Science and Technology the following Question.

(i) Could the Cabinet Secretary consider waiving outstanding school fees arrears for over 500 former students from various secondary schools in Baringo Central Constituency who graduated between 2000 and 2016, whose parents/guardians cannot afford to clear the arrears?

(ii) Could the Cabinet Secretary explain why examination certificates for various former students continue to be held by various schools on account of outstanding fees arrears contrary to the law?

Thank you, Hon. Speaker.

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

Next Order.

CONSIDERATION OF REPORT AND THIRD READING

THE NATIONAL DROUGHT MANAGEMENT  
AUTHORITY (AMENDMENT) BILL, 2019

**Hon. Speaker:** Hon. Members, as you know, there is a requirement that we must have quorum before a Question is put. I confirm that we have a quorum.

*(Question put and agreed to)*

Let us have the Mover.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to move that the National Drought Management Authority (Amendment) Bill (National Assembly Bill No.26 of 2019) be now read a Third Time.

I request Hon. Washiali to second.

**Hon. Speaker:** Hon. Washiali.

**Hon. Benjamin Washiali** (Mumias East, JP): Hon. Speaker, I second.

*(Question proposed)*

**Hon. Speaker:** There are no comments. Therefore, I proceed to put the Question, having confirmed that there is still a quorum.

*(Question put and agreed to)*

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

## BILLS

### *Second Reading*

THE SECTIONAL PROPERTIES BILL, 2019

*(Hon. Benjamin Washiali on 8.8.2019)*

*(Debate concluded on 8.8.2019)*

**Hon. Speaker:** Hon. Members, debate on this Bill was concluded when the House last debated it. What remained was for the Question to be put for the Second Reading, which I hereby do

*(Question put and agreed to)*

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

### *First Reading*

THE REFUGEES BILL, 2019

*(Order for First Reading read - Read the First Time and ordered to be*

*referred to the relevant Departmental Committee)*

**Hon. Speaker:** Before, we move to the next Order, Hon. Members, allow me, as I had indicated earlier, to re-organise the business of the House for the convenience of the House so as to enable the Chairperson of the Departmental Committee on Finance and Planning to table two Reports from his Committee related to crucial Bills pending before the House.

Hon. Limo.

### PAPERS LAID

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Reports of the Departmental Committee on Finance and Planning on its consideration of:

The Public Finance Management (Amendment) Bill (National Assembly Bill No.63 of 2019).

The Senate amendments to the County Governments Retirement Scheme Bill (National Assembly Bill No.10 of 2018).

Thank you, Hon. Speaker.

**Hon. Speaker:** Next Order.

### MOTIONS

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

**Hon. David Pkosing** (Pokot South, JP): Hon. Speaker, I beg to move the following Motion:

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

This is a critical straightforward amendment. It is amending the Tokyo Convention of 1963. The Tokyo Convention of 1963 was telling the authorities how to deal with unruly passengers on-board an aircraft. As Members might have seen in our Report, the offenses are as follows:

Physical assault or a threat to commit such assault against a crew member and refusal to follow a lawful instruction given by or on behalf of the aircraft commander for safety purposes. Those are offences that the Montreal Protocol attempted to address. It proceeded to recognise that airlines have a right to and may seek compensation from unruly passengers for costs incurred as a result of their unruly behavior, where this involves diversions to disembark an unruly passenger. It further recognises that States may establish an in-flight security officer programme on a bilateral or multilateral terms.

Why are we seeking this amendment? This amendment is very important because the Tokyo Convention of 1963 limits jurisdiction to take action over offences and other acts committed on-board aircraft to the State of registration of the aircraft in question. This is very critical, that the convention only recognises State of registration. This means that if the aircraft is registered in this country, the power and the jurisdiction to take action on offenses which I have earlier stated is bestowed upon the State of registration. However, that Convention forgot State of landing and State of operator. It means that a plane may be registered in South Africa but it is operating in Kenya. Under the current protocol, if there is unruly passenger on an aircraft that is registered in South Africa and operating in Kenya, the jurisdiction to take action on that passenger lies in South Africa. What happens when that passenger is in this country? This country has no jurisdiction to punish that passenger. It means that the unruly passenger committing crimes goes without being punished by law. That is what the 1963 convention says.

Two, it did not recognise State of landing. This means that if you are flying, for example, from Lagos to Middle East, and overflying Kenya, then in between maybe in Congo or in the air of Uganda, an unruly passenger commits the offenses which I have earlier said, if that plane lands in Jomo Kenyatta International Airport (JKIA), we call that State of landing. However, without this Montreal Protocol, then it means that Kenya has no jurisdiction to punish that passenger. What happens? Will people go with the unruly passenger? Will that assure them of their security? It will not. Therefore, this protocol extends the jurisdiction to those two types of states – state of landing and state of operator. That becomes very clear. If the House approves the Report and this protocol becomes law as it is stipulated in our Constitution, it assures more security even to passengers overflying our nation or any aircraft that may seek an emergency landing because there is an unruly passenger on-board. That is what this amendment is seeking to do. It is simple.

Why did countries seek to punish those unruly passengers? There might be a number of reasons. We are living in the terrorism era. You never know at what level will a passenger becomes a terrorist or behaves like a terrorist. Therefore, that endangers hundreds, thousands or tens of thousands of people flying. Flying has become one of the major means of transport. Most people travel by air. How do you assure them of their security because of terrorism? That is why people met in Montreal under International Civil Aviation Organisation (ICAO). ICAO is again sitting from next week to regulate and give directions on how to promote safety in the whole world in terms of people flying. Because of this regime of threats of terrorism, this is a very important amendment that I will be asking the House, on behalf of my Committee, to adopt.

It assures other people who are flying to our country or overflying our country, of security. Therefore, people can overfly our country. Of course, people will know and if they do not know, I would like them to know that when people overfly our country, they pay. Therefore, when we have this on board, it means that many people will choose to overfly our country because if anything happens, they can land, disembark that unruly passenger and our country will be seized of the matter. That puts our country in another level in terms of flying and addressing issues of terrorism.

The second reason why this is very crucial is this. On behalf of my Committee, I am asking the House to agree with us – is that we are now expanding our networks through Kenya Airways. You might see my Committee shortly, when given an opportunity, seeking permission to land in other countries. When we are expanding our networks, one of the conditions that we will be asked when requesting to land is whether we have also adopted this Protocol to assure citizens of the world security in our country and whether we are within international requirements in terms of taking unruly passengers as it is required by law. Therefore, it has come at the right time. Of course, people will ask what has happened from 1963 to date. That will be answered by other people. I am sure that will not be me. Hon. Speaker, yes, I want to assure the House. As a country, we passed the Report before we went on recess; we passed a report to nationalise the Kenya Airways. Why were we nationalising it? It is so that we are able to travel to more countries and bring more people to our country and also increase our economy.

In that respect, therefore, this Protocol, should it be approved by the House, will fit in very well within our expansion and building the Kenya Airways.

The third reason why we are doing it is because the world is becoming one. The world in aviation is being managed or regulated by one organisation which is ICAO. Because the world is becoming one in terms of aviation, we become nations of the nations. We become one of the nations that has approved this Protocol. Also, we are putting ourselves in the League of Nations. You know this country and this part of the world which is Africa; Kenya is a very important connection hub. We thank God for putting us here. If you are in Nairobi and you take to the East and West; it is almost the same flight time to America and Japan. So, we are in the middle. Adopting and approving this as a country gives us and the countries possibilities of addressing or expanding it from not only the nations of registration but also nations of landing and those of operation. What it means therefore is that another country can come and invest in our country. You can register your plane in a country like Egypt or wherever but, since we have adopted this Protocol, somebody might want to say “I want to come and operate in Nairobi”. Why? It is because the framework of addressing or punishing unruly passengers is equivalent to that of the country of registration.

Therefore, this is a very important amendment. It is very clear. As suggested, it is a small amendment but very weighty.

As I conclude this presentation, it begs the question whether this Protocol followed the right procedures in terms of protocols that are supposed to be approved by the House. If you look at our Constitution these protocols are guided by the Treaty Making and Ratification Act of 2012, specifically Section 8. It gives the road these protocols should follow. Of course, it starts from the Executive that is the Cabinet then it comes to Parliament through a memorandum. I want to confirm that this Protocol came in the House in a procedural manner as it is provided for

by the Treaty Making and Ratification Act, 2012, particularly Section 8 of that piece of legislation.

Yes, Article 118 of the Constitution provides for public participation. Did this Protocol go for public participation? Yes. I confirm to the House that we published in the newspapers for people to make contributions. The Ministry and all other stakeholders made their presentations to my honourable Committee. We prosecuted it and they were very well informed about this Protocol. They only requested that we fast-track this Protocol so that our country can do the things which I have just suggested.

With those many or few remarks, as it is clear, I confirm to the House that it followed the right road to be in this House. I thank my Committee for prosecuting this matter.

With those few remarks, I beg to move this very small but very critical amendment. I ask my colleague, Hon. Shadrack Mose to second the Report. I thank you.

**Hon. Speaker:** Hon. Mose.

**Hon. John Mose** (Kitutu Masaba, JP): Thank you, Hon. Speaker for giving me a chance to second this very important amendment. Before I sit down, I would like to make my few comments in addition to what the Chairman has said.

It is clear and evident that insecurity is an emerging issue. What this amendment seeks to do is ensure that the issues of safety and security are enhanced. Therefore, this amendment will, no doubt, add a lot of value in terms of the contribution that will be made.

We did deliberate on these issues.

*(Hon. Members applauded Hon. Ndindi Nyoro as he walked into the Chamber)*

Before I proceed, I want to appreciate and recognise the man of the moment who is Hon. Ndindi Nyoro. Let us give him a rousing welcome. While I am on my feet, I also want to congratulate Hon. Ndindi Nyoro for his confidence and the manner in which he has handled issues that have surrounded the representation of his constituency of Kiharu. We thank you and say that, Hon. Ndindi Nyoro, you should stand firm and steadfast in efforts to ensure that you represent your people effectively, without intimidation and without any coercion. That is to ensure the people of Kiharu who chose you get their fair share of what is required.

Hon. Speaker, while I am still on my feet, it is becoming a matter of great and serious concern how Members of Parliament are handled. I urge Members to unite to ensure that the integrity and respect that goes with the positions that you hold is not whittled down but is given the respect and decorum that is required.

**Hon. Speaker:** Now, go back to business.

**Hon. John Mose** (Kitutu Masaba, JP): Thank you, Hon. Speaker.

I want to go back to business and say that the Departmental Committee on Transport, Public Works and Housing ensured that it looked at the amendments and had an opportunity to go through it very carefully, very articulately and very diligently. That is so that the security of the one who is on board, boarding or landing is protected. This is in line with the various Acts and legislations that we looked at. As the Chairman has said, we ensured that Article 118(1) of the Constitution which is in respect of public participation was adhered to. The amendment was advertised, we received views from the Ministry. Therefore, we were completely satisfied that this amendment is critical. We will be urging the House to support it.

With that, I second.

*(Question proposed)*

**Hon. Speaker:** Hon. Members, I have seen Hon. Baya on intervention. On the list we have Hon. Baya, Hon. Omboko Milemba, Hon. Wakhungu Wamalwa, Hon. Nzambia Kithua and others. We shall start with Hon. Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Speaker. Allow me to recognise the most important and famous person currently in our country, Hon. Ndindi Nyoro, who has just walked in. I want to advise the Ministry of Interior and Coordination of National Security that when push comes to shove in the church, the church needs spiritual counselling and not police intervention. Some of these spiritual things cannot be dealt with teargas and guns. They are dealt with spiritually. I advise Hon. Ndindi Nyoro and Hon. Kamanda to go before a bishop or a pastor for prayers instead of engaging in such drama. I am also ready to pray for them.

I support this Report in light of terrorism, drug and child trafficking. The medium of this trafficking is air transport. We need to globalise the laws dealing with passengers on board aircraft. I believe this is an idea whose time has come. If there is an unruly passenger onboard an airplane, he can only be dealt with by the country that the airplane is registered. We know that the world has become a global village. We travel to east and west of this world in few hours. We travel across many countries and our airplanes land in different countries. Sometimes emergency stops are occasioned by passengers who threaten the lives of their fellow passengers on board. Considering that some of these aircraft are big, carrying up to 400 passengers, the rights of rude passengers should stop where the rights of the other passengers start. We cannot put passengers who have paid to travel to various parts of this world for business, education or to visit their families at risk because of rude passengers. We cannot put their lives at risk because of one rude passenger who cannot be dealt with by laws of any country, but the laws of the country that an airline is registered.

I commend the Departmental Committee on Transport, Public Works and Housing for coming up with this Report that approves the Ratification of the Protocol to amend the Convention on Offences and Certain Acts Committed on Board Aircraft (Montreal Protocol, 2014). As a House, we should adopt it so that we are competitive in the world market. Apart from thinking about the fastest mode of transport, the world also thinks of the safest mode of transport. The people who travel by air are at great risk of being hijacked and being accompanied by drug traffickers. So, we should, as a House, support the Committee's recommendations that the Chairperson has alluded to. They have followed all the requisite procedures before presenting them to this House. I support 100 per cent the ratification of this international instrument, so that many investors can come into our country. They will feel that we are part of the global village.

Thank you.

**Hon. Speaker:** Member for Kathiani.

**Hon. Robert Mbui** (Kathiani, WDM-K): Thank you, Hon. Speaker, for this opportunity. I also want to support the Motion. First and foremost, this issue is not just concerning our country. It goes way beyond our borders. This is a protocol that has many other nations behind it. Our Constitution states clearly that once we ratify a protocol, it becomes part and parcel of the laws of this nation. So, it is important for our country. We are no longer operating on our own but within a global village. That means, the world has been condensed by technology and it has affected the movement of people and resources. It is important, as a nation, that we approve the

amendment to the protocol so that we can be competing with other nations. It was shocking when I listened to the Chairperson about the kind of resources...

*(Loud consultations)*

Hon. Speaker, I wish to ask for your protection. The House, this afternoon is almost becoming a circus. We saw one of our Members who fought in one of the churches walk in and everybody celebrated. I wondered whether we are losing our Christianity. As a strong Christian, anyone who fights in church should not be celebrated. The lawyer of the Member who was fighting in church has also been cheered.

So, when I listened to the Chairperson, I realised that there are grey areas in international travel on people that are unruly in airplanes. We do not only have the threat of terrorism; we also have other risks like the issue of communicable diseases like Ebola. Therefore, it is important to empower those that are managing these airlines, so that they are able to ensure that laws are followed in the airplanes.

I stand to support this report and urge my colleagues to also support it.

Thank you.

**Hon. Speaker:** Member for Ijara.

**Hon. (Ms.) Sophia Noor** (Ijara, PDR): Thank you, Hon. Speaker, for giving me this chance to contribute to this important international instrument. From the outset, I support the Departmental Committee on Transport, Public Works and Housing. I thank them for bringing this instrument. The other day they brought the issue of our airline, Kenya Airways - the pride of Africa. We discussed it at length and supported that Kenya Airways must be transformed to go to the next level in terms of its operation.

As a country that needs a lot of investment, it is important that when it comes to security and safety, we make it our responsibility as a House. We should critically look at how we can support anything that touches on the security of this country, its citizens and the passengers who travel to our country with the airlines that land in our country. Because of that, I support the approval of the ratification of the Protocol to amend the Convention on Offences and Certain Acts Committed on Board Aircraft (Montreal Protocol, 2014). As country, we are trying to expand our networks.

As we expand our networks and enter into new agreements with other international companies and countries, we need to also appreciate that we are part of a global village where we are trying to connect and relate to every country. The security of every individual we interact with is very key. If something happens to another country's airline on our soil and we have not appreciated this instrument, then it is going to look bad on us. So, it is important that we support this, as a country. It is important for this House to appreciate this very important instrument that is addressing issues of passengers, airlines and interrelations globally with other people.

The other important thing that this amendment will bring on board is economic growth for our country. We will be able to grow because of creating an environment which is insecurity-free. People will be very comfortable to come and do business with us. People will be able to come and invest in our country. Security is the most important thing. That is why any time issues touching on security come on board, we need to collectively support the relevant authorities so that we are able to sell our country. When we talk about security, we talk about an enabling environment; an environment that is good; an environment that takes care of everybody; an environment that protects its citizens and beyond. We will then be able to say that our country is



one of the first countries that will be able to attract investors because we are taking care of their security.

With those few remarks, I support this particular international instrument.

**Hon. Speaker:** Member for Baringo County.

**Hon. (Ms.) Gladwell Cheruiyot** (Baringo CWR, KANU): Thank you, Hon. Speaker. I am also...

**Hon. Speaker:** Member for Kikuyu, I am following the list that appears here. There is no indication that your card has been stolen as I have heard you shout. I am following the list. I can tell you, from this list, that the next person is the Member for Seme. That is the way it is.

Proceed.

**Hon. (Ms.) Gladwell Cheruiyot** (Baringo CWR, KANU): Thank you, Hon. Speaker. I hope he has not eaten into my time.

I support the amendment that has been brought by the Committee on transport. If this amendment goes through, it will be one of the best things that this House will have done because all of us travel in one way or another. I must say that I once experienced an unruly passenger on an aircraft, and the experience was not very nice. The attendants had very little to do with him. He was on transit.

The world is globalised with people traversing from one continent to another and from one country to the other. It is important that issues of security in airborne aircraft are taken care of. Passengers aboard aircraft should not think that they are free to do what they want to do without it being taken as an offence. The crimes which happen aboard aircraft could be many. We are living in a world where acts of terror can be executed anywhere. It can be at the airport or when we are aboard aircraft. Even when people have been scrutinised or checked seriously and certified that they do not have any weapons, some people can decide to even use their hands to hurt others. So, the Montreal Protocol of 2014 and its amendments are worth being done. It is important that the measures taken to curb transnational crimes committed on land are also applied on board passenger aircraft so that people are convinced that when they travel nobody can step on their feet because such would-be assailants think that nothing can be done to them. So, I support the amendment. It is important that the Departmental Committee on Transport goes ahead and brings forth these amendments so that when we travel, we feel safe and protected because we know that offences committed aboard aircraft can be prosecuted. Somebody will hurt or offend someone else without being taken anywhere.

Even as they do this, I also would suggest that on the same we have issues of health which also affect people in aircraft. It is important to also look into that aspect. One time when we were travelling with Dr. Nyikal, somebody collapsed in the aircraft. There was no doctor. There was nothing that could be done. Having known that we were with Dr. Nyikal, I ran to him very fast so that he could try and save the patient. Later on, I discovered that such action has some legal implications. Dr. Nyikal was very uneasy to assist because in case of anything, he would have been blamed. So, as the Committee does this, let us look at the health of the people aboard aircraft so that we see how best they can be handled when we have emergencies. Therefore, the Chair and the Committee on transport may continue amending this protocol so that we may get things that benefit us while travelling.

With those remarks, I support.

**Hon. Speaker:** I confirm your time was not eaten into.

Hon. Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Speaker for giving me an opportunity to contribute to this Motion.

This is an extremely important Motion that seeks the ratification of the Protocol to amend the Convention of Offences and Certain Acts committed on Board Aircraft – the so-called Montreal Protocol. This is an important amendment because it gives control and power of management of unruly passengers and any other activity of that nature in an aircraft to the country where the aircraft will land and not just the country of the operator. Imagine if we were to stick to the old convention that stated that the person can only be dealt with in the country of the operator and people are mid-air and there is an unruly person, either the plane would have to fly back to the country of the operator or, if the aircraft landed for the safety of the patient and left the unruly person in another country, he would go scot-free. Perhaps, he would then have to be sent back.

Air travel has actually globalised the world, and it is the most efficient means of transport across countries. Technically, air travel is the safest means of transport, much safer than road transport. In fact, statistically, you are safer from any technical error in a plane than in a hospital. It means it is very unlikely that a technical error will occur in a plane to jeopardise the security of a patient much more so than in a hospital. This is due to the very strict standard operating procedures in airlines that are really adhered to and are amended from time to time when there are any new events. This safety is because of that strictness and diligence. Any small event in the air is likely to cause some major disaster.

In these days of terrorism, terrorists have adopted systems that do not even need the weapons that we look out for and a mere disturbance in a cockpit is likely to make a plane crash. We even know of suicidal persons who have tried to use airlines to commit suicide and kill with them large numbers of people. It is therefore mandatory that there is need for fast and diligent action, not only in the airline, but also to countries where the airline may decide to land at the time of such an event.

This is the only way we can protect air transport which is a big means of businesses such as tourism to various countries, airlines and airports. So, apart from protecting the lives of people it also protects the integrity of air transport as a whole. Therefore, there is need for maximum security and empowerment of the commanders of the flights and security agents of countries that they are flying over to at any one time. They are required to take up the matter and deal with persons that are unruly. This will give pilots and their crew the opportunity to land anywhere at any time without any fear being sure that the offender will be apprehended and dealt with, with the full jurisdiction of the laws of the country in which the plane lands at the time of that emergency.

Hon. Speaker, we cannot over-emphasise that. As Hon. Gladwell just said, of course this does not extend to things such as health, but it is true since I once had to take care of a patient in an airline. The truth is, if you do, you must also be subjected to some rules and registration procedure. I do not think that is taken care of here, but it is something that we may have to look at in these air transport conventions.

So, I support the amendment so that Kenya will be part of the international world where air transport is felt to be safe. So, planes will fly over Kenya without any fear that should they have a problem, they will not know how to deal with the unruly passengers or any other activity that is going on in the airline.

With those remarks, I support this Motion.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Member for Othaya. He is not around and not desiring to speak, let us have the Hon. Member for Buuri.

**Hon. Mugambi Rindikiri** (Buuri, JP): Thank you, Hon. Speaker. I am part of this Committee that looked at these amendments. At the outset, the Montreal Protocol is meant to bring sanity in the way air transport is done. I know, when it comes to its operationalisation there is need to standardise the safety measures of all aircraft operators. We cannot underrate or underestimate the importance of having clear and standardised security measures on board.

Hon. Speaker, the word “unruly” is quite diverse. However, as long as the passenger on board is not conforming to the requirements on how to conduct himself or herself in the aeroplane then other passengers on board are endangered.

Therefore, this amendment is very critical because what will happen is that all operators will have standard measures of security within the aircraft. There are different operators of aircraft, yet we are only talking of passengers. We also have cargo planes. When it comes to security, the measures the aircraft operator is going to take into consideration will be universal as far as the Protocol is concerned.

Hon. Speaker, as my colleagues have said, air transport is the safest means of transport. Therefore, we cannot as Kenyans seem not to be part of those safety measures that will guarantee safety of the travellers who use our space such as Kenya Airways and other operators in the country. This is a very important Protocol and I beg to support it. I also ask Members to pass it.

However, before I sit down, I would like to congratulate my brother Hon. Ndindi Nyoro for standing firm. Through him we have proved how bad our security systems are, how the security organs misuse resources and how State organs in charge of protecting Kenyans are arresting people at night. It has proved that these people are not there for the truth. The accusations levelled against Hon. Ndindi Nyoro were purely lies and so I support this. That was directed to congratulate him.

**Hon. Speaker:** Just a minute. Hon. Members, let me tell you why the rules of relevance are important. You are debating a specific Motion. Anybody reading your contributions in future 30 years from now and that may be your grandson, will be wondering how his grandfather was coordinating things. So, please when you want to contribute to the other one, we can create an opportunity in order to avoid a situation where your contributions look funny.

Let us have Hon. Osotsi.

**Hon. Godfrey Osotsi** (Nominated, ANC): Thank you, Hon. Speaker for the opportunity to also contribute to this very important Motion on the ratification of this Protocol. This Protocol is very important because it will further enhance aviation security which is a very important issue especially for airlines, passengers, governments and business people all over the world.

This Protocol talks about unruly passengers. Cases of unruly passengers are on the increase and according to statistics, majority are those that are intoxicated with alcohol. Hon. Speaker as you are aware, some airlines have no limit on the amount of alcohol that is sold to passengers on flight and even in the restaurants at the airport. I think one of the things that stakeholders in the industry need to engage in is whether they should have alcohol at all on airlines.

As you are aware, smoking is not allowed on airlines but alcohol is allowed. There is no limit and in most cases you find that we have passengers who are highly intoxicated because of alcohol. There is also no proper screening of passengers who are drunk. You find someone getting into an aeroplane heavily drunk and causing a lot of trouble in the flight. I think one of the things that the stakeholders in the industry need to look at is the issue of how to manage

unruly passengers who are drunk. I know most airlines make a lot of their sales from the sale of alcohol. In fact, it is estimated that 50 per cent of the inflight sales are from the sale of alcohol products. There must be a clear balance because I think the safety of passengers is more important than the sale of alcohol to passengers.

The most important thing is to look at other aspects of this treaty. This treaty gives airlines and any other person who is affected by unruly conduct of a passenger the right to seek compensation from these unruly passengers. The compensation can arise from a number of instances, for example, delayed flights. We have cases of diverted flights and cancelled flights. These are costly. So, someone has to pay for that. This treaty is very clear. Passengers, airlines and the Government will have the right to seek compensation from the unruly passengers for the cost incurred as a result of the unruly conduct. I think that is very important. The treaty also provides mechanisms for managing inflight security to manage passengers who are clearly unruly. This is a very important aspect in terms of enhancing the aviation industry.

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

*[The Temporary Deputy Speaker  
(Hon. Christopher Omulele) took the Chair]*

Hon Temporary Deputy Speaker, I want to comment on one issue which was recently reported in our newspapers about the luggage scandal at Kenya Airways involving staff where they clear luggage after receiving some compensation from some passengers. This can be a serious issue of security because that means that the weight limit is not controlled and, therefore, you end up having overloaded flight which can cause an accident any time. This is an issue that we ask the Government to investigate and deal with. This is because lives of many Kenyans and also passengers from other countries are at risk at this time when we are saying we need Kenya Airways to start making profits and stay afloat. We cannot do that if we have that kind of credibility that we have staff and people at Kenya Airways who are involved in the luggage scandal. That is a very serious issue and the Departmental Committee on Transport, Public Works and Housing with the able Chair who is here, this is a matter that you need to interrogate and give a report to this Parliament so that we know the truth around it. This is because as we are struggling with Kenya Airways to make it stay afloat, we cannot allow such things to happen that can easily ruin the company.

With those few remarks, I support this Motion. Thank you.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Mabongah, Member for Bumula.

**Hon. Mwambu Mabongah** (Bumula, Independent): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. At the outset, I congratulate the Committee for coming up with the ratification of the treaty, which is so timely in this era. Today as we speak, we are living in a global village. You realise that right now even in some flights, the communication space has increased that you get into an airline or airport and you will find that you have Wi-Fi even in space. That way, we will even have some people who have ill intentions to stay on communication.

We live in an era that we have a lot of terrorism. Most lives have been lost through such acts. In the same manner, there is the issue of trafficking. My friends have mentioned it.

(Hon. David ole Sankok spoke off record)

It is Hon. Members. Thank you for your correction, Nominee 001. Of course, you can be an Hon. Member and remain a friend. So, with all these issues happening around the world, it is very important that people who have such motives and are passengers are tried at any stage of the offence. We have cases that you enter an airline whereby people are drunk and you are travelling with them and you become very uncomfortable. At times, you may lack peace in the whole flight. So, if we have this kind of a treaty, I think we are creating a very important aviation security that our airlines will have to comply with the other airlines internationally and most of the passengers will be safer.

It is very important to note that whenever somebody makes arrangements for travelling, you always make that assumption that you are secure but at times when you get on the airline and you find these kind of people and you have nowhere to report, it becomes a challenge. Besides making that ratification that we comply with the international standards, it is also very important that as much as the airline may take precautions, we should have in it an element of compensation because at times when you are harassed and you have no peace, by the time you get into the next stopover, actually they may have inconvenienced you in one way or the other. You realise that some people even travel for medical reasons and if you do not have peace in an airline the whole time that you are travelling, that is something that the airline must look into. The element of compensation must come in.

This is a very important treaty that will make us comply with international standards as a country. It is very important for us to ensure that the citizens of this country or anybody travelling is secure. I support this ratification.

Thank you for the opportunity.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): We will now have contribution from Hon. Obo Mohamed, who has a lot of relevant experience in this regard being a captain herself.

**Hon. (Ms.) Ruweida Obo** (Lamu CWR, JP): Asante, Mhe. Naibu Spika wa Muda. Naunga mkono moja kwa moja maana usalama wetu ndani ya ndege ni muhimu sana. Sheria ziko nyingi. Hii leo kampuni nyingi zinazingatia zaidi mambo ya usalama. Kuna laini ndefu. Usalama huanza pale wageni wakiingia ndani ya ndege, mizigo ikichukuliwa na hata tukiwa ndani ya ndege. Usalama unatakikana katika nyanja zote hata ndege inapopaa. Kutoka ndege ikipaa angani mpaka inaposhuka usalama unahitajika wakati wote. Mtu akianza kuleta shida ya usalama, *captain* au rubani wa ndege ana haki... Amepewa jukumu na sheria. Hata kama ni nani amebewa humo ndani, yeye ndiye *captain*, yaani rubani. Anayo haki ya kuirejesha ndege haijalishi nani yuko ndani. Yeye ndiye mwamuzi wa mwisho. Mambo mengi kuhusu usalama yametokea sehemu nyingi na hata kuhatarisha maisha ya watu. Huwa ni kwa sababu ya mtu mkorofi ama mlevi. Ndege inapofanya *emergency landing* huwa ni hasara kubwa kwa sababu mafuta huwa yametumika mengi. *Charges* zimetozwa kwa kushuka kwa ndege. Kwa Kimombo zinaitwa *landing fees and air navigation fees*. Zote hizo huwa zimetozwa. Ni hasara nyingi. Wale waliopo kwenye ndege wanataka utulivu na usalama. Nikisema usalama, nawaonya wale, pengine kwa kutojua au kujua, wanaleta hatari kwa sababu itakufikia wewe mwenyewe pia. Unafanya wengine kama wahudumu wa ndege na marubani wawe na kazi nyingi zaidi. Kuna zile *checklist* wanapaswa watumie. Inabidi asiangalie yale aangalie hayo mengine.

Kwa mfano, kuna wakati hapa hapa Afrika ambapo ndege iliwahi kuanguka. Sababu haikuwa mtu kuleta utovu wa usalama lakini abiria alibeba mnyama. Alipoingia kwenye ndege,

akatoka kwa kikapu, watu wakasongea upande mmoja na ndege ikaanguka. Wakati mwingine abiria anaweza kuleta fujo mpaka kupigana, watu wasonge upande mmoja, kukakosa ule usawa wa ndege na ndege huenda ikaanguka. Ni muhimu kuwa na usalama wa ndege, abiria na mizigo.

Kuna mengi ya kusema lakini naunga mkono usalama uwepo. Lakini pia tusiangalie tu usalama ndani ya ndege. Usalama ni wingi kwa ndege. Kwa mfano, Serikali yetu ya Kenya au Wizara husika ya Uchukuzi inafaa iangalie vifaa vinavyotumika kwa ndege viwe vya kisasa.

Kwa mfano, kuna kifaa ambacho kinaitwa VHF omnidirectional range (VOR). Hicho kinafaa kisaidie ndege katika kupaa kwake ama kushuka pale Mombasa. Lakini kifaa hicho kinatumika zaidi wakati wa mvua. Hivi vifaa vya Kenya, havifanyi kazi wakati wa mvua. Kifaa hicho kinatumika tu wakati wa jua. Pale unapokihitaji zaidi, huwezi kukitumia. Naomba waangalie vile vifaa vinavyohitajika katika viwanja vya ndege vyetu vyote kwa sababu vinachangia pakubwa katika usalama. Wahakikishe vinafanya kazi wakati vinahitajika. Sisi tulivipatia jina wakati tukiruka. Badala ya kuviita Mike Oscar Victor, tunaviita Mike Oscar Vision kwa sababu unavitumia wakati unaweza kutembea ukiona. Wakati huoni na unahitaji kifaa hicho ndio haukipati.

Ningependa Serikali na wizara husika ziangalie viwanja vyetu vya ndege. Viwanja vyetu vya ndege vinasikitisha. Sehemu nyingine zina mipangilio kutoka nje mpaka ndani. Yote hayo yanachangia usalama. Maanake abiria akiwa na hasira pengine amefanyiwa vibaya pale nje, akiingia ndani ana hasira na kuelekeza hasira mpaka kwa ndege. Pale nje, madereva wa taxi wanakaa kama sokoni. Wanakuvuta huku na kule ukitoka ni kama hakuna tofauti na Soko la Kongowea, Mombasa. Ukitoka kila mtu anakuvuta huku, wengine wanakushika mkono kabisa wanakuvuta kule.

Sisi Wakenya hatuko mbele. Ukienda katika nchi yoyote, picha ya kwanza unayopata ni kwa kiwanja cha ndege. Unapata picha ya watu walio na tabia hiyo. Wageni wakiingia tunaonekana hatujipangi vizuri. Nchi zingine za Afrika utaona ukiingia, taxi zinaingia kwa laini. Hakuna shida kutoka ukiingia kwa *gate* mpaka mwisho. Huku unaweza kukasirishwa huku na kule mpaka ukifika ndani umechoka, sasa nawe hasira zako umepeleka kwa ndege.

Kuna mengi ya kuangaliwa katika ndege. Kama rubani, mimi ni mmoja wao. Kuna *standard operating procedures* ambazo marubani, wahudumu na hata wale waekezaji wote wanafuata. Ni kuzitilia mkazo ili zifuatwe zaidi.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well, Hon. Obo, for your very good contribution. The issues you have raised are very salient. In fact, when one travels at the Jomo Kenyatta International Airport (JKIA) and these other airports, there is a shocking confluence of taxi operators at the entry point of this airport. I do not know why the KAA cannot organise itself at these airports. The point she has raised is very valid. This is a matter that this Committee should take up. We must have order at those airports. The people who make first contact with tourists to our country portray a very terrible image.

Let us now have Gogo Achieng, Member for Rangwe.

**Hon. (Dr.) Lilian Gogo** (Rangwe, ODM): Thank you very much, Hon. Temporary Deputy Speaker for giving me this time to contribute to the ratification of the Protocol to amend the Convention of Offences and Certain Acts that are Committed on Board Aircraft. Aircraft service as a mode of transportation is important. They will really look at it because other than engine failure and mechanical issues, if we do not have safety regulations on board aircraft, it is good as having engine failure.

There are many things we can do as a community of nations to make our aircraft safe. One among them is improvement of the training of the crew on board the flight. It is important

that the crew are made aware that if we manage our level of drinks on board, then it should be done up to a given level. In Kenya we are allowed to take alcohol. Alcohol intake should be monitored. Why not introduce systems that manage the levels of alcohol that passengers can take on flight? This will be important because if training is given to the crew, they will be able to manage the amount of alcohol that one takes. Beyond a certain level, they should refuse. Most of the unruly behaviour on board is brought about by mismanagement of the drinks that are offered on board.

Other than that, there is one irritant that is very often ignored on flight and this is the level of farting within the aircraft. There are some passengers who can literally irritate fellow passengers by passing irritable bad-smelling and uncomfortable farts. If this is not managed well, it can cause discomfort and insecurity on board. We should have systems, especially management of food that is offered on board and basic medical systems that can reduce the level of gas that one can exude when they are within the flight. If there is any one given irritant that makes people fight on board it is the fart. Farting is terrible within the planes. Even in Kenya when you take a flight from Kisumu to Nairobi or Nairobi to Mombasa, if I am the only one who has experienced this then the rest of you are very lucky.

So, we should have basic provision of medicine like Eno. This should be done. It should be a practice that should be embedded in law. Many times, you find that there are some things that can be avoided. We have systems that make people vomit when they are on flight. When you ask for medication, they look for a medic for reasons that are best known to themselves. It is important to have a medical practitioner to analyse issuance of medicines before they are administered. It is also important to have basic medicines other than paracetamol on flight. Passengers go through agony in long distance flights. This causes insecurity and a lot of pain to the rest of the passengers. We cannot be secure onboard when other passengers have discomfort.

Another thing that needs to be looked at is forced deportation. If any person causes insecurity onboard, countries should be empowered to disembark him or her on the next landing place. There are situations where people become a problem to themselves and to the rest of the passengers.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Gogo, let me interrupt you for one minute. How do you propose the aircraft operators to control people who are flatulent aboard flights? What kind of measures and instruments do you propose the operators to install in their aircraft, so that they can control people who are flatulent and require emission of other body emissions that are obviously odoriferous and offensive to you?

**Hon. (Dr.) Lilian Gogo** (Rangwe, ODM): Thank you very much, Hon. Temporary Deputy Speaker. That is why I was dragging in the basic training that can be given to flight crews. Farting and flatulence happen progressively. They have serious discomfort. They cause insecurity to other passengers. It is important that we include basic medication like bicarbonates, which are never in the flight. If they are there, the crew is scared to give them. We have bicarbonate of soda that can basically be given. If we empower countries to allow aircraft to have some of these basic medications included.... In a 17-hours flight, you take breakfast, lunch, dinner, another lunch and breakfast and you are seated and immobilised at one point. It is a problem.

Another tool is that we should have paramedics. They should be included aboard all international flights. Thank you for reminding me of that because I wanted to say that we should have paramedics in all international flights or even in local flights. We have many of them who are trained on basic first aid. However, when it comes to its administration, they are limited

because of cases of allergens and not knowing the medical history of passengers. When that happens, they get scared and they do not help.

When it comes to giving out alcohol in flights, people drink, especially at the higher echelons aboard the plane. When you are travelling in economy class, alcohol is average. When you are in business class, it is okay but people who are in first class manage themselves. The drinking that happens aboard flights is terrible. It is worse than what we do when we are underground or not in flights. What happens on air is bad. We should also have a system where we manage and control alcohol. People's medical history should be obtained before they are served certain alcohol for their own security.

With those very many remarks, I support the Motion.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Pkosing, I can see that you are very excited about the contributions by Hon. Gogo, who has been joined by my friend from Baringo. There being no further interest in this particular matter, it is now your time to reply.

**Hon. David Pkosing** (Pokot South, JP): I thank you most sincerely, Hon. Temporary Deputy Speaker, because when you are the Chair, you give me an opportunity to speak. I really thank you in a very special way. Two, the Member was excited because I was sorting you out. He was trying to drift our people towards a different direction, which they do not want. I told him that he was serving his last term in Parliament. He is back now. I told him that he is back in Parliament and he would not go out. He was very happy when I told him that he had to stay.

As I reply, I want to thank the hon. Members who made contributions. They made very critical contributions which are very moving. I was listening and I have taken notes. Going forward, the House needs to re-think about having a health officer aboard flights because it is very critical. It is very important to have him or her onboard. When we advertise to conduct public participation in future, Hon. Members who have very important input on some of these protocols should come to the Committee. For example, if we had this valuable contribution from hon. Members at the level of public participation, we would have captured their views in the Report and maybe propose amendments or register reservations on the Protocol. It would have been very helpful. However, it is not too late to do the right thing. I have heard that from the hon. Members. This will be carried. My Committee will take very serious note of those views.

The Protocol that seeks to amend the Tokyo Convention is introducing a security officer. Countries are allowed to have a security officer onboard to take care of unruly passengers. In the same manner, we would have added that we also need a health officer, a minimum of a clinical officer, onboard or whoever Members think it is right. My advice is that in future, Hon. Members should take public participation seriously. You need to advise and guide us properly.

I have also noted the issue of luggage, particularly now that we are helping and trying to reconstruct Kenya Airways afresh. As a Committee, we have taken that onboard. We have also noted the issue regarding unruly taxi operators. I have also taken other notes. Even if I did not reply on some of those few items, I have taken them onboard. This Committee has listened to the contributions of Hon. Members.

With those few remarks, I beg to reply.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, for good reasons, I direct that the necessary steps after this be undertaken when the matter is set out for consideration again.

Next Order.



APPROVAL OF RATIFICATION OF  
BILATERAL AIR SERVICES AGREEMENTS

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): The Chairperson of the Departmental Committee on Transport, Public Works and Housing, Hon. Pkosing.

**Hon. David Pkosing** (Pokot South, JP): Hon. Temporary Deputy Speaker, again, I thank you for giving me this great opportunity to move this very important Motion. It is important because it has come at the right time when, of course, we are trying, as I said earlier, to reconstruct the Kenya Airways to fly higher.

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

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

As Hon. Members have seen in our Report, in brief, these protocols or agreements are negotiations or permissions Kenya is seeking to have its planes fly to the countries I have mentioned. They are five agreements as indicated in our Report. The individual protocols are requests, in simple terms. For example, the Agreement between Kenya and Burkina Faso seeks to have our aeroplanes land in Burkina Faso and Burkinabe are also asking that their aeroplanes to land in our country. That is the meaning of these protocols. I am emphasising this, so that Kenyans and we, as a House, can differentiate between the amendment we had discussed earlier and this one. On this one, there was no agreement between us and the five countries and there were no planes flying to the countries I have mentioned. Of course, Kenyans have been going to Burkina Faso, but they might have been passing through other countries. Our aeroplanes, for example, land in Lagos because we have a bilateral agreement with Nigeria, and then travel to Burkina Faso. We are now seeking to have an agreement to allow direct flights to these countries. The protocols are also seeking to have direct flights from those countries to Kenya. This is something good.

In summary, this is what the five instruments are seeking to put in place. If you allow me, Hon. Temporary Deputy Speaker, I can go into the details of each of the protocols and later ask my colleague to second me.

Hon. Temporary Deputy Speaker, let me explain a little bit the Kenya and Cambodia Bilateral Air Service Agreement. Of course, we know where Cambodia is. As a Committee, after receiving it from the Executive through the Cabinet Secretary, we observed that the Bilateral Air Service Agreement between Kenya and the Kingdom of Cambodia was negotiated, concluded and initialled on 9<sup>th</sup> and 10<sup>th</sup> September 2014 in Phnom Penh, in the Kingdom of Cambodia. It was further operationalised by the signing of a memorandum of understanding on 10<sup>th</sup> September 2014. So, it has come to the House fairly quickly. Of course, one of the questions Members will be asking is why it has taken such a long time from 2014 to 2019 for us to discuss it. It is important to note that it is not easy to negotiate. When a country writes and asks us, as a country, of course, we know the letter does not land in Parliament, but in the Executive in the Ministry of Transport, Infrastructure and Urban Development. So, it takes a lot of time in terms of the

request, the text, language and the writing to be done. It is a legal instrument. After we approve it, it then becomes like an Act of Parliament in accordance with the Constitution. So, it takes a bit of time to negotiate. It is a give and take. Hon. Members would have seen that in the Report that I tabled.

Further, the Agreement provides for multiple designation of airlines, limits the frequencies to seven, no restriction on aircraft capacity and an open and liberal route schedule. With regard to exercise of the 5<sup>th</sup> Freedom Traffic Rights, designated airlines can be exchanged on reciprocal basis subject to approval by aeronautical authorities of respective parties. Frequencies are the number of landings. Therefore, the Agreement between Kenya and Cambodia limits the number to seven. It means they can land seven times in a day. That is what the frequencies mean. People may not understand the meaning of frequency and that is why I am trying to emphasise it. In the Agreement between Kenya and Cambodia, as a Committee, we observed that currently there is no Kenyan airline that operates scheduled air services to and from Cambodia. That is the truth. Similarly, there is no airline from Cambodia operating scheduled air services between the two states. The Cambodian authorities requested, through diplomatic channels, for initiation of the Agreement between the two states to be formally signed during the International Civil Aviation Organisation (ICAO) held between 10<sup>th</sup> and 14<sup>th</sup> December 2018 in Nairobi. Consequently, the Agreement was formally signed on 10<sup>th</sup> December 2018. That is why we are now seeking for it to be ratified by the House, so that it becomes law. That is what it means in summary, from the most crucial aspects that I have picked and explained to the House so that it can approve the Agreement between Kenya and Cambodia.

If the House approves it, we will have scheduled flights to Cambodia. It will be good to note that Kenya Airways, at the moment, has about 53 destinations. Therefore, if the House approves this Agreement, then it has a chance to increase its destinations from 53 to 58. It will be good news for the Kenya aviation industry.

The Agreement between Kenya and Burkina Faso is a very important one because Burkina Faso is a very strategic country in West Africa. In the Agreement, as a Committee, we noted that the bilateral air service agreement between Kenya and Burkina Faso was negotiated and initiated on 20<sup>th</sup> August 2008 in Burkina Faso and operationalised by signing a memorandum of understanding. That is some time back thus the negotiations took some time. The Agreement provides for multiple designation of airlines, unlimited number of frequencies (this is very good for our country), no restrictions on aircraft capacity and an open and liberal routes schedule. We also further say that with regard with the exercise of the 5<sup>th</sup> Freedom of Traffic Rights, designated airlines can operate two frequencies with full 5<sup>th</sup> Freedom Traffic Rights on any four intermediate points and two beyond those points. This is a very good condition in the Agreement between Kenya and Burkina Faso. We have also confirmed that, currently, there is no Kenyan carrier that operates a scheduled air service to and from Burkina Faso. Similarly, there is no airline from Burkina Faso operating scheduled air services between the two states. However, the Burkina Faso authorities requested, through diplomatic channels, for the Agreement between the states to be formally signed during the ICAN 2018 held on 10<sup>th</sup> to 14<sup>th</sup> December 2018 in Nairobi. That is the scenario. We do not have any scheduled direct flights between these countries and those are the conditions the Agreement details between us. It is very good to have numerous frequencies of flights between the two countries. We hope that as we do this, the new Kenya Airways is listening. I will say something about it later on.

The third Agreement before the House is between Kenya and Finland. This is very important because Finland is a very important destination in Europe for our country. My

Committee observed that the bilateral air service Agreement between Kenya and Finland was negotiated and initiated during the ICAN on 5<sup>th</sup> December 2017 in Colombo, Sri Lanka.

It was signed on 14<sup>th</sup> December 2018. That took some time because of negotiations. Further, my Committee is saying that the Agreement provides for multiple designations of airlines, 14 frequencies per week, no restriction on aircraft capacity and an open and liberal goods schedule. Exercise of the 5<sup>th</sup> Freedom Traffic Rights is subject to approval by the respective aeronautical authorities. An aeronautical authority is like the Kenya Civil Aviation Authority (KCAA), which is the regulator in terms of in and out flights of the country. This bilateral agreement is recognising the authority of KCAA. Currently, no Kenyan carrier operates scheduled air services to and from the Republic of Finland and similarly, no airline from Finland operates in our country. Perhaps after ratification and approval by this House, we can have those flights coming to our country.

Agreement No.4 is between Kenya and the Hellenic Republic. The Hellenic Republic, many people might not understand, in simple terms, is Greece. This is very important in terms of travel between Kenya and Greece in terms of tourism. My Committee is requesting the House to agree with us and approve the bilateral agreement. The Kenya and Hellenic Republic bilateral air service agreement was negotiated in 1978, reviewed and initialled on 5<sup>th</sup> December 2016 in Nassau, Bahamas, and finally signed on 4<sup>th</sup> December 2018.

The Agreement provides for multiple designation of airlines, seven frequencies for passenger services, no restrictions on aircraft capacity, no restrictions on all cargo operations and an open and liberal route schedule. This is very important. Also, exercise of the 5<sup>th</sup> Freedom Traffic Rights shall be subject to approval by the respective aeronautical authorities. This means our KCAA and an equivalent of KCAA in Greece. Further, my Committee notes that currently, no carrier from either party operates scheduled air services on the route between the two states. Therefore, asking for this is critical.

Finally, the fifth country, that we have an air service agreement that we are presenting to the House for approval is the Seychelles. The Kenya and Seychelles Bilateral Air Services Agreement was negotiated and initialled on 13<sup>th</sup> December, 2013 in Durban, South Africa. It was signed on 14<sup>th</sup> December 2018. That took a bit of time in terms of negotiations. Seychelles is a very critical country in terms of tourism for ourselves because it is near. Further, the Agreement provides for unlimited frequencies and capacity, multiple designation and a liberal route schedule. Exercising the 5<sup>th</sup> Freedom Traffic Rights is on reciprocal basis. If they give us, we give them. The Kenya Airways is operating daily to Seychelles at the moment from that Agreement. Therefore, signing of this is critical.

If you look at the timing, there is no better time than now. The Committee, with the help of the House, approved a report to restructure the Kenya Airways and nationalise it. Of course, we had two options, and it is good that I am saying this. I am hoping that two parties are listening and watching us, namely, the management of Kenya Airways and the pilots. Although I have not received any official message, there is some talk which is not good between the pilots and the management. We hope that they will not undermine the direction given by this House to restructure the Kenya Airways. We are hoping that not the pilots or anybody will hold this country or our airliner to ransom.

My Committee was faced with two options in trying to restructure it. You know what happened in the House when that Privately Initiated Investment proposal (PIIP) was introduced on the Floor of the House. It was emotive. You gave guidance that the Departmental Committee on Transport, Public Works and Housing should relook at that and bring a report to the House.

Following your directives, my Committee did not sleep for six months. We found out that Kenya Airways is finished. It is just working on mercy. If it was a human being, we can say it is breathing on a machine in Intensive Care Unit (ICU). My Committee was faced with two options among very many options on how to help our Kenya airline. One of the options was to present to this House a report on Kenya Airways and move forward. Some Members of my Committee asked why we are rescuing the Kenya Airways. Others said that we should not dissolve our airline because it is our pride, our flag. Of course, we chose not to kill the child, but to resuscitate it. That is why we went this direction and the House agreed with us.

I am saying that because it falls in line with expansion, which is asking these countries to allow us to fly there. But having some boardroom debates that want to injure the process which we are taking, we will look at that again as a Committee and we might bring a radical proposal. If there is a CBA that is against expansion and making our country move to the next level, that CBA should be renegotiated. It needs sober minds between the management and the pilots, but any party should not hold this country to ransom. We will say that without any fear of contradiction. If they cannot sort out their problems, we will legislate and solve for them on behalf of the people of Kenya. So, the yellow card is outside there. Nobody should hold our country to ransom. If the House agrees to this Motion, it means that we can fly to the five countries that we are asking. If there are people playing some games that will stop our pride from flying to these countries, what does that mean? It means some few individuals are blocking this country from moving forward. We will not allow that. If that is the case, this Committee will revisit that matter and bring to the House our proposal in terms of how to address it. We will say without fear of contradiction that on behalf of the people of Kenya, we cannot allow some few individuals having boardroom games and superiority complex issues to kill the spirit of expanding Kenya Airways.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Pkosing, you have run your time, but I will allow you an extra minute or two to move.

**Hon. David Pkosing** (Pokot South, JP): Thank you, Hon. Temporary Deputy Speaker, for that guidance. I have prosecuted all the matters that I needed. Let me repeat that no individual should hold our country to ransom based on their superiority complex or lack of it. I encourage that there should be some dialogue, so that these boardroom issues can be dealt with and we can proceed in a good manner.

With these few remarks, I beg to move and ask my colleague, who is Hon. Mose, to second.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Mose, you may wish to move to the front. We are having a technical problem with the gadgets today.

*(Hon. John Mose moved to another microphone)*

That one seems to be alive.

**Hon. John Mose** (Kitutu Masaba, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me a chance to second this very critical Motion.

The bilateral air services agreements between Kenya and the five countries are very critical to our country. You would note that the Chairman has been very elaborate in articulating the various issues that are contained in the Motion. I do not want to belabor, but I want to say one or two things.

Once these agreements are ratified, they will become part of our Kenyan laws as envisaged in Article 26 of our Constitution. In that light, it is extremely clear that once we ratify the agreements, we will have direct flights by some of our carriers like the Kenya Airways, to the various destinations like Cambodia, Burkina Faso, the Republic of Finland and the Hellenic Republic of Greece.

Multiple advantages or benefits will derive to us in ensuring that we have articulated this. One, there obviously will be new horizons and routes for our carrier, the Kenya Airways. We will expand our networks. By way of expansion, there are several benefits that we will get. First and foremost, it will expand the horizons of environment. I know very many countries from all over the world are looking at Kenya as a serious environment destination. In fact, as a serious environment hub in Africa. Therefore, when we pass this legislation on the agreements, it means that we will have opened the doors for that direct interaction with these countries.

Secondly, expansion will lead to issues like employment. In fact, we will obviously benefit from an increased level of business interaction. That will add advantage to employment of our youth. You realise that we have thousands of our youths who have graduated from various universities, technical institutions, colleges and other tertiary institutions, but are unemployed. So, if we pass these bilateral agreements between us and these countries we will, automatically, have improved on that. We will also have opened doors in that direction. This will lead to economic growth. The moment we open our doors, I am sure even our economic growth will be on the upsurge. It will improve.

The Chairman has elaborated that the Committee deliberated on the bilateral agreements. We discussed and looked at all the options. We also received good information from the ministry, which helped us to come to this conclusion.

In a nutshell, I second the Motion. I urge that my honourable colleagues find it extremely necessary and expedient and move with alacrity to ensure that we pass these bilateral agreements to enable us to start taking advantage of our interaction with these countries and make sure we continue to expand our international network.

Just to mention, the Kenya Airways started direct flights to the USA the other day. We also heard it is starting direct flights to Geneva. This expansion of the network will put Kenya in a good stead in international interactions with an addition of these other countries and many more, so that we can benefit as a country and our economy will be on upward trend.

With those few remarks, I second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Nyikal, Member for Seme.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute.

All airlines run as businesses, whether private or with State involvement. They need many destinations in many countries where they can have routes and ferry passengers. Therefore, there must be agreements between those countries. The agreements we are seeking to have with these countries are necessary for this country, particularly the Kenya Airways. As we know, Kenya Airways is not doing well. We have had many discussions in this House to find ways of improving the performance of the Kenya Airways. This is one of the ways in which we can improve its performance by getting into agreements with several countries so that we can

have many routes provided we have the capacity to do so. Obviously, if we want to get destinations for our airlines in those countries, we must reciprocate, and so the need for bilateral agreements is obvious. That is something that, perhaps, we should have done a long time ago.

As the Mover was saying, we should not ask why it has taken so long. International agreements take a lot of time and detailed discussions before you get there. If you look at the outlines of these five agreements, they have certain things in common. They have the grant of rights, so that the parties can grant rights to their airlines to operate from one side to the other. They give the rights for designation and authorisation of one or more airlines. If Kenya had more airlines, we would not just say KQ. I think this may work for the private airlines that are big enough to take international travels. So, it is something that we should look at in a bigger way.

When you traverse countries, you need the application of laws in various countries. Again, these agreements provide for how the laws in the various countries will be applied so that each of the partners is protected. We are aware that in various countries there are different rules for taxation, customs and duties. These agreements look at how we are going to give each other flexibility on the application of taxes, whether they pay duty or whether there are exemptions, particularly for equipment that have to be brought in, staff that have to come in and institutions that are to be established. Those are important. On the user charges, how are we going to charge each other for using our services in the airports? Again, issues of tariffs, pricing and safety arise. The civil aviation safety rules must apply across countries, just like what we discussed a little earlier, although these are done under various conventions. We were talking of the Montreal Convention in the last Motion. Here, we are talking a lot to the Chicago Conventions. So, it is not something that we are doing for the first time.

We also know that we are going to have different currencies. When you are doing business with people, you will want to know how you transmit the currencies, the exchange rates and the regulations. For now, in Kenya, we know that if you want to bank or transfer more than Kshs1 million, issues come up. When we get to countries where these laws do not apply, what do we do? Those are the things that will be looked at. We definitely must look at ways through which schedule of flights will be approved, ways in which we will consult with each other and ways in which we shall settle disputes. All those are important issues. When we need to terminate agreements, how do we do it? All these are part of these agreements.

This is something that we must support. We are sure that when we have a lot of airlines coming to Kenya, they will bring business. We will provide ground services, catering services and transport services. All the flights will come with this business. So, it is something that we need to get involved in.

As we support these protocols, it is important that we look at ourselves. As we get into agreements with other countries, how is our national airline performing? How is it conducting itself? Why is it that every year we have to discuss KQ in this House in relation to problems of performance, problems of funding and labour issues? Every year, they have labour issues. The Mover was talking of CBAs. How do you get into CBAs and then you do not honour them? You cannot say that “we got into this CBA, but now it is harmful”. How can it be harmful when you actually discussed it and agreed, unless at the time of discussing it, people were not sincere? Anything that is done on the basis of insincerity will fail. So, as much as we can call upon the staff and the pilots, the management must be sincere at every point, so that what is agreed on is honoured. That is really how you maintain labour relationships.

We also know that we have problems of transparency in the management of our airline; honesty in investment. Not long ago, we were discussing the owners and the banks involved and

we were very uneasy because sometimes there were clear conflicts of interest in the management of investments. The moment you have a conflict of interest in the management, particularly in huge investments like KQ, it will definitely fail. We have experience of business decisions that do not serve the airline. We were talking of leasing of planes. Obviously, these are things that experts must look at so that we can know whether we are overreaching ourselves. Are we overambitious? Is it for political reasons or for business reasons that do not benefit the airline? We know we have had problems of leasing ground transport. So, as we go international to seek markets, we must make our airline to operate in clear and transparent circumstances. Remember, just before the recess, we had a very heated debate where KQ was making a proposal to take over the management of Jomo Kenyatta International Airport. As I said then, and I am saying now, how can an organisation that is having difficulties and losses seek to take over the management of an organisation that is doing well? It did not look right. Eventually, we came to a decision that we create an entity that involves KQ and KAA. Even then, we were not clear on how the debts will be handled. As we go along, we will be very keen to see how that is implemented, so that taxpayers are protected from paying debts of investors who did not invest wisely.

With those remarks, I support.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very valid contribution, Hon. Nyikal. While he was moving, the Chair was sending out some warning to some pilots who have a CBA with KQ. I do not think that was very right, because those are agreements. As Hon. Nyikal has submitted, if you enter into agreements, you better be prepared to abide by their provisions.

We shall have contribution by Hon. Ibrahim Sahal.

**Hon. (Ms.) Nasri Ibrahim** (Nominated, FORD-K): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to contribute to this Motion.

Airline service agreements are purposed to aid the liberalisation of the international aviation market, which is generally desirable, bringing the benefits of the aviation industry to the customers and to a wider economy. Conventionally, airline services agreements are mindful of issues around international relations, sovereignty, infrastructure capacity, fairness and labour interest. The ratification of these bilateral air service agreements will, among others, increase routes and capacity of our national carrier to new destinations like Greece, Finland, Burkina Faso and Cambodia; increase route competition and resultant fair pricing, and increase the wider economy. There will be increased economic activities in the aviation sector generated by servicing, maintenance and management of the additional air service with multiple effects on the general economy. More so, it will promote the tourism sector and increase trade and business activities.

With those remarks, I support.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Arbelle, do you have your card? Come to the front since you had informed me that it is not working.

**Hon. Marselino Arbelle** (Laisamis, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Motion on the Ratification of Bilateral Air Services Agreement between Kenya and the Hellenic Republic; Burkina Faso, Cambodia, Seychelles and Finland as articulated by the Chairperson of the Committee on Transport, Public Works and Housing .

Hon. Temporary Deputy Speaker, airline business has become very competitive that for one to remain relevant, you must start thinking of bringing down your fares and opening up new

routes as this Motion is trying to suggest. Introducing direct flights to such countries is definitely a good move because it will create employment opportunities to our Kenyan population such as the youth who are looking for the scarce employment. Kenya Airways is branded with Kenya's flag. It is flying high as the wording goes, "The Pride of Africa." Every Kenyan is proud to see KQ flying all over the world. Therefore, opening up of KQ for these new routes will definitely promote Kenya as a country and Kenyans as individuals.

Kenyans are very hard working people and very good in the hospitality industry. I normally watch a programme called *Daring Abroad* and I see Kenyans who are daring abroad, venturing in different businesses and trying their level best to promote their businesses and Kenya as a whole. Within East Africa, I have been to Rwanda many times and when Rwanda Airlines was introduced to have their first direct flight to Kenya, some women in Kenya demonstrated on the streets on the grounds that their men were envying ladies from Rwanda. It is alleged that the beautiful ones are not yet born in Kenya, but if you go to Rwanda, the beautiful ones are already born.

Therefore, ladies in Kenya have been demonstrating...

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Arbelle, just for my own clarity, are you saying that Kenya is behind Rwanda in terms of the beautiful ones being born?

**Hon. Marselino Arbelle** (Laisamis, JP): That is definite, Hon. Temporary Deputy Speaker. You just need to pay a visit.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele) That in Rwanda, they have arrived but in Kenya we are still waiting?

**Hon. Marselino Arbelle** (Laisamis, JP): Yes, Hon. Temporary Deputy Speaker. In Rwanda, the beautiful ones are already born while in Kenya, they are not yet born. Of course, if you have eyes... Unless if you normally just board your vehicle and go home and come back. Here in Nairobi City, you cannot compare Rwandese women and Kenyan Women.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Arbelle, the Temporary Deputy Speaker is blind to all this. He can only receive this information from you and this I believe is your take. I will choose to let it be at that. Proceed.

**Hon. Marselino Arbelle** (Laisamis, JP): Thank you, Hon. Temporary Deputy Speaker. I am emphasising on the opening up of new routes to Burkina Faso and Seychelles just like we have done to Rwanda and the surrounding countries. Because of this, our Kenyan people who are very much daring will venture into those countries and even marry ladies from there and bring them to Kenya.

I have even seen some people who are heading foreign missions here. People such as the late Bob Collymore came with the intention of doing business in Kenya or working for Safaricom, but fell in love with our country and ended up staying here, married, died and got cremated here. So, that puts Kenya a notch higher than any other country.

Therefore, I urge Kenya Airways to fly high to those many other countries which have been mentioned here. We also need to bring the whole world here. The KQ needs to bring people from all over the world here. The population will definitely swell and we do not want a situation such as what is happening in South Africa where Africans are fighting and killing fellow Africans. It is absurd and needs to be condemned in the strongest terms possible.

With those few remarks, I congratulate the Chair of the Departmental Committee on Transport, Public Works and Housing for their noble initiative to open these routes. Unfortunately, we heard the other day that KQ is recording losses yet these small aircraft plying



between Rwanda, Burundi and South Sudan are reporting profits. This is similar to what happened sometimes back when Nakumatt, a chain of supermarkets, was opening branches everywhere and yet Uchumi Supermarket was closing one branch after another. We were wondering what matrix Nakumatt was applying in opening new supermarkets while Uchumi could not. It is that kind of a scenario.

I would like to congratulate our President because he is the one behind development. In the old days, we used to have traffic jams all over Nairobi. At least, today we have by-passes and roads are still being constructed.

Therefore, unless some people are pulling down KQ from flying higher, the Committee needs to look deeper into what is affecting it, so that they can register profits than just telling us that it is about the management of the airport or pilots creating problems.

Finally, our pilots need to be creative and communicate with passengers. Sometimes when an aeroplane is going through turbulence, you can hardly say a word to the person seated next to you because you do not know what is going to happen next. At least, pilots need to communicate and give passengers some confidence by saying “We are now flying over Mt. Kilimanjaro or on your left is Mt Kilimanjaro.” That way, people will gain some confidence and tilt their heads to the right or left trying to see Mt. Kilimanjaro.

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

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Member for Laisamis, I did not know that you are so humorous, but thank you for humouring us today with that very good contribution.

Let us have Hon. Obo, Member for Lamu.

**Hon. (Ms.) Ruweida Obo** (Lamu CWR, JP): Asante sana. Nimejaribu kutafuta nafasi kuweka ishara ya nidhamu. Hata kama ametuchekesha, namuomba atembelee Lamu, hasa visiwa vya Shella na Pate, ajionee warembo kisha tuone kama atasema kwamba Kenya hawajazaliwa bado. Kenya wamezaliwa. Hata sisi ukituangalia utajua kwamba wakati wetu tungekuwa nasi *cabin crew*, nafikiri angefurahia huduma yetu. Kwa hivyo, wasichana wetu Wakenya ni warembo. Hakuna nchi hapa Afrika Mashariki inatuweza kwa urembo.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Mhe. Obo, nakubaliana nawe. Endelea.

**Hon. (Ms.) Ruweida Obo** (Lamu CWR, JP): Asante. Mhe. Naibu Spika wa Muda, tumechangia sana. Ningependa kuchukua nafasi hii pia kupongeza KCAA. Nimetoka hapo nje kupiga simu kwa marubani kadhaa kuwauliza kama pengine kuna shida zaidi kwa sababu mimi sijarusha ndege kwa miaka kama miwili. Wameniambia saa hii KCAA wanafanya kazi nzuri na kwamba wamefunga ukanda. Zaidi ni kwamba kutoka tupate ile safari ya kwenda Amerika, wamejaribu zaidi. Sehemu nyingi wameziba mashimo. Hiyo ni kazi nzuri. Nawapongeza sana KCAA.

Tukizungumzia mambo ya ndege na viwanda, itakuwa si vyema watu wa Lamu wakiniangalia nikiyazungumzia hayo. Katika Kaunti ya Lamu, kiwanja cha ndege ni kimoja. Kitambo, ungeweza kutoka nchi za nje na uingie humu nchini kupitia Lamu. Saa hii, hauwezi kwa sababu ya mambo ya usalama. Tunaomba Kamati hii izingatie jambo hili. Wacha niseme kwa kimombo ili mwenyekiti aelewe. Wakati wa nyuma, Lamu ilikuwa *entry and exit point*. Saa hii, hatuna hilo na tumeendea mambo ya kaunti. Inafaa kaunti zote 47 ziwe na viwanja vya ndege vya kimataifa. Kuna visiwa upande wa Lamu Mashariki. Katika nchi nyingine, utapata kila kisiwa kina kiwanja cha ndege. Ni masikitiko kwamba Lamu tuna visiwa 11 na havina viwanja vya ndege. Wakati wa nyuma, visiwa vya Pate, Ndau and Kiwayu vyote vilikuwa na viwanja vya

ndege. Saa hii vyote havina viwanja vya ndege. Saa hii, kukitokea mgonjwa usiku na bahari ni chafu au mgonjwa akitakikana kuletwa Nairobi kwa ndege... Sehemu kama vile Maasai Mara kunawekwa mataa ili ndege zishuke kumchukuwa mgonjwa ambaye anatakikana kusafirishwa hadi Nairobi. Lamu, hilo haliwezekani hata tukitaka. Ni mpaka mtu apitie bahari chafu na shida nyingi. Naomba Kamati hii izingatie mambo hayo. Haiwezekani kuwa na kisiwa ambacho kina watu zaidi ya 18,000 na kiwe hakina kiwanja kidogo cha ndege ambapo ndege ndogo ndogo zinaweza kutoa mtu wakati wa dharura.

Hata kuhusu usalama, najua eneo la Lamu lilivyo. Itawasaidia sana watu wa Lamu kama kutakuwa na viwanja vya ndege hata huko *mainland*. Vitasaidia watu kusafiri na kufika kwa haraka. Kwa mfano, kama mtu amechukuliwa au imetokea dharura yoyote ya usalama, wataruka kwa haraka na wafike. Naomba sana hilo lifanyike. Naona mwenyekiti yuko hapa. Namuomba jambo hili alitilie mkazo. Kisiwa chochote... Hata kule Kisumu inafaa kuwe na *airport* moja.

Asante, Mhe. Naibu Spika wa Muda.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): I see no further interest in this. I, therefore, call upon the Chair to reply. Hon. Kemose, you were interested. Your card does not seem to be working, but I will give you an opportunity before I give the Chair to reply. Use the microphone next to you.

**Hon. Vincent Kemosi** (West Mugirango, FORD-K): Thank you, Hon. Temporary Deputy Speaker. I also wish to support the Motion in respect to the agreement of air services to the countries of the Hellenic Republic, Burkina Faso, Cambodia, Seychelles and Finland. As you realise, in Kenya, we do not have direct air services linking Kenya to these countries. This one has definitely hampered the movement of people among these countries. It has also been difficult to exploit the potential in this country in terms of exploiting the market and trying to access the jobs which could be available in these countries.

Kenya Airways is a national carrier, which has been in operation for so many years. Although it is facing some challenges, Kenyans pride ourselves with it. In the early 2000 and even before, Kenya Airways had several routes. It was flying to several routes in the world, but when it started having problems, they narrowed down their air services. This has also caused a very big problem in terms of movement. Accessing most of the countries or most of the routes in Africa has become a very difficult venture, in that somebody could want to travel to some countries which instead of going through other destinations, somebody can fly directly to them. An example being that the nearest route to Botswana will only take somebody three hours to fly directly from Kenya and get back in three hours' time. However, since 2016 when Kenya Airways terminated the route to Botswana, somebody has to go through South Africa and then come back to Botswana, which takes about five hours against taking about three hours and back.

Another route is accessing countries like Turkey, which is a main partner with Kenya in terms of business. If you have to go through Amsterdam or other routes, you will take about eight or so hours to get to Turkey. However, if you were to fly directly from here to Turkey, it will take you five hours to reach there.

So, this Motion is very important. If we adopt this Report - and I am very sure we are going to adopt it - opening these routes will definitely signify the attractiveness of Kenya for business in terms of tourism. It will also promote trade and by so doing, we will grow economically. The agreement will also further enhance connectivity, international trade and jobs as well as accelerate the economic development of this country, which is very important. The agreement will definitely expand the route network and we will directly fly to those countries. However, my only reservation is one: Will Kenya Airways be able to exploit or will it really fly

successfully to these routes? That needs to be interrogated by Kenya Airways itself. Last week, we were able to learn that Kenya Airways has cancelled more than 58 trips so far, which has made the airline suffer quite a big loss. Still, we are hopeful that since this agreement has been signed, Kenya Airways can pull the resources together and mobilise every aircraft which is available so that they can fly to these routes.

Above all, I support the Motion as a Member of the Departmental Committee on Transport, Public Works and Housing. It will go a long way in promoting the economy of this country. It will also definitely create jobs for the youths.

With those few remarks, I support the Motion.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, there is a problem with the system. I do not know whether the Member for Limuru is interested in speaking to this. He is very comfortable where he is seated. I will, therefore, allow the Chair to reply. Member for Limuru, you are within your rights. You are properly within the House.

**Hon. David Pkosing** (Pokot South, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this chance to reply. I take the first opportunity to thank my Committee. It was not easy to process all these within the timelines, but my Committee has very able Members, as you can see from the explanation by Hon. Kemosi. I thank my Committee for giving their all for the country. I urge the House to agree with us.

Maybe I was not understood and I want you to understand me. I was not understood when I was explaining something on the CBA. I will endeavour to bring that CBA to you. I had a good opportunity to interact with that CBA for six months when we were trying to find out the problem that bedevils Kenya Airways and the cancellation that you heard Hon. Kemosi allude to. They have a very difficult and complicated CBA. Without fear of contradiction, we are leaders. We are like doctors. When we see something bad, we will say it as it is, whether people like it or not. It is very complicated.

I am not on either side - the pilots or the management. We are not talking about salaries. Let me give you this example. The CBA only recognises three types of fleets, namely, Boeing 787, Boeing 737 and Embraer. What if we expand and get an Airbus? We will have a big problem in this country. We better face the truth. We have a big animal that will choke expansion. If the House agrees with us and we approve this, with the current CBA, we will have a problem in scheduling the connections that we are talking about. Let me tell you the truth. I will be very honest with the House. I will remain honest and truthful to the law and the principles that they need. The goodness is that the CBA is under negotiation. That is why both sides, the management and the pilots, should not take forever negotiating and blocking expansion.

Hon. Temporary Deputy Speaker, within this week, I will bring that CBA to you because I know you are able and have helped me in my Committee on a number of other issues that we have dealt with. There is a problem with the current CBA in terms of expansion, whether you look at it in terms of adding more fleets or networks. There is a problem. When you see it, at least, I will have absolved myself.

With those few remarks, I thank the Members who have contributed.

I beg to reply.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well. Hon. Pkosing, I do not envy your role in the Kenya Airports Authority and KQ issues. They are complicated. I think we have done very well. I will direct that the next necessary steps in this Motion be undertaken when the matter will be set down on the Order Paper again. I, therefore, direct that we move to the next Order.

REPORT ON PUBLIC FINANCE MANAGEMENT  
(BIASHARA KENYA FUND) REGULATIONS, 2019  
AND RELATED SETS OF REGULATIONS

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): I cannot see the Chair of the Committee on Delegated Legislation in the House. I, therefore, direct that this business be deferred. We move to the next business.

*(Motion deferred)*

**ADJOURNMENT**

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, the time being 6.15 p.m., this House stands adjourned until Wednesday, 11<sup>th</sup> September 2019, at 9.30 a.m.

The House rose at 6.15 p.m.