



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – FOURTH SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

TUESDAY, MARCH 3, 2020

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Honourable Speaker
4. **COMMUNICATION FROM THE CHAIR**

The Speaker conveyed the following two Communications–

a) CANCELLATION OF THE 64TH SESSION OF THE COMMISSION ON THE STATUS OF WOMEN (CSW)

Honourable Members,

As you are aware, a delegation comprising of Members of this House, was scheduled to travel this coming weekend to attend the 64th Session of the Commission on the Status of Women (CSW 64) to be held in New York between March 9 and 20, 2020. However, I wish to inform the House that, we are in receipt of communication from the office of the Secretary-General of the United Nations (UN), which was conveyed through the Ministry of Public Service, Youth and Gender Affairs, regarding this event. The communication indicates that the planned meeting has now been scaled down from the initial two weeks to one day, owing to concerns related to the corona virus pandemic. Member States will be represented at this meeting by their Permanent Missions based at the UN Headquarters in New York. In addition, general debate and all planned side events have been cancelled, and as such countries have been advised against sending any delegations to the 64th CSW taking place in New York.

Honourable Members, in this regard, I regret to inform the House that the scheduled travel by the representatives of the National Assembly is hereby cancelled with immediate effect, unless contrary information is received from the UN. The House should note that the ongoing pandemic may affect other future travels. I therefore request Members to be patient and bear with us on this matter of international magnitude. The House is thus accordingly guided. **I thank you!**

b) PRIVATE VISIT TO SOMALIA BY A SECTION OF MEMBERS OF PARLIAMENT

Honourable Members, my attention has been drawn to reports relating to a discreet visit made to the Republic of Somalia on Saturday, February 29, 2020, by about eleven Members of this House, majorly representing constituencies in the former North-Eastern Province of the Republic. The sensitivity of the matter, the public interest and the inquiries that have been made to my office on the matter have invited me to address the following questions relating to alleged private visit-

- (1) What are the responsibilities of a State Officer with regard to engagements with foreign governments?
- (2) What constitutes a parliamentary delegation?
- (3) Are Members travelling out of the country required to notify the Speaker and **why**?

Honourable Members, on the first question, permit me to remind this House that, under the Constitution, the office of a Member of Parliament is a State Office in the Republic of Kenya. As such, there are responsibilities expected of Members of Parliament as state officers. Article 10(2) of the Constitution spells out the national values and principles of governance that, among others, **bind state officers**.

These values, which are binding to all state officers, include **patriotism, transparency, and accountability**. These values are also emphasized in section 3 of the Leadership and Integrity Act, 2012 and section 2 of the Fourth Schedule to the Parliamentary Powers and Privileges Act, 2017. I hasten to state that, at all times, any action by a state officer, be it in their private or official capacity, ought to take into consideration the need to remain patriotic, transparent and accountable to the nation.

Honourable Members, you may recall that, pursuant to Article 74 of the Constitution, each one of you took and ascribed to an Oath or Affirmation of Member of Parliament before you assumed the office you hold as Members of Parliament. The oath or Affirmation as prescribed in the Third Schedule to the Constitution reads in part, that –

*“... I shall **bear true faith and allegiance to the people and the republic of Kenya**; that I will obey, respect, uphold, preserve, protect and defend the Constitution of the republic of Kenya; and that I will faithfully and conscientiously discharge the duties of a Member of Parliament...”*

Section 8 of the Leadership and Integrity Act, 2012 provides thus –

*(8) “State office is a position of **public trust** and the authority and responsibility vested in a State officer shall be exercised by the State officer **in the best interest of the people of Kenya**.”*

Honourable Members, these words are not a mere cosmetic decoration of the Constitution, statutes or indeed the Standing Orders. They speak to and epitomize the true spirit of statesmanship behoving of state and public officers and serve as a constant reminder that a state office is a high calling to serve the interests of the state and its people over and above individual or private interests.

Honourable Members, as reported, the alleged visit was made by a group of legislators. This may have created the impression that the said Members travelled as a *delegation* of this House.

I wish to confirm that, parliamentary delegations to foreign nations must always meet certain parliamentary parameters. First, a parliamentary delegation is formally constituted and officially communicated to the foreign country which is scheduled to be visited through my office or that of the Clerk of the National Assembly. Secondly, parliamentary delegations are either fully or partially funded by the National Assembly. Further, in terms of composition, a parliamentary delegation is constituted in a manner that reflects the different shades of political parties in the House, gender and regional balance among other considerations. In this regard, the alleged visit by the said group of Members of this House to the Republic of Somalia was **NOT** a parliamentary delegation.

Honourable Members, I will now address the issue of whether it is mandatory for Members travelling out of the country to inform the Speaker of their intended travel and **why**. There has always been a requirement to this effect in Standing Order 260, which provides as follows –

- “(1) A Member intending to travel outside Kenya **whether in an official or private capacity**, shall give to the Speaker a written notice to that effect, indicating –*
- (a) The destination intended to be visited;*
 - (b) The dates of intended travel and period of absence from Kenya; and*
 - (c) The email, telephone contact, postal or physical address of the Member during the period of absence from Kenya.*

Honourable Members, as you have clearly heard, these provisions are couched in mandatory terms although they are not meant to punish or put in suspension any Member. The requirement to notify the Speaker of any intended travel outside Kenya is provided for in the Standing Orders as a matter of civility, good order and to ensure that the Office of the Speaker can, at all times, account for the whereabouts of any Member of this House who is out of the country.

For avoidance of doubt, there is no requirement compelling Members of this House to seek consent to undertake private travels. Similarly, there is not a requirement for official parliamentary delegations to obtain consent of other offices, save for that of the Speaker, to undertake official travels. Nonetheless, parliamentary diplomacy ought not to be handled casually or in an uncoordinated manner. Indeed, this was one of the reasons that necessitated the 11th Parliament to insert new Standing Order 259A in the Rules of Procedure to provide for recognition of parliamentary caucuses and friendship groups. **As a matter of fact, there are a number of instances where Members who have travelled out of Kenya in private capacities have found themselves in circumstances that required urgent official intervention or assistance from my Office, the office of the Clerk, our Embassies in foreign countries or indeed the specialized intervention of more than one state department of the Executive branch of the Government.**

I invite you, Honourable Members to ponder, in the event that a Member or Members of this House who have travelled out of the country incognito require assistance of these offices, how would assistance be availed? I must acknowledge that majority of Members have always notified the Speaker of intended travels outside Kenya, whether in their public and private capacities.

As a matter of fact, the register in the custody of the Clerk indicates that there have been over 700 such notifications in the last 3 years (September 2017 to date). Allow me, **Honourable Members** to single out particular cases of the Hon. Esther Passaris, Hon. (Dr.) Swarrup Mishra, the Hon. Shakeel Shabbir, the Hon. (Dr.) James Nyikal, the Hon. Paul Ongili Owino and the Hon. Paul Koinange, who consistently notify my Office whenever they travel outside Kenya **in their respective private capacities**.

Honourable Members, whereas there are no sanctions against Members who fail to inform the Speaker whenever they travel out of the country, I urge you to live up to the spirit of the Chapter Six of the Constitution, particularly Article 75 relating to conduct of State Officers whether in public or official life, in private life or in association with other persons, and the oath of office that you all took. However, all Members are reminded to always abide by the provisions of Standing Order 260 requiring Members travelling outside Kenya, whether in official or private capacity to always notify the office of the Speaker.

As I conclude, Honourable members, I would like to implore upon the concerned Members and indeed the entire membership of this House in paraphrasing the words commonly used in the House by the Member for Kisumu Town West, the Hon. Olago Aluoch that, ***“to whom much has been given, much is expected; and to whom much is entrusted, of him all the more will be asked”***.

The House is so guided. **I thank you!**

5. **MESSAGES**

The Speaker conveyed the following Messages–

a) MESSAGE FROM THE PRESIDENT ON THE NOMINATION OF PERSONS TO THE OFFICE OF MEMBER OF THE TEACHERS SERVICE COMMISSION (TSC)

Honourable Members,

Pursuant to the provisions of Standing Order No. 42, I wish to convey a Message received from His Excellency the President relating to the nomination of persons for appointment to the Offices of Members of the Teachers Service Commission.

Honourable Members, the Message which was received in my office on 27th February, 2020, conveys that, in exercise of powers conferred by Article 250(2)(b) of the Constitution as read together with section 8(7) of the Teachers Service Commission Act, 2012 and section 5 of the Public Appointments (Parliamentary Approval) Act, 2011, H.E. the President has nominated the following persons for appointment as Members of the Teachers Service Commission: -

- 1. Mr. Mbage Njuguna Ng'ang'a; and**
- 2. Ms. Leila Abdi Ali.**

In this regard, H.E. the President now seeks the approval of the nominations by this House.

Honourable Members, 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 Education and Research for consideration. Section 8 of the Teachers Service Commission Act, 2012 requires the National Assembly to consider and either approve or reject any or all of the nominees within twenty-one days. Noting that the House will proceed on a short recess from March 20, 2020 to April 6, 2020 in accordance

with its published Calendar, the Committee should expeditiously notify the nominees and the general public, commence the necessary approval hearings and submit its Report to the House **on or before Wednesday, 18th March, 2020 (Morning Sitting)** to enable the House to consider the nominees within the statutory timelines.

I thank you!

b) MESSAGE FROM THE NATIONAL TREASURY ON THE NOMINEE FOR APPOINTMENT AS CHIEF EXECUTIVE OFFICER OF THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND BOARD

Honourable Members, pursuant to the provisions of section 20 of the National Government Constituencies Development Fund Act, 2015, I wish to convey a Message received from the Cabinet Secretary for National Treasury regarding recruitment of a Chief Executive Officer of the National Government Constituencies Development Fund (NG-CDF) Board. In the Message, the Cabinet Secretary is asking the House to approve the appointment of **Prof. Mohamed Hussein Abdille** to the position of Chief Executive Officer of the National Government Constituencies Development Fund (NG-CDF) Board.

Honourable Members, section 20(1) of the said Act, provides that there shall be a Chief Executive Officer of the Board who shall be recruited by the Board through a competitive process and recommendations made to the Cabinet Secretary for appointment, with the approval of the National Assembly.

Honourable Members, section 50(5) (d) of the NG-CDF Act, 2015, stipulates that one of the functions of the National Assembly Select Committee on the National Government Constituencies Development Fund is to consider and report to the House, with recommendations, names of persons requiring approval by the National Assembly pursuant to the Act.

Honourable Members, in this regard, I hereby refer the Message together with the *Curriculum Vitae* of the nominee to the Select Committee on the National Government Constituencies Development Fund to undertake the necessary approval hearings. Thereafter, the House shall consider the nominee in accordance with the Public Appointments (Parliamentary Approval) Act, 2011.

Honourable Members, section 8(1) of the Public Appointments (Parliamentary Approval) Act, 2011 requires the National Assembly to consider and either approve or reject the nominee **within fourteen days** from the date on which the notification of nomination is given. Consequently, the Committee should notify the nominee and the general public of the time and place of the approval hearings, in good time. The notification should therefore be made immediately and the Committee may thereafter commence the necessary approval hearings and submit its report to the House on or before **Tuesday, 17th March, 2020. I thank you!**

6. **PETITIONS**

The Member for Kilifi North (Hon. Owen Yaa Baya) presented a Petition regarding Restoration and Revival of the Kenya cashew nuts factory in Kilifi County.

(Petition referred to the Departmental Committee on Agriculture and Livestock Pursuant to Standing Order 227)

7. **PAPERS LAID**

The Speaker conveyed the following Communication–

**ON TIMELINES FOR SUBMISSIONS OF COMMITTEES REPORTS INTENDED FOR
TABLING TO THE SPEAKER**

Honourable Members, Standing Order 199 of the National Assembly Standing Orders provides for procedure for processing Reports of Select Committees and for clarity Reports of Select Committees range from Reports on Bills, Inquiries, appointments, travel, financial estimates and audit. A number of such Reports when being submitted are followed by Notices of Motion for consideration by the House. Others contain proposed amendments to Bills before the House.

Honourable Members, of late, I have been concerned that, a number of such Reports and accompanying Notices of Motion are brought to my office for approval just before the commencement of the day's sitting. The reason why a two (2) hours period is given to a Committee or Member to submit a Report for approval by the Speaker before a sitting, is to allow the Speaker reasonable time to apprise himself on the content of such Report, before approving it for tabling in the House.

Honourable Members, this time implies that Reports that are intended for tabling on a Tuesday or a Thursday sitting ought to be submitted to my office by 12 noon. Similarly report intended to be tabled on a Wednesday morning ought to be submitted to my office either the previous day, or by 7.30 am on that particular Wednesday morning. Reports reaching my office beyond this stipulated time will not be approved. The House is accordingly guided. **I thank you!**

8. QUESTIONS

a) The following Question was asked –

- (i) Question by Private Notice No.04/2020 by the Nominated Member (Hon. Wilson Sossion) regarding the status of investigations into the cause of recent student deaths at Precious Talents Academy and Kakamega Primary School and the provision of technical reports regarding public works certification of completion and occupation, public health and quality assurance and standards, in respect of the two schools.

*(To be replied by the Cabinet Secretary for Education before the Departmental
Committee on Education and Research)*

- (ii) Question by Private Notice No.05/2020 by the Nominated Member (Hon. Godfrey Osotsi) regarding increased incidences of insecurity in *Vihiga* County, in particular, the recent murders which took place in *Itenji and Busamu Villages of Vihiga Sub County* on 17th and 20th February, 2020.

*(To be replied by the Cabinet Secretary for Interior and Coordination of National
Government before the Departmental Committee on Administration and National
Security)*

- (iii) Ordinary Question No.28/2020 by the Member for Marsabit County (Hon. Safia Sheikh Adan) regarding insecurity and crime in areas where the National Police Reservists (NPR) were disarmed in Marsabit County.

(To be replied by the Cabinet Secretary for Interior and Coordination of National Government before the Departmental Committee on Administration and National Security)

b) The following Question was deferred-

- (i) Ordinary Question No.27/2020 by the Member for Malindi (Hon. Hon. Aisha Juma) regarding the status of the construction of *Baringo* Bridge which connects *Malindi* and *Magarini* Sub-Counties in *Kilifi* County.

9. **STATEMENTS**

a) Response to Statements -

The following responses to statements were made-

- (i) The Chairperson of the Departmental Committee on Defence and Foreign Relations made a response to a request for a statement requested by the Member for Molo (Hon. Kimani Kuria) and Member for Nandi County (Hon. (Dr.) Tecla Tum) regarding the outbreak of Corona Virus and related issues.
- (ii) The Vice-Chairperson, Departmental Committee on Health, regarding the Joint Sitting of the Standing Committee on Health of the Senate and the Departmental Committee on Health regarding Corona Virus.

10. **MOTION - INQUIRY INTO THE CHALLENGES FACING THE COFFEE RESEARCH INSTITUTE**

Motion made and Question proposed: -

THAT, this House **adopts** the Report of the Departmental Committee on Agriculture & Livestock on its Inquiry into the Challenges Facing the Coffee Research Institute, *laid on the Table of the House on Tuesday, November 26, 2019.*

(Vice-Chairperson, Departmental Committee on Agriculture and Livestock)

Debate on the Motion having been concluded on Thursday, February 27, 2020;

Question put and agreed to;

11. **MOTION - REPORT ON AUDITED FINANCIAL STATEMENTS FOR THE UWEZO FUND AND THE WOMEN ENTERPRISE FUND**

Motion made and Question proposed;

THAT, this House **adopts** the Report of the Special Funds Accounts Committee on Audited Financial Statements for the Uwezo Fund for the financial year 2016/17; and the Women Enterprise Fund for the financial year 2017/18, *laid on the Table of the House on Tuesday, November 5, 2019.*

(Hon. Nzioka Kivasu, MP on behalf of the Chairperson, Special Funds Accounts Committee)

Debate interrupted on Thursday, February 27, 2020 resumed;

(Change of Chair from the Hon. Speaker to the Second Chairperson)

(Change of Chair from Second Chairperson to the Third Chairperson)

And the time being Seven O'clock, the Third Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

12. HOUSE ROSE - at Seven O'clock.

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MEMORANDUM

The Speaker will take the Chair on
Wednesday, March 04, 2020 at 9.30 a.m.

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