

**PARLIAMENT OF KENYA****THE NATIONAL ASSEMBLY****THE HANSARD**

Tuesday, 10<sup>th</sup> November 2020

The House met at 2.30 p.m.

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

**PRAYERS****COMMUNICATION FROM THE CHAIR**

**Hon. Speaker:** I will be making a Communication when we get to Order No. 7.  
Next Order!

**PAPERS LAID**

**Hon. Speaker:** Let us have the Majority Whip.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker. I beg to lay the following Papers on the Table of the House:

Report of the Auditor-General and Financial Statements of the Kenya National Highways Authority for the year ended 30<sup>th</sup> June, 2018 and the certificate therein; and,

Report of the Auditor-General and Financial Statements in respect of the following Institutions for the year ended 30<sup>th</sup> June, 2019 and the certificate therein:

- (i) State Department for Trade; and,
- (ii) Public Service Commission.

**Hon. Speaker:** Let us have the Chairman of the Departmental Committee on Environment and Natural Resources.

**Hon. Peter Kimaru** (Mathioya, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Environment and Natural Resources on its consideration of a Petition regarding encroachment into the Nairobi National Park.

Next Order!

**ORDINARY QUESTIONS**

**Hon. Speaker:** In the first segment, we have Questions. The first Question is by the Member for Kimilili.

*Question No.246/2020*STUDENT CAPITATION UNDER THE FREE  
SECONDARY EDUCATION PROGRAMME

**Hon. Didmus Barasa** (Kimilili, JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Education the following Question:

- (i) What is the current capitation for each student under the free secondary education programme in the country?
- (ii) What is the basis for the approval of payment of extra levies such as lunch levies charged by various schools to students, and are such payments mandatory?
- (iii) What modalities has the Ministry put in place to ensure that day scholars are not sent out of school due to non-payment of such levies?

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Education and Research. The next Question is by the Member for Tigania East, Hon. Gichunge Kabeabea.

*Question No.298/2020*

## OLDER PERSONS CASH TRANSFER FUND PROGRAMME

**Hon. Speaker:** The next Question is by the Member for Kinango, Hon. Benjamin Tayari. Just press the intervention button.

*Question No.304/2020*OPERATIONALISATION OF THE GAZETTED ADMINISTRATIVE  
UNITS IN KINANGO CONSTITUENCY

**Hon. Benjamin Tayari** (Kinango, ODM): Hon. Speaker, I rise to ask the Cabinet Secretary for Interior and Co-ordination of National Government the following Question:

- (i) Could the Cabinet Secretary explain why the following administrative units namely: Kibandaongo, Busa, Mwandimu, Kifyonzo and Vinyunduni Locations; and Nzovuni, Nyango, Mkang'ombe, Mbita, Dzivani, Kazamoyo, Egu, Busho and Chigutu Sub-locations that were approved and duly gazetted on 21st June, 2017, are yet to be operationalised?
- (ii) What steps is the Ministry taking to ensure that the said administrative units in Kinango are operationalised and staffed accordingly?

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

The next Question is by the Member for Sigowet/Soin, Hon. Kipsengeret. Press your intervention button. Do you have a card or you are just using your nails? You do not seem to have a card.

**Hon. Kipsengeret Koros** (Sigowet/Soin, Independent): I do.

**Hon. Speaker:** Is your seat marked? I can see it is marked.

**An Hon. Member:** *Kuja hapa.*

*Question No.305/2020*

## CRITERIA FOR PROMOTION OF TEACHERS

**Hon. Kipsengeret Koros** (Sigowet/Soin, Independent): Hon. Speaker, I rise to ask the Teachers Service Commission the following Question:

- (i) Could the Commission explain the criteria applied in promoting teachers, particularly Principals and Deputy Principals?
- (ii) Could the Commission list the number of teachers who have been promoted in Sigowet/Soin Sub County over the last three years, indicating their previous and current ranks and job groups?
- (iii) What action is the Commission taking to address the cases of rampant biasness and favoritism in the promotion of teachers in Sigowet/Soin Sub-County?

Thank you.

**Hon. Speaker:** Very well. The Question will be responded to by a written response from the Teachers Service Commission (TSC).

Next Question is by the Member for Nakuru Town East.

*Question No.309/2020*APPOINTMENT OF VICE-CHANCELLOR  
FOR EGERTON UNIVERSITY

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Speaker. I stand to ask Question No.309/2020 directed to the Cabinet Secretary for Education.

- (i) Why has the Vice-Chancellor of Egerton University continued to remain in the office despite having attained the mandatory retirement age?
- (ii) When will a new Vice-Chancellor be appointed?
- (iii) When will a University Council, which has not been in existence since March 2020, be appointed and what has caused the delay?

Thank you.

**Hon. Speaker:** The Question will be responded to before the Departmental Committee on Education and Research. The next Question by the Member for Lamu West, Hon. Stanley Muthama. Why is it that you like going there?

*(Laughter)*

*(Hon. Muthama responded off-record)*

**Hon. Speaker:** Proceed, Hon. Muthama.

*Question No.311/2020*DATA AND TRANSFER OF FUNDS FOR ELDERLY  
PERSONS IN LAMU WEST CONSTITUENCY

**Hon. Stanley Muthama** (Lamu West, MCCP): Thank you, Hon. Speaker. I rise to ask Question No.311/2020 directed to the Cabinet Secretary for Labour and Social Protection:

- (i) Could the Cabinet Secretary provide the criteria used in the identification and registration of elderly persons in Lamu West Constituency to benefit from the Older Persons Cash Transfer Fund Programme?
- (ii) Could the Cabinet Secretary explain why data for older persons registered under the Older Persons Cash Transfer Programme in Lamu West Constituency in 2017 is yet to be captured in the system and therefore these persons are unable to enroll and benefit from the Programme?
- (iii) What steps is the Ministry taking to ensure that all the elderly persons in Lamu West Constituency registered in 2017 are duly enrolled into the programme and paid accordingly including arrears accrued since 2017?
- (iv) What measures is the Ministry putting in place to ensure that the elderly persons receive their monthly stipends and any other services conveniently without undue delays?

Thank you.

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

The last Question is by the Member for Kitutu Masaba, Hon. Mose.

*Question No.321/2020*

CONSTRUCTION OF METAMAYWA-GESIMA-MOSOBETI – KEBIRIGO ROAD

**Hon. John Mose** (Kitutu Masaba, JP): Thank you, Hon. Speaker. I stand to ask Question No.321/2020 directed to the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works:

- (i) What steps is the Ministry taking to ensure that the construction of Metamaywa-Gesima-Mosobeti – Kibirigo Road in Kitutu Masaba Constituency is completed and the road well-marked without delays?
- (ii) Could the Ministry confirm that the project includes installation of access culverts, stone pitching and drainage to enable access to public utilities by the residents especially at major junctions such as Gesima-Matutu Junction and if so, what measures are in place to ensure that the said sections are done to standard and completed within the contract period?

Thank you.

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

For the second time, the member for Tigania East, Hon. Kabeabea

*Question No.298/2020*

OLDER PERSONS CASH TRANSFER FUND PROGRAMME

**Hon. Josphat Kabeabea** (Tigania East, PNU): Thank you, Hon. Speaker for giving me an opportunity to ask this Question on behalf of my people in Tigania West. I know issues of

*miraa* markets have not been resolved. I ask Question No.298/2020 directed to the Cabinet Secretary for Labour and Social Protection:

What measures has the Ministry put in place to ensure that all the elderly persons aged 70 years and above in Tigania East Constituency who are eligible to benefit under the Older Persons Cash Transfer Fund Programme are duly registered and receive their stipends accordingly?

Thank you.

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

What is the issue, Hon. Gikaria?

*(Hon. Gikaria spoke off-record)*

No. They are working. You cannot keep touching the microphones and moving.

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Speaker. I rise to get guidance from you regarding the written...

*(Technical hitch)*

I asked a Question regarding teachers who are not getting their allowances and yet they are within Nakuru Municipality. The response I got said that these schools are in Bahati Constituency and that is not the case. I do not know what I am supposed to do now. I did not have an opportunity to appear before the TSC who were replying.

**Hon. Speaker:** The instructions are that, after two weeks, there must be a written reply to that Question and the one that has been asked by Hon. Koros.

If the reply will not be received in the Table Office, the Clerk is directed to write to the concerned state organ to make sure that the response is brought. Do not raise your hand. Once you...

Hon, Dawood, you do not have to raise your hand. You know, it is your card that is visible on the console.

**Hon. Rahim Dawood** (North Imenti, JP): Thank you, Hon. Speaker. I was afraid that you may not see it. Two colleagues have asked a Question to the Departmental Committee on Labour and Social Welfare regarding old people. I request that the old people issue be sorted out once and for all. I remember asking a Question last year and I did not get a proper reply from the Ministry of Labour. So, I want to request the Chairman of the Departmental Committee on Labour and Social Welfare that whenever the Minister or the Permanent Secretary is coming, he at least informs Members, so that...

*(Technical hitch)*

**Hon. Speaker:** *(Inaudible)*

**Hon. Samuel Atandi** (Alego-Usonga, ODM): *(Inaudible)*

*(Parts of the speech not on record)*

He is not a stranger; he is the Governor of the Central Bank of Kenya. And he has accosted me on a matter which I have raised on the Floor of this House. Therefore, the right place for me to prosecute the issue is in the House.

**Hon. Speaker:** You see, Hon. Atandi, if you told me, for instance, that that matter was reported vide OB number of this police station or police post, I would have known how to respond. Now you are telling me that a tall gentleman accosted you. Did he profess Opus Dei?

**Hon. Samuel Atandi** (Alego Usonga, ODM): Hon. Speaker, because the question has not been answered and I do not have the response, I would urge you to order that the answer be given to me tomorrow.

**Hon. Speaker:** The House will not be sitting tomorrow. The Clerk will write to the institution and an answer will be given. Whoever it is, he is a State officer and he is supposed to respond to questions that are asked from this Floor. I think you should have raised that issue a little earlier. Did you say 17<sup>th</sup> September?

**Hon. Samuel Atandi** (Alego Usonga, ODM): Yes, that is when the question was raised on the Floor of the House.

**Hon. Speaker:** That should have been responded to within two weeks at most. About the threat, go and report at the nearest police station next to Whitesands Hotel.

**Hon. Samuel Atandi** (Alego Usonga, ODM): Okay.

**Hon. Speaker:** The Member for Seme, you have the Floor.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Speaker. I wanted to raise what Hon. Ouda has raised. With your permission, please let me repeat. The issue of cash transfers to the elderly persons has been asked almost every month in this House. I do not think we get adequate answers, but I will take the direction he has taken, that when they call the officers to the House we shall be informed. It is important that the Executive takes seriously questions that are asked in this House. That is all I wanted to say, Hon. Speaker.

## COMMUNICATION FROM THE CHAIR

### STATE OF THE NATION ADDRESS TO PARLIAMENT

**Hon. Speaker:** Order Members! I have a short Communication. You recall that on Tuesday, 3<sup>rd</sup> November 2020, I conveyed a Message from His Excellency the President regarding the 2020 State of the Nation Address to Parliament, pursuant to Article 132(1) of the Constitution of Kenya. The Address is scheduled for Thursday, 12<sup>th</sup> November 2020, at 2.30 p.m. in the National Assembly Chamber.

You will agree with me that these are difficult times due to the ongoing COVID-19 Global pandemic that has necessitated a reconsideration of some of our processes.

In this regard, I wish to guide the House as follows:

1. Unlike in previous occasions, Members of Parliament will not be allowed to invite guests to this year's event. This is in keeping with the Ministry of Health advisory on the capacity of our Chamber and other holding areas within the precincts of Parliament. Additionally, members of the public will also not be invited this time round.
2. The Speakers of the Houses of Parliament have agreed on a sharing formula for the 114 seats available in the National Assembly Chamber. Eighty-eight of these seats will be reserved for use by Members of the National Assembly. In this regard and

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through the usual channels, Members who wish to attend the special sitting are hereby required to register their intention starting today Tuesday, 10<sup>th</sup> November 2020, at 6.00 p.m. The registration will be on a first-come-first-allocated basis.

3. Members of Parliament who may have been exposed or had interactions with persons exposed to COVID-19 are best advised to go for check-up, self-isolate and seek treatment if found unwell. This is in accordance with the Ministry of Health guidelines. I say this because of certain information that I have. Those who may have been exposed, please do as directed.
4. There will be no reception after the State of the Nation Address. However, the main restaurant will remain open and meals will be served in the usual manner.
5. Having consulted with the relevant State Departments, only a limited number of Members will be allowed to receive His Excellency the President upon his arrival in the precincts of Parliament. Specifically, only the Speakers of the Houses of Parliament, the Deputy Speakers and the Leaders of the Majority and Minority parties in both Houses and the Clerks of both Houses will form the receiving delegation.
6. All vehicles parked around Parliament courtyard should be removed not later than Wednesday, 11<sup>th</sup> November 2020, at noon. This is in order to pave way for preparations of the courtyard for other activities scheduled to take place immediately after the President's Address.

As we look forward to the Special Sitting, may I reiterate my clarion call to Members to be extra vigilant and to adhere to the existing directives and protocols on COVID-19 control and prevention. We should all take personal responsibility for ourselves and for those around us and not drop the guard.

The House is accordingly guided.

### STATEMENT

**Hon. Speaker:** There is a response to a statement that was sought by the Member for Embakasi West, Hon. Theuri. The Chairman of the Departmental Committee on Transport, Public Works and Housing, do you have a response to a statement or was it a mistake?

**Hon. David Pkosing** (Pokot South, JP): I do not have, Hon. Speaker.

**Hon. Speaker:** Have you delivered it?

**Hon. David Pkosing** (Pokot South, JP): Hon. Speaker, I do not have any. If it was delivered, I do not know who delivered it because it was not given to me. But I can handle it.

**Hon. Speaker:** The request for the statement was by Hon. Theuri regarding the overdue expansion of Kangundo Road. The person who should have forwarded the question is the one talking to you right now.

Hon. Edith Nyenze, make your personal statement.

### PERSONAL STATEMENT

DEMISE OF HON. KYALE MWENDWA

**Hon. Edith Nyenze** (Kitui West, WDM-K): Hon. Speaker, pursuant to Standing Order No.84, I wish to make a Personal Statement in regard to the demise of the late Hon. Kyale Mwendwa, former Member of Parliament for Kitui West Constituency who was an MP from 1987 to 1992 and who passed on in the morning of Tuesday, 3<sup>rd</sup> November 2020 at the age of 94 years due to illness.

The late Mwendwa was born on 23<sup>rd</sup> May 1926. He is one of Kenya's first Directors of Education. He was posted to Nairobi as an education officer at Independence where he rose through the ranks to be the Chief Director of Education. I am sure those who did their exams during those days can remember his signature. During his tenure, he signed all Primary Education Certificates up to 1972.

As the first Director of Education at the time of gaining Independence, he was faced with and addressed numerous racial segregation issues in the education system, inclusive of renaming of various schools in 1967. He changed the names of: Prince of Wells School to Nairobi School; Duke of York School, to Lenana School; Duke of Gloucester School to Jamhuri High School; and Delamere Girls School to State House Road Girls High School. He put in place a system of bursaries for African and Asian students who attained the grades required to enter these European schools and were willing to be part of the drive of the integration. He had to ensure success to education for the girl-child, no matter what their circumstances were.

He was the Secretary General of the Board of Trustees of Ukambani Agricultural Institute (UKAI). All along, we have had our Kamba leadership; they approached the Government to consider the establishment of a university in Ukambani to be built on UKAI land which was contributed by Kitui and Machakos County Council. The negotiations led to the gazetting of South Eastern University College (SEUCO) as successor of UKAI on 15<sup>th</sup> July 2008.

On 1<sup>st</sup> March 2013, the university became full-fledged as the Southern Eastern Kenya University whereby, Kyale Mwendwa was a trustee and a founder Member.

In 1985, being the elder brother to Kitili Mwendwa, who was the then Chief Justice and also the Member for Kitui West (who died in a motor vehicle accident), he stood in a by-election and was successfully elected as the Member of Parliament for Kitui West unopposed.

In 1987, the late President Daniel Arap Moi appointed him as a Cabinet Minister for Livestock and later moved him to the Ministry of Water in 1989.

The family has sent out a request to those who might be interested that there will be a memorial service tomorrow, 11<sup>th</sup> November 2020. His funeral will be on Friday at his Syumasango home.

On my behalf and on behalf of the people of Kitui West Constituency, I convey our heartfelt condolences to the family, the people of Kitui West Constituency and the County Government of Kitui. May his soul rest in eternal peace.

Thank you, Hon. Speaker.

**Hon. Speaker:** The Member for Makueni, the Floor is yours.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Thank you, Hon. Speaker for giving me an opportunity to condole with the family of the late Kyale Mwendwa.

On behalf of the people of Makueni Constituency, we wish to pass our condolences to the family of the great leader. Mr. Mwendwa has been a role model to many people in the education sector and also as a politician during his time when he was a Minister for Livestock. That is the time range management in the country was well advised and executed. We wish to condole with the family. I wish them God's blessing during this difficult time.



Thank you.

**Hon. Speaker:** The Member for Kitui South, kindly have the Floor.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Thank you, Hon. Speaker for giving me this opportunity. On behalf of the people of Kitui South, my family and I, would like to pay condolences to the family of the late Kyale or Kyalos. Let me say that because it is a very big family we thank God for giving him a long and fulfilled life. Having died at the age of 94, we would like to thank God for the long and fulfilling life that he gave him.

The late Hon. Mwendwa, was a pioneer educationist who served this country with a lot of zeal. Being an investor and a key person who supported many people in Kitui County. We would like to take an opportunity this time to wish his family God's mercies and support at this difficult time.

We would also like to thank the current and the previous Governments for giving him an opportunity to serve in the Ministry of Livestock, Ministry of Water among other Ministries. We would also like to thank God and his family for the contribution that he gave in terms of multiparty democracy that he supported in his life.

Thank you.

**Hon. Speaker:** The Member for Mavoko, kindly have the Floor.

**Hon. Patrick Makau** (Mavoko, WDM-K): Thank you, Hon. Speaker. I join my colleagues too in condoling this family. On my behalf and on behalf of Mavoko people and the entire Machakos County – you know I am the Governor in waiting.

*(Laughter)*

We have been talking of dynasties. When I look at the Mwendwas, Kyalo Mwendwa was an early educationist. He was a brother to the late Kitili Mwendwa, the first Chief Justice of this country. You are also aware and alive to the fact that the first lady Minister in this country came from this family. This is a family that has brought blessing to my community so much. Those days when education was not known, the late is known in history of the community for having gone to the village and picked every young man who was ready to go to school. His leadership went ahead.

He was appointed to the Ministry of Lands, Ministry of Livestock and the Ministry of Water. When I look at such a gentleman dying at the age of 94, it now begs me the question; for how long will we have leaders of this caliber take the burden of this country? I will remember him as a noble gentleman. As a community, we have really lost.

However, we have learnt from him and that is why we say he has lived and we are now celebrating his life. I invite Members of Parliament to his funeral. Despite the Coronavirus challenges, please let us give him a good send off.

Thank you.

**Hon. Speaker:** Hon. Sossion, kindly have the Floor.

**Hon. Wilson Sossion** (Nominated, ODM): Thank you, Hon. Speaker. I rise to join the rest in sending condolence message to the family of the late former Cabinet Minister and a distinguished leader in this country.

I wish to inform the House that Hon. Mwendwa was also a Minister for Labour. Therefore, the labour movement has lost a great friend who really mentored and contributed a lot to it.

The foundation stone of the current building of Kenya National Union of Teachers (KNUT), was laid by Hon. Mwendwa. Truly, this country needs such caliber of leaders particularly, when it comes to ministers. It is good that the country is thinking of going into the future having ministers nominated from elected Members of Parliament. I am sure this country will get back to the old order of having leaders who have authority derived from the people leading ministries and, of course, ensuring that we have good governance.

May the Almighty God rest his soul in eternal peace.

**Hon. Speaker:** Let us have the Member for Kitui Central.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Speaker. On my own behalf, that of my family and the good people of Kitui Central, I also join my colleagues in conveying my message of condolences to the Kyale family and the bigger Mwendwa family.

Hon. Speaker, the Mwendwa family has made a huge contribution to this country. Mr. Mwendwa, who was a senior chief, has daughters and sons who have done much for this country. As we give our message of condolences to Kyale Mwendwa, I thank this country and the previous governments for the opportunities they have accorded this family. It is this family that produced the first Chief Justice of African descent and first lady Cabinet Minister. We all remember the late Ngala Mwendwa who was also a Minister. There are a number of firsts in this family. So, I must thank this National Assembly for according this opportunity to Members to convey their messages of condolences.

As I sit, I also thank God for giving Hon. Kyale Mwendwa many years to serve this country. He has passed on at the age of 94 and I pray that most of us could get to that age so that we serve this country for many years.

So, may his soul rest in eternal peace. Amen.

**Hon. Speaker:** So be it. Let us have Hon. Pkosing.

## STATEMENT

### THE OVERDUE EXPANSION OF KANGUNDO ROAD

**Hon. David Pkosing** (Pokot South, JP): Thank you, Hon. Speaker. Allow me to give this response to a statement regarding the overdue expansion of Kangundo Road by Hon. George Theuri, the Member of Parliament for Embakasi West. I do not know if the Member is aware, but let me proceed for the benefit of the House. We received the response by the Ministry and specifically Hon. Theuri wanted to know the following;

- (i) How that money on the recent expansion works on Kangundo Road was banked.
- (ii) What the specific designs of the dual carriage are, its projected cost and scheduled timelines for expansion and improvement.

So, this is what I received from the Ministry. On 27<sup>th</sup> November 2018 the performance-based contract was awarded for maintenance of Outering Road-Njiru-Ruai-Kamulu D63, under Nairobi Region and the scope of works was divided into three parts. For the Outering Road, the Junction to Komarock Junction, Km Zero to Km Three; Pavements and repairs were done inclusive of overlay. The massive clearance of the road reserves on provision of unpaid services roads was done, drainage pits or excavation and lining was also done at the same section.

It should be noted that the Kenya Urban Roads Authority (KURA) provided an access road to Wakulima Market. This access road was to be extended to the Km Three so as to provide an even flow of traffic from the Outering Roundabout.

Hon. Speaker, from Komarock Junction to Ruai (Kilometer 3 to Kilometer 14), pavements and shoulder repairs were done. Re-carpeting of pavements, opening of the ditches and lining of drainage at the essential locations and positions of unpaired service roads where feasible. In addition, storm water draining at the junction with the Eastern Bypass was also done.

As we proceed from Ruai to Kamulu, pavements and shoulder repairs, resealing as well as opening of drains was undertaken. Currently the road is under Performance Based Maintenance where the contractor addresses any maintenance issues until the completion of the contract on 7<sup>th</sup> April 2022.

It is important to note that there were no expansion works done and the works undertaken were a holding maintenance exercise. The works are substantially complete and the contractor has been paid Ksh1, 073,963,224.72 to date.

Finally, the Ministry through the Kenya National Highways Authority (KeNHA), has and will endeavor to continue maintaining Kangundo Road to motorable conditions as mentioned in (1) above as it sources for funds for capacity enhancement.

That is the response to my colleague Hon. Theuri.

**Hon. Speaker:** Well, the Member who sought the Statement must be waiting for it in the village so he can look for it wherever he can.

Next Order.

## PROCEDURAL MOTION

### EXTENSION OF TIME FOR APPOINTMENT OF MEMBERS TO COMMITTEES

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, I beg to move the following Motion:

THAT, noting the recent changes in the membership of Committees of the House and pursuant to the provisions of Standing Order 256A (Extension of Period Prescribed), this House resolves to further extend the time for filling of the vacancies in the affected Committees by an additional 14 days from 12<sup>th</sup> November 2020.

Hon. Speaker, as I move this Motion, I want to seek indulgence of the House. The House gave us some extra time to fill vacancies that were occasioned by the changes, especially in the National Cohesion and Equal Opportunity Committee, plus some other changes that were becoming necessary because some of the Members who were already in these committees were then elected chairmen.

In accordance with our Standing Orders, you cannot be a chairman and also participate in another Committee hence...

*(Technical hitch)*

... a window within the next two weeks to complete that exercise then we just bring a comprehensive list to the Floor. So, it is in that respect that I would like to ask the House to help or understand the peculiar circumstances that we are in and approve this new extension by another 14 days.

With that, I beg to move and ask one of the whips - we have two now - I will ask the younger of the two, Hon. Maore, to second.

**Hon. Maoka Maore** (Igembe North, JP): Hon. Speaker, I think he has misinterpreted about the position and the age. It is not anywhere near there, but I beg to second.

*(Question proposed)*

*(Technical hitch)*

### SPECIAL MOTION

#### APPROVAL OF NOMINEES FOR APPOINTMENT AS HIGH COMMISSIONERS, AMBASSADORS AND PERMANENT REPRESENTATIVES

THAT, taking into consideration the findings of the Departmental Committee on Defence and Foreign Relations in its Report on the Vetting of Nominees for Appointment as Ambassadors, High Commissioners and Permanent Representatives, laid on the Table of the House on Tuesday, 3<sup>rd</sup> November 2020, and pursuant to the provisions of Article 132(2) (e) of the Constitution and Section 8 of the Public Appointments (Parliamentary Approval), Act, 2011, this House approves the appointment of the following persons as High Commissioners, Ambassadors and Permanent Representatives :

- (i) Amb. John Tipis - High Commissioner to Canberra, Australia.
- (ii) Ms. Immaculate Wambua - High Commissioner to Ottawa, Canada.
- (iii) Amb. Catherine Mwangi - High Commissioner to Pretoria, South Africa.
- (iv) Amb. Martin Kimani - Permanent Representative to United Nations, New York.
- (v) Amb. Jean Kimani - Permanent Representative to UN Habitat, Nairobi.
- (vi) Amb. Tom Amolo - Ambassador to Berlin, Germany.
- (vii) Mr. Lindsay Kiptiness - Ambassador to Bangkok, Thailand.
- (viii) Amb. Daniel Wambura - Ambassador to Bujumbura, Burundi.
- (ix) Ms. Stella Munyi - Ambassador to Harare, Zimbabwe.
- (x) Maj. Gen. (Rtd.) Samuel Nandwa - Ambassador to Juba, South Sudan.
- (xi) Maj. Gen. (Rtd.) Ngewa Mukala - Ambassador to Khartoum, Sudan.
- (xii) Amb. Benson Ogutu - Ambassador to Moscow, Russia.
- (xiii) Mr. Joshua Gatimu - Ambassador to Tehran, Iran.
- (xiv) Amb. Tabu Irina - Ambassador to Tokyo, Japan

*(Hon. Katoo ole Metito on 5.11.2020)*

*(Debate concluded on 5.11.2020 – Afternoon Sitting)*

*(Question put and agreed to)*

**Hon. Speaker:** Next!

### MOTIONS

ADOPTION OF REPORT ON PREPAREDNESS OF POLICE STATIONS  
IN MANAGEMENT OF COVID-19 PANDEMIC

THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on the Inspection Tour to Assess the Preparedness of Police Stations in the Management of the COVID-19 pandemic, in Nairobi and Kajiado counties, laid on the Table of the House on Thursday, 25<sup>th</sup> June 2020.

*(Hon. Paul Koinange on 5.11.2020)*

*(Debate concluded on 5.11.2020 – Afternoon Sitting)*

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

*(Question put and agreed to)*

Next Order!

SUSPENSION OF A SITTING DAY

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

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of Standing Order 28 (4) (Calendar of the Assembly) and notwithstanding the resolution of the House of Tuesday, 3<sup>rd</sup> November 2020 on Alteration of its Calendar, this House resolves to suspend the Morning Sitting of Thursday, 12<sup>th</sup> November 2020 at 10.00 am.

Hon. Speaker, you communicated to us that on 12<sup>th</sup> we shall be having the long-awaited State of the Nation Address by His Excellency the President. We will obviously need to prepare the Chamber and the grounds for that annual ceremony. It will obviously be inconveniencing to have the House Sitting while the grounds are being prepared and the House is being fumigated for that occasion.

So, I am asking Members, in as much as we had promised that Thursday morning is for Private Member's Motions they should agree to stay at home, prepare and dress up for the occasion. So, we give our staff the opportunity and particularly the...

*(Technical hitch)*

Members should give an opportunity to our staff to prepare the Chamber and grounds.

So, that is the rationale of this and we hope we will catch-up with the business of the day. In any case, I believe Members have noted. We will not be bringing the Private Member's Bills. This is because we were taken to court and were gagged from discussing them until there is some concurrence between our Speaker and the Speaker of the Senate.

In view of that, we will not enact business to the extent that we have been gagged. The most important thing is that we are asking for your indulgence to suspend the Sitting so that we can prepare the Chamber for the afternoon.

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I beg to move and ask the Leader of the Minority Party to second.

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

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. There is nothing much to add especially given that the Leader of the Majority has not forgotten who he wants to dress...

*(Technical hitch).*

That is none other than my sister. So, mine is just to second and allow my sister to give her thoughts.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Shamalla, can you clear this business? Hon. Members, the Leader of the Majority and the Leader of the Minority Party have...

*(Technical hitch)*

After the *Jerusalema* dance. Now, this is something different.

*(Question proposed)*

*(Question put and agreed to)*

The Chairman was not around when we had many questions being directed to his Committee earlier, but I saw him coming in. I thought I had seen him on television in Mombasa this morning.

**Hon. Peter Mwathi** (Limuru, JP): Yes, Hon. Speaker. I was in Mombasa and I had to make way because there was business. Last Thursday, I had given work at the Table Office but they were not able to tell me. I know you were asking where I was, but I was also on official business. I was leading the delegation of the Committee. Again today, I have come so that we do not have a second postponement.

**Hon. Speaker:** So, are you ready to move it?

**Hon. Peter Mwathi** (Limuru, JP): Yes.

**Hon. Speaker:** Proceed.

SESSIONAL PAPER ON NATIONAL POLICY FOR ERADICATION  
OF FEMALE GENITAL MUTILATION

**Hon. Peter Mwathi** (Limuru, JP): Hon. Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Labour and Social Welfare on its consideration of the Sessional Paper No.3 of 2019 on the National Policy for the Eradication of Female Genital Mutilation, laid on the Table of the House on Thursday, 8<sup>th</sup> October, 2020, and further approves Sessional Paper No.3 of 2019 on the National Policy for the Eradication of Female Genital Mutilation.

Hon. Speaker, under Standing Order No.216, this Committee is mandated to study the programme and policy objectives of Ministries and Departments and interrogate the

effectiveness of the implementation. Despite Kenya's robust legal framework that criminalises Female Genital Mutilation (FGM), the practice still exists. The Kenya Demographic and Health Survey (KDHS) 2014 shows that 21 per cent of women and girls aged between 15-49 years in Kenya have undergone FGM.

Further, notwithstanding the national decline in prevalence, this harmful practice is still high in some communities. Giving examples and the percentage of the rate in those communities, I will start with the Somali, 94 per cent; Samburu, 86 per cent; Kisii, 84 per cent; and Maasai, 78 per cent.

In terms of regions or former provinces, we also have the highest percentages of prevalence of FGM in those areas. The leading one is North Eastern with 97.5 per cent; Nyanza, 32.4 per cent; Rift Valley, 26.9 per cent; Eastern, 26.4 per cent; Central, 16.5 per cent; Coast, 10.2 per cent; Nairobi, 8.0 per cent; and Western, 0.8 per cent. This practice is happening across the country. It is only the percentage of prevalence in each of those areas.

Hon Speaker, it is of concern that among the emerging trends in the FGM practice is the reduction of the age at which it is performed. Other trends include changing the type of the cut, increased demand for traditional circumcisers' services, secrecy, going across the border and medicalisation of FGM. Therefore, eradication of FGM requires a multi-sectoral, deliberate effort from all state and non-state actors. The FGM practice harms the physical and emotional health of women and girls including resulting in death; physical injuries; emotional stress and psychological suffering; complications during child birth for women; infections caused by lack of sterilised tools; transmission of various infections, including HIV; early marriage of young girls; and termination of their formal education.

This Policy Paper is a revision of the National Policy on the Abandonment of Female Genital Mutilation 2010, which was found to be inconsistent with the Constitution which was promulgated in 2010 and other legislations including the Prohibition of Female Genital Mutilation Act, 2011 and the Protection against Domestic Violence Act, 2015. The overall goal for this policy is to create a society that is free from harmful cultural practices by eliminating FGM. Specifically, the policy intends to accelerate the eradication of FGM in Kenya through promoting public education and community dialogues on FGM; supporting the enforcement of the existing laws related to FGM; strengthening multi-sectoral coordination and networking, partnership and community participation towards the eradication of FGM; dealing with emerging trends and practices aimed at circumventing the legal framework; addressing gender inequality associated with FGM by promoting the empowerment of girls and women; and strengthening data collection, information and knowledge management on FGM.

The policy notes the following as the challenges faced in eradicating FGM: Inadequate data; weak coordination framework at the national and county levels including in the education, health, culture, legal, policy and economic segments; inadequate resources to accelerate the eradication of FGM; weak enforcement of the laws relating to FGM; discrimination and exclusion; and community resistance to the implementation of the Anti-FGM laws. As part of the monitoring and evaluation mechanism, the policy will be reviewed every five years and, on need basis, take into account changes in laws, priorities and emerging issues as may be determined by the Ministry responsible for gender affairs.

Following the consideration of Sessional Paper No.3 of 2019 on National Policy for the Eradication of FGM, the Committee made the following observations:

(i) Despite Kenya's robust legal framework that criminalises FGM, the practice still exists;

(ii) In order to avoid detection, communities that practice FGM are adopting new trends, including reducing age at which FGM is performed, changing the type of the cut, secrecy, going across borders to avoid law enforcement officers and, as I said before, medicalisation of FGM;

(iii) Challenges in addressing FGM include inadequate data, weak coordination framework, inadequate resources, weak enforcement of the laws, stigma, community resistance in the implementation of the law, marginalised and remote areas that are not easily accessible, and cultures where FGM is deeply rooted;

(iv) Measures to sustain political goodwill must be employed since political leaders from communities where the practice is still rampant who publicly advocate against the practice risk losing political support in their areas;

(v) There is need for accurate up-to-date data on FGM prevalence since some communities like the Kuria where the practice is rampant are not captured in the policy;

(vi) The approach on the fight against FGM should include de-localising teachers and medical practitioners from FGM prevalent areas to low prevalent areas for proper dissemination of the anti-FGM agenda. This will foster cultural integration which will break the transfer of the culture of practicing FGM from one generation to another;

(vii) Men should be empowered through training on the negative effects of FGM so as to enable them to effectively support the efforts to eradicate the FGM practice;

(viii) The Anti-FGM Board should explore other effective ways and strategies that might work in eradicating the FGM practice including-involvement of local opinion leaders, chiefs, and religious leaders, among others; and,

(ix) The proposed budget for effectively implementing the Presidential directive on ending FGM by 2022 is approximately Ksh1,491,800,000. However only about Ksh100 million has been allocated. The Anti-FGM Board should engage the relevant stakeholders and partners to adequately fund its activities in line with the provisions of Section 14 of the Prohibition of Female Genital Mutilation Act (No.32 of 2011) on funding of the Board.

Hon. Speaker, the committee therefore recommends as follows:

1. That this House adopts this Report on Sessional Paper No. 3 of 2019 on National Policy for eradication of FGM and consequently;
2. Approve Sessional Paper No. 3 of 2019 on National policy for eradication of FGM.

As I conclude, allow me to thank your office, the office of the Clerk of the National Assembly for the support accorded to this Committee during consideration of this Sessional Paper. I also appreciate and recognise the role the committees' secretariat in the preparation of the Report. May I also extend the Committee's appreciation to the State Department for Gender for coming up with this policy on appraising the committee on the immense importance of this policy in the eradication of harmful practice of FGM in Kenya.

I, therefore, beg to move and request my Vice-Chair, Hon. Gideon Koske, to second.

**Hon. Speaker:** The Member for Chepalungu, is that correct?

**Hon. Gideon Koske** (Chepalungu, CCM): Absolutely, Hon. Speaker. Thank you, Hon. Speaker. I rise to second this Motion. I note with appreciation that the overall call of this policy is to achieve gender equality by creating a just society where women, men, boys and girls, have equal access to opportunities in the political, economic, cultural and social spheres of life. The



policy currently before the House, pins the National Gender Policy, on Gender and Development 2000. It provides a legitimate kind of reference for addressing all gender inequalities at all levels of government and all stakeholders. It provides an avenue for gender mainstreaming across all sectors in order to generate efficient and equitable development outcomes.

The formulation of the current policy takes cognizance of the need to change the male dominated social power in Kenya, supported by statutory, religious and customary laws and practices impeding access to the call of gender equality and women empowerment by administrative and procedural mechanism. This change should not be just cosmetic, but far reaching and genuine. It should involve access to opportunities for girls' right from early childhood education to political and other levels of leadership. This policy aims at achieving equality of opportunity and outcomes with respect to access to and control of national and county resources and services on equality of treatment that needs specific and distinct needs of different categories of women and men. The policy further identifies a criterion for equality among men as follows:

- a. The quality of treatment and freedom from discrimination as provided for under Article 27 of the Constitution.
- b. Equality in the political, social, economic and cultural development spheres for women and men.
- c. Respect for human rights of women, men, boys and girls.
- d. Respect for provisions on equality in the Bill of Rights in civil administrative and judicial regulation and procedures, customary, cultural and religious practices
- e. Enforcement of statutory, religious on customary laws, with the framework of this policy in the Constitution.
- f. Duty bearers of the national and county levels of government will be equipped with relevant gender responsive requirement for planning budgeting and implementing development programmes.

These provisions are very critical. I urge this House to allocate more resources to this critical sector to enable the State Department for Gender to implement those policies.

With those very many remarks, I beg to second.

Thank you, Hon. Speaker.

*(Question proposed)*

**Hon. Speaker:** How is it that the Member for Suba South is the first on the list?

**Hon. (Ms.) Odhiambo Mabona** (Suba North, ODM): Thank you, Hon. Speaker. I am the Member for Suba North, but I do not mind being the Minority Leader for now.

**Hon. Speaker:** Oh yes, Suba North.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Speaker, I rise to support this Report by the Committee, the Sessional Paper No. 3 on Female Genital Mutilation. Female Genital Mutilation involves the partial or total removal of external female genitalia or rather injury to the female genital organs for non-medical reasons. The practice has no health benefits and for that reason even medicalisation of the practice is not acceptable. It is estimated that more than 200 million girls and women alive today have gone through FGM in Africa, the Middle East and Asia where FGM is concentrated, but there are communities from this region that have gone and practised it in other countries.

The WHO has classified it into four types. Type one, which is the partial or total removal of the clitoris and/or the prepuce (the clitoral hood or the fold of the skin surrounding the clitoris glands).

The second type is the partial or total removal of the clitoris glands and the inner labia majora, with or without the removal of the outer labia majora which is the outer part of skin of the vulva.

Type three also known as infibulation involves narrowing of the vaginal opening through creation of a covering seal. The seal is formed by cutting and repositioning the inner or outer labia majora or minora sometimes through stitching with or without the removal of the clitoris or vulva glands.

The last one which is the real one involves pricking, piercing, incising, scrapping and cauterizing (burning) the genital area.

One of the things that I will not mention in many communities which practise the severe form, sometimes they stitch after they have removed the entire part. They will stitch it using thorns and put cigarette covering.

The Kenya Women Parliamentary Association (KEWOPA) have been going through a case where somebody wants to promote Female Genital Mutilation (FGM) because it is about our culture. We had to go in camera in some of the cases when women described to us what they are going through. There is absolutely no reason for women to go through that for whatever reason, whether it is cultural or religious. There is no religion that supports it. I used to use the Quran when I was practising in the Kadhi courts and I read it a lot as part of our legal work. There is nothing that promotes that.

Hon. Speaker, I can see my time is up but I want to say that it is also against human rights. It is against the International Covenant on Civil and Political Rights, the Convention on Discrimination against Women, the Convention against Torture, Maputo Protocol and the United Nations Declaration on Violence against Women, amongst others. It is also against the Kenyan Constitution, especially if you look at Article 26. Due to lack of time, I would have said more but it is a cultural practice whose time has passed. *Imepitwa na wakati* and I am sorry for saying that.

*(Hon. Peter Kaluma spoke off record)*

Hon. Peter Kaluma wants me to be added five more minutes because it is educational for him. I would not waste the chance of telling him the real thing that women go through, including...

**Hon. Speaker:** The Member for Igembe Central, you have the Floor.

**Hon. Kubai Iringo** (Igembe Central, JP): Thank you, Hon. Speaker, for this opportunity to make my comments on this Sessional Paper. The immediate speaker has taken us through a session of learning, which maybe Hon. Peter Kaluma wanted to learn more. I believe he can see her aside so that she can go to the details, which to some of us are interesting. We wanted details. We want to hear. It is important.

FGM is a norm which has been fought by this country and many other African countries for many years. However, because of cultural backgrounds or when people have a culture which they do not want to run away from, it makes it very difficult. Some of the people who are supposed to oversee the total stoppage of FGM are the ones doing it. In some communities, you find that the chiefs, who are supposed to see to it that the girls are protected, are the ones who are doing it even to their own children. You even find teachers doing it to their own children. Grandparents are the worst of them all, especially those who hide those girls in their houses and

do it to them. Therefore, it is a vice which we have to put a lot of concerted gazetted efforts to eradicate. Apart from having it in the Constitution and passage of this Sessional Paper, we need to have each and every person in the community embracing it.

Hon. Speaker, according to the Mover, even politicians are shy to mention it because they fear to lose votes. It is true. As leaders, we must come out clean and say that this is wrong. We should stop it even if we lose votes or not, but at least we put our people on the line so that we can say that even if we lose, we have made a mark and changed this country.

*(Applause)*

Some communities have almost gone through it but those who are bent into it, we need to push forward and say, you sacrifice the position to see to it that you have saved these young girl's lives. I have seen many of them who have lost their future because they were forced into something which they did not want. In the long run they become destitute, some of them commit suicide, while others go to live in places where you least expect because of that harassment.

Therefore, law enforcement officers or opinion leaders, including us politicians, teachers, and everybody should come out and fight this vice with all due respect, especially those young parents who have succumbed to the whims of their fathers and mothers and released their children to the grandparents so that it can be done. It should be made punitive to the extent that if you do it, you are arrested, charged and jailed. If the community sees that we have imprisoned A, B, C and D, E, F and G will stop doing it. These times we just make fun of it. For instance, some of us were laughing when Hon. Odhiambo-Mabona was explaining these things. It is very important that we open our eyes and minds, and accept that we need this change. This will be done, not by anybody else, but by all of us, the victims and the ones who victimise them.

I thank you. I support.

**Hon. Speaker:** Just to get a clarification, when I was giving Hon. Odhiambo-Mabona a chance to speak, I also removed the Member for Nambale. So, to be fair, I want to follow the record. We go to the Member for Nambale, Hon. Sakwa Bunyasi.

**Hon. Sakwa Bunyasi** (Nambale, ANC): Thank you, Hon. Speaker. I was fidgeting here wondering what had happened.

I have strong views on this even though I do not come from a community that practices FGM. I feel strongly that just like we had other practices that had specific gender biases, it may be useful to begin to focus on men. Apparently, the men who believe in this think that there is some premium obtained when a woman goes through FGM. If I was to express personal favouritism, I would say I am decidedly against people who have gone through that. I feel that they have diminished them in many ways, but this is not true of people from those cultures. They may have good reasons, accumulated over the centuries, but we need a strong movement that targets, not the women, but the men.

Hon. Speaker, I remember in the last Parliament when an issue like this came up, some very senior people in the leadership of the House then became emotionally angry at any discussion that intended to restrain, reduce or restrict it. It means, therefore, that it has not in any way sunk. If that kind of strong belief is among men — who do not undergo that pain and who do not, themselves, have problems to live with those scars, visible or not visible — we are not going to win this battle and the resources will be wasted for a long time. Apart from criminalising it, which as we are told is hardly successful an indication that we are not diminishing it, we should have a programme that targets men's continuous education. In the long

term, people will realise that the benefits they seek in surgery can be obtained, I can assure you, through social interaction.

I feel bad about the women in those communities that do this. It is a practice that we must find an alternative for. I would urge the doctors in this House to begin to look for ways and suggest to us what sort of reconstructive corrections can be made so that these women can live in a modern society without those scars.

I thank you.

**Hon. Speaker:** Hon. (Ms.) Shamalla Jennifer.

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): Thank you, Hon. Speaker. I rise to support the Motion on the Policy for the Eradication of Female Genital Mutilation.

Sometimes, it is extremely important for us to understand the origins of where such things may have come from. In fact, the historical origins are traced back to Pharaonic Egypt. This has been evidenced by Egyptian mummies and supported by a Greek Papyrus in the British museums. If I stand here spiritually in a country in which the majority of us stem from the Abrahamic covenant: Christians, Jews and Muslims, the covenant was for the circumcision of men and never for women.

The Christian book states that we are fearfully and wonderfully made. Every organ of our body has a purpose. The clitoris is the only organ of the body whose only function is pleasure. It is a scientific fact.

*(Laughter)*

It is the only organ that was created for pleasure. We must ask ourselves: Why is it that it must be removed? Is the sensuality and sexuality of a woman so incredibly overpowering and fearful for men? Having said that, I agree that it is important that, in as much as we educate our women, we also educate our men especially on the spiritual aspects of this terrible act.

With those few remarks, I support the Motion.

**Hon. Speaker:** I also took out Hon. Robert Mbui by mistake. Maybe, he could take over from there.

**Hon. Robert Mbui** (Kathiani, WDM-K): Thank you, Hon. Speaker for giving me this opportunity to rise in support of the adoption of this Report.

I am also a little bit lost because of the terms that Members have used. I know my daughter and my parents are watching and so, I have to be very careful in terms of what I say about this. But all the same, it is not practised in the region where I come from. Fortunately, the Kamba community has advanced and moved beyond those very primitive and archaic systems of running their affairs. It is unfortunate that we are discussing an area in which women are oppressed during a time when women are fighting for more positions in leadership. It is really unfortunate. I rise to completely condemn that barbaric act.

I have listened to my colleague and what she has said is the truth. Primitive men used circumcision as one of the ways of attempting to control women. If you go to some communities, you will find this oppression even in the foods that they eat. If a chicken has been slaughtered, men will want to eat the softer parts like the liver and leave things like the claws for the women. Those are very primitive ways.

Looking at where the world is going, it is important that all of us realize that there is a lot of equality between the genders. In fact, many people say that women are the weaker gender but, that is not true. There are many areas where women are stronger than men. Women are stronger

than men emotionally. Men may have a bit of an advantage when it comes to intellect. However, women beat us hands down emotionally.

Instead of complaining, it is important that we look at the solutions. What solutions have we been offered? Political leaders can offer very good solutions to this country. Those leaders who are scared of losing votes and decide to sacrifice their women need to be looked at very keenly. Political leaders need to bite the bullet and ensure that they fight this vice to the last man.

Civic education is also important. Some communities do not have enough civic education to know the benefits of not engaging in female genital mutilation. We need to ensure that civic education is also carried out in this country.

Finally, there must be very serious and harsh penalties for offenders. It is important that we ensure that whoever is found culpable of this kind of vice is dealt with properly so that this issue can be done away with.

I support the Committee's Report.

**Hon. Speaker:** Let us have the Member for Baringo.

**Hon. (Ms.) Gladwell Cheruiyot** (Baringo CWR, KANU): Thank you, Hon. Speaker. I also rise to support this Motion. Baringo ni sehemu ambayo bado ukeketaji unatekelezwa dhidi ya wasichana wetu. Katika sehemu nyingine, akina mama walioolewa bila kufanyiwa ukeketaji bado wanakeketwa.

Tunajua kuwa jambo hili lilikuwa limetupiliwa mbali. Tumejaribu sana kupiga jambo hili lakini tumeshindwa. Sababu ni kuwa, wale ambao wanafaidika na sehemu hii hawajajitokeza kupigana vita hivi. Tumekuwa tukiwasiliana na akina mama na wasichana tu. Lakini wanaume wanaotumia sehemu hii hawajapatia kipaumbele vita dhidi ya jambo hili. Wale wanaotumia kiungo hicho hawaji mbele kusema kwamba wakionja hiki ama kile, kuna tofauti, ili wanawake waache ukeketaji. Tunataka wanaume waje mbele watueleze kati ya kile kisimi ambacho kimekatwa na kile ambacho hakijakatwa, ni kipi kizuri.

*(Loud consultations)*

Tuelezwe tofauti maanake sisi ndio tunabeba kiungo hicho. Wale ambao wanakitumia watuambie maanake sisi hatujui. Hiyo itatuwezesha kuhamasisha wasichana wetu ili wajue kwamba kisimi chao kikikatwa, wanaume hawatawataka. We need to approach this issue from different angles. For a very long a time, we have just been talking to women and girls. We are just fighting from the angle of the women. For a very long time, when we go to those meetings...

**Hon. Speaker:** If you decide to use Swahili, just do so consistently.

**Hon. (Ms.) Gladwell Cheruiyot** (Baringo CWR, KANU): Haya, tuendelee.

**Hon. Speaker:** *Endelea na hayo mambo unayasema.*

*(Laughter)*

**Hon. (Ms.) Gladwell Cheruiyot** (Baringo CWR, KANU): Bwana Spika, naona kwamba pia wewe unafurahia haya mambo. Ni shwari kwamba ni mambo ambayo yanatuguzwa sisi sote.

Wale wanawake ambao wamekeketwa - ingawaje sio wote ambao watakubali - huwa wanasema kuwa ukikatwa unakosa "network". Hiyo "network" inahitajika. Kazi ya wanaume ni kutunyananisha. Wao wanapata "network" lakini sisi hatuipati. Tunafananisha kiungo hicho na aerial ya Safaricom. Katika hali hiyo, hata afya ya wanawake inadhulumiwa kwa sababu kitendo cha ndoa kinakuwa ni kama kulazimishwa. Wakati wa kuzaa, wanatuambia kuwa uchungu ni

mwingi sana, ilhali tunaendelea kuwalazimisha kukeketwa. Tunawaomba wanaume waje mbele tupigane vita hivi pamoja. Watueleze gani ndio bora kuliko nyingine.

**Hon. Speaker:** Member for Mavoko, I am sure you will now be able to deal with that one.

**Hon. Patrick Makau** (Mavoko, WDM-K): Thank you, Hon. Speaker. At the outset, I support this Sessional Paper. Let me explain to her before she forgets. When a lady is genitally mutilated, she is not “well-greased”. When you mutilate this organ, and I agree with...

**Hon. Speaker:** Did you say “greased”?

*(Laughter)*

Grease is used in machines and motor vehicles.

**Hon. Patrick Makau** (Mavoko, WDM-K): Hon. Speaker, I agree with the lady. We should tell her. In fact, I want us to speak here as leaders. Even our young girls in our homes should know that the mutilation of that organ is bad. I am told that the one that is mutilated is not well lubricated for the game.

*(Laughter)*

It is important and, in fact, I want to tell this House that in our community, we have gone to the next level of moving it from its natural condition to making it longer. This is an attraction. It is a source of pleasure. To tell the truth, we have seen men from those communities that pretend to practise Female Genital Mutilation (FGM) go for *mpango wa kandos* who are uncut. Therefore, I want to tell our men and the communities that practise FGM: You are denying our women crucial and fundamental pleasure that they should enjoy.

So, if we will not amend this... God created it with a purpose. I am not saying that circumcision for men is bad. It is biblical. However, for the womenfolk, we must protect and safeguard them. If they get to a time, maybe, for medical reasons or they simply want to change... The Bible says if a hand or a finger makes you sin, then you should cut it off. So, if a person reaches that point, then let them make a decision on their own volition to go for FGM. We should not, as citizens of this country, force them to do it.

Therefore, Hon. Speaker, I support this Sessional Paper. Indeed, FGM must be criminalized. Thank you, Hon. Speaker.

**Hon. Speaker:** Let us have the Member for Wajir County.

*(Laughter)*

**Hon. (Ms.) Fatuma Gedi** (Wajir CWR, PDR): Hon. Speaker, I am very emotional. At the outset, I want to thank the Chair of this Committee. Now I know why the former Chair could not bring such a Motion. It is because there are very many victims in this House.

I must say without fear, because I want to encourage women and girls, that I am a victim. We must not shy away from this; we must not. It is not a good thing. Hon. Millie told us that there is a no religion that says...

*(Laughter)*

There is no religion that encourages FGM. We are misusing the cultures and it is high time we joined hands to fight this. In my view, we must declare FGM a national disaster so that everybody, including religious leaders and civil societies, help to demystify this issue. I do not agree with what is in the Motion concerning the use of target groups, for example, chiefs, for sensitization. In any case, they are the ones who conceal and even encourage those acts in our villages. As a House, we must come up with a serious and tight policy because it does not end there.

Coming to the effects, we are told that 97.5 per cent of those FGM victims are Somalis. I agree with that research but also, as a leader, this affects me badly. You can imagine 97.5 per cent of Somali women undergo FGM. It is a shame in this 21<sup>st</sup> Century. Again, I would really want to hear from the Chair. I do not know whether they captured something to the effect that, out of the 97.5 per cent Somali women, how many of them have undergone Cesarean section? I am asking because, from experience, if you undergo FGM, there is no way you can... The percentage of women who undergo normal deliveries after FGM is at 20 per cent. I also underwent Cesarean section during delivery of my three children. You can only imagine the pain. Therefore, it is good that we also encourage others because it is very difficult. There is also bleeding for girls.

Apart from the complications I have mentioned, FGM has also destroyed families. The divorce rate in areas that FGM is practised is about 60 to 70 per cent. The Member for Mavoko has told us something that I do not want to repeat because we are on live television. Hon. Gladwell asked: What is the difference between a cut and uncut woman? Hon. Speaker, I ask for one more minute for me to respond to her.

*(Laughter)*

Some of the leaders from areas that FGM is highly practised go and marry uncircumcised women because of the pleasure aspect. When you ask them, they say they have to go to the coastal region because with the women from Coast, ‘*maneno ni mzuri.*’

*(Laughter)*

So, I want to tell Hon. Gladwell that there is...

**Hon. Speaker:** I will give you an extra two minutes.

*(Applause)*

**Hon. (Ms.) Fatuma Gedi** (Wajir CWR, PDR): Thus, I said that I want to use this opportunity to encourage women and girls.

**Hon. (Ms.) Rozaah Buyu** (Kisumu CWR, ODM): On a point of order, Hon. Speaker.

**Hon. Speaker:** Hon. (Ms.) Rozaah Buyu, you just want to argue.

**Hon. (Ms.) Rozaah Buyu** (Kisumu CWR, ODM): Thank you, Hon. Speaker. The Hon. Member confused me because she was speaking in English and she suddenly switched to Kiswahili and said ‘*maneno ni mzuri.*’

**Hon. Speaker:** It was just one word.

**Hon. (Ms.) Rozaah Buyu** (Kisumu CWR, ODM): Hon. Speaker, I kindly request the Hon. Member to explain what ‘*maneno ni mzuri*’ is.

Thank you, Hon. Speaker.

**Hon. (Ms.) Fatuma Gedi** (Wajir CWR, PDR): Hon. Speaker, you have already taken my minute. I want us to use this opportunity to correct the mess that some of the cultures have done to us. It is an injustice and discriminative to us. I want to say this without fear: Yes, FGM has caused many divorce cases in areas where it is practised but, again, as Millie has said, as a result of FGM we have women who are going to do reconstructive surgeries right now. What do they want? They want pleasure. It is true that it comes with pleasure and a lot of good stuff.

So, I want to ask the Ministry of Public Service, Youth and Gender to up their game. They need to use that office very well and go to the grassroots and rethink about the people they were using to eradicate this mess. We must come out as leaders, regardless of religion, culture or where one comes from...

*(Loud consultations)*

**Hon. Speaker:** Order! Order! Let us have the Member for Seme.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Speaker for giving me this opportunity. I rise to support this policy on eradication of FGM, which is also known as Female Genital Cutting. The difference is this: Mutilation describes what really happens. It is really a horrible act. I will not go into the details of the anatomy. Hon. Millie Odhiambo did that. I give her a B+ (plus) for knowing the anatomy of the female genitalia.

If we leave all issues of the Constitution, of the laws and policies out, it is the effect it has on the people who are involved. Leave alone pleasure and sensation, which obviously we have enjoyed talking about here, but there are serious health problems. When we talk about the form that Millie described as infibulation, actually the opening is closed after cutting all the clitoris and vulva and then close it, it heals back. So, basically, they leave a hole that can only pass urine. If it is done early, the ladies cannot even menstruate and that alone causes problems. When it is done, many children die from bleeding. Severe infection can follow. When it is blocked, a girl can actually have severe infection right up to the uterus and the girls can be sterile because of the infection. When it comes to the time of delivery, if it is of a severe form and the opening was literally closed with just a small hole left, it is impossible for a baby to pass. What happens? They have to go through caesarean section and if they are in a place where that cannot take place, the child and mother can die or it can be so severe that they actually may damage the bladder and we have free flowing urine – vesicovaginal fistula - where women leak of urine throughout their lives.

**An Hon. Member:** And they smell!

**Hon. (Dr.) James Nyikal** (Seme, ODM): They also smell and that may be another reason for divorce, leave alone the lack of pleasure. So, in reality, if one were to watch this being done on video, one would prefer to use the word “mutilation” to cutting. Therefore, this is something we have to fight.

I had the opportunity when I was in the Ministry of Gender... As the hon. lady from Baringo was speaking, people were joking. We were approaching the elderly people, the custodians and involved them in discussions. At the time, we were able to get a signed agreement by the elders, the *Njuri Ncheke* in Meru, in West Pokot and in Kuria. Looking at the data, it has had some effect.

I support the desire now to move the policy from the old one of abandonment, which looked voluntary, to one of eradication. We must move from abandonment, which looks



voluntary, to one of eradication, where we have to come forcefully with the force of the law and eradicate it. This policy of acceleration by 2020 may be a little ambitious, but it is something we should take. We should put enough resources to enforce the laws to get this vice eradicated, if we can.

Thank you, Hon. Speaker.

*(Applause)*

**Hon. Speaker:** Hon. (Ms.) Soipan.

**Hon. Kipyegon Ng'eno** (Emurua Dikirr, KANU): Another victim!

*(Laughter)*

**Hon. (Ms.) Soipan Tuya** (Narok CWR, JP): Thank you, Hon. Speaker. Anyone who declares me a victim does it at the risk of being asked to substantiate. I am sure Hon. Ng'eno cannot substantiate that allegation.

Hon. Speaker, thank you for giving me a chance to speak in support of the Committee's Report on Sessional Paper No.3 of 2019. I may not be gifted in graphics like my sister, Hon. Millie and so, I will not attempt to do that.

As we speak with the kind of animation that we are subjecting this Report to, I wish we do not lose the seriousness of the problems that our girls and women are facing as a result of the practice of FGM. If I were to be asked on the level of criminalization or stating and giving FGM the weight it deserves in terms of fighting it, I would say that it should stand on the same pedestal as what we have on the International Convention against Torture. That is where we start from. Our girls are suffering and Hon. Nyikal has clearly spelt out the negative medical effects that FGM subjects our girls and women to - fistula and birth complications.

I support the Report of the Committee. We need to walk the talk. With the passage of the Children Act, it became one of the first domestic laws that spoke against FGM and protection of our children. Over 20 years down the line, I do not think the laws have done what they ought to have. We passed the laws and relaxed that the law was going to do the work. The work lies elsewhere. We have the laws; we know the negative effects of FGM and now we need to take this a notch higher. As a House, we should start with sufficient funding for the Anti-FGM Board so that we leave discussing FGM in board rooms and go to where the tyre meets the tarmac, which is at the grassroots level to engage our men. All the shenanigans about pleasure, whether a cut woman is more pleasurable than one who is not cut and vice versa, is neither here nor there. In Narok County, we are fighting the fallacy that when a woman is cut, she becomes less sexually active. We must call it out for what it is. I do not know how many girls we are going to take back to school come January in Narok County. Many of our girls are pregnant and most of them or a great percentage of them have been subjected to FGM. So, what is this talk to the effect that when you circumcise a woman, she will not be sexually active? That is not...

Hon. Speaker, please, give me a minute to wrap up. I urge Members of the House to take the issue seriously and, please, let us support the Anti-FGM Board with sufficient resources so that we can go to the ground and talk to our men and administrators. We take the conversation to the grassroots because our women are the biggest perpetrators. This is because of the socialization to the effect that, if a woman does not get cut, she will not get a husband. That

already is like being ostracized from the society. Those are the conversations we need to take down there. Were we to...

**Hon. Speaker:** Did you ask for one more minute?

**Hon. (Ms.) Soipan Tuya** (Narok CWR, JP): One more minute, please, Hon. Speaker.

**Hon. Speaker:** There is FGM and they are also mixing it with the cut.

**Hon. (Ms.) Soipan Tuya** (Narok CWR, JP): Hon. Speaker, no amount of sugar-coating FGM will make it better than the worst thing it is. When I talk about cutting, I mean mutilation, which is an ugly thing. So, I urge the House that the genuine way that we are going to support this Committee is when we go back to the Budget. Please, let us support the Anti-Female Genital Mutilation Board so that we can change the tide for our girls and women on the ground.

A colleague was saying that we should not be talking about FGM but, instead, talk about early marriages and early pregnancies. Female Genital Mutilation is a causative effect of early marriages and early pregnancies because once you circumcise those girls, they become women and they go to do those other things.

Thank you, Hon. Speaker.

**Hon. Speaker:** I have just noticed some specific Members – I am not going to name anybody – who appear to have gotten a little tired of this and walked out. Some would come in and... I am able to see who belongs where in this debate.

*(Laughter)*

I have seen a number of Members who have come in and when they get there, they listen and they take off. You can see they are still taking off. Anyway, let us have the Member for Rangwe, and then we will hear from Hon. (Ms.) Sophia. I know she has done a lot of work in this area.

**Hon. Members:** Yes!

**Hon. (Dr.) Lilian Gogo** (Rangwe, ODM): Thank you, Hon. Speaker. I rise to support this Sessional Paper that has been brought in by the Committee. I appreciate the Members who have given their contributions ahead of me. Quite a bit has been said. This is a matter that requires a lot of our thinking as a nation and as a community. It is a matter that is interesting when it is being said but, at the same time, the health effects of it, as has been talked about by Hon. (Dr.) Nyikal, the actual meaning that has been elucidated by Hon. Millie and even the people who have gone through it like Hon. (Ms.) Gedi, who have given us practical experiences that they have had, really gives a cause for us to seriously think about this matter.

I come from a community where we do not practise FGM. We do not cut anything at all. We leave it as it is.

*(Applause)*

I do not know whether that gives any premium to the women who come from this region. However, what I am trying to interrogate is the real need for this to be done at this particular time. We cannot also wholesomely castigate one cultural practice because from where I come, in the greater Luo-Nyanza, there used to be the removal of six teeth. This would probably be replaced with FGM in another community. The practice of removal of six teeth has since been abandoned because of the gravity of what it does to the person who experiences it. You also do

not look good when some of your teeth are removed. So, when you are talking about this matter, I become curious. Why would somebody want to remove part of the sexual organ of a woman?

Intact muscles can stretch when one is delivering a baby, but a scar can never stretch. When cutting has been done, a scar is formed. Therefore, a Caesarean section has to be done during child birth because the mother cannot deliver in the normal way that she is supposed to deliver where there is normal stretching that is brought about by the harmonious systems that the body brings about to allow the baby to come out normally. When you create a scar and it heals, it can never stretch the way normal muscles stretch.

From Hon. (Ms.) Gedi's research, this brings about many cases. I do not have this documented. It brings in issues of instability in families. Why instability in families? One would want to live with a woman who has been cut and then live with another woman who has not been cut and we still want them to give him the same effect. This brings family instability.

Article 53 of the Constitution talks about the rights of children. It says that children have a right to be protected from abuse. We must put our lives and systems in this time and age to be in line with our Constitution. We are not doing anybody any favour when we debate this particular matter in this House at this particular time.

This is a serious matter that is not going to be relegated to sexuality alone. We are also looking at the healthcare system of women, the safety of the mother and the safety of the child. I cannot imagine a situation where a girl cannot menstruate normally because her vagina has been closed altogether. So, when blood comes, there is nowhere for it to exit.

With those remarks, I support.

*(Applause)*

**Hon. Speaker:** Member for Ijara, the Floor is yours.

**Hon. (Ms.) Sophia Noor** (Ijara, PDR): Thank you, Hon. Speaker, for giving me this chance. I thank the Committee for bringing this Sessional Paper No.3 of 2019. In the Tenth Parliament, when we were debating the Female Genital Mutilation Bill – Hon. (Ms.) Millie Odhiambo is my witness and the Leader of the Majority Party was a *Waziri* then – all the men walked out of this House arguing that they would not legislate on culture. When I gave my own personal experience and shed tears, Hon. (Ms.) Millie came to where I was standing and started crying with me on the Floor of the House. From that time, all the men who were watching us through the television and what have you, came back and voted for the Bill.

So, I thank all those people who were there. My brother, Hon. Bifwoli, told us that it was not right for us to legislate on culture but, in the end, he came back and voted in support of the Bill. Even with that law in place, FGM is still being conducted within our villages.

Female Genital Mutilation needs a multi-sectorial approach where every sector, be it state or non-state actors, come and join hands together to conduct serious sensitisation and creation of awareness. Hon. (Dr.) Nyikal has said it all. I do not want to repeat the health complications because I have gone through all those health complications that Hon. (Dr.) Nyikal has explained.

*(Applause)*

I want to give one example. I started talking about FGM over 30 years ago. When I went round talking about FGM in the villages, they were calling me “the mad woman.” However, in the end, the religious leaders came to support and talk about it openly. They felt it was right for

them to talk about it because FGM was causing death among young girls and women in the society during childbirth. There was one particular incident I want to share with this honourable House. There was a 14 years old girl who was chased out of her home by her parents because they thought she was pregnant. People picked up the lady from the streets and brought her to my house. She came and I picked her and stayed with her for six months. I did not know what to do with her. I took her to hospital. She was not pregnant. Nothing! I did not know and here was her stomach. You could physically see that the lady was pregnant. What happened? There was an angel by the name of a doctor who came all the way from Sweden. So, he took her. We came with him to Nairobi and took the girl through many X-Rays. It was discovered that the blood that was supposed to come out went back to the uterus.

When they realized, the whole uterus was already black and thick. They had to remove everything at such a tender age. That is the kind of health complications the FGM has. So, what happened? We had to go back with the girl. Her parents came crying to me but she refused to go to them. The girl stayed with me. She is today a graduate and has a very good position in the Government, but she cannot give birth to any child. The unfortunate part of it is that today, because of Female Genital Mutilation, the girl cannot bear a child.

It is the right time for us to talk and engage, and to say the truth on the Floor of the House. It is high time for us to act because there are many complications. Let us leave other things. This is a very heavy and serious matter to discuss. It is not about what you like or what you do not like. It is about the complications.

**Hon. Speaker:** Member of Siaya.

**Hon. (Dr.) Christine Ombaka** (Siaya CWR, ODM): Thank you, Hon. Speaker, for giving me this chance to contribute to this Female Genital Mutilation that we have been fighting for many years. It is not the first time it has come to this House. We have so many harmful cultural practices that women go through. Female Genital Mutilation is one of them. There are early marriages, domestic violence and so on. They are so many, but this one touches on one's heart. Just look at the title FGM – Female Genital Mutilation. Mutilation as an English word proves that there is something very wrong with this. You cannot mutilate bodies. It is horrifying. That is why that must go. We have been told over and over again about the harmful consequences of FGM, but they continue to practise it.

Dr. Nyikal, I think you have really expressed yourself so well. I was just in tears as you described it because it is so painful from just being told. I do not come from a community that practices it but I have friends who come from those communities. They talk to us. They tell us the challenges they go through—emotionally, physically and socially. It is horrifying. It is our responsibility to make sure that we come up with policies that will protect women. Women have gone through a lot. This is one of those that we cannot wait. We must come up with a policy as fast as possible because so many women are dying as they give birth. So many women are leaving school as they get mutilated. So many girls are being divorced. We cannot see women suffer and we keep quiet.

One of the things I saw in this country during the HIV/AIDS pandemic before it was declared a national disaster in 1999 is that the Government had a wonderful policy which was called “Total War Against AIDS.” I was involved in it. It was really total war. The Government put money to fight HIV/AIDS. They mainstreamed HIV/AIDS in every Ministry - in education, health, name it. Everybody was talking about HIV/AIDS. Everybody was teaching each other how to prevent it and how to look after those who had already got the infection. It was a very

powerful programme. That is what I want to see with FGM. Let us put money there. Let Ministries get involved. We need everybody on board because this must go.

I will not talk much about this but I know it hurts. It is painful. It is a very emotional problem because it touches on the culture of a people. Anything that touches the culture of a people becomes a very emotional thing. I must say that the whole world is fighting it.

There was a story of a girl from South Sudan who was escaping from FGM and the American Government gave her a visa instantly because she wanted to escape from her country. Look at the way other countries respond. That is why I want to say that if you put more money like we did with Total War Against AIDS, we will be able to get somewhere.

So, I support. Thank you.

**Hon. Speaker:** Member of Dagoretti South. I just pressed for you then you pressed again. Do not press now.

**Hon. John Kiarie** (Dagoretti South, JP): Thank you very much, Hon. Speaker. I hope my minutes will count even if they are a few seconds. I stand to support this Report by the Committee and also urge my fellow Members to also further approve this Sessional Paper No. 3 of 2019.

This has been an eventful afternoon. It has been an afternoon in which we have gotten all manner of accounts on this issue. We have gotten some medical accounts from some very able Members of Parliament, some of who are medical doctors, and others who have a background in activism on issues to do with the women and girls in this country. We have gotten some very good cultural accounts, some which are for and some which are against. The most interesting of them is the cultural account that we are getting from the Kamba people, who are telling us that, instead of cutting they have decided to actually enhance it for the pleasure of the female gender. That is because if men are enjoying this act, even the females ought to be enjoying. We have also gotten some very historical accounts of a patriarchal community, patriarchal communities that want to lord over their women and, unjustly so. We have also gotten some spiritual accounts. Most importantly, we have heard some very moving personal accounts this afternoon.

So, it would be in order for me not to go back to where we have been taken through the whole of this afternoon and just start charting a new path. The new path we should be looking at is the path to zero cases of FGM in this country. The path to zero cases can be informed by models that exist. The models that I am talking about have been tried and tested and they are models of behavioural change. If this is a habit; if this is a cultural practice; if this is a behaviour that has been taken up by cultures in this country, then there must be an existing model on how to change the behaviour of people from where they are to where they can go.

I want to offer a model we can borrow from. When the colonialists came to this country, they had a religion that they wanted to impart upon our people. Most of them were Christians. For them to make this country a Christian nation, they adopted a model that was very effective. What they did is that they decided the older people of the society would die through natural attrition. So, they did not even seek to teach the older people about the new religion that they were offering the Africans. What they did is that they opened Sunday schools. It is in these Sunday schools that indoctrination used to happen. In a very short time, in fact in less than a generation, a whole continent had been converted to Christianity.

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

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

If we were taking a path towards zero cases of FGM, I believe we can draw a line and say that after drawing this line, we shall have a story told of a time when we were talking of FGM. Behaviour change communication can be effectively used to effect change amongst our people. I believe that a path that was taken for the elimination of diseases like polio and reduction of numbers of people infected by HIV is one that can be taken by the Anti-FGM Board and could drastically change the trajectory of how that practice has been undertaken in this country. I believe that if we support this Report and further push for the adoption of the Sessional Paper No. 3 of 2019, we shall be moving towards that direction. It has been an honour to contribute to this Report.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. Wilson Sossion.

**Hon. Wilson Sossion** (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker. I rise to support Sessional Paper No. 3 of 2019 on Female Genital Mutilation. There is no doubt that the nation and this House agree that FGM is not only an abuse to our girls, but it is also a health hazard. It is an outdated practice that should not be practised in the 21<sup>st</sup> Century. Looking at the statistics, we should be more focused on its eradication. It is true that we have an Anti-FGM Act, but has it served this country? We need to understand this so that we do not keep on debating the same issue over and over again.

This Sessional Paper seeks to focus more in targeting areas of activities of FGM. Looking at the statistics in this country *vis a vis* the existence of the law, among the Somali Community, 94 per cent of their girls are subjected to FGM. This vice has gone on against the background of the existence of a law. Among the Samburu Community, FGM prevalence stands at 86 per cent, the Kisii Community at 84 per cent, whereas among the Maasai Community it stands at 78 per cent. These are United Nations statistics.

I have not seen the statistics of the Kalenjin Community here, but I can confirm that FGM is still prevalent. Last weekend, I walked into a village where 50 married women had deserted their marital homes to go for circumcision. They had surrendered their children to their grandmothers. This practice is real. We should not only speak to it, but we need to focus on activities to stop it. In terms of education, FGM has been the biggest hindrance of the advancement of girls in the education sector. Other statistics here indicate that at the TSC, women in leadership, heads and principals, their numbers are at 27 per cent, while 73 per cent are men. The damage to girls at an early age has got an effect in terms of advancement in their later stages. In this House, it is one of the hindrances of granting women competitive politics, in the economy and in finding their space.

Hon. Temporary Deputy Speaker, there are other statistics. There is a lot of connection between FGM and underage mothers. The United Nations Educational, Scientific and Cultural Organization (UNESCO) data indicate that in some of those communities, majority of underage mothers are connected to FGM. We must now move from words to actions. We must listen to testimonies. We can no longer allow our girls to be victims of an archaic cultural practice that has been rendered irrelevant and illegal by our legal system

This Sessional Paper focuses on one item of resolving this cultural practice - education. It is not easy to deal with a cultural complexity. I would like to propose that in these targeted regions, where data is clear, education against FGM be strengthened. It is not wrong to focus on chiefs, political leadership and everyone else but, education is the biggest tool of causing change

and curing social vices in the society. We used education to reduce the number of people infected with HIV/AIDS. The HIV/AIDS pandemic has been reversed globally because of education. Education is the only thing that can change COVID-19. This Sessional Paper is timely, but it does not make sense to pass it in this House if it will not be implemented.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Before I give the Member for Marsabit a chance, we will have the Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support Sessional Paper No. 3 of 2019 on National Policy for the Eradication of FGM. I want to commend the Departmental Committee on Labour and Social Welfare for the good Report. This Policy Paper was brought here in 2019, but it has taken the courage of the leadership in that Committee to be brave enough to bring it here because we know that there are people who do not want to talk about these issues. That is where the problem lies in this country. We have a beautiful paper, laws and know what we are supposed to do but, because leaders are shy to address them, we give the public the impression that it is okay. You will note that when you look at areas where there is prevalence of FGM and other undesirable practices, it is the silence of the leadership in those areas that seems to indirectly encourage the prevalence.

I am happy that Members have talked about it openly, which is different from when we had a similar situation in 2011 when we were working on the Prohibition of Female Genital Mutilation Act of 2011. I was in this House and when we said we were introducing that Act, most Members left the Chamber almost calling for lack of quorum to defeat the Act. Most Members complained that we were introducing an Act when we were almost going for elections and that they were going to lose seats in their areas. It took the male folk in the House, and Hon. Sophia and Hon. Millie Odhiambo being so emotional in their contribution, for men to see the need to stop this vice. We had said that we were going to eradicate those issues in the new Constitution. Ordinarily, a Sessional Paper should come before the Act. We had the Act that was followed by the Protection against Domestic Violence Act in 2015.

We know for sure that despite the 2011 Act and the Protection against Domestic Violence Act of 2015, the practice has been prevalent. Some of these things require more than just a law. As long as people believe in it, you cannot criminalize that culture. You can eliminate it through education and by getting a critical mass of stakeholders to talk about it. We have a law, but we will not get witnesses coming out to give evidence in courts on who did it. We have a law that is difficult to implement. Therefore, part of the rationale for having this policy is to catch up with the law and help in re-sensitizing people on the evils associated with this practice, so that even when administrative measures are taken to establish who will give evidence that FGM took place in a certain area, we will see the arrests. The frustration within the legal enforcement has been that grandmothers who encourage the practice are unlikely to come out and give evidence that they are the ones who take kids for that practice. The traditional surgeons who execute the ritual are unlikely to come out to give evidence that they are the ones who performed the act. So, this policy seeks to enable a paradigm shift. Let us just not focus on the law, but also focus on getting people to understand because it cannot be that in this day and age, 94 per cent of the Somali girls are being subjected to this uncouth situation. This has got nothing to do with education levels. If you go to Kisii – and it is not an illiterate community – 84 per cent of their girls get subjected to this practice. That tells you that the practice is more embedded in culture than illiteracy. There is no correlation between the literacy levels and the prevalence of the practice. In Maasai, the practice on girls is at 78 per cent and in Samburu it is 86 per cent. If you look at the statistics,

you will see that even the communities expected to be highly religious engage in this practice because of their culture.

What I like about this policy is that it recognizes that we cannot fight this practice through laws. It proposes the use of a multi-sectorial approach involving many players. I know Members have talked about the chiefs not being the best people to do it, but they represent the Government. The chiefs and the *Nyumba Kumi* heads cannot do this on their own. It requires every person to be involved, including what Hon. Sossion said, having it included in the school curriculum. I am sure in the new Competency Based Curriculum (CBC), those are some of the issues so that kids will start looking at their sexuality and personalities and avoid being harassed, and agitate not to follow what their grandmothers went through because they will be empowered.

The policy recognizes the impact FGM has on gender inequality. I believe when women get empowered, the issue we have been talking about of gender top up... In the communities where the practice is prevalent, getting women leaders at all levels is a problem. Female Genital Mutilation is a tool that suppresses them. They never aspire to be at par with their male counterparts. They always play second fiddle. When we eliminate some of these cultural practices, we will get the gender parity that we are looking at on elective positions and at work places.

It is important to note that Kenya has ratified a number of international legal instruments that address all human rights violations. We have the Universal Declaration of Human Rights, 1948; the International Covenant on Civil and Political Rights, 1966; the International Covenant on Economic and Social Cultural Rights, 1966; the Convention on Elimination of all Kinds of Discrimination against Women, 1979; the Convention against Torture and other Cruel Inhuman or Degrading Treatment or Punishment, 1984; and the UN Convention on the Rights of a Child, 1989. So, it is not like we are starting from zero. All these conventions have been there and they are ratified as part of the Kenyan laws. However, the whole world is laughing at us that we have all these conventions ratified and codified in our laws and we are still having 94 per cent of our population being subjected to torture that is against the international conventions that we have ratified.

Article 44(3) of the Constitution bars any person from compelling another person to perform, observe or undergo any cultural practice or rite. If you look at FGM, its proponents say that it is a cultural rite that is performed each year and everyone must be subjected to it. Article 53(d) of the Constitution, specifically states that children should not be subjected to harmful cultural practices, inhuman and degrading treatment. Article 55(d) of the Constitution requires the State to take measures, including affirmative action programmes, to ensure that the youth are protected from harmful cultural practices and exploitation. I believe this is the basis for the formulation of this policy. In addition to the laws that were anchored in the Constitution to give effect to Articles 44, 53 and 55 of the Constitution, and to revise what was already there, this policy was generated to bring in other stakeholders beyond the legal framework. That will be the other programme.

I believe the implementation of this policy will facilitate a multi-sectorial approach. It will bring together state and non-state actors, the Ministry that is responsible for gender affairs and the Gender Commission to work together with the Anti-FGM Board, the county governments, the county assemblies, the *Maendeleo ya Wanawake* Organization, the *Maendeleo ya Wanaume* Organization and all other people who have something to do and say about girl-child protection. They will work together to implement this policy and help in its revision and any revision of our laws to ensure that we eliminate this practice in line with our sustainable development goals.



Basically, I am saying that nobody should be left behind. There is no way we can say that we are developing while we are leaving behind 94 per cent of the Somali girls, 86 per cent of the Samburu girls, 78 per cent of the Maasai girls and 84 per cent of the Kisii girls who are subjected to inhuman and cruel treatment as the rest of the world moves on.

With those remarks, I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): I mentioned the Member for Marsabit.

**Hon. (Ms.) Safia Sheikh** (Marsabit CWR, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. Female Genital Mutilation is practised by many cultures in our country. This harmful practice affects women in many different ways. It leads to infection, severe bleeding, and problem in urinating, child-birth complications and increased risk of newborn deaths. This practice should be completely abolished because there is zero benefit from it. My request to fellow women is to make sure that your children or the girl-child will not go through what you have passed through in regard to FGM.

Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I support the Motion.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Member for Marsabit, that is a very powerful message to the Members and to the world. Let us have Hon. Opondo.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Speaker, I am a Christian and the Bible tells me that when God created man, He never declared Sabbath. But when He created a woman, he looked down and she was beautiful and He declared the following day to be a day of rest. No creation was done again. It is very strange that being a predominantly Christian country – and I know we also have our Muslim brothers - we are this late in the day still talking about FGM.

I have listened to the contributions today and most of the time, I was emotional hearing colleagues in this House talk about their experiences around FGM. I have listened to medical practitioners and the medical ill-effect of FGM. It has been so explicitly put. What I hear all Members saying is that there is no benefit at all to be derived from FGM. It is something that is outright repugnant. While seated here, I was looking at the Constitution and I am reminded of Article 2 which declares any culture which is repugnant or inconsistent with the Constitution to be void and invalid. We have that law, but we still engage in FGM. I have looked at Article 53(1)(d) of the Constitution which says that every child has the right to protection from harmful cultural practices or any inhuman or violent treatment. We have laws on robbery with violence.

Hon. Temporary Deputy Speaker, you are a lawyer of good standing and you know how simple the law defines robbery with violence or attempted robbery with violence. You just approach me with a knife if I have any coin and you will be convicted of robbery with violence. How can it be that you approach a girl with a knife to take a part of her body and the deterrence measures in the criminal law around FGM cannot deter anybody?

Let me say that we are approving this Sessional Paper. We will not be ashamed like previous parliaments because we now know the dangers of this practice. Now that we are approving it, I request the Committee to sit together with lawyers and other human and children rights advocates like Hon. Millie Odhiambo so that we can review this law in terms of having a punishment regime that can deter people. We need to firm up enforcement. Time has come for us to look at the girls and how they assist in this practice. In the Departmental Committee on Administration and National Security, we are thinking of how we can institutionalize the *Nyumba Kumi* Programme so that we have a punishment regime and a law making it criminal by

act of omission to permit such things to be happening in your area of jurisdiction. We need to review the law and go in that direction.

We may talk and talk, but something worries me. I can tell you the most beautiful ladies are found in Kisii. I was a classmate to a Kisii lady, who was telling me that despite the law and her age, she still has to steal her way to get mutilated. There is no benefit from this practice. I am from a community which no longer cuts any part of the body. I think it is simply because the Bible was set in a desert. You know Jesus was essentially from the Arabian countries. As a Nilot, I live by the river and so, I am always clean. I do not even need to circumcise. Let us stop anything that hurts the human body. God made the human body and it is complete. We must up the political goodwill around this matter. I have listened to Members confess that in previous parliaments and, more so, in the 10<sup>th</sup> Parliament, they were saying: "If I move this Motion, I will lose votes." We served this House in the last Parliament when we passed the new Marriage Act. I remember sitting next to a colleague from the Muslim community who started crying literally: "You people are saying we cannot marry a girl who is below 18 years, and I have a scheduled marriage on Christmas this December. I am taking dowry." I mean, how silly can you be as a leader? Who are you leading?

We are at a time when among the things the nation is mulling about is how we can review our Constitution to achieve gender parity. How will you achieve gender parity when you hurt the girl-child or when we have these retrogressive cultures which hinder the normal growth and development of a girl somewhere out there? What we have listened to here today means we cannot sit back again. Let this not be a discussion to just entertain the nation. As I have requested, let us put our foot forward. Let us encourage ladies out there, the ones in Maasai land being told they will not be married if they do not undergo this mutilation, to go to other cultures that appreciate them. We are being told here today that some cultures push girls to be mutilated and yet, the men from those cultures hide and go for girls who are not circumcised elsewhere. It is a negative cultural socialization that we have in this country.

I have heard people asking why some people in Kenya do not circumcise. Why do I need to circumcise when I live by the lake? Why should I circumcise when I am in my room in Nairobi with water flowing? Let us now look at the negative effects of this practice. Now that the whole society agrees that it is a bad thing, let us make that clear in law and heighten the enforcement.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Ng'eno.

**Hon. Kipyegon Ng'eno** (Emurua Dikirr, KANU): Thank you, Hon. Temporary Deputy Speaker. At the outset, I wish to support. I come from Narok County; an area that is considered to be very notorious for FGM. I also come from a constituency that is a little bit educated on matters of anti-FGM to the extent that, we have scaled down the number of girls who still undergo the practice to almost 2 per cent. Most of the people who practise this act will tell you it has good and bad effects but in whole, I believe what FGM does to our daughters and sisters has no comparative good effects that some people believe it has.

There is something that I think we also need to address ourselves to. We may have laws that prevent women or young girls from being cut, but some of these people have introduced another mode which is very hard to curb; or even for the chiefs and assistant chiefs to deal with. Nowadays, people get married and they practise FGM in their homes. When those people who may want to arrest women who have been circumcised arrive at the homes where those people live, the women pretend to be cooking and doing other stuff. It becomes hard to know whether

they are circumcised or not. So, there must be a way of dealing with this matter so that we can curb it.

Hon. Temporary Deputy Speaker, the Deputy Speaker commented or touched on something that I believe we should also enhance in law. When you look at the percentage of girls who get lost or drop out of school because of FGM *vis-a-vis* the ones who drop out of school because of early pregnancies and marriages, early marriages have been overtaken by FGM. It is destroying our girls completely. When you look at the percentage of those girls who have undergone the cut *vis-a-vis* those who have gotten pregnant at an early age, most of those who get pregnant at an early age get lost, disappear, and lose their education, marriages and everything.

In the same breadth, as we establish the proposed Authority, we should look at how it will curb early pregnancies. How do we deal with early pregnancies? There was an analysis which was done. I was wishing that most of the Members, and especially those who come from Narok County could look at this matter comprehensively. An analysis on how many girls have dropped out of school has shown that Narok County was leading in the whole country. Unfortunately, my constituency and Kilgoris were leading in terms of girls dropping out of school because of early pregnancies.

I wish the arguments being used to address the question of FGM could also be used to address the question of early pregnancies. The early pregnancies in those particular areas are caused by the same people responsible for FGM – men who cheat the girls that they want to marry them.

I am one of the few Members of Parliament from Narok County who took it upon themselves to educate people against FGM. I told them that there was a difference between votes and our girls. Let us educate our people to leave FGM regardless of the circumstances we are in. I believe if all of us are to take up this matter, we would finish this idea of FGM and, at the same time, clear out the issues of early pregnancies. Early pregnancies are destroying our society at a faster rate than anything else. I wish we could also have an opportunity to address that particular issue.

Hon. Temporary Deputy Speaker, I thank you for the opportunity.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): We shall have Hon. Luyai Amisi. Kindly have the Floor.

**Hon. Caleb Luyai** (Saboti, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me time to add my voice to an already unanimous support to this Report.

Female Genital Mutilation is a primitive, ancient, horrendous and barbaric practice that we should all condemn. I am happy that all the Members who have spoken before me have unanimously condemned that act. I do not believe that even the people who practised it knew the importance of that specific part of the body.

In the world of fauna and flora, God created different ways of reproduction. For man, reproduction was sexual. Therefore, that important organ is what was created to enable man reproduce. Any person who cuts or mutilates it does not know the pleasure that comes from the clitoris or does not know how to touch it. If they knew, they would not attempt to do that.

That is not far away from cutting your balls in the man's context. If reproduction was supposed to be by fragmentation as it happens to plants, then probably, a finger from your body could produce an offspring. That is what happens in plants. However, for a man, it was specifically sexual. That is how we reproduce and populate the world and hence, there is no value and reason for FGM. It is a disaster unlike any other tradition. There are so many traditions

and cultural practices that we must do away with. This Sessional Paper has come at the right time. We are having this discourse at a time when Kenya is playing in the league of the United Nations Security Council. We are showing the world that we are ready to get rid of those retrogressive practices. At this time, Kenya is showing the world, as we play at the international arena, that we are ready to progress with the rest of the world.

I want to thank the Chairman who has been a very active, very focused and determined gentleman for bringing this initiative to make sure that we get rid of FGM once and for all.

Thank you and I support.

*(Applause)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us hear from Hon. Mbogo Menza.

**Hon. Mbogo Ali** (Kisauni, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to say a word about my dedication to the anti-FGM campaign, as proposed by Sessional Paper No.3 of 2019.

Statistics that have been shared by the Leader of the Majority and other speakers speak for themselves. About 94 per cent of Somali women have gone through the knife. It is a serious matter. We need to ask ourselves who the victims are in this case. It is the women. Who propagates this victimization? It is the men. If the women or the mother of the family delivers, takes the baby or girls to quack surgeons with the full blessing of the father of the house, then there is a serious need for civic education and sensitization of not only girls, but also of men. We are the ones propagating those horrifying acts on young women.

I fully support what the Chair of the Departmental Committee and his team have done. They have been much focused. They have dedicated their time and have come up with a very good policy which needs to be fully supported. The disappointing part is – if I got the Chair correctly – out of a sum of Kshs1.5 billion that has been allocated to the anti-FGM body, only a sum of Kshs100 million has been disbursed. How can we achieve this objective if funds are not flowing? We need to fight FGM the way we fought HIV/AIDS. The speakers before me made it very clear. This country was so focused when HIV/AIDS was a pandemic in this country. We spoke about it freely. Wherever we went, be it in schools, churches, mosques or in offices, we freely spoke about it candidly and we were there to support one another. Female Genital Mutilation needs to be given the same approach so that we can win this war. Without it, it will just be talk and we will never walk the talk. It is up to us leaders and especially, the men leadership, the women leaders having done their part already, to take this matter seriously. We have heard experiences here. We have heard from Hon. Millie and the medical doctors. They have shared with us the negative impacts of FGM. It is now up to the men to come out clearly in support of the fight against FGM.

I heard Hon. Makau discuss the pleasure that is derived from the organ that Hon. Millie and other speakers mentioned. It is very difficult to satisfy a woman who has gone through the cut. That organ is the most sensitive part of a woman's body. If it is chopped off, you will work; work, work and sweat, but you will never satisfy her.

*(Applause)*

This is a serious matter. We marry them. If there is no pleasure, and you cannot satisfy her, you start thinking that you or the woman is the problem and yet, in actual sense, we are the ones propagating those horrendous acts. This practice needs to come to an end.

With those remarks, I fully support the Motion.

*(Applause)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): The Leader of the Majority Party was wondering where the sweat was coming from. Well said.

Hon. Mwirigi, kindly have the Floor.

**Hon. John Paul Mwirigi** (Igembe South, Independent): Asante sana, Naibu Spika wa Muda. Nimesimama kuunga mkono Ripoti hii kwa sababu ya madhara mengi ambayo yameangaziwa hapa. Madhara ni mengi wakati ambapo msichana ama mtoto wa kike anapitia hali hii ya ukeketaji...

Katika hali hii, tumesikia kwamba, wakati mtu anapitia haya, huvuja damu nyingi ambayo inasababisha hali mbaya ya afya na pia wakati ambapo mtu ni mja mzito saa zingine huwa anaavya mimba. Kwa hivyo, wakati ambapo sheria hii tunayoitengeneza, ni vizuri Serikali itilie hili jambo maanani na kuharamisha tendo hili. Kwa hivyo, yule ambaye anatekeleza tendo hili aweze kuchukuliwa hatua kali kwasababu wakati ambapo tendo hili linamfanyikia yule mtoto wa kike, wengi huacha shule kwasababu ya jambo hili.

Vile vile wakati ambapo unapitia mahali unasikia watu wakizungumza, wakati mwingine unakosa raha ya kukaa na wao kwa ajili ya mambo ambayo wanayasema halafu wanajitenga kwa kufikiri kuwa wanaonewa. Kwa hivyo, ni vizuri katika zile jamii ambazo zinaendelea kutekeleza haya mambo, Wizara ya Jinsia ichukue nafasi hii kuelimisha zile jamii ili waweze kuyashika na kujua ya kwamba wakati wanatekeleza tendo hili, yule ambaye anatendewa anaweza umia sana. Hii ni kwa sababu tumesikia madaktari hapa wakisema kwamba wakati wa hedhi, damu inarudi ndani ya tumbo na kuharibu nyumba ya mtoto. Hili ni jambo ambalo tunafaa kulichukulia maanani sana. Wakati ambapo jambo kama hili linatekelezwa kule mashinani, kule ambako wakati mwingine Serikali hufikiria kuwa hakuna watu ambao wanafika kule, ni vizuri wakati ambapo tuko na machifu wanaoongoza kule vijijini pia watwikwe jukumu hili ili waweze kutekeleza wajibu wao kuhakikisha kwamba ukeketaji umekomeshwa.

Ni kwa sababu ni vibaya sana wakati ambapo umeolewa halafu wakati wa kupata mtoto, njia ya uzazi iwe imefungwa. Basi ni jambo ambalo lafaa kuchukuliwa kwa uzito sana. Wakati tunapitisha hii sheria, isiwe tu ni kupitisha bali inafaa ianze kufanya kazi ili yule ambaye anafanya jambo hili achukuliwe hatua kali. Hii ni sababu sio vyema kuangalia tu wasichana wakati ambapo wanafanyiwa tendo hili la kinyama.

Kwa hayo machache, ninaunga mkono Hoja hii. Asante.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. Adagala, the Member for Vihiga.

**Hon. (Ms.) Beatrice Adagala** (Vihiga CWR, ANC): Thank you, Hon. Temporary Deputy Speaker. I also support Sessional Paper No.3 of 2019 concerning Female Genital Mutilation. (FGM). Mutilation in itself as my colleagues have put it is a bad term. When you mutilate somebody, it means you have destroyed him/her. We have heard it from the horse's mouth; the people from those areas that undergo such. I may not be in a position to have the experience. However, from the way it is being described, it seems these girls are passing through a terrible situation that is unnecessary.

It is very sad if they use crude weapons to scoop women genital parts. That is cruel. One of the senior Members of Parliament talked and I think that is a crime that can be punished if people are practicing it. I am shocked to learn that girls and women private parts are stitched. This makes them not have their menstrual periods in a good manner hence causing blood to go back to the uterus thus causing diseases like cancer. So, this FGM should be stopped. I do not know if men's private parts are scooped during the circumcision but some of these cultures must be stopped and done away with to save women.

It is sad to hear what women undergo. I have felt it. Therefore, I think this FGM exercise must stop. One person said here that it should be a national disaster and be handled with utmost urgency. This Committee has done a good job and I hope it will be implemented by the necessary agencies so that anybody found mutilating the private parts of a woman must face the law and be jailed. You cannot subject young girls to this kind of humiliation. These women suffer during mutilation and the same scenario will happen when they give birth. This is uncalled for in this time and age.

I support this Motion. It should be worked on as fast as possible to help these women enjoy their natural rights. This is a right that every woman must enjoy and it is very sad to learn and hear from the horse's mouth that they are suffering without bitterness. The women in those areas who are being threatened that they will not be married, I wish to tell them to come to Vihiga. I have a number of men who can marry them if they are being threatened to be circumcised so as to get married. Welcome to Vihiga in western Kenya. We shall accommodate all those girls.

I thank you Hon. Temporary Deputy Speaker, and I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Adagala is that a public commitment?

*(Laughter)*

Hon. Makau, I was to give you this chance. You look like you have an intervention but you were supposed to be the next to speak to this. Were you using an intervention to speak to this?

**Hon. Patrick Makau** (Mavoko, WDM-K): Thank you Hon. Temporary Deputy Speaker, I had spoken to this but...

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): No! Hon. Makau was top on the list. I may not know because I do not have the list but he is kind enough. Hon. Makau, you have spoken to this and so your chance is gone. If you have spoken, you cannot speak on it again.

**Hon. Patrick Makau** (Mavoko, WDM-K): I rise under Standing Order No.97.

*(Hon. Peris Tobiko spoke off-record)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Makau! If you have spoken on it, you cannot rise on that Standing Order. You will be a bit selfish.

Nevertheless, this Motion is time bound and not many minutes are remaining. So, let us give a few Members a chance to speak to it. Hon. Milemba Omboko, you have the Floor.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Temporary Deputy Speaker for giving me a chance just before Hon. Makau closed this. I want to congratulate the Chair of the Departmental Committee on Labour and Social Welfare for having brought Sessional Paper No.3 of 2019 which is touching on a very important issue of FGM.

Many people have spoken on this and many expositions done in terms of knowledge and statistics. I want to speak on it in order to give hope that this is something that can end. This comes from a historical perspective where there were very many cultural practices and other forms of practices practiced by Africans. But along the way they have either been shown the door through Christianity, civilisation and modernisation.

I have in mind many cultural practices that were done in Kenya like removal of teeth among the Luo which has been mentioned here. Another cultural practice is human sacrifice among some of our tribes that was eradicated. There was killing of twins as part of cultural practices of Africans, Kenyans were also involved and this has been done away with. There are many others including cults and believe in traditional medicine at the expense of people dying. Today, this has been mitigated using laws and is dying.

Therefore, I want to speak to the communities that are practicing this like the Samburu, Maasai and the Somali. This is a cultural practice that can end. It will involve leadership and education in those areas so as to defeat FGM because it is not a good cultural practice. More so, looking closely there was FGM among the Agikuyu community. I do not speak for them but I know they had it. For those who read the old books like the River Between, you would see this practice being flagged very loudly. But now when you speak to the Agikuyu community you realise it has died. Therefore, it is possible to kill this cultural practice.

So, the fact that this is a cultural belief you cannot do away with a fallacy. This is because it has been done away with in some communities. It has worked, can work and this is the time for this cultural practice to be defeated. Whereas the statistics given show that over 200 million girls and women have undergone this practice... If you go continentally, it touches on Africa, Asia and the Middle East. All the researches and especially the United Nations Children's Fund, (UNICEF) research has proved that the defects of this cultural practice, is four flagged. It is a health and psychological hazard that leads to early marriages and fall out of education by the young ones who have undergone this practice.

The trend in Kenya is that it begins with FGM, then moves to early marriage, leads to fall out of school and continuous illiteracy in those areas. Therefore, this is a cultural practice that needs to be defeated. I stand to support its defeat given that it is making most of the girls from the areas mentioned not to go to school. It is defeating the life of the girl child and women in this country.

As I support, and thank you Hon. Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Tobiko I can tell from your face that you have very strong feelings about this Motion. Please you have the Floor.

**Hon. (Ms.) Peris Tobiko** (Kajiado East, JP): Thank you, Hon. Temporary Deputy Speaker. It was going to be a crime if I did not speak on this one. I rise to support the Motion because I come from a community that practices this tradition. I hope that many of my voters are listening and watching.

In no uncertain terms this is one of the cultural practices that must and should end like yesterday. FGM has denied our girls their right to a complete life, education and self-

actualisation in all areas. FGM tradition has been used to subdue, oppress and intimidate women. The reason why girls from most pastoralist communities are not participating fully in the economy, education or realising their full potential is because of this very harmful tradition. It has intimidated and traumatised them.

I do not care how many votes I lose because of speaking on this one. That is why I want my voters to get it categorically that I do not support FGM and it must stop. It is a debate I have participated in my entire life. Growing up, one time when I was in high school, I went back home for holidays. I told my younger sister that she should not go through this. I hope she is also watching me. She told me she must and when I went back to school, she went through the process.

Later on, in life because she is lucky to have had some education and is a powerful woman in this country today, she told me she wished she had listened because she would be completely different today. She said if she could meet the woman who took her through it, she would sue her. I know she is listening to me.

Therefore, since I do not want the young girls growing up to regret, I say we need to stop this and take deterrent measures. Any person in my constituency who will practice this I will not defend them in anyway. I am a mother of three girls who I have protected dearly. I told them from the time they were very young that they must protect themselves and not allow anybody to touch them. Today I am happy that my girls have not gone through this.

My bigger duty is to protect my constituents and other women in the pastoralist communities to realise their full potential. When Hon. Makau wanted to stop this debate, I felt bad. I hope he will forgive me because this issue is so emotional and dear to me. I almost felt like he was trying to take away some of our rights.

Sometimes you feel like the same intimidation and subjugation is what is going on even at this level. I am happy that I am one of the few who have found my voice, but how many have remained voiceless. I rise to support and I urge that all Kenyans must save our girls.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us now hear Hon. Ibrahim Sahal.

**Hon. (Ms.) Nasri Ibrahim** (Nominated, FORD-K): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to add my voice to what Hon. Members and my sisters have said.

At the outset, we are not honest about eradication of FGM. Why am I saying this? The pastoralists who are in the rural areas especially the nomads are still doing the cutting and so many girls are dying due to bleeding. I know there are too many briefcase NGOs and government entities purporting to be advocating for the FGM. They are collecting money from organisations and the Government yet they are not doing the necessary things they are supposed to do. This is because the nomads are still practising it in the rural areas. I am a Muslim and Islam prohibits FGM. Any parent who does that is a sinner. We believe that any parent who allows their children to be cut is a sinner and he is sinning against Allah.

So, what I want to urge is the Government and the briefcase entities who are purporting to fight FGM is to take firm action against chiefs, sub-chiefs and local village elders who lead those people who are still practising this. They should take action. They should jail them and they should eradicate this completely. When a girl is circumcised, they are traumatising her physically and mentally. As it has been said before, when the girls get their periods, it is very hard for them. This is because they feel pain. We used to get panadol every time for them. Also,



during delivery, the Somali and pastoralist women are cut. They go through a lot of pain and that is really bad. So, I support this and I want the Government to take serious action against this cutting. Thank you.

I support, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, there are a few other Members who wanted to speak to this but this item was time specific. It must end by a resolution of this House before 6.00 p.m. In the circumstances, Hon. Members, we shall have it closed at that and call the mover to reply. Let us have Hon. Mwathi.

**Hon. Peter Mwathi** (Limuru, JP): Thank you, Hon. Temporary Deputy Speaker. At the outset, let me thank all Members who have contributed, and all of them unanimously agreed that Sessional Paper No.3 of 2019 as it has come has good intentions for the women of Kenya and that they unanimously support it.

It is not that we do not have legal framework to deal with FGM. It is there. It exists. Previously we had the first Sessional Paper on abandonment of FGM. Then this has now come as an improvement of the 2010 which is on the eradication of FGM. I think we must take this conversation to the national level and persuade that every institution and sector must pick up this conversation. This is because the laws as they exist have not been enforced. There is very poor enforcement. I want to persuade us again. It is in this House that we are supposed to enable the anti-FGM board to be able to move out there to do civic education and sensitize people. However, it is in the same House that when they make a budget of Kshs1.5 billion, we give them Kshs100 million. That is little money for recurrent expenditure. However, when we come here, we talk very passionately.

So, I persuade Members who have spoken and those who have not that when we are doing our budgeting, we need to remember that we have unanimously supported this Motion. The fact that you need money cannot be gainsaid and when we have a supplementary budgeting process, we need to appropriate money. There is a point because people may not know that even the Constitution of Kenya 2010 itself bars anybody from forcing another person to observe cultural behaviour as a way of forcing them to follow what they want them to do. Article 44(3) says:

“A person shall not compel another person to perform, observe or undergo any cultural practice or rite.”

That read together with the Anti-FGM law 2010 tells us that we have come from that age where this archaic and outdated practice must come to an end. So, even as we talk about the passion to save our girls which I really associate with, we must also put in place checks and balances and also ensure that we have programmes that support the Anti-FGM Board.

I have listened to a conversation here regarding married women and I got shocked just like every other Kenyan should get shocked. Some women in those communities that practice this cultural behaviour get married and then while they are within their matrimonial homes, they undergo the same ritual. That tells you that unless it is the men who are forcing them, they need civic education. In fact, I dare suggest that this conversation should even be taken to schools and be taught to our children. Even those who are in adult classrooms should be taught the dangers of undergoing FGM so that as a nation, we appear serious and focused, and that we really want to deal with this bad practice once and for all.

So, as I sit down, I again thank Members and remind them that we need the budget.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Please pronounce yourself on the replying.

**Hon. Peter Mwathi** (Limuru, JP): Hon. Temporary Deputy Speaker, we need money to make this work. With those many remarks, I beg to reply.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, we shall not put the Question on that. We shall do that at another time.

*(Putting of the Question deferred)*

Next Order!

#### INQUIRY INTO THE USE OF THE STANDARD GAUGE RAILWAY

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have the Chairperson of the Departmental Committee on Transport, Public Works and Housing. Hon. Pkosing, you have the Floor.

**Hon. David Pkosing** (Pokot South, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to move this very important Motion. 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 Inquiry into the Use of the Standard Gauge Railway (SGR), laid on the Table of the House on Tuesday, 22<sup>nd</sup> September, 2020.

Hon. Temporary Deputy Speaker, in moving this critical Motion, the question then begs: What are we specifically asking the House to agree with us? My Committee is asking the House to agree with us on a number of issues. We are asking the House, and these are the recommendations in the Report to be tabled, to agree with us that importers should have freedom of choice on the mode of transport to be used to haul their goods from the port to the final destination without restriction from any government agency.

Secondly, we are asking the House to agree with us that measures should be put in place for the full utilisation of the Kenya Railways Corporation (KRC) assets. Income accrued from all idle KRC land and assets should be channelled to the Railway Development Levy Fund in order to assist in raising revenue for payment of SGR loans.

Thirdly, we are asking the House to agree with us that as a revenue raising measure, the Government should consider adjustment to the Railway Development Levy (RDL) to give incentives for the use of SGR. How do we do it? We are proposing that importers who choose to haul their goods using the SGR be allowed pay a preferential RDL of 1.5 per cent instead of 2 per cent of the value of the goods they import. The reason is that this Levy is supposed to promote the SGR. If one uses the SGR, then one needs to get incentives to use it more. We calculated and found out that the more you use the SGR, the more you save a lot of money in terms of the 0.5 per cent and the more the SGR gets money from transportation. So, there is a symbiotic relationship.

Further, we want to suggest that importers who choose to use the road transport should attract an additional surcharge of 0.3 per cent. It means that if you continue using the road, then instead of paying 2 per cent to the RDL, you will be required to pay 2.3 per cent. That is if the House agrees with our recommendation. It is because you are putting a lot of weight on the road.

So, you should be punished for putting a lot of weight on the road and yet we have given you the SGR.

Fourthly, to guide the use of SGR, increase competitiveness in the sector and promote stop-over economy along the railway line, the Government should come up with a policy that will not discriminate against any user of SGR or transporter. That way, we will form a lot of symbiotic relationship between the transporters and the management of the SGR.

We are also asking the House to agree with us that for the purpose of the Last Mile Connectivity, the Government should allow private investors, where possible, to extend the railway to their respective yards at their own cost. As you read on, you will realise that the Last Mile Connectivity and the First Mile Connectivity are among the biggest problems.

The House should also agree with us that on clearance of cargo, importers should have the freedom to nominate a licensed container freight service company for the purpose of clearing items. There is no need to force anybody.

Under No.7, we are asking the House to agree with us that the Government should initiate the process of renegotiating the loan, of course, using the opportunity available, that is, COVID-19. The effects and impact of COVID-19 should be appreciated in the payment of the loan. In any case, nobody planned for it.

Finally, we are asking the House to agree with us that the negotiation of the current operational agreement should be fast-tracked. What is the operational agreement here? There is somebody who actually operates the SGR. The Government is not running the SGR directly. Perhaps, in future the Government will run the SGR, but at the moment it is run by a private entity. That private entity signed an agreement with the Government earlier and we found out that such an arrangement was a little bit expensive. That is why, maybe, the SGR is more expensive. We are urging the Government to fast-track that negotiation. As a Committee, we urged the Government to renegotiate that operational agreement and the costs attendant to it. You know it was costing the Government close to Kshs1 billion per month. We have told them to renegotiate that to about Kshs500 million per month. If this House agrees with us, we will move to a different level, which is bringing amendments in terms of law in order to effect some of these proposals.

Why did we go that direction? I know I started with the requests or recommendations. Hon. Members in this House, including the Chairman of Public Investments Committee (PIC) raised several critical issues concerning representation of the people of the coast and the entire country. The issues surround the notion that the Government is forcing people to use the SGR. It does not feel good that the Government is forcing people to use the SGR. Remember, the SGR is a mode of transport just like any other, for example, lorries and trucks transporting goods from Mombasa to Nairobi. There were a lot of concerns from members of the public in the entire country and, of course, demonstrations here and there.

From where you sit, Hon. Speaker, you ruled that this Committee does an inquiry so that we bring all these things together. Once you directed so, we asked ourselves: what do we need to address? Two things came to our mind as a committee. One, SGR is a national installation. Therefore, the protectors of that national installation should be the people and the leadership. We cannot beat the SGR! Who will protect it then? It is supposed to be ourselves.

We also found out that the SGR should not drive out its own children from making money or doing business. The SGR should live in a symbiotic relationship with the people it is serving. There needs to be an equilibrium. So, this committee was to find that equilibrium. Some of the proposals we have given the House in terms of recommendation, form part of that equilibrium. We wrote to the public and main stakeholders to appear before us so that we can reason together.

I want to thank our colleagues from the coast and in particular, Hon. Abdullswamad. He listened to us. We were actually talking on a daily basis. Using Article 95 of the Constitution, they were representing the interest of Kenyans. We decided that rather than talk to each other, we talk together as a people. We knew that we needed to find an equilibrium or a balance between the people and the SGR so that the SGR can live on its own, sell and sustain itself – people should be able to use the SGR willingly without being forced.

We met officers from the relevant Ministry and Kenya Railway. We reasoned together. It is important for me to say this because it is critical that everybody knows who we met and agreed with to come up with the recommendations in our Report. We also met officials from Kenya Ports Authority (KPA). We met parliamentarians from the coast. They came in large numbers. We had a very good interaction with them for some days. We also met persons from Kenya Private Sector Alliance (KEPSA).

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. David Pkosing, you had 10 minutes. The clerk should be quick to notify you. I sense that there is some part of the Report that you have not finished. You had 10 minutes by the resolution of this House but I will give you two minutes to sum up...

**Hon. David Pkosing** (Pokot South, JP): Hon. Temporary Deputy Speaker, that was not even three minutes. I was also timing myself.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. David Pkosing! You have two minutes and you are running it.

**Hon. David Pkosing** (Pokot South, JP): That was not even three minutes.

Hon. Temporary Deputy Speaker, having said that, what came out from the deliberations in terms of trying to identify the issues that were affecting the SGR, we came up with three general observations. One, the SGR is not expensive after all, and this is important to say. When you are transporting your cargo using SGR compared with the trucks, SGR is cheaper by about Ksh10,000. We realised that if you are using SGR you are required to pay about USD833 while if you are using a truck you will pay USD926, which is about Ksh83,000 and Ksh92,000. So, it is not expensive.

Two, we realized and made observations that the biggest problem was the Last Mile and the First Mile, particularly the Last Mile. A customer or a user of SGR houses his or her items in the ICDE in Nairobi and then after that he or she looks for his or her own truck to take these goods to their warehouse, factory or a store. That brought a lot of problems. That is why SGR became very inconveniencing. We also realised that normally, trucks take back the empty containers to Mombasa in the same payment, even if it was Ksh92,000. However, it is more convenient to use a lorry or a truck to bring your products from Nairobi to your warehouse because they will then take back the empty containers to Mombasa which is very easy. If you are using SGR, you bring your cargo to Nairobi and then you have to take back the containers. That was the biggest problem in this item of SGR.

Hon. Temporary Deputy Speaker, if that is the problem, then the SGR must address that issue of the Last Mile, very important. That is why we recommended, as a Committee, that either you find a way that the SGR completes the journey and take back the empty containers to Mombasa or allow these big importers to build a railway line to their own facilities. Most of the people said that they are okay using SGR. That is the biggest inconvenience that we found out and made those recommendations. It is a priority topic. It would require me to have more time but because of other Hon. Members who want to make their contributions, this protects our item but our item should protect our people.

I beg to move and ask Hon. Shadrack Mose to second.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Shadrack Mose, please note that you have five minutes. Any other Member has five minutes to speak to this.

*(Hon. Shadrack Mose spoke off-record)*

You will get the mic in a minute. Let him have his mic now that the Chairperson has used his. Can you use the central microphone?

**Hon. Shadrack Mose** (Kitutu Masaba, JP): Hon. Temporary Deputy Speaker, I rise to second the Report by the Chairperson.

I wish to submit as follows. First and foremost, we realised as the Chairperson has rightfully said, that there is what we call freedom of choice for a transporter to transport his goods from one destination to another. The issue of SGR that was raised by my colleague, Hon. Abdullswamad Nassir, was critical. I can see many of my colleagues from the coast are here. The SGR is one of the flagship projects of the Vision 2030 in this country. So much so that as we discuss about the SGR, as Members of the Departmental Committee on Transport, Public Works and Housing, we made it that that is one of the flagship projects of Vision 2030. Actually, it was meant to enhance and increase the cargo throughout Mombasa and also to the inland depots in Nairobi and Naivasha.

Hon. Temporary Deputy Speaker, the SGR, in essence, was meant to increase efficiency, predictability and reduce costs. Therefore, our discussion was centred on that aspect so that at the end of the day, we are looking at SGR which is a national flagship project that has been implemented at a cost that we need to pay. The most critical issue therefore, is how we would ensure that this flagship project - Vision 2030 - continues without hurting the other form of transporters. For SGR to remain the choice of shippers, it is important to ensure that it is efficient, predictable and at all times, will address the issue of cost. The issue of cost should remain the focus of service delivery. The Government should deliver this SGR as a symbiotic multi-model transport system for sustainable economic growth. This symbiotic model should not be a model that infringes on other modes of transport. That is why we said, as an alternative, it should be given a chance to be competitive, just like the others. The competitiveness should be in terms of the other modes of transport like rail, roads *et cetera* which should be a complementary system to the SGR.

Hon. Temporary Deputy Speaker, I can see... You can add me one minute. Therefore, the transporter should have the freedom of choice in terms of the mode of transport to have their goods transported. Measures should also be put in place for the utilization of the Kenya Railway Assets which also complements it. As a revenue raising measure, the Government should consider adjustments to the RDL and other incentives that are in place.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well. You may second because your space is gone. I am not able to add you one more minute because I will have to add any other Member who speaks.

**Hon. Shadrack Mose** (Kitutu Masaba, JP): Thank you, Hon. Temporary Deputy Speaker. To conclude, we want to encourage the SGR to compete and advertise so that in this time and era of competition, it should find its space in the industry.

I thank you. I beg to second.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well. You may freeze at the point you are Hon. Shadrack Mose. Do not move. Do not keep moving, just freeze where you are because we have to propose the Question.

*(Question proposed)*

Order Members. We cannot put the Question on this one. The first person on my list is Hon. Mule Mutinda.

**Hon. Stephen Mule** (Matungulu, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I request to reserve my time because the Report has just been tabled and I am struggling to find it on the software in the Chamber. I would be lying to myself if I spoke on a report which I have not read. If you indulge me, I wish to speak later once I have gone through the entire Report. It is a very serious Report which touches on serious issues of...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well. If you speak to it now, you will lose an opportunity to speak to it later.

Let us have Hon. Mwinyi, Member for Changamwe.

**Hon. Omar Mwinyi** (Changamwe, ODM): Asante sana Naibu Spika wa Muda.

Nasimama pia kuunga mkono mapendekezo ambayo Mwenyekiti wa Kamati yetu ya Uchukuzi ameleta mbele ya Bunge hili kuhusu Ripoti ya matumizi ya Standard Gauge Railway (SGR) katika taifa letu la Kenya.

Mapendekezo ambayo yamekuja mbele ya Bunge hili ni kutokana na hali ambayo ilitokea na mtafaruku uliopatikana baada ya Serikali kushurutisha kuwa makasha na mizigo yote yabebwe na SGR. Jambo moja ambalo tumejifunza katika mtafaruku huu ni kuwa Serikali na raia wake wakifanya kazi pamoja, matatizo makubwa yanaweza kusuluhishwa bila kuwa na vurugu.

Pia, imetuonyesha kuwa ni vizuri kuwa na miradi mikubwa kama hii ya SGR. Lakini, kabla haijatekelezwa, pengine watu washirikishwe na watoe maoni yao ili inapotekelezwa, watu wote washatoa mawazo yao na kuondoa zile hofu ambazo zingeleta mtafaruku siku za baadaye. Hiyo imeonekana wazi. Baada ya watu kutoa maoni, kukawa na masikizano.

Jambo lingine ni kwamba Ripoti hii imewafanya Wabunge kufikiria kitaifa. Haikupendeza kuwa ilisemekana kuwa mambo haya yanadhuru sehemu za Pwani peke yake. *The coastal region is part of the nation*. Ikiwa tatizo lagusa sehemu moja, latakiwa liguse nchi nzima. Sisi ni Wabunge wakitaifa. Nilifurahishwa kuwa ingawaje ilikuja polepole, mwishowe tulipata usaidizi kwa sababu SGR ingeathiri sehemu kubwa sana ya nchi yetu. Si Pwani peke yake.

Kando ya vile alivyoeleza Mwenyekiti wetu, tuliona kuwa katika usafirishaji wa haya makasha, badala ya kasha kuletwa mpaka Nairobi, ilikuwa kuna wale ambao wanachukua makasha hayo nakuyaregeza kwenye *Port*. Kwa sababu ya kuzuia msongamano kule *Port*, hao walikuwa na ahadi zao wakiwekeza. Baadaye, meli ikiwa tayari, wanayachukuwa na kuyaweka ndani ya meli na kuyapeleka ambako wanayapeleka. Hapo kulikuwa kuna nafasi nyingi za kazi

zilizotokea kutokana na hali kama hii tunayozungumzia. Ilipokuwa ni lazima SGR ibebe mizigo hiyo na baadaye iregeshe, ikawa kuwa kila mtu atafutwa kazi kwa sababu huwezi kumlipa mfanyakazi ambaye hafanyi kazi nawe hupati pesa pia.

Tumejifunza ni lazima tutumie hizi *universities* zetu kufanya utafiti katika mambo yote ambayo tunataka kufanya kama nchi. Vile tuna taka, kila jambo linalofanywa lihusishe raia kwa ukubwa na upana kwa sababu ni raia ndio watakaoathirika ama watakaotumia zile *services*.

SGR inakuja na kubeba watu lakini inawaangusha katika zile sehemu za Syokimau. Mtu anapaswa apande teksi aje mpaka mjini. Ulimwenguni mzima, huwa tunaona *train services* zinaishia ndani ya mji. Mtu anashuka na kutembea kwa mguu hadi ofisini.

Kwa hayo machache, naunga mkono mapendekezo hayo na kuomba ndugu zangu pia waunge mkono.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. Makau.

**Hon. Patrick Makau** (Mavoko, WDM-K): Thank you, Hon. Temporary Deputy Speaker.

From the outset, I support this Report. This shows that this Government is listening, courtesy of the cooperation between the Wiper Democratic Movement and the Jubilee Party. Before, this Government was not listening. Every Kenyan...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Makau. There is a point of order from Hon. Pkosing.

**Hon. David Pkosing** (Pokot South, JP): Hon. Temporary Deputy Speaker, is he in order to insinuate that now that they have joined Jubilee, we are now working? Were we not working before? We were working but he could not see. That was the problem. Now that he is in Government, he sees that we are working. He is a good man. He is a former mayor. He must understand that we were working. He could not see.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Pkosing, you used the backdoor to raise a point because that is not a point of order.

Hon. Makau, please proceed.

**Hon. Patrick Makau** (Mavoko, WDM-K): Hon. Temporary Deputy Speaker, I hope the clerks will see that he has taken away my one minute. It was a compliment. When I listened to the Members of Parliament from the Coast and the people from the Coast in general, they were really mad at the Government because of what looked like a forced transport system.

Every Kenyan wanted the SGR. It was a noble idea. It was a noble development and infrastructure that this country wanted. When I listen to the Chair of the Public Investments Committee, Hon. Nassir, and his colleagues from the Coast crying that their businesses had been affected, I was also affected. Mombasa Road snakes through the Ukambani region. Old towns such as Mtito Andei, Kibwezi, Makindu, Emali, Sultan Hamud, Salama, Kyumvi up to Mlolongo were badly affected. The Government insisting that transporters should use the SGR meant the death of those towns.

When I hear that the Government has accepted the forces of a free market to take place, I am very happy. In very many nations where the Government wants its infrastructure to be used, they give incentives. How I wish the SGR was charging less than 50 per cent. Everybody would use it. When I listened to the Chairman moving this Report, he alluded that the Government has accepted competition. Those transporters and businessmen who had bought trucks are now back. Now we will see the real competition where the forces of demand and supply will apply. It is a good thing. I encourage the Committee to go ahead.

I have heard Members say that if you bring your cargo or even passengers, it is really inconveniencing, particularly with the expressway. The traffic jam on the Mombasa-Nairobi Road is crazy. Travelling from the Syokimau Railway Station to town will take you about three hours. I agree with Members that we should introduce a light rail from the SGR to the town centre. That will naturally attract customers. We do not have to start looking for transport to come to town. This Report is timely.

We request Parliament to provide a budget for a light rail to be introduced from where SGR ends. I know the SGR line continues to Naivasha but we need to find a way of taking care of the Mombasa-Nairobi Highway traffic jam. I am sure that people in these townships, who are faced by a looming extinction, will now bounce back to life. It is high time the SGR started to compete with private transporters.

With those remarks, I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Hulufu Oda, you may have the Floor.

**Hon. Hassan Hulufu** (Isiolo North, KPP): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to speak to this Report. I support the Report.

As Members of Parliament, we represent the interests of all Kenyans. So, when Hon. Abdullswamad, along with other coastal MPs, raised these issues; that, importers were being forced to use the SGR and in the process Kenyans at the Port of Mombasa and the various towns along the Mombasa-Nairobi Highway were losing jobs and livelihoods, we were touched. I actually decided to stay in the House until I contribute to this Report. If the recommendations could not have gone the way we wanted, I was ready to oppose it. But as it is now, it is good that the Government has listened to the concerns of the stakeholders and now the importers are free to choose the mode of transport that they should use.

The Report also states clearly that SGR and Kenya Railways should be ready to compete with other transport services. I am sure they will be forced to provide incentives for the importers to choose the SGR and not the other alternative modes of transport, and that is the way to go. I am glad because transporters traverse various counties. There are those who use road transport because the SGR does not stop anywhere near their areas of operations. From Mombasa County, trailers go through Taita Taveta, Makueni, Machakos and Nairobi. Along this stretch of close to 500 kilometres, there are townships where economies and the livelihoods of the people who live there largely depend on these transporters. Therefore, this Report actually restores the hope of those people. Most of these towns had begun becoming ghost towns. In future, if the Government comes up with projects like SGR, it should consult the people with a view to entice them to appreciate Government service rather than give directives on what mode of transport people should use.

I am glad that the Report also touches on the issue of idle assets of Kenya Railways, which are all over the country. These assets should be put to use and the income from them should be used to develop the rail network further. We also want the SGR to be extended not only in the direction of the lake but also beyond the neighbouring counties. In future, the Government should probably consider extending SGR through Mount Kenya to northern Kenya and other parts of the country so that the economies of those regions can also open up. We also have things to be exported and we need an easy access to the Port of Mombasa.

With those few remarks, I support the Motion for adoption of this Report.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. Mishi Mboko.



**Hon. (Ms.) Mishi Mboko** (Likoni, ODM): Asante sana, Bw. Spika kwa sababu Waswahili wanasema, bandu band humaliza gogo. Swala hili tulilizungumzia kwa muda mrefu sana, haswa sisi Wabunge wa kutoka sehemu ya Pwani. Na kila wakati tulipokuwa tukilizungumzia, lilikuwa linaleta tashwishi na hamasa nyingi haswa kule kwetu Pwani. Lakini, kama Serikali na Wakenya, tumeangalia swala hili na tukaamua tuwe na mazungumzo. Na kwa kuzungumza kwetu, tumeweza kupata suluhu; suluhu ambayo itakuwa inamwangazia Mkenya kule mashinani na pia kuzingatia mikakati ya Serikali, ile kwa Kiingereza tunasema *symbiotic model* ambayo kila mmoja katika wale washikadau watafaulu na maamuzi haya ambayo yamewekwa na Kamati ya Bunge ya Uchukuzi.

Nataka nishukuru sana kwamba hivi sasa wachukuzi walio na shehena zao katika Bandari ya Mombasa wataweza kutumia njia ambayo wameiona ni sawa kubebea zile shehena za mizigo. Iwapo unataka kutumia SGR, utaitumia na utajua malipo yake ni yepi; na iwapo umeamua kutumia uchukuzi wa barabarani, utautumia na utajua malipo yake ni gani. Basi, kukiwa na mipaka kama hiyo ile migogoro, zile sintofahamu, zile kashfa, mambo mengi na siasa duni zitakuwa zimezibwa katika kaburi la sahai.

Nataka nizungumzie pia jambo ambalo limezungumziwa ambapo mtu atakuwa na uhuru wa kutafuta yule *agent* ambaye ako na leseni na anatambulika kisheria ili akutolee mizigo yako kutoka Bandari ya Mombasa. Sio wakati ule ambao tulikuwa tunashurutishwa ama kulazimishwa kutumia SGR na mikakati mingi sana iliyokuwa imewekwa. Kwa hivyo, hivi sasa, mtu atakuwa na uhuru. Utakuwa huna haja tena ya kuponda Serikali ama kuzungumza jambo lolote baya kuhusu Serikali.

Jambo hili limezindua maneno mengi sana kwa sababu watu wamekuwa wakisema kwamba pengine SGR imeletwa ili iweze kufaidisha sehemu nyingine na kuuu chumi za sehemu nyingine. Ndugu Mhe. Makau amesema kwamba njia yote kutoka Mombasa hadi Nairobi si watu wa Pwani pekee bali hata sehemu za Ukambani, uchumi ulikuwa umedorora, na ilikuwa ni shida sana kwa akina mama kufanya biashara ndogo indigo katika barabara kuu. Wote walikaa majumbani na kukosa kupata mapato ambayo walikuwa wakipata kwenye biashara kama zile. Jambo kama hili ambalo sasa tumefanyia maamuzi kupitia Kamati ya Bunge ya Uchukuzi, ni jambo ambalo litaregesha ile ari ya sehemu hizi ambazo zilikuwa zina *issues of logistics* ama ambazo zilikuwa zinahusiana na mambo ya Bandari, kubeba mizigo na kupeleka sehemu tofauti.

Vile Tofutti, jambo ambalo amezungumzia tinaloliita '*last mile connectivity*' ambapo kama mtu anaweza kuzidisha barabara ama kurefusha ifikie mpaka mahali ambapo anataka shehena zake za mizigo zifike, pia amepewa uhuru wa kuweza kufuatilia na kufanya hivo. Kwa hivo, hii inamaana kwamba Serikali sasa imefungulia Wakenya walio na mizigo yao kutoka Bandari ya Mombasa na kupeleka sehemu yoyote nchini, wafanye biashara.

Bwana Naibu Spika wa Muda, nashukuru sana na nasema kuwa kama Wakenya, mfumo huo wa kuzungumza, kusikizana na kuweza kufanya maamuzi ambayo yataweza kusaidia Mkenya, ni mfumo bora. Mambo mengine ya fujo, fitina na siasa duni hayatasaidia Kenya.

Asante Bwana Spika.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, before I give any other Member an opportunity, let us first give chance to the one who raised this issue and caused the Committee to do an inquiry into this matter, under the direction of the Speaker, Hon. Nassir.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Asante sana, Bwana Naibu Spika wa Muda. Historia leo imeweza kuandikwa. Tarehe 6 Agosti 2019, hili jambo lilipoanza, niliweza kuliuliza katika Bunge hili na likaleta sintofahamu na watu wakawa ni wenye kuzungumza ndani ya

Bunge na wengine nje ya Bunge. Hatimaye, sheria zinatungwa na kutekelezwa katika Bunge hili. Sisi sote tumeweza kuwajibika na kupigiwa kura kwa sababu ya kutunga zile sheria, sio kwa kupiga porojo mitaani peke yake.

Ilipofika tarehe 2 Juni 2020, hii Hoja iliregeshwa tena na nakumbuka niliweza kufuatilia katika Bunge hili na ndugu yangu, Mwenyekiti wa Kamati, akaleta jawabu ambalo sikufurahia. Tarehe 25 Juni 2020 nikaliuliza tena. Ndipo Mhe Spika akatoa amri ya kuwa ni lazima kuwe na kikao maluum cha kutafuta suluhisho la kudumu la masuala hayo. Nawaeleza kuwa tufahamikiane kuwa katika yale yaliyokubalika, kwanza ni kuwa kila mwenye mali awe na uhuru wa kuchagua njia yoyote anayoitaka kusafirisha bidhaa zake.

Tulisema na tukatoa maoni, na ninashukuru yamekubaliwa, kuwa ile ardhi - hamna shirika lolote la Serikali katika Kenya lenye ardhi zaidi kama Shirika la Reli la Kenya - ichukuliwe na fedha ambazo zinatumiwa kiholela holela zitumike kulipa madeni ambayo yalichukuliwa.

Baada ya kuzungumza, mimi binafsi, Wabunge wenzangu, Mwenyekiti na washikadau tulikubaliana ya kwamba ikiwa mtu anataka kutumia reli, badala ya kulipa asilimia 2 kama *Railway Development Levy Fund* apunguziwe iwe asilimia 1.5. Na ikiwa ni lazima atumie gari kwa sababu ya hiari yake, basi aongeze kwango cha 0.3. Ukiangazia zile hesabu, wenye biashara walikubaliana na jambo hilo.

Tulisema ni sawa ikiwa SGR inaona inatatizo la kupeleka mizigo kutoka yadi yao mpaka katika sehemu za wenyebiashara, ni sawa wazungumze na washikadau ambao ni wasafirishaji wakubaliane nao kuwa mizigo ikiingia, mtu ana hiari ya kutumia njia anayetaka ili mizigo ifike katika yadi yake. Zamani kazi za *clearing and forwarding* zilikuwa zimejaa Mombasa. Leo kwa sababu ya amri hii, biashara zote za *clearing and forwarding* zimeenda kwingine. Lakini tunakubaliana na nashukuru kuwa mtu awe na hiari ya kuchagua *Container Freight Station* anayoitaka na aweze kuwa na hiari ya kuchagua kampuni ambayo anataka.

Jambo hili si la Kenya peke yake. Nchi ya Ethiopia ilifanya jambo hili. Napendekeza Serikali iregee chini ianze kuzungumza na Serikali ya China wakubaliane vile mikopo itakavyolipwa. Tumegundua kuwa gharama kuu zaidi ya kuendesha SGR ni malipo kwa kampuni fulani kila mwezi ya takribani bilioni. Ni lazima waangalie njia kwa sababu Wakenya wanaumia na pesa zinaenda kwa shirika fulani peke yake.

Nashukuru Mwenyekiti mwenzangu na nashukuru washikadau.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): I add you one minute being the originator of this.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Asante sana Naibu Spika wa Muda. Nilikuwa namalizia kwa kusema kuwa namshukuru Mwenyekiti na Wanakamati. Tulipoanza jambo hili kulikuwa na mvutano na bugudha sana. Nawasihi ndugu zangu wanaopendelea “*bonga points*” za mitaani kwa kuzungumza tu na kutoa kashfa ambazo hazina ukweli, kuwa leo pengine iwe funzo tunawapa jinsi sheria zinatungwa. Tumefaulu leo na nina imani kila mmoja amekubaliana na kauli yetu kuwa ni lazima SGR isiwe ya kulazimishiwa mtu bali iwe hiari kwa sababu wanaona inafaa.

Asante sana, Naibu Spika wa Muda.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Before I get to my right, let us hear from Hon. Makali.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you very much, Hon. Temporary Deputy Speaker for giving me this opportunity. I want to indulge you that since I am alone here, I can speak without my mask although I know it is a requirement in this House.

I want to join my colleagues in supporting this Report because it has some good recommendations which I will not dwell much on. I just want to raise some fundamental questions which, to me, will need to be addressed as we move forward.

This Report recommends that there should be freedom of choice in terms of the mode of transport one wants to use to transport goods. At the same time, they are saying that we reduce the railway levy for railway transport to 1.5 and increase the same levy for those who use the road to 2.3 or 2.5. The question is: Are we being fair to market forces where demand and supply are at play? That is discrimination. It is not going to be fair if we start discriminating Kenyans. As we move to the future, it is important to ensure that market forces of demand and supply determine the price. If we want the railway mode of transport to be the most preferred, the trick is to make it more efficient so that the cost goes down and, on that basis, Kenyans will have no choice but to make it their first choice.

The other point is the renegotiation of the loans. I heard the Chair say that we need to renegotiate the loans because of COVID-19 and other reasons so that the way we pay them could be restructured or changed. This to me, brings out quite a number of questions. The first one is: When we were getting the loan, had we done due diligence in terms of feasibility studies and the best international practices? When I heard that we need to do some recommendations, I asked myself whether the Chairman made any comparison with international best practices. For example, when they recommend reduction of a levy to 1.5, is that what happens out there where we have best practice? This is not the first line in the world. It is there in Europe, Japan and China. Even as we make recommendations, it is important that we look at what happens elsewhere so that we compare ourselves. Otherwise, we will start pushing for monopoly of such institutions and the SGR will become a monopoly project and, on that basis, they can start milking Kenyans without anybody questioning. I do not think that this is the way we want to go.

Even as we support the Report, I must thank my colleagues from the Coast because by initiating this kind of inquiry, we are also going to have many more people benefiting. In the Ukambani region, where I come from, a number of our towns had started dying basically because all the transport along the Nairobi Mombasa Corridor used to have lorries stopping at specific areas. Other than the economic benefits of spending in those areas, there were also social benefits which used to come to our people. We cannot ignore them. When everything went to the SGR, you can imagine what is happening in that area. So, these recommendations will help us also. Even as they help us, it is high time, as Kenyans, we started asking the question of value for money. I would have wished to see a situation where this inquiry was extended to where we start asking if Kenyans are getting value for money. Is the loan we got for so many years going to burden our future generations? The practice is always that each time we get a loan, by the time we get to the next generation, a particular investment should have generated such revenue streams to a level that it would be paying for itself. I always ask myself: Are we going to be in that level in 15 years or do we get to the 15<sup>th</sup> year and we will still be paying Ksh1 billion to a company which seems not to be known to any Kenyan? We heard Hon. Nassir say that there is a company that gets Ksh1 billion every month and it seems nobody knows about it. These are the important questions we need to ask about this project.

I support, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. (Ms.) Wamuchomba.

**Hon. (Ms.) Gathoni Wamuchomba** (Kiambu CWR, JP): Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity. I rise to support this Report that emanated from

the Committee that I serve in. I am very glad that I was there during the presentations and listened to all the submissions that were done by the stakeholders as well as the Hon. Members from the region who dedicatedly submitted all the concerns. I am glad that, finally, today, we are actually sitting here to say: “Yes, the Report is the way to go.”

Every big project of this nature normally has what we call the baseline survey – a survey that is done before the investment is done to advise the investor and the Government on the modules that are going to be used to recover the money that has been invested. I am not so sure whether the baseline survey that was done was actually a clear picture of the scenario on the ground. This is because even after we have done all this investment, it is very clear that there were some things that were overrun or overlooked and assumed. That is what I call the socio-economy.

I do not think that the socio-economy of the Standard Gauge Railway project from Mombasa all the way to Nairobi was taken care of properly. I would want to understand if there was a consultant who was involved, how the report was given and how it was put into implementation. The reason I am raising the issue of social impact is because I am aware, and I guess Members of this House are also aware, that there are so many small businesses that were dependent on the traditional mode of transportation from Mombasa to Nairobi, that is, the road transport. There are young men who sell roasted maize, young women who sell milk, men and women who ferry cargo to trucks and mechanics who take care of those trucks along the road from Mombasa all the way Nairobi. That socio-economy was completely blacked out when the directive to use the SGR was given.

Therefore, I am very excited that, finally, the Committee in charge of Transport, Public Works and Housing in the National Assembly has sat down and analysed the cost of social impact that has been interfered with by the order to forcefully use SGR for transportation of goods.

I also do not think that sensitization of stakeholders was done properly. This is because sensitization would actually have given the gains of using SGR to the stakeholders so that they can make decisions on what to use; either SGR or the road. Therefore, I still feel that even in future, as we revisit this issue, we would want to make sure that sensitization of all stakeholders has been done properly so that we can advise accordingly.

The law of feasibility studies states that when you lower the redundant variables as you introduce the catalyst variables, you must make sure that you balance the equation. It is very clear that we introduced a new variable into the transport industry, but we never considered how to withdraw the existing variable. Every time you create that kind of an imbalance, you create confusion. That confusion resulted in total costs increase, losses and many other issues that we have heard the stakeholders complain about.

I support the adoption of this Report because that is the way to go. I congratulate the Hon. Member who brought this matter into the attention of this House because, finally, justice is going to be served to the stakeholders of the industry.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. (Dr.) Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this debate. The SGR project was a flagship Vision 2030 Project with a purpose to decongest the port, to get cheaper transport for our goods which will eventually mean that the goods will be cheaper, to have safety of our cargo as it is transported and to preserve our roads which were used for heavy transportation.

On implementation, what eventually came out is that there were a lot more disadvantages than what was realised. In fact, people were forced, the businesses were being forced. What then happened is that the truckers were declared redundant. The business associated with trucking in Mombasa, along the way and at the port were all affected. There were losses of jobs. This should have been expected. To impose this on the businesspeople and therefore expose them to these disadvantages was totally unnecessary. I therefore congratulate the Member who raised this issue and the Committee that has worked on it.

I saw somewhere in the Report that the compulsion was because of COVID-19. That was totally untrue. Hon. Nassir, popularly known as “the incoming Governor”, had actually brought this thing and we discussed it before COVID-19. On that statement, wherever it came from, the Executive was not correct. Kenya is a free market economy. Whatever we do, whatever projects we bring, must go by that. Therefore, in my view, the only way for the SGR to achieve the things we wanted it to achieve is to make it competitive so that businessmen will choose it on the basis that it is cheaper and more efficient. There will be no other way. If that is done, even the other businesses will adjust. If the businesspeople realise it is cheaper and use it, it will be gradual and there will be adjustment and the economy will find how to absorb the other people in all other businesses.

Therefore, I support this Report. Try to make it competitive by supporting the reduction of levy and also allowing those who can do the last mile infrastructure at their own cost do it. I think that will make it more competitive. Use the Kenya Revenue Authority (KRA) to finance the SGR project, renegotiating the loan but more importantly, efficiency. There is one thing that did not come out. When the SGR was conceived, it was to go all the way to Kisumu and Eldoret, into Uganda and Rwanda. If you conceive a project of that magnitude and you reduce it by half, you cannot get the benefit that you expected. Therefore, in my view, the first thing we need to do is to complete the project to where we wanted it, increase the business and then we can start getting the benefits we expected. I know it is ending in Mombasa and there is an effort to improve the metre-gauge railway from Mombasa to western Kenya. But again, it will cause an exchange in Mombasa where goods that have come by SGR have to be changed into a metre-gauge railway. I suspect that will not really in itself make it as successful as you would have wanted it.

So, my view is that we should strive to make it efficient and cheaper and let the market forces prevail. With that, Hon. Temporary Deputy Speaker, I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, I see quite a number of Members who still are interested to speak to this but it is a few seconds to 7.00 p.m., when the House must rise. It is good for Members to note that this is not the end of this Order. Actually, there is a balance of one hour and thirty minutes on this Order. So, Members still have time and space to contribute and speak to this Order any other time the House Business Committee will schedule it.

## ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): So, in the circumstances, Hon. Members, the time being 20 seconds to 7.00 p.m., this House stands adjourned until Thursday, 12<sup>th</sup> November 2020, at 2.30 p.m.

Hon. Members, in line with the resolution earlier in the day, it is good to note that the House is not adjourned until 10.00 a.m. We are not meeting on Thursday at 10.00 a.m. It is at 2.30 p.m., to receive the Address of His Excellency the President.

The House rose at 6.59 p.m.