

## PARLIAMENT OF KENYA

### THE NATIONAL ASSEMBLY

#### THE HANSARD

Thursday, 26<sup>th</sup> November 2020

The House met at 2.30 p.m.

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

#### PRAYERS

#### PETITIONS

**Hon. Speaker:** Member for Embakasi West.

#### IMPROVEMENT OF SKILLS ACQUISITION BY PRISONERS

**Hon. George Theuri** (Embakasi West, JP): Thank you, Hon. Speaker. I have Public Petition No. 43 of 2020 regarding training and skills acquisition by prisoners.

I, the undersigned, on behalf of incarcerated inmates in the Republic of Kenya draw the attention of the House to the following:

THAT, Father Grol's Welfare Trust is a non-governmental organisation whose aim is to promote the dignity of prisoners by enhancing collaborative efforts towards their rehabilitation and re-integration into the community by strengthening their capacity for quality life solutions;

THAT, the Trust trains and educates officers working in prisons to appreciate and uphold prisoners' rights, and was instrumental in successfully lobbying for their right to education, including the right of prisoners to sit for the Kenya Certificate of Primary Education (KCPE) and Kenya Certificate of Secondary Education (KCSE) examinations;

THAT, the Trust equips prisoners with technical skills such as carpentry, masonry, welding and knitting for women, which helps them make the most out of their time in incarceration;

THAT, for over 17 years, the Government of Kenya has supported this initiative by paying fees to the relevant examination bodies which has resulted to thousands of former prisoners graduating and eventually running their own businesses upon their release from prison;

THAT, the Government has unfortunately completely withdrawn funding of prisoners' grade tests thereby dealing a major setback to the success of that training programme and now warders in the workshops have been left handicapped, while inmates are no longer motivated to get trained or to undertake grade tests in prison;

THAT, efforts to address this matter with relevant authorities have not borne much fruit;

THAT, the matter in respect of which this petition is made is not pending before any court of law or constitutional body.

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Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Administration and National Security:

- (i) Enquires into the matter with a view to securing the necessary budgetary allocations to facilitate reinstatement of payments of all grade tests that are done by prisoners in all Kenyan prisons; and,
- (ii) Undertakes the necessary interventions to secure the improvement of skills acquisition by prisoners and to facilitate motivation of warders who run workshops and training of prisoners.

And your petitioners will ever pray.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Garsen, Hon. Ali Wario Guyo.

#### STAKEHOLDER CONSULTATION ON GALANA-KULALU FOOD SECURITY PROJECT

**Hon. Ali Guyo** (Garsen, JP): Hon. Speaker, I rise to read Public Petition No. 45 of 2020, regarding sub-division of Agricultural Development Corporation land and stakeholder consultation on the Galana-Kulalu Food Security Project.

I, the undersigned, on behalf of the residents of Garsen in Tana River County, draw the attention of the House to the following:

THAT, the Ministry of Water, Sanitation and Irrigation has been implementing the Galana-Kulalu Food Security Project covering 1.7 million acres of land in the Galana and Kulalu Government ranches within Tana River and Kilifi counties;

THAT, through a Cabinet Memorandum, measures were proposed on the way forward regarding the critical components of the Galana Kulalu Food Security such as land settlement, termination of all the existing leases on the Agricultural Development Corporation (ADC) land, development of road infrastructure, provision of power connection and upstream pollution and catchment area conservation, protection and management;

THAT, the Ministry of Land and Physical Planning has embarked on planning and surveying of the area for resettlement of host communities, and subdividing the land for commercial leasing for crops and livestock enterprises;

THAT, a total of 30,000 families will be settled and allocated 10- acre plots on a lease basis and a 200,000 acres community ranch scheme will be established;

THAT, Section 2 of Agricultural Development Corporation (Special Farms) Rules provides that no special farm shall be sold, subdivided or otherwise disposed of without prior approval by way of a Bill or Motion to be approved by Parliament;

THAT, the Ministry of Water, Sanitation and Irrigation had communicated to the Regional Commissioner, Coast Region, of the stakeholder consultations scheduled for 9<sup>th</sup> to 11<sup>th</sup> November 2020 in the affected counties to sensitise the local communities on the interventions to be carried out to complete the project and, especially, the plans for the local community in the project area;

THAT, unfortunately, the consultations did not take place as communicated and no further communication has been received from the Ministry;

THAT, the efforts made by the petitioners to have the matter addressed have not been successful;

THAT, the matters raised in this Petition are not pending in any court of law, constitutional or any other legal body.

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Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Lands:

- (i) Enquires into the circumstances under which the proposed 250,000 acres Community Ranch Scheme as per the existing survey map was amended to 200,000 acres;
- (ii) Recommends that the 5,000 beneficiaries under the Community Ranch Scheme be increased to a number proportionate to the affected citizens and that priority be accorded to the locals who have been directly affected by the project;
- (iii) Ensures that public participation is undertaken as per the Constitution and the provisions of the Agricultural Development Corporation (Special Farms) Rules and the ongoing survey works be stopped immediately.
- (iv) Makes any other appropriate recommendation it deems fit in addressing the circumstances that have been raised in the Petition

And your petitioners will ever pray.

I thank you.

**Hon. Speaker:** Hon. Robert Mbui, do you have a comment on any of those petitions?

**Hon. Robert Mbui** (Kathiani, WDM-K): Thank you, Hon. Speaker. I wish to make a comment on the first Petition by the Member for Embakasi. It is in the right place.

On the issue of prisons, those are places that are set up to get rid of those people who, when they are in the society, do crazy things. Those are thieves, rapists and murderers. Those are the people who are sent to prison. In prisons, accommodation is paid for. Outside here, we pay for our accommodation. Their food is paid for also. Outside here, we pay for our food. Now, this Petition is saying that we also pay for their education so that they can get certificates, diplomas and degrees. Are we not encouraging people who have nothing to end up in prisons? Even though it might be populist, even if we are talking about rights, let us talk about the rights of the people who are also doing the right thing.

I thank you.

**Hon. Speaker:** Unfortunately, it is never done here. Not when I am in the Chair. Hon. (Dr.) Robert Pukose.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Speaker. I want to support the Petition by Hon. George Theuri, Member for Embakasi. I want to disagree with my colleague, Hon. Robert Mbui, my namesake. In prison, you find innocent people. We saw during Uncle Moody Awori's time attempts being made to make sure that the facilities within those institutions meet human rights conditions. However, as much as somebody might be a criminal, there are basic things that we must provide to them as a civilised society. Those tenets are anchored in our Constitution on human rights. We cannot go beyond that. So, it is important that those people are rehabilitated and become good citizens so that when they come out to be absorbed back into the society, they do not become a problem.

On the one by the Member for Garsen, this is a very important Petition. Unfortunately, for Galana-Kulalu Project, it seems to have not met the expectations of Kenyans because that is a project that became a white elephant. It is important that this Petition is looked into in terms of its merits.

I support.

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

**Hon. Owen Baya** (Kilifi North, ODM): Thank you, Hon. Speaker. I would like to support the Petition by the Member for Garsen on Galana-Kulalu Project. The Coast Region has

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had enough land issues. Galana-Kulalu will become another big land issue and yet, again, at the Coast. There have been attempts to reduce issues of land at the Coast, but you can see that the people at the Ministry of Lands and Government officers are now creating another problem.

Galana-Kulalu was supposed to be a national food basket, but it has moved from the original objective to now people wanting to sub-divide the land. There are people who have been earmarked to be given that land. We have been requesting for a meeting to participate and consult on this, but the Government keeps on dodging those meetings. Two meetings have been scheduled, but the Government does not seem to be keen and so, they have been all postponed. There is no commitment to engage the people at the Coast to discuss the Galana- Kulalu Project. Eventually, we shall have a problem like we have had in areas like Mpeketoni, Lamu and Tana River. You saw the crashes that cropped up.

It behoves the Government to ensure that the right things are done on matters of land, especially at the Coast. They have become very emotive. What we are asking the Government to do is only one simple thing: Call us to the table to discuss Galana-Kulalu. If you want to subdivide that land, give it to the community because they have issues of land.

You want to bring in people from other places, allocate them 10 acres and then say this is a Government project. So, what we are saying is that the Committee that is handling this matter needs to put into consideration that they should not be going into history that they created another problem at the Coast in terms of land.

I thank you.

**Hon. Speaker:** How I wish we were able to give directions right here if the concerned persons were sitting in the Chamber. It would be instantaneous as it used to be in the past. Then, Hon. Ali Wario and Hon. Owen Baya, we would just direct that you walk out with whoever it will be - they are going to be called Ministers - and come back after 10 minutes and give us a progress report. It would be a very good thing.

*(Applause)*

Hon. Sabina Chege, do you want to comment on any of the two petitions?

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Speaker. I want to comment on the Petition about prisoners by Hon. Theuri.

People go to prison to be rehabilitated. We cannot say that since we are paying for their food, then we cannot train them. They go to prison so that they can be corrected and become better citizens. That is why the skills that are given in prison are very important. I wish that matter is sorted out quickly. We should not have the attitude that those are criminals. People do reform. People get saved. We cannot say that we will kill them or that they should rot there.

Some prisoners spend a lot of time in there. We should support them so that when they come out, they will be different, transformed and can now contribute to the economy and society and pay back the money that was used to train them. Some of them have families. They need to support their families.

I support the Petition. I hope we will not have that kind of attitude about our prisoners.

**Hon. Speaker:** Let me caution Members. This particular period for making comments is not about responding to what somebody else has said. It is about the petitions. Just address yourself to the petitions. You now appear to be addressing a petition which was not read out. Hon. Robert Mbui merely made his comments. Do not bother responding. Remember, this Petition will have to go to the Departmental Committee on Administration and National Security

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where it is directed. The Committee will then table a report. It is at that time that you will see what they have said. Please, when you comment, just do so based on the petition and not what somebody else has said. That becomes an argument.

Let us have Hon. Mwambire, Member for Ganze.

**Hon. Teddy Mwambire** (Ganze, ODM): Thank you very much, Hon. Speaker. I support the two petitions.

On the first Petition, before I joined active politics in 2007, I used to work as a human rights officer in prisons. I can confirm that the trainings which are offered in prisons are very important. If you want to correct someone, you also need to give direction. The directions given are to equip them with technical skills that they can use after prison so that they can be in a position to engage in an effective manner. There are even some payments that they are given after their prison term is over, which they can use to advance their economic empowerment in the society.

For those who might not understand, they should look at what is currently in the Prisons Act and how we proposed to change it. We are the ones who pushed for the prisoners to be in a position to study and do exams like KCSE and KCPE in the prisons. We have seen tremendous changes in the country, including the furniture and micro-workshops that we see on the streets. Most of those who manage them...

**Hon. Speaker:** The furniture in this Chamber.

**Hon. Teddy Mwambire** (Ganze, ODM): Yes, even the furniture in this Chamber was made by prisoners who were trained in prisons. Let us not wish away this critical issue because prisons are like hospitals whereby everyone could be a candidate. Today, you can wish away those trainings and then tomorrow you find yourself idle while in there. Let us appreciate what has been happening and improve on it instead of abolishing.

I support the Petition on the Galana-Kulalu matters 100 per cent because the issues being touched on are very genuine. We cannot achieve anything if we do not engage effectively on the matters of land at the Coast Region. You have heard several times that there has been unrest in Tana River County. It is because of land. There are issues between herders and those who engage in crop production. There were subdivisions made without consultations. At some point, as the Coast Parliamentary Group Members, we were engaged to discuss those issues. Later on, we were told that because of the Coronavirus, we could no longer be engaged. Now we hear that other issues are happening on the ground. Tensions are very high. If this matter will not be addressed as quickly as possible, other things might happen - which are not our wish.

I fully support the Petition. I believe that the Committee will consider the issues that we are raising so that we can, at least, get amicable solutions to those issues.

**Hon. Speaker:** Very well. As a potential inmate, is it? Let us have the Member for Tharaka.

**Hon. George Gitonga** (Tharaka, DP): Thank you, Hon. Speaker. Allow me to comment on the first Petition. Let us, as a country, not lose it to our colonial masters who used to treat prisoners possibly better than we do. The reason I say so is that history has it that Robert Mugabe left prison with about seven degrees. That means he was being provided with facilities to further his education.

We should now be moving away from such terms as prisons and prisoners to correctional centres and those who are being corrected. The purpose of prisons and prison services is correctional so that, whoever goes in comes out a better person than he was when he went in. Some of the prisoners are petty offenders such as chicken thieves. They stole chicken out of

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desperation because they had nothing else to do. If he comes out as a qualified artisan, that person cannot imagine going back to wrong-doing or to committing petty offences.

I support the Petition. Let us now move away from imprisoning to correcting so that those people can come out as better citizens.

**Hon. Speaker:** Let us have the Member for Funyula. Are you also a potential inmate?

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Yes, Hon. Speaker. Most of my colleagues are potential inmates. When we used to run around and “eat” teargas, they used to laugh at us. The other day, when a small teargas canister was thrown in Murang’a, I saw everybody running away. I wish they could have brought that canister to Busia. We would have shown them how to handle teargas.

It is important that we move away from the mentality that prisoners are bad people. People go to prison for various reasons. Staying idle the whole day from Monday to Friday can be torture to a human being. That is why I support that Petition. The practice that has been there since my predecessor, Hon. Moody Awori, introduced reforms in the prison services should continue so that, by the time the person leaves prison, he or she has been corrected. He or she is somebody who can fit into the society. I remember that many years ago, they used to be paid some money such that when they would come out, they could start somewhere. That practice should continue. I, therefore, support the first Petition.

On the second Petition, land remains a very emotive issue in this country. Many of us believed that the changes we made to the land sector would have resolved some of those issues. As they always say, you can change the forest but the monkeys remain the same. Hon. Kimunya, having been a Minister for Lands, should assist in trying to solve the issues in the land sector now that he serves as the Leader of the Majority Party. It does not have to be business as usual.

**Hon. Speaker:** Hon. Mbadi, do you want to comment on this?

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. I want to start with the issue of Galana-Kulalu. This is a project that we had issues with from the word go. In fact, at its inception, we were skeptical about the practicality of that project succeeding. At that time, I remember Hon. Pukose and others were very supportive of the project. How times change. This is also good. We learn. Now we are where we are. If that project will not continue, there is no way that the Government can talk of giving out land to individuals. We know the history of giving out Government land to individuals in this country has never favoured the people it should. It is given to people who will be absentee landlords, who will keep it for speculative purposes and will not even grow anything.

Therefore, I fully support this Petition. The Committee needs to look into this matter so that people from the Coast Region, who have been traditionally marginalised over the years, do not continue to lose land that rightfully belongs to them by the Government pretending that the land is being given out for some economic activity.

Hon. Speaker, I did not want to say much about the other Petition concerning inmates. I truly agree that those are correctional facilities but, as we push to realise some of those things, we should also ask ourselves if we have money in this country. I see Members behaving like there is a pool of money somewhere where we can just dip our hands and meet all the expenses. This country has no money. We cannot burden this economy with any other thing. As much as it may be necessary, there is no money. It is good for the human rights activists to fight for human rights but this should be within parameters where we can afford. We cannot afford. Many parents cannot afford to pay school fees for their children. Those of you who are talking the way you are talking, go and look for the inmates in constituencies and give them bursaries. You cannot

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overburden this country when we cannot afford it. Let us go and give them bursaries because we have allocation for bursaries in our kitties. Why do we want to burden the Government again? Use the National Government Constituencies Development Fund (NG-CDF), which gets Kshs34 million every year, and pay for those inmates.

I have no problem with inmates learning. Everybody has the right to learn. Most of the inmates are adults. They should have gone to school before they went to prison in the first place, unless they are training for specific skills. Do not take them through KCPE. What were they doing when people were learning? Education at primary level has for a long time been free in this country. You find someone who broke the law in Class Four and was taken to the correctional services, and then you want to use our money to educate them in Class Five and Six and further pay for them to sit for KCPE. Personally, I would not support that. If Members have money in their bursary kitties, they can pay.

Thank you, Hon. Speaker.

**Hon. Speaker:** Finally, let us hear the Member for Nandi.

**Hon. (Dr.) Tecla Tum** (Nandi CWR, JP): Hon. Speaker, I want to speak to the Galana issue. There is need for public participation in every agenda and programme. So, I support the Member who brought this Petition. The other issue is that we have to consider local people when running any programme. I support that.

On the issue of prisoners, I sit in the Departmental Committee on Administration and National Security. As a social worker by profession, I support the issue of educating those in prison. This is because it is a human rights issue for everyone in the country. It is their fundamental right. Some of those in prison might just have stolen food or a kilogramme of sugar. Therefore, you cannot deny someone education based on that. They are our people. We are supposed to rehabilitate them. When we talk of rehabilitation, we are talking about enhancing the living standards of a human being.

I advocate for them. They have to be educated. Currently in Kenya, we are in the process of getting furniture for our schools. Those inmates make good furniture. I remember when I got married, the first bed we used was from the Prison Industries.

*(Laughter)*

That bed is still there up to today. They make the best furniture. We need to empower them. I know there are pastors who go there every week. There are prisoners who are pastors in prisons. They have reformed and we cannot deny them their rights. They are human beings like us and we cannot say that there is no money. All members of this society have their rights. I know the World Bank has said that we are 4 per cent poorer. Even if we are 4 per cent poorer, prisoners have rights. Students in schools and colleges have rights too. Anyone can be in prison at any time. Therefore, let us fight for the rights of prisoners in Kenya.

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. On that note, the 30 minutes are over. For me, I have to follow the rules. The 30 minutes are over and the petitions are respectively committed to the Departmental Committee on Administration and National Security for the inmates making the good beds. Hon. (Dr.) Tum could be of use. She can explain to you the nature of those beds.

*(Laughter)*

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The other one is committed to the Departmental Committee on Lands.  
Next Order!

### PAPERS LAID

**Hon. Speaker:** Chairperson of the Departmental Committee on Agriculture and Livestock.

**Hon. Silas Tiren** (Moiben, JP): Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House:

The Addendum Report of the Departmental Committee on Agriculture and Livestock on its consideration of the proposed amendments to the Tea Bill (Senate Bill No.36 of 2018).

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. Chairperson of the Departmental Committee on Finance and National Planning.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you, Hon. Speaker. I beg to lay the following Papers on the Table of the House:

Reports of the Departmental Committee on Finance and National Planning on inquiry into the optimisation of revenue and grain handling services at the Port of Mombasa and inspection visits to Kenya Revenue Authority (KRA) offices to ascertain the impact of revenue enhancement initiatives on revenue collection.

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. Chairperson of the Committee on Implementation, Hon. Kenta.

**Hon. Richard ole Kenta** (Narok North, ODM): Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House:

Report of the Committee on Implementation on the Status of Implementation of the Report of the Departmental Committee on Labour and Social Welfare on a Petition regarding deplorable working conditions of workers at the Kwale International Sugar Company Limited.

Thank you, Hon. Speaker.

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

### NOTICES OF MOTIONS

#### REPORT ON INQUIRY INTO OPTIMISATION OF REVENUE AND GRAIN HANDLING SERVICES AT THE PORT OF MOMBASA

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you, Hon. Speaker. I beg to give notices of the following Motions:

THAT, this House adopts the Report of the Departmental Committee on Finance and National Planning on its inquiry into the optimisation of revenue and grain handling services at the Port of Mombasa, laid on the Table of the House on Thursday, 26<sup>th</sup> November 2020.

#### REPORT ON IMPACT OF REVENUE ENHANCEMENT INITIATIVES BY KENYA REVENUE AUTHORITY

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THAT, this House adopts the Report of the Departmental Committee on Finance and National Planning on its inspection visits to the Kenya Revenue Authority (KRA) offices to ascertain the impact of revenue enhancement initiatives on revenue collection, laid on the Table of the House on Thursday, 26<sup>th</sup> November 2020.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Halima Mucheke.

#### INSTITUTIONALISATION OF RAIN WATER HARVESTING

**Hon. (Ms.) Halima Mucheke** (Nominated, JP): Thank you, Hon. Speaker. I beg to give notice of the following Motion:

THAT, aware that Article 43(1)(d) of the Constitution provides for the right to clean and safe water in adequate quantities for every person; further aware that up to 30 per cent of Kenyans rely on unimproved water sources such as ponds, shallow wells and rivers whereas nearly 45 per cent of Kenyans lack access to basic sanitation solution; noting that proper management is vital for sustainable development in light of threats to water availability such as climate change, rapid population growth and industrialization; further noting that studies have indicated that the country's rain water potential is more than 350 billion cubic metres and if harvested, this water can support up to five times the country's population; concerned that only nine out of 55 public water service providers in the country provide continuous water supply to connected areas; appreciating that, over time, rain water harvesting has been proposed as possible means to address the water crisis in the country; this House resolves that the Government institutionalizes rain water harvesting and storage in all buildings as a standard requirement and further, that road constructions incorporate storm water collection and storage for non- palatable use.

Thank you, Hon. Speaker.

**Hon. Speaker:** Next Order.

#### QUESTIONS AND STATEMENTS

#### QUESTION BY PRIVATE NOTICE

**Hon. Speaker:** The first Question is by the Member for Westlands, Hon. Wanyonyi Timothy.

*QPN NO. 029/2020*

#### STATUS OF OWNERSHIP OF SCHOOLS SPONSORED BY THE ASIAN COMMUNITY IN WESTLANDS CONSTITUENCY

**Hon. Tim Wanyonyi** (Westlands, ODM): Hon. Speaker, I rise to ask Question No.029/2020 by Private Notice to the Cabinet Secretary for Education:

- (i) What is the status of ownership of parcel of land Reference No.209/5996 - (Grant No. IR18152) occupied by the Visa Oshwal Primary school in Westlands Constituency?

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- (ii) Could the Cabinet Secretary explain why the Visa Oshwal Primary School Board of Management is being required to hand over the school to Shree Visa Oshwal Community Nairobi Registered Trustees by way of notice dated 11<sup>th</sup> November 2020?
- (iii) Could the Cabinet Secretary further explain the status of ownership of all schools sponsored by the Asian Community within Westlands Constituency and, in particular, Highridge Girls Secondary, Parklands Arya Girls and Aga Khan Primary Schools and the parcels of land they occupy?
- (iv) What steps the Ministry is taking to ensure that wrangles relating to the management of schools and land ownership in Westlands Constituency do not affect the learning of students noting the planned reopening of schools in January 2021?

Thank you, Hon. Speaker.

**Hon. Speaker:** Is the Chairperson, Departmental Committee on Education and Research, Hon. Florence Mutua present? What about the Vice-Chair, Hon. Ngunjiri Wambugu? Chairpersons of Committees should be present because this is a Question by Private Notice. Their presence is required so that they know the answer is required latest by Tuesday. The Question will be transmitted to the Committee *via* the Office of the Leader of the Majority Party.

#### ORDINARY QUESTIONS

*Question No.351/2020*

##### MEASURES TO ADDRESS THE PLIGHT OF BAJUN PEOPLE OF COASTAL REGION

**Hon. Speaker:** The next one is an Ordinary Question by the Member for Lamu, Hon. Captain (Rtd.) Ruweida Obo. I am informed that she has indicated that she requests the Question to be deferred.

The request is acceded to, if that is correct. I do not see her.

*(Question deferred)*

The next Question is by the Member for Eldama Ravine, Hon. Moses Lessonet.

*Question No.357/2020*

##### ENGAGEMENT OF FOREIGN COMPANIES TO UNDERTAKE CONTRACTUAL WORKS

**Hon. Moses Lessonet** (Eldama Ravine, JP): Hon. Speaker, I stand to ask Question No.357/2020 to the Cabinet Secretary for Information, Communication and Technology, Innovation and Youth Affairs:

Could the Cabinet Secretary explain why M/s Safaricom Ltd. PLC is engaging foreign companies such as M/s Egypro East Africa Ltd. and Camusat among others in contractual works to maintain fibre optics and networks while Kenyan companies can do those works?

Thank you, Hon. Speaker.

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

The next Question is by the Member for Murang'a County.

*Question No.353/2020*

RESETTLEMENT OF LANDSLIDE VICTIMS IN MURANG'A COUNTY

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Speaker, I rise to ask Question No.353/2020 to the Cabinet Secretary for Devolution and Arid and Semi-Arid Lands:

- (i) What intervention measures is the Ministry taking to support the residents of Murang'a County who have been affected by landslides?
- (ii) What plans does the Ministry have to resettle landslide victims in Murang'a County, considering that most of them are landless?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question to be replied to before the Departmental Committee on Administration and National Security. Is that correct? Not Finance, Devolution or Disaster Management? Anyhow, you have chosen the Ministry and the Committee before which the Question will be replied to.

The next Question is by the Member for Vihiga County, Hon. Beatrice Kahai.

*Question No.356/2020*

STATUS OF COVID-19 INFECTION AMONG LEARNERS

**Hon. (Ms.) Beatrice Adagala** (Vihiga CWR, ANC): Hon. Speaker, I rise to ask Question No.356/2020 to the Cabinet Secretary for Education:

- (i) Could the Cabinet Secretary explain the current status of COVID-19 infections among learners in Grade Four, Standard Eight, Form Four and students in tertiary institutions and universities as well as teaching and non-teaching staff since the reopening of learning institutions?
- (ii) What specific measures is the Government undertaking to enhance the safety of learners, teaching and non-teaching staff particularly in the event of a second wave of the COVID-19 pandemic?
- (iii) What practical measures has the Ministry implemented to ensure that social distancing and other COVID-19 mitigation protocol requirements are adhered to?
- (iv) Is the Government sufficiently prepared to timeously handle COVID-19 outbreaks in schools, noting the intended full reopening of learning institutions?

Thank you, Hon. Speaker.

**Hon. Speaker:** To be replied to before the Departmental Committee on Education and Research.

The last Question is by the Member for Kisumu West, Hon. Olago Aluoch.

*Question No.358/2020*

## OBSTRUCTION OF USOMA-NAWA-KIREMBE ROAD BY KENYA AIRPORTS AUTHORITY

**Hon. Olago Aluoch** (Kisumu Magharibi, FORD-K); Mhe. Spika, tulipozindua hivi majuzi Kanuni zetu za Kudumu za Bunge la Kitaifa, kumekuwa na tetezi ya kwamba Wabunge wengi kutoka eneo la Nyanza sio wabobea wa lugha ya Kiswahili. Kuthibitisha ya kwamba huo si ukweli kabisa, ningependa kuuliza Swali langu kwa lugha yetu ya kitaifa ya Kiswahili, tafadhali.

*(Applause)*

**Hon. Speaker:** Kuonesha vile mmebobea.

**Hon. Olago Aluoch** (Kisumu Magharibi, FORD-K): Mhe Spika, ningependa kumuuliza Waziri wa Uchukuzi, Miundo-msingi, Makaazi, Usitawi wa Miji na Ujenzi wa Miradi ya Umma:

- (i) Je, Waziri anaweza kufafanua sababu za Mamlaka ya Viwanja vya Ndege ya Kenya kufunga Barabara ya Usoma-Nawa-Kirembe (C-35) kwa kujenga ukuta ili kulinda sehemu ya kusini ya eneo la ndege la Kisumu, bila kutoa barabara mbadala hivyo kuwatatiza wakaazi kufika makwao kwa kupitia mojawapo ya sehemu mbili za uwanja wa ndege?
- (ii) Je, Waziri ana habari kuwa karibu shilingi milioni 45 zilitengwa na Mamlaka ya Viwanja vya Ndege ya Kenya ili kuwezesha ubunifu na ujenzi wa barabara mbadala sambamba na barabara ya C35 iliyofungwa, ilhali mamlaka hiyo inadai kwamba pesa hizo hazikutumika kwa kazi hiyo ambayo zilitengewa?
- (iii) Ni hatua zipi Waziri amechukua ili kuratibu mipango ya Mamlaka ya Viwanja vya Ndege ya Kenya na Mamlaka ya Barabara za Mijini ya Kenya ya kubuni na kujenga barabara ya C35 ili watu wapate nafasi ya kupitia wanapoenda kwenye makazi yao? Hiyo barabara lazima iinuliwe ili isiharibiwe na kuongezeka kwa viwango vya maji ya Lake Victoria.

Ahsante Bw. Spika.

**Hon. Speaker:** Swali lako litajibiwa mbele ya Kamati ya Kiidara ya Uchukuzi, Ujenzi wa Miradi ya Umma na Makaazi. Swali ambalo Mhe. John Olago Aluoch ameuliza limeeleweka na litajibiwa mbele ya Kamati hiyo.

Kiswahili chenye ametumia kinaeleweka.

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

Eti Hoja la nini? Ni hoja ya lidhamu ama Hoja ya Nidhamu?

*(Laughter)*

Basi tumusikilize Mhe. Millie Odhiambo.

*(An Hon. Member spoke off record)*

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**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Eeh, ni lazima niongee kwa Kiswahili?

*(Laughter)*

Bw. Spika, nimesikiza ndugu yangu, Mhe. Olago Aluoch kwa makini akiongee kwa Kiswahili na kusema neno 'sambamba' kwa mara ya kwanza. Nilikuwa nafikiri ni yule *comedian* ndiye anayejua neno 'sambamba' peke yake. Kwa kuwa najua anaongea kuhusu eneo bunge lake, je, ako na hakika wameelewa maneno ambayo amesema?

*(Laughter)*

Mahali ambako tunatoka watu huongea kwa Kiingereza. Kiswahili si mdomo yetu. Sisi tunaongea kwa Kiingereza.

*(Laughter)*

Si hii ni *torture*? *It is against the convention against torture*, Bw. Spika.

**Hon. Speaker:** Mhe. Olago Aluoch anajua vizuri kwamba wale ambao anawakilisha Bungeni wameelewa lile swali ambalo ameuliza. Naona kuna watu wameweka *intervention*. Hebu tusikize Mhe. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Mhe. Spika, nikimsikiza dada yangu kutoka huko Suba, Mhe. Millie Odhiambo, alikosea usanifu wa Kiswahili kwa sababu anasema kuwa lile neno Mhe. Olago amelitamka ni neno ambalo linatamkwa na *comedian*. Nafikiri ingekuwa hoja ukubalie Mhe. Millie Odhiambo alitoe kutoka kwa orodha ya kitabu sahihi cha historia ya Bunge ili miaka ijayo, kumbukumbu ya Bunge hili ikisomwa, isimnukuu vibaya.

Ahsante, Bw. Spika.

*(Laughter)*

**Hon. Speaker:** Member for Mwingi West, what do you want to say about this?

**Hon. Charles Nguna** (Mwingi West, WDM-K): Ahsante, Bw. Spika, kwa kunipa hii nafasi niongee. Nilikuwa nataka kumkosoa dada yangu, Mhe. Millie Odhiambo. Hufai kusema: "Unaongea na Kiswahili." Unafaa kusema: "Unaongea kwa Kiswahili."

Ahsante.

*(Laughter)*

**Hon. Speaker:** Kwa Kiingereza, huwa tunasema: "*Rome was never built in a day*." Is that not so? So, she is making reasonable attempts.

Member for Dagoretti South, what do you want to say? You have pressed the intervention.

**Hon. John Kiarie** (Dagoretti South, JP): Hon. Speaker, I would like to seek your guidance on an issue that I would like to raise as a procedural matter. I do notice that in our Order Paper today, we have a business that has been laid up for canvassing on this Floor, which

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is a Motion on Inquiry into the Utilization of the Funds Appropriated to the Ministry of Health in the Financial Year 2019/2020 for the COVID-19 pandemic.

**Hon. Speaker:** Hon. Kiarie, I do not know how long I need to keep reminding ourselves that you wait until the business...

**Hon. John Kiarie** (Dagoretti South, JP): Yes, Hon. Speaker. I was coming to that. What happens is that...

**Hon. Speaker:** You cannot seek any guidance from the Speaker when the business has not been reached.

**Hon. John Kiarie** (Dagoretti South, JP): Hon. Speaker, I am very well guided. I will wait for the Motion to be called and then I shall say what I want to say.

Thank you, Hon. Speaker.

**Hon. Speaker:** Absolutely. I hope we can make progress so that...

*(Hon. Aden Duale spoke off record)*

Yes, Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Mhe. Spika, nasimama kwa Hoja ya Nidhamu kwa sababu nilipoingia Bungeni... *Afternoon* inaitwa nini?

*(Laughter)*

Nilipoingia Bungeni alasiri ya leo, nilimpata Mhe. Mjumbe wa Kaunti ya Murang'a akiwa ameketi katika kile kiti changu rasmi. Kwa kuwa ninaheshimu sana viongozi wa kike, ndiposa nikaamua nikae kwenye kiti kilicho karibu. Nataka nikujulishe kuwa nimepata chombo ambacho sielewi katika hiki kiti na hakiko katika viti vingine.

*(Hon. Aden Duale removed the device from his seat)*

**Hon. Speaker:** Do not remove it. That is why you are off the microphone.

*(Loud consultations)*

**Hon. Aden Duale** (Garissa Township, JP): Mhe. Spika, sijaiona chombo hiki katika Bunge hili. Nimechungulia viti vya viongozi ambao wako karibu nami na nikapata havina chombo hiki. Kwa hivyo, ningeomba uamuru Karani wa Bunge la Kitaifa achunguze kwa haraka kwa nini kiti hiki kina chombo tofauti na vile viti vingine. Pia naomba utoe amri kuwa Mhe. Sabina Chege aondoke kutoka kwenye kiti changu kwa haraka ili nirudi huko kwa usalama wangu binafsi.

*(Laughter)*

**Hon. Speaker:** The staff informed me that it is a normal connector.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Mhe. Spika, unajua Mhe. Duale anatoka sehemu ambayo huwa iko na hatari nyingi. Kwa hivyo, akiona chombo kama hicho, ningependa nimhakikishie kuwa hicho si kilipuzi.

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*(Laughter)*

Ningetaka kuwahakikishia kwamba hicho si kilipuzi kwa sababu mnajua natoka sehemu za mlima na tumeona vitu kama vilipuzi. Kwa hivyo, hicho si kilipuzi. Atulie kidogo. Asiwe na wasiwasi.

*(Loud consultations)*

**Hon. Speaker:** Now, what is it? What about gender? What is the issue about gender? Hon. Onyango, Member for Muhoroni.

**Hon. Onyango Oyoo** (Muhoroni, ODM): Ahsante sana Mhe. Spika. Nimemsikia mwenzangu, Mhe. Olago Aluoch, akitaja barabara ya C35 katika Swali lake. Kwa kufahamu kwangu, barabara ya C35 inatokea Kipkelion na kuisha mbele ya mashine ya sukari ya Muhoroni. Sasa sijui kama alibebe akaipeleka kwake au ilikuwaje. Ningependa ufafanuzi.

*(Laughter)*

**Hon. Speaker:** I think Hon. Pkosing will be able to make that clarification when the Cabinet Secretary appears to answer the Question. We can make progress. The second segment is a Request for Statement by the Member of Naivasha, Hon. Jane Kihara.

#### REQUEST FOR STATEMENT

##### BENEFICIARIES OF INUA JAMII CASH TRANSFER PROGRAMME

**Hon. (Ms.) Jayne Kihara** (Naivasha, JP): Thank you, Hon. Speaker. Please allow me, before I read my Statement, to thank Members who supported us financially and my family on the loss of my mother and my niece. The messages of condolences, financial support and their prayers lightened our very heavy load when we had to bury two people at the same time. Our appreciation cannot go unnoticed, Members. You really helped us. Thank you very, very much.

Hon. Speaker, pursuant to Standing Order No. 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on disbursement of cash transfers to the elderly, orphans and persons living with disabilities. It is popularly known as *Inua Jamii*.

**Hon. Speaker:** We do not have any such Departmental Committee.

**Hon. (Ms.) Jayne Kihara** (Naivasha, JP): Labour and Social Welfare.

**Hon. Speaker:** But you cannot say there is a Departmental Committee on *Inua Jamii*. It is the Departmental Committee on Labour and Social Welfare.

**Hon. (Ms.) Jayne Kihara** (Naivasha, JP): Thank you, Hon. Speaker. We recognise the efforts made by the Government to cushion the elderly and the less fortunate members of our society through various initiatives, amongst them the Older Persons Cash Transfer Programme; Cash Transfer for Orphans and Vulnerable Children, Cash Transfer for Persons with Severe Disabilities and the Hunger Safety Net Programme.

In the last few years, the Ministry of Labour and Social Protection has failed to incorporate personal details of some elderly persons and persons living with disabilities from Naivasha Constituency who registered for *Inua Jamii* Cash Transfer Programme. The Ministry

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has also failed to register elderly persons who have attained the age of 70 years in the last one year.

It is on this background that I seek a statement from the Chairperson of the Departmental Committee on Labour and Social Welfare on the following:

- (i) What measures are in place to ensure that all elderly persons, orphans and persons living with disabilities are incorporated in the *Inua Jamii* Cash Transfer Programme?
- (ii) What steps has the Government taken to ensure that those needy persons are enrolled and benefit from the programme?
- (iii) Could the Chairperson table a list of all beneficiaries of the *Inua Jamii* Cash Transfer Programme from Naivasha Sub-county?

**Hon. Speaker:** The Chairperson of the Departmental Committee on Labour and Social Welfare, how long do you think you will take? Hon. Mwathi.

**Hon. Peter Mwathi** (Limuru, JP): Thank you, Hon. Speaker. I know what she is saying. I know there has been an issue on cash transfers. Even as we proceed to promise that we are going to reply to that within the next two weeks, it is also good for Members to know that, as at Monday, there was a release of Kshs3.1 billion which went to the three programmes on cash transfer, but I know that is not enough. We are still pursuing the Government so that it can allocate more money so that we are able to even incorporate and register the ones who are remaining. In two weeks' time, we will be able to address it.

**Hon. Speaker:** Very well. Is there any other request? Next Order. Leader of the Majority Party.

## STATEMENT

BUSINESS FOR CONSIDERATION ON 1<sup>ST</sup> AND 3<sup>RD</sup> DECEMBER, 2020

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, pursuant to the provisions of Standing Order No. 44(2)(a), I rise to give the following Statement on behalf of the House Business Committee, which met on Tuesday, 24<sup>th</sup> November 2020 to prioritise business for consideration:

On Tuesday next week, the following business has been prioritised for consideration:

- (a) Consideration of certain business received during the month of December 2020 to January 2021 recess period.
- (b) A Motion on the exemption of business from the provisions of Standing Order Nos. 141, 227(1) and 256(A) to save Bills from lapsing pursuant to Standing Order No. 141 and provide for an extended period for consideration of the said business whose timeline may lapse at the end of the Session.
- (c) Report of the Departmental Committee on Defence and Foreign Relations on the Approval of the Convention on the International Hydrographic Organization, should we not conclude it today.
- (d) Report of the Departmental Committee on Defence and Foreign Relations on Approval of Accession to the Africa Charter on Democracy, Elections and Governance, should we not conclude it today.
- (e) Report of the Committee on Implementation on Consideration of the Public Petition on a Resolution of the House, should we not conclude it today.

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You may note that the pandemic has affected the work of committees and, by extension, the House. Depending on the results of some ongoing discussions, we may consider introduction of some Bills, preferably or most likely the Tea Bill and the Statute Law (Miscellaneous Amendments) Bill. Again, that is dependent on some events happening. So, Members, if you see them on the Order Paper, be aware that we could have those Bills.

Hon. Speaker, I wish to inform Members that no Questions have been scheduled for response before Committees next week, especially because of winding up of the activities of the Session. As Members may be aware, the House is scheduled to proceed on a long recess next week in accordance with the Calendar of the House. In this regard, any other urgent business that arises will be scheduled so as to be concluded by end of next week.

The House Business Committee will reconvene on Tuesday, 1<sup>st</sup> December 2020, to schedule business for the coming week, which is the last week of the Fourth Session of the 12<sup>th</sup> Parliament.

I now wish to lay this Statement on the Table of the House and thank you.

*(Hon. Amos Kimunya laid the Statement on the Table)*

**Hon. Speaker:** I think that is correct. There will be some business, most likely Bills, being on the Order Paper. More importantly, I think the Departmental Committee on Agriculture and Livestock, the Departmental Committee on Sports, Culture and Tourism and, the various other Committees which were involved in consideration of the Statute Law (Miscellaneous Amendments) Bill, should be ready.

Next Order!

### PROCEDURAL MOTION

#### EXTENSION OF TIME FOR CONSIDERATION OF SPECIFIED PETITION

**Hon. Paul Koinange** (Kiambaa, JP): Hon. Speaker, I beg to move the following Procedural Motion:

THAT, notwithstanding the provisions of Standing Order No.227 (2) (Committal of Petitions), this House resolves to extend the period for consideration of a Public Petition regarding insecurity in Marsabit County presented by the Hon. Ali Dido Rasso, MP (Saku Constituency) by the Departmental Committee on Administration and National Security by a further period of forty-five (45) days with effect from 27<sup>th</sup> November 2020.

Hon. Speaker, this is in consideration of the fact that the due date for tabling a report on this Petition is Friday, 27<sup>th</sup> November 2020, and the House is expected to proceed on recess from 4<sup>th</sup> December 2020. The extension being sought is for a period of 45 days from tomorrow to the date when the House will resume sitting in February, 2021. We are seeking the extension following the Committee's public hearing in Marsabit on 14<sup>th</sup> November 2020, and after hearing the former Marsabit Governor and current Cabinet Secretary for the National Treasury, Amb. Ukur Yatani on 23<sup>rd</sup> November 2020. The Committee observed that the Petition has raised very weighty issues that require more time so as to interrogate new witnesses in order to get to the bottom of the matter.

With those remarks, I beg to move and request Hon. (Dr.) Makali Mulu to second.

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**Hon. Speaker:** Hon. Makali Mulu.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Hon. Speaker, I rise to second this important Procedural Motion. Just as the Chairman has noted, this Petition generated a lot of interest. Since it is a Petition focusing on insecurity in Marsabit County, the Committee had to interact with many stakeholders. The more we interacted with the stakeholders, the more we got new information and the more the need for further consultation became apparent. With this situation, as a member of the Committee, I request the House and your office to allow us more time so that we can get to the root cause of insecurity in that area. We all know the issue of Marsabit has been a long standing one. It is a very complicated matter. We want to request for more time to sort it out once and for all.

**Hon. Speaker:** Could you clarify the 45 days? Is it with effect from 27<sup>th</sup> November 2020, or when the House resumes from the long recess?

**Hon. Makali Mulu** (Kitui Central, WDM-K): Hon. Speaker, it is our tradition that when the House proceeds on recess in December to February, most of the activities of the House are suspended. It would make sense if it is after we resume because we will not do much during the recess.

**Hon. Speaker:** Hon. Members, the import of that has been explained. It is also captured by what was said by the Leader of the Majority Party earlier on. So, it is with effect from 27<sup>th</sup> November, 2020. It has already been explained by Hon. Kimunya that next week, we will be dealing with several Motions with the aim of saving all Petitions because committees' operations have been interrupted by the COVID-19 situation. This will also save several Private Members' Bills that have also suffered some of the recent hiccups, including the COVID-19 restrictions. This Petition will be further saved alongside other Petitions. The period stated here is correct.

*(Question proposed)*

**Hon. Members:** Put the Question.

*(Question put and agreed to)*

**Hon. Speaker:** Next Order!

## MOTIONS

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

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. David Pkosing on 10.11.2020)*

*(Debate concluded on 24.11.2020)*

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

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*(Question put and agreed to)*

ADOPTION OF REPORT ON INQUIRY INTO STATUS OF STADIA IN KENYA

THAT, this House adopts the Report of the Departmental Committee on Sports, Culture and Tourism on the Inquiry into the Status of Stadia in Kenya, laid on the Table of the House on Tuesday, 13<sup>th</sup> October 2020.

*(Hon. Patrick Makau on 24.11.2020)*

*(Debate concluded on 24.11.2020)*

*(Question put and agreed to)*

**POINT OF ORDER**

INQUIRY INTO UTILISATION OF FUNDS APPROPRIATED TO THE MINISTRY OF HEALTH FOR COVID-19 PANDEMIC

**Hon. John Kiarie** (Dagoretti South, JP): On a point of order, Hon. Speaker.

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

**Hon. John Kiarie** (Dagoretti South, JP): Hon. Speaker, I would like to seek your guidance on this matter. I rise under Standing Order No.1 asking you to use your discretion to determine whether we are in order to be receiving this Report from the Departmental Committee on Health, given that this is a matter of national interest. Kenyans want to know what has been happening at the Kenya Medical Supplies Authority (KEMSA). There is an ongoing investigation by the Public Investments Committee (PIC) on matters that are about to be reported on. I had an opportunity to look at the Report of the Departmental Committee on Health and I realised that one of the most important things they ought to have done is invite all the people who are alleged to have done business with KEMSA. I noted in this Report that there are over 25 companies that conducted shoddy business with KEMSA, but were not invited by the Committee to present their side of the story on the issue of monies lost at KEMSA, now known as “COVID-19 heist billionaires”.

I am seeking your guidance as to whether we are in order, as a House, to receive this Committee’s Report while we know that PIC may come up with contrary proposals to those that are in the Report of the Departmental Committee on Health. When that Report will be out there, it will be a Report of this House. I do not see why we are in a hurry to push this Report of the Departmental Committee on Health. It is your discretion to tell us whether we can wait for the PIC Report so that we know the truth about the COVID-19 heist.

Thank you.

**Hon. Speaker:** I want you to look at your Standing Orders. Look at the mandate of departmental committees and that of audit committees namely: Public Accounts Committee, Public Investments Committee and the Special Funds Accounts Committee. I am aware that in our Standing Orders, PIC is mandated *inter alia* to look into any reports including but not limited to reports from the Auditor-General and other audit reports. That mandate does not in any way

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interfere with the mandate of any other departmental committees, which also have the authority to inquire into any matter falling within their assigned dockets. Therefore, if you look, this Report was laid on the Table of the House on 1<sup>st</sup> October, 2020. So, when you ask what the hurry is for... In fact, I think we are late. I do not think it is okay to say that we are in a hurry on 26<sup>th</sup> November to consider this Report. Besides, a report of a committee until it is moved, it is just that. Yesterday, I was a bit alarmed when I saw some reports indicating that the Committee has done this and directed that, but I remember not to have seen any such report. I am happy that the Committee has since brought to me a further Report which is an addendum to the earlier Report. This Report is going to be moved in an amended form as provided for under Standing Order No. 48. So, the Vice-Chair of the Departmental Committee on Health, you were almost going to incur my wrath if you had not submitted the amended Report. I saw you purporting to give certain serious directions and I wondered whether you have assumed the role of the House or some junior judge. You behaved well as a legislator and Chair by bringing that additional Report by way of an addendum which incorporates some of the things you said.

I know that, sometimes, the media in Kenya is too intrusive. If they just hear a discussion, they immediately report that, that is what has been directed. I can confirm that the Chairman and the Vice-Chairman, who was then the Chair, did not direct that. The media assumed that, that was what was happening. Today, if the House approves your Report, it will become the direction of the House through the Committee. So, Hon. Kiarie, there is nothing wrong with this Report being moved. It is up to you as Members to read through the Report and make a decision one way or the other. Remember you are at liberty to amend it, to vote for it or to vote against it. You have been given such wide ranging powers.

Member for Dagoretti South, if you think the Report is inconclusive, start lobbying your colleagues. Using me will be giving me a power that I have been specifically denied in Article 122 of the Constitution. I will be voting and I am not supposed to vote. I have no vote. It is one of those things that I keep reminding us. I do not vote. You are the people who make the laws, but when somebody wants to challenge those laws, the first respondent is me; the person who has no vote. On this one, Hon. Kiarie, you will have to vote yourselves one way or the other. Vote for or against, indeed, including amending any of the recommendations if you have grounds. The PIC in exercise of its mandate under the Standing Orders will also make their Report. There will be nothing wrong if they come with a Report that is different from this Committee's Report. If that happens, you are in the same House and you will be at liberty to say this is not in agreement with what we passed earlier, and make what you may out of those recommendations. You cannot say that one committee has to sit and wait until the other committee finishes. The other committee is dealing with a Report from the Auditor-General. I am sure this Committee was not dealing with the Report from the Auditor-General. So, it is perfectly in order. Therefore, I direct that the Report be moved, but in the amended form as approved.

Let us have the Chair or the Vice-Chair, whoever will move. If I may guide the House; remember that there are various Motions that you always approve at the beginning of every Session. They are limited to a maximum of two-and-a-half hours. It is almost 4.00 O'clock. Two hours hereafter, you should have completed debate on this - that is by 6.30 p.m.

Proceed.

## MOTIONS

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INQUIRY INTO UTILISATION OF FUNDS APPROPRIATED TO THE MINISTRY  
OF HEALTH FOR COVID-19 PANDEMIC

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Speaker. I beg to move the following Motion in the amended form:

THAT, this House adopts the Report of the Departmental Committee on Health on its Inquiry into the Utilization of the Funds Appropriated to the Ministry of Health in the Financial Year 2019/20 for the Control and Management of the COVID-19 Pandemic, with focus on the Kenya Medical Supplies Authority (KEMSA), laid on the Table of the House on Thursday, 1<sup>st</sup> October 2020, "Subject to insertion of the following further Recommendations-

PPEs held by the Kenya Medical Supplies Authority

30. That, within fourteen days (14 days) of the House adopting this Report, the Ministry of Health reviews the status of all Personal Protective Equipment (PPE) held by Kenya Medical Supplies Authority (KEMSA) with a view to distributing the same to all public hospitals guided by the respective COVID-19 caseload, for use frontline medical staff in public hospitals;

31. That, thereafter, all public hospitals should not charge any Kenyan citizen admitted in their facilities due COVID-19 the cost of Personal Protective Equipment (PPE) used while undergoing treatment;

Provision of Group Life Insurance Cover

32. That, within seven (7) days of adoption of this Report, the National Treasury and the Ministry of Health remits the Kshs 500 million to the National Hospital Insurance Fund (NHIF) as approved by National Assembly in the Supplementary Appropriation Act (No. 2) of 2020 for the provision of Group Life Insurance Cover by National Hospital Insurance Fund (NHIF) Scheme, that includes COVID-19 cover for all medical staff working in all counties and the National Referral Hospitals;

33. That, within twenty-one (21) days of receiving the Kshs 500 million for the Group Life Insurance Cover, the National Hospital Insurance Fund (NHIF) ensures that all medical staff in the counties and national referral hospitals are placed under the Group Life Insurance Cover;

Comprehensive Medical Cover

34. That, within the fourteen days (14 days) of the House adopting this report, the Council of Governors ensures that all the nineteen (19) counties that have no medical cover for its medical staff, sign-up for the Comprehensive Medical Cover through the National Hospital Insurance Fund (NHIF).

35. That, the National Treasury and Council of Governors establishes a centralized pool of medical cover through the National Hospital Insurance Fund (NHIF) Comprehensive Medical Scheme for all county medical staff. The Scheme should be in place at the beginning of the Financial Year 2021/22 and that the Ministry of Health and Counties do make provisions of the same in their respective FY 2021/22 budgets;

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#### Medical staff Allowances

36. That, within the fourteen (14) days of adoption of this Report, the Ministry of Health and Governing Councils of University of Nairobi, Kenyatta University, Moi University and Jomo Kenyatta University of Agriculture and Technology pays all pending Call Allowances to doctors as per the Collective Bargaining Agreement (CBA) and the Return-To-Work Formula of 14<sup>th</sup> March 2017, signed between the Ministry of Health, Council of Governors and Kenya Medical Practitioners and Dentists Union;

37. That, within the fourteen days (14 days) of adoption of this Report, the Ministry of Health engages the Salaries and Remuneration Commission (SRC) on the need to enhance the Risk allowance for medical staff with a view to replacing the COVID-19 allowance for frontline medical staff that was initially paid for the three (3) months but lapsed in June 2020;

#### Facemask for the most vulnerable

38. That, within the fourteen days (14 days) of adoption of this Report, the Ministry of Health ensures that the procurement of reusable facemask worth Kshs 300 million for vulnerable persons in the society is concluded and the masks be distributed to all students in public schools, the needy and vulnerable persons in the country; and,

#### Medical Insurance Cover and Arrears for Contract staff

39. That, within the fourteen (14) days of adoption of this Report, the Ministry of Health ensures that all medical staff employed on contract for handling isolations facilities are provided with a NHIF Comprehensive Medical Cover, and further, all their pending salary arrears from August 2020 are paid promptly.”

*(Loud consultations)*

I have added the amended parts.

In response to the role of oversight of the Departmental Committee on Health, we resolved on 5<sup>th</sup> August to undertake an inquiry examining Kenyans’ reaction to the COVID-19 pandemic and more specifically, the utilisation of appropriated and donated funds towards the fight against the pandemic by the Ministry of Health in the 2019/2020 Financial Year.

The Committee in particular, had endeavoured to examine how Ministry of Health utilised funds appropriated by the National Assembly in the fight against pandemic and general issues of concern to the people as contemplated under Article 95 of the Constitution and Standing Order No.16 of the National Assembly.

The inquiry identified the following four key issues which assisted the Committee in developing the terms of reference and investigation:

- i. Establish and evaluate the funds and money from the Government of Kenya and development partners appropriated to the Ministry of Health towards the fight against the pandemic;
- ii. How these funds were allocated and utilised for various Semi-Autonomous Government Agencies (SAGAS), counties and other State departments to adhere

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- to the Constitution of Kenya and the Public Finance Management Act, 2012 and the budgeting utilisation of appropriated funds towards the fight against the COVID-19 pandemic;
- iii. Adherence to the Public Procurement and Asset Disposal Act, 2015 in the sourcing of COVID-19 related health protective teams (HPTs) and other items by the Ministry of Health and all agents charged with the fight against the pandemic; and
  - iv. Establish the donations received by the Government of Kenya from well-wishers towards the fight against the pandemic specifically donations received by the Ministry of Health.

The Committee in this Report sets out to provide answers to the following pertinent issues regarding the utilisation of public funds in the fight against the pandemic:

- (i) The funds the Ministry of Health received from the Government of Kenya and development partners towards the fight against COVID-19 Pandemic;
- (ii) Whether the Ministry approved ministerial contingency plan and framework to guide utilisation of appropriated COVID-19 related funds;
- (iii) How the Ministry implemented the contingency plan;
- (iv) How the Ministry of Health spent the funds appropriated to it towards the fight against COVID-19;
- (v) We also looked at the total amount of COVID-19 related procurement taken by the Ministry of Health and its SAGAS while undertaking procurement of COVID-19 related HPTs, and whether the Ministry of Health and its agencies complied and adhered to the public procurement policies, Public Procurement and Asset Disposal Act, 2015 and its attendant regulation;
- (vi) Also, to establish whether the Committee can verify the existence of all procured items by the Ministry and its agencies, status report of all donations received by the Government of Kenya from well-wishers towards the fight against the pandemic; and
- (vii) Whether the Ministry had in place an approved operation framework of acquiring money and managing the donations.

Hon. Speaker, we invited several people to appear before us. They are both agencies and businesspeople who Hon. Kiarie was asking whether they were invited. We invited some of them to appear before the Committee. We also paid visits to some facilities in the counties because we also allocated money to the counties and also visited our own national facilities to see how they handled COVID-19 pandemic.

The amendment has come up after noting that we tabled this Motion on 1<sup>st</sup> October and so many things have happened. By the time we finished with this Report, COVID-19 was going down. Now, as we know, the spike has come back again hence the amendment of various issues that have also come up after we had already tabled the Report. The Committee observed the following:

The National Assembly allocated Kshs23.4 billion to the Ministry towards COVID-19 response in 2019/2020. This allocation was 16.7 per cent of the total resources mobilised for COVID-19 estimated at around Kshs140 billion based on the National Treasury's submission. The allocation to the Ministry of Health compromised Kshs16.7 billion from the Exchequer and Kshs6.7 billion from development partners mainly the World Bank and the Royal Danish Embassy (DANIDA).

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The National Assembly passed regulations that established the National COVID-19 Fund. The National Treasury submitted that as at August 2020, Kshs9.9 billion had not been utilised by then.

The submissions made by the Ministry of Health on allocation and expenditure were in line with approved 2019/2020 Budget appropriated funds for the Ministry of Health towards COVID-19 response. The funds were appropriated and approved during the 2019 Supplementary Estimate II and III.

Most of the funds disbursed to various SAGAS, by the time we were tabling this Report, the Ministry of Health had not yet utilised funds that were earmarked for infrastructural improvement and purchase of medical equipment. The funds were approved towards the end of the financial year under the Supplementary Budget II and III coupled by delays in Exchequer release by the National Treasury. However, the procurement process had started and was ongoing. During physical inspection to some institutions by the Committee, it was noted that various donations and purchases for COVID-19 were not being utilised. For instance, Kenyatta University Hospital had procured its own 10 ventilators. The national Government had also given them 15 ventilators. However, these ventilators were not in use by that time and they were in the process of constructing additional ICU beds which were to take care of around 40 extra ICU beds. Currently, KU has 24 beds.

Referral health facilities, KEMRI and health facilities under county governments have utilised the funds earmarked for allowances for the frontline health workers for three months as per the SRC guidelines. The Committee further observed that other cadres of staff who play a critical role in operation of health facilities did not receive their allowances hence occasioning disquiet amongst staff.

Hon. Speaker, we noted that the recruitment of the health staff was and is still ongoing even now and that the health institutions mainly engaged contractual staff for three months only, which had already lapsed. However, the contracted health staff were still working in hospitals due to the surge of COVID-19. Further noting that the COVID-19 pandemic still poses a threat to the country coupled with the fact that health facilities persistently face health human resources challenges, the services of these contracted health works are still required. All the Semi-Autonomous Government Agencies except KEMSA utilised the funds disbursed by the Ministry of Health in the Year 2019/2020. The KEMSA received funds from the Ministry of Health and also used its reserves for procurement of PPEs.

**Hon. Speaker:** We also want to hear the recommendations apart from those observations. You have an addition of five minutes.

**Hon. (Ms.) Sabina Chege** (Murang'a, CWR, JP): Thank you, Hon. Speaker. I think when the Seconder will be moving, they will look at the other observations. Let me go to the recommendations. The first recommendation was to KEMSA.

The recommendation from the Committee is that the Director of Criminal Investigations (DCI) and the Ethics and Anti-Corruption Commission (EACC) undertake investigations on the procurement process at KEMSA with a view of establishing if there are any procurement malpractices and institute appropriate legal action.

That the DCI and the EACC undertake investigations on the suspended Chief Executive Officer on the following grounds:

For the irregular and unauthorised expenditure of KEMSA funds contrary to Section 68 and 74(4) of the Public Finance Management Act, 2012 through procurement of COVID-19 related health protection teams.

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For undertaking procurements beyond the approved budget contrary to the Public Procurement and Asset Disposal Act, 2015 Section 44 (2) which provides that all procurement of goods, works and services of a public entity be within the approved budget of that entity.

For undertaking procurement without an approved procurement plan contrary to the Public Procurement and Asset Disposal Act 2015, Section 44(2)(c) and for contravention of any other relevant law.

That the DCI and the EACC investigate the suspended head of procurement on the following grounds:

For failure to discharge his functions in the procurement process pursuant to Section 47 read together with Section 45(5) of Public Procurement and Asset Disposal Act 2015 leading to the irregular and unauthorised expenditure of KEMSA funds through procurement of COVID-19 related HPTs.

For undertaking procurement without an approved procurement plan contrary to the Public Procurement and Asset Disposal Act 2015, Section 44 (2)(c) read together with Section 45(5) and 47 of the Public Procurement and Asset Disposal Act 2015 and for contravening any other relevant law.

That the DCI and the EACC carry out investigations on the suspended head of commercial services on the following grounds:

For failing to advise on the undertaking of market survey, therefore, failing to discharge his functions in the procurement process pursuant to Section 45(5) of the Public Procurement and Asset Disposal Act 2015, which has exposed KEMSA to estimated loss of Kshs2.1 billion and for contravention of any other relevant law.

Also the DCI and the EACC carry out investigations on the head of finance on the following grounds:

For approving payments for the COVID-19 related procurement beyond approved budget contrary to Public Procurement and Asset Disposal Act 2015, Section 44(2) which provides that all procurement of goods, works and services of a public entity be within the approved budget of that entity and for contravention of any other relevant law.

That the DCI and the EACC undertake investigations on the senior management in KEMSA including head of operations and head of legal services on their role in the disputed procurement process at the KEMSA and take appropriate legal action where necessary. That the State Corporations Advisory Committee in accordance with the KEMSA Act 2015, the Employment Act 2011, the Fair Administrative Action Act, 2015 and any other relevant laws, institutes an investigations of staff directly involved in the impugned COVID-19 procurement processes and handling of donations at KEMSA and appropriate remedial actions to be taken.

That within 30 days of adoption of this Report in the National Assembly, the Board of KEMSA be reconstituted in accordance with KEMSA Act 2013 and State Corporations Act, Cap. 446 for failure to effectively discharge its function as enumerated in Section 6(2) of the KEMSA Act, 2013. Thereafter, the DCI and the EACC investigate members of the Board.

That within 60 days of adoption of this Report in the House, KEMSA establishes standard operating procedures (SOPs) to achieve efficiency in other administrative process in the Authority.

On the Ministry of Health, that the DCI and the EACC investigate the role of the Principal Secretary, Ministry of Health, on disputed procurement process at KEMSA and take appropriate action where necessary.

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That the Ministry of Health in consultation with State Corporations Advisory Committee in accordance with Section 27 of the State Corporations Act, Cap. 446 undertakes a review of the structure and organisation of KEMSA and submits recommendation to the National Assembly on realisation of the Authority within 60 days of adoption of this Report.

That the national Government through the Salaries and Remuneration Commission (SRC) consider including all staff in hospitals in the payment of risk allowance plus the other ones that I had already read.

That the national Government through the Ministry of Health to adequately fund the Kenya Medical Research Institute to improve capacity, staffing and innovation.

**Hon. Speaker:** You have one minute to move.

**Hon. (Ms.) Sabina Chege** (Murang'a, CWR, JP): Hon. Speaker, I beg to move and ask my Vice-Chair to second. He will look at the issue of KEMSA suppliers, donations and others that I have not handled. It was a lengthy Report and I urge Members to read it, so that we just do not pick what we have been picking from the media. It is a detailed Report.

I beg to move.

**Hon. Speaker:** Just before the Vice Chair seconds, I have said this before, that when you recommend that two investigating bodies undertake investigations, which of them will you say has not investigated if none of them investigates? You have talked of the DCI and then the EACC. So, who is supposed to take action? You have your Committee on Implementation which is here in the House. If after whatever period that you have stated such as the 14 or 60 days have lapsed and nothing has been done by any of those bodies, who do you hold responsible? Is it the DCI or the EACC? In these reports, you need to be very clear. If you suspect that what has happened is an economic crime, refer it directly to the EACC. If you think it is murder or homicide, then the DCI will go and do his usual stuff as alluded to by Hon. (Dr.) Pukose. So, even as you debate this Report, some of these recommendations must have somebody whom you will hold accountable. There may be something that you may need to think even as you listen to contributions from Members, assuming that Members are going to adopt the Report.

Very well, let us have Hon. Joshua Kutuny, the Vice-Chair.

**Hon. Joshua Kutuny** (Cherangany, JP): Thank you, Hon. Speaker. The Committee embarked on a very comprehensive journey to investigate the irregularities at KEMSA. We came up with a very comprehensive Report because we interviewed the people who matter the most. On the matter that you had raised earlier with regard to what the Committee did yesterday, I would like to say that we did not give directives. We only made recommendations which have been captured today as part of the Report.

Hon. Speaker, part of the recommendations that the Committee arrived at after carrying out the investigations - from where our able Chair left - is that the Ministry of Health through the NHIF in consultation with county governments expedite the process of rolling out insurance to all workers in the 22 counties. I have a list here. You will be surprised and Kenyans need to know the counties that have insured their health workers are only 22. The counties which do not have insurance for their health workers are 25. We have a list here which we will circulate to the Members, and they are Kilifi, Kwale, Tana River, Meru, Mandera, Nyeri, West Pokot, Samburu, Trans Nzoia, Uasin Gishu, Nandi, Laikipia, Narok, Vihiga, Busia, Siaya, Homa Bay, Migori, Nairobi City, Makueni, Nyandarua, Elgeyo Marakwet, Baringo and Bomet.

This is a list of shame. The money that was meant to cushion health workers was diverted to infrastructure instead of safeguarding the interests of the health workers. Part of our recommendation is that:

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The Ministry should expedite the establishment of a framework for offering counselling services to health workers noting that non-utilisation of funds set aside for psychosocial support to frontline workers due to lack of a framework caused the problem. Kshs50 million was set aside by the Ministry for psychosocial support for the health workers and up to date it is lying idle.

The Ministry of Health within 14 days of tabling of this Report should ensure KEMSA procures and distributes the reusable facemasks designated for the vulnerable in the society noting that the National Assembly appropriated Kshs300 billion in June 2020 for this purpose and the funds have been available in KEMSA since July 2020.

Yesterday, when they appeared before the Committee, they said that they need another 14 days. When they appeared before the Committee in September, they said they needed another 14 days. It is almost two months and vulnerable groups do not have face masks. All Members of Parliament use their own money to provide face masks yet we had appropriated Kshs300 million.

On the suppliers, the following was recommended:

That, the Director of Criminal Investigation and the EACC undertake in-depth investigations on the irregularities on all companies including 83 companies that were awarded tenders by the Authority with regard to the disputed COVID-19 procurement and institute relevant action against those companies found to have contravened the Public Procurement and Asset Disposal Act, 2015 and any other applicable law.

That, upon conclusion of relevant investigations, any company involved in the disputed COVID-19 procurement and found to have contravened the Public Procurement and Asset Disposal Act, 2015 and engaged in any other malpractice be blacklisted and barred from doing business with any Government entity.

That, the Registrar of Companies in accordance with the companies Act, 2015 undertake an audit, within 60 days of the tabling of this Report, on all companies including the 83 companies annexed in the Report that were awarded tenders by the Authority with regard to the disputed COVID-19 procurement to ascertain their compliance with the Companies Act, 2015 and take appropriate action in instances of non-compliance.

That, KEMSA upon conclusion of the investigation by the EACC and in line with relevant laws undertake steps to resolve the issues of stocks delivered to them.

This is long overdue. I request Members to adopt this Report because it will sort out the problems we are having today. The stocks worth millions are lying idle at KEMSA.

**Hon. Speaker:** No! No! Just give him one minute that is not on record, nobody heard.

**Hon. Joshua Kutuny** (Cherangany, JP): Hon. Speaker, I second.

**Hon. Speaker:** Very well. Hon. Members, as has been said, you can see both the Chair and Vice-Chair are really struggling to be within time. For those of you who have looked at this Report, you have seen it is lengthy. A good advice to those of you who get a chance to contribute, is to pick particular items and stick to them, so that we can cover as many areas of this Report as possible because even the recommendations are quite many.

*(Question proposed)*

The Motion has been moved and seconded. I know these new recommendations by Hon. Chris Wamalwa... I can see those who came to do this business are ready. The Member for Funyula appears to be at the top.

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**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Speaker for giving me an opportunity to make the first contribution to this Report by the Departmental Committee on Health.

Having read through it, listened to the Chair and the Vice-Chair and schemed through the amended version, it breaks hearts in this country. The COVID-19 visited us just like it visited other parts of the world. We had some bit of time to prepare to attack or defend ourselves from this invisible enemy. The frontline workers were the health workers. As I stand here today, having listened to various media outlets, I can authoritatively say without any doubt of contradiction that this country has let the health workers down. Simply because of selfishness, we did not care and corruption has become a top priority in this country.

What happened at KEMSA ought not to have happened in a sane sober mind. Those who defrauded KEMSA and took money from there are Christians, Muslims or adhere to various faiths. This, indeed, is a wake-up call if a Christian can steal from the dead or the sick. If anybody who purports to believe in God can steal from the sick that indeed, is a shame and indictment of how we perceive morality in this country.

It is again a shame that of all the counties, Busia County being the border county having realised most of the truck drivers were carriers of COVID-19 has not prepared and facilitated health workers to deliver on this war. It is a shame and indictment that, indeed, we have no medical cover for our health workers in the counties, yet we have one of the highest numbers of COVID-19 cases.

We need to re-examine our morality if we are a country that really needs to have a sober debate amongst itself. However greedy you are or how much money you need, it was saddening to steal the KEMSA money. Again, the institutions we have in this country focusing on KEMSA, honestly speaking, need to be re-examined. I would not like to go into details, but it is a call to Kenyans that we need to re-examine our moral values and look at how we deal with our issues.

Hon. Speaker, with those few remarks, I support the Report.

**Hon. Speaker:** Member for Tharaka.

**Hon. George Gitonga** (Tharaka, DP): Thank you, Hon. Speaker. Let me add my voice to this Report we are being asked to adopt this afternoon, especially with regard to the seriousness of the COVID-19 pandemic that is with us.

I recollect very well that during the month of March, the Committee on Delegated Legislation, which I sit in, sat through and came up with lots of laws and regulations to try and control the pandemic, including setting aside money through a Fund that would be used to combat the disease. Unfortunately, it never took long before it came to the limelight that in fact, the civil servants entrusted with that money misappropriated it. They stole the money and diverted it to their own personal use to the detriment of Kenyans. The net effect is that the health workers were exposed and every other person who worked in that sector got exposed. The results of that exposure are what we are witnessing today. Our medical doctors and other health workers are dying in big numbers because they do not have protective gear. They do not have the facilities they are supposed to work with.

I have read the Report and the recommendations. What I am worried about is that these are just recommendations. If we are not careful, they will just be thrown away and nobody will look at them. They will not be implemented and that will be the end of the chapter. I agree with the observation that in fact we should have been direct. Where a crime has been committed, we should engage the relevant crime-fighting agencies. Where something wrong has been done, we should actually refer the matter to that agency with a clear recommendation for them to act, so

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that if the agency fails to act, we can have recourse. We can summon the actors to this House and make them answerable. Mere talk is not helping Kenyans. Kenyans are now dying in big numbers. All of us are exposed and we are losing our constituents.

Most importantly, towards June, when we discovered these thefts, His Excellency the President gave an ultimatum of 30 days to the investigative agencies to come up with reports as to who was culpable for the misappropriation of the funds. Thirty days are over. We have heard no report. We do not know what happened. The only thing we talk about today are the “COVID-19 billionaire heists” and what they were able to rip off from the country and get away with it. Therefore, I agree that this House, especially the Departmental Committee on Health, must be more serious and more involved in ensuring that this Report is not a dead letter report. This is not a Report that has been brought here to sanitise what other people did. It is not a Report that has been brought here to cool down our anxiety. It is a Report that should be followed through to ensure that it is enforced, so that all the culprits who have misappropriated the COVID-19 pandemic funds can be brought to book.

With those remarks, I support.

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

**Hon. Robert Mbui** (Kathiani, WDM-K): Thank you, Hon. Speaker, for giving me this opportunity. This Report reads like work of fiction. In fact, it is like a novel on crime. This Report is shocking. It breaks my heart to imagine that people have used the COVID-19 pandemic to make money. It is like they are dancing on the graves of the dead.

I have just looked at how the blatant theft of public funds has been done. How has this money been stolen? The Report tells us that there are companies that were set up in anticipation. When the COVID-19 pandemic broke out elsewhere, they knew that it would reach us. Therefore, they formed companies. There is a company which was incorporated on Valentine’s Day. That was before the first case of Coronavirus was discovered. The company was given a contract worth Kshs970 million on 30<sup>th</sup> April. That is about two months later. The KEMSA was not even doing price surveys, which is against the Public Procurement and Asset Disposal Act. There was a complete breakdown of communication between KEMSA and the Ministry of Health. Clearly, this was done so that the Ministry could not oversee them as expected. There was a problem between the KEMSA management team and its board. This Report tells us that commitment letters were given to companies without prices and schedules. The CEO himself at that point gave nine such letters. The companies that were given the letters were not prequalified. The Report tells us that the procurement was done without a budget, which contradicts the law. Apparently, the Management of KEMSA ignored even the advisory that was given by the institution’s own head of procurement. When all this was happening, the head of finance kept quiet yet he was the person who was supposed to say that the institution was committing itself over and above its budget.

As a result of that, KEMSA has ended up with stocks worth Kshs6.1 billion that cannot be sold because the items are overpriced. It is unfortunate that this country can go through this. When I heard that the Jack Ma Foundation donated some 21 packages, I thought it was a story created by the media. I thought it was some kind of a sick joke, only for me to subsequently find out that the packages were received and eventually stolen. It is really unfortunate.

I want to go to the recommendations, which I support. I will start with the one where they are saying that face masks should be provided within 14 days. That is one of the problems we are facing as a country. Recently, my people were arrested at market places in the rural areas. Sometimes people have to choose between buying food and buying face masks. People were

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arrested because they did not have money with which to buy face masks yet we have the COVID-19 billionaires who stole public money walking scot-free. I agree with the recommendation that says that all the COVID-19 equipment stocks should be released for use by doctors and health workers. How can doctors and nurses be dying because they do not have PPEs yet KEMSA has piles of PPEs stocked up in its stores? I think it is a tragedy.

Hon. Speaker, I agree with you on the aspect of who should handle this matter. These are crimes against humanity. In fact, these people should even have proposed that this matter goes to the International Criminal Court at The Hague. That is where these people should be taken, but in the absence of such recommendation, we can specify the EACC. Unfortunately, what has been happening is that a lot of cases have been going to the EACC, but people are not seeing them “biting” anybody. This time round, we want to see the EACC “bite” because this is a tragedy against this country.

With those remarks, I support.

**Hon. Speaker:** Member for Garissa Township.

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Speaker. I join my colleagues in discussion of this Report. For the first time, I can authoritatively say that corruption has led to the death of many Kenyans. Let us call a spade a spade. All of us sitting here have lost our loved ones. We have lost our friends, our constituents and colleagues because of the corruption that took place at the KEMSA. It is also very sad that today, the frontline health workers lack PPEs. They suffer delayed salaries and they do not get their risk allowances. It is very sad. Above all, even in my county, there is no insurance for frontline health workers. This matter is very serious.

On 26<sup>th</sup> August, the President of the Republic of Kenya, whose legacy is to fight corruption, issued a 21-day directive for the perpetrators of this corruption to be brought to book. Until today, nobody has been taken to court. We are watching and we will watch. We will wait. You can hide your friends, colleagues in the political class or anybody, but I am sure a day will come when those who participated in this heist will pay for the crimes they have committed not only against the taxpayers of this country, but also against the many Kenyans who are today in their graves.

Hon. Speaker, the matter before us is so serious. This House appropriated Kshs23 billion. Donors like the World Bank, Denmark and United States Agency for International Development (USAID) paid.

Hon. Speaker, KEMSA is the largest recipient of USAID funds in the whole of the African continent. I want to challenge the USA Government. I also want the USA Ambassador in Kenya to listen to me. Even if we want to steal our own money, you must take care of the American taxpayers. Donors, including the World Bank and the Danish Government must ask for value for their money. The USA Government must not sit down. It has its own investigative agencies and I am sure it knows the culprits.

A company was formed two weeks after the pandemic broke out called Shop N Buy Limited. When I saw the name, “Shop N Buy” I thought it is a company that sells diapers, presents and such things. I watched the proceedings of the Committee when the CEO of that company appeared before it for grilling. That company belongs to a big fish. That guy was just a face of it. There are many such people. I want to challenge the President, the EACC, and the Office of the DCI that they should not be part and parcel of those who, in my own words, “committed genocide” of many Kenyans who are today in their graves. Do not be complacent. Bring those people to book.

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Hon. Speaker, misappropriation of funds, in this case, has led to deaths. Corruption has led to the death of many people. Over 1,000 health workers have tested positive. A number of key top-notch doctors have died. The matter is so serious that we should not just be talking about this only as a recommendation.

Finally, allow me, Hon. Speaker, to say this with regard to the problem we see in our counties, we are going to challenge the Controller of Budget because the money we allocated to counties has gone to waste!

*(Applause)*

The President should not be having a virtual conference with these governors. The President should send his intelligence...

*(Hon. Aden Duale's microphone was switched off)*

Hon. Speaker, just give me one more minute.

**Hon. Speaker:** One minute!

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, the President should take his intelligence team to all the counties starting with Garissa where there is not a single bed in the ICU. All the money this House allocated and the National Treasury sent to the counties has gone into people's pockets. The doctors in Garissa have been on strike the whole of this week. Three or four babies have died. We cannot say it again that this corruption... When I saw Hon. (Dr.) Nyikal crying, I got shocked. He cried because there are many Kenyans who died at their hour of need. Parliament allocated resources, but some people pocketed the money. A crime of this nature cannot wait. It is genocide! Governors must be held responsible. The Controller of Budget must be held responsible.

Committees of this House, especially the Departmental Committee on Health, should walk away from the comfort of the boardrooms here. They need to go and visit the rural health centres in order to save taxpayers their money.

I want to conclude by saying that USD2 billion that was given by the Government has gone to waste and Kenyans, including health workers, have died because of corruption.

**Hon. Member:** Shame!

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

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Speaker for giving me this opportunity. I want to support the Report by the Committee. I want to agree with Members that we were hoping that the Committee would have pinpointed people who were responsible and have stolen money. I wish we were more spiritual as a Parliament because I would have asked the Committee to put, as one of the recommendations, a curse on the people who did this. Since we cannot curse them, the only thing we can do is to make very strong recommendations for prosecution and we should name them specifically. This money was stolen not by ghosts, but by individuals.

In my constituency, a very prominent senior citizen who retired just last year from public service, called Mr. Ong'ino, is being buried next week. He died of COVID-19. Two weeks ago, I tried to save a very good pastor friend of our family who comes from Bungoma, but just getting the basic facilities was a problem. When I raised this matter, people in Bungoma County thought that I was attacking them. We just need to confront the reality that is facing our health system as a country. Some of it may not necessarily be as a consequence of the governors because,

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fortunately, based on... I tried to help the pastor get an ICU facility, but we failed to do so until the very last minute. I was lucky that through that system, I was actually able to talk to several people in different counties and I got horrifying stories about how our health workers do not have the things they require, including the very basic ones. It is partially because of the mismanagement by our counties.

We must hold our counties responsible. We must also know where roles lie. This is because right now, all our attention is at the national Government yet there are roles that are very specific to the counties, which they are not fulfilling. We must also ask the national Government to take action. Sometimes I sit in my house and I think I am nuts. We are talking about PPEs that are lying unused because people are still debating back and forth and yet people are dying. Why can we not release those PPEs to save lives? After that, we can discuss whether procedures were followed or not. Even if the procedure was done poorly and badly, if a life is saved... In the case of the pastor I am talking about, I reached a point where we were just going back and forth about procedure. I was so frustrated that afternoon that I did not even come to Parliament. Some of the Members know because I was just calling all over. I knew it was a life we could have saved, but we were following protocol: "Oh, between county and county, we cannot release our ambulance". What nonsense! Release the ambulance and let us take you to the police. After you release the ambulance and save a life, we will defend you here on the Floor of the House. If there are PPEs that are not being released in KEMSA, release them and we will defend you on the Floor of the House. Instead, what we hear of are irregular procedures. I would rather hear of a regular procedure, but the facilities have reached where they need to reach. Then we can discuss that later and hold you accountable.

As a country, we need to be very serious about holding people accountable. I am hoping that the other committee - I do not know whether it is the Public Accounts Committee (PAC) or the Public Investments Committee (PIC) - will come up with names. We are hearing rumours that our own colleagues may be mentioned. If they are there, name and shame them! Somebody is dying because you are trying to make money. This kind of money... Hon. Speaker, sometimes you should even allow us to speak in mother-tongue. There is some anger that you just need to express in mother-tongue and call people names in mother-tongue. People are dying while you are making money! What kind of idiocy is that, Hon. Speaker? What kind of greed is that? Shame on you!

**Hon. Members:** Shame!

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you.

**Hon. Speaker:** Member for Kiminini.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Speaker for this opportunity. I want to thank the Departmental Committee on Health under the chairmanship of Hon. Sabina Chege and the Vice-Chair, Hon. Kutuny, for the way they moved very fast to handle this matter.

I saw a lot of optimism, but when you read this Report, you realise that it is very disappointing. It is disappointing in the sense that it is sanitising. If we are told that these are the companies which were registered and within less than three weeks or one month, they had been given billions of tenders, then they should go ahead and name this company and if possible, shame them. We want them to be blacklisted from doing Government business. Why is the Committee shying away from that recommendation? It is lacking. What we are seeing in the recommendation is blame game and forwarding the problem to the DCI.

Commented [AN1]:

Hon. Speaker, under Article 95 of the Constitution, it is very clear that this House can deliberate and resolve any matter of importance to this county. Who are the directors of this company called Shine and Buy or whatever? We need to know them because they are hiding. I expected a recommendation to show that Buy and Shy Company is blacklisted. This is shoddy work. The Departmental Committee on Health has disappointed us very much. We have COVID-19 billionaires and the CEO of KEMSA has been on record that he was given directions on the list of companies. He mentioned this. Our Committee, that we trust, has shied away from this.

Hon. Joshua Kutuny is my neighbour and I respect him very much. He articulates things both in Kiswahili and English, which some of us cannot do. When it came to the recommendations and the way he has been articulating issues of maize, I expected the same to happen here. What happened to my brother, Hon. Joshua Kutuny, and my neighbour? I do not know what happened.

As we move forward, in terms of market survey, I have seen that you have gone to the specifics of saying that the DCI should investigate the legal officer, the procurement officer and the commercial services officer. I have not seen anywhere where it is targeting the CEO. The buck stops with the CEO. I have not seen that. You should have highlighted that. The importance of moving this is you give the critical highlights. I did not see that one.

As I move forward, the most important thing I want to mention is I have lost people who were very close to me. The medics were close to me. The doctors and the nurses are our first line of defence. If at all these PPEs are not given to them, we have nowhere to go. This weekend, I am going to bury bishops who provide spiritual nourishment. The COVID-19 does not know colour or pocket. The President of this country has been very clear and he gave a directive for this timeframe. How sure are we that these bodies, which our Committee has recommended, are going to take action?

Hon. Speaker, I listen to news. When the reports came from the EACC and they were taken to the DPP, the DPP sent them back because the investigations had not been done comprehensively. So, in this case, I expected also the Committee to have called, if possible, the EACC to shed more light on this matter. The COVID-19 is a serious issue. I have lost people who are close to me and we are here as Kenyans. My humble request is that we reject this Report or we amend and improve when it comes to the recommendations. I insist that we must have those companies, so that they can get blacklisted from doing business with the Government in future. `

I object.

**Hon. Speaker:** Let me just try to offer some guidance. In your contributions, the Chair of the Committee is Hon. Sabina Chege and the Vice-Chair is Hon. Joshua Kutuny. They are not in this Report in their personal capacities. So, to avoid a situation of interruption, and that is why I am trying to save all of you, remember the Motion you passed is that everybody contributes for only five minutes. If we begin allowing interruptions simply because you are mentioning people by their names... You can say that the Chair and the Vice-Chair have not done a good job. That is okay.

Please let us try to avoid those direct attacks. He is not alone, there are other Members of the Committee. They are at liberty to make whatever proposals. I am just trying to help you to move away from a situation whereby you will be required to substantiate that you have not done this or the other. You can say the Committee not even necessarily the Chair or the Vice-Chair.

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There is a proposed amendment. Before we proceed, I want to allow the Mover. Hon. Joshua Kutuny, what is your point of order.

**Hon. Joshua Kutuny** (Cherangani, JP): Hon. Speaker, I have listened to my neighbour. As colleagues and Members of Parliament, it is important to go through the Report properly. My friend has taken this opportunity that you have given him to settle local political scores because he knows that I am the man who has managed him well on the ground. He pretends that he can be the governor of Trans Nzoia. So, he wants to use this platform to smear some of the people who are very strong on the ground.

I want to tell Mr. Chris Wamalwa, the purported doctor, that the Report is not for Mr. Kutuny, the Report is for the National Assembly. It was generated by Members of the Committee. What he is saying is misleading the House. We mentioned that company, Shop N Buy. Read the annex. In every recommendation, we said there is an annex. So, I want to remind my friend very clearly that if you have any issue against Hon. Kutuny, we can square it down there on the ground. Do not bring it into the national arena.

I thank you.

**Hon. Speaker:** That is what I was trying to avoid. You can deal with those village issues in the village, so that we deal with the national ones. Also, and I said this when I alerted the House to the fact that there is an addendum, remember that the addendum ranges from recommendation No.30. Do not confine yourself to only these nine or so recommendations. There are others in the original Report.

It is for that reason that I drew your attention to the fact that this is an addendum. Please, let us avoid personalised attacks. Just debate. Those of you who have cared to look at the entire Report, I am sure you will be able to debate this quite well. Even in those five minutes you can make very serious and useful points.

Let me allow Hon. Jeremiah Kioni to move his amendment.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Thank you, Hon. Speaker. I seek to move the following amendment to this Motion subject to insertion of recommendation No.40 that, where two or more agencies are recommended to undertake investigations by the Committee, the Ethics and Anti-Corruption Commission is the lead agency.

The reason why I think this amendment is useful is because, like the Members who have spoken to the Motion, this is an issue that has captured the minds of Kenyans. I even imagine that as we speak, Kenyans are keen to hear what we are saying about this. Like Hon. Odhiambo-Mabona has said, some of us find it very difficult because it is hurting. Yesterday, I was in Ndaragwa and I do not want to talk about it because of the family. However, it is really an annoying thing at the way people are passing on because of COVID-19.

Hon. Speaker, we seem to have taken this thing casually. I am not trying to say that the Report is casual. I am trying to ensure that what is finally recommended by this Committee is something that we can act upon and which we will be able to implement and call a specific agency and ask them, what have you done? If this particular individual has done this or the head of an organisation has done this, which agency can we call within 14 days to find out what they have done? How can the Committee on Implementation be able to enforce the resolutions of this House?

It is for that reason that I am saying that if we then task EACC, we will be coming closer to getting some answers as Kenyans expect to see in the coming days. They really would want to see some people arraigned in court. This is not a game that we want to continue playing. It is a very difficult issue. I do not want to go outside the parameters of this Motion. It is an issue that is

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even making it difficult for the BBI. Those of us who do not want the BBI movement are using the COVID-19 *manenos* as a reason to say that we should deal with the pandemic before we deal with the BBI. We need to show some seriousness. This amendment helps in furthering that idea.

I beg to move and ask the Member for Tharaka, the only Member of Parliament from DP, to second.

**Hon. Speaker:** Let us have Hon. Murugara.

**Hon. George Gitonga** (Tharaka, DP): Thank you, Hon. Speaker. Allow me to second the proposed amendment. I will only add that it is in the common knowledge of all Kenyans that sometimes investigative agencies investigate the same matter simultaneously. As a result, a conflict arises and eventually, the matter is left in abeyance. We need to be as specific as we can. Where there are two agencies that are supposed to investigate, let the Ethics and Anti-Corruption Commission be the lead agency. Anyone else will follow suit and may just chip in and bridge the gaps that may exist.

With those remarks, I beg to second.

**Hon. Speaker:** We do not put Questions before they have been proposed.

*(Question, that the words to be added be added, proposed)*

**Hon. Members:** Put the Question!

**Hon. Speaker:** Do you want me to put the Question? Very well.

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

The Motion proceeds as further amended by Hon. Kioni.

*(Debate on the Motion as amended proposed)*

Let us have Hon. Waweru Kiarie, Member for Dagoretti South.

**Hon. John Kiarie** (Dagoretti South, JP): Thank you very much, Hon. Speaker. This opportunity is highly appreciated. I stand to put in my word to this Motion as amended and as further amended.

The essence of the investigation that was carried out can be demonstrated by the fact that at the height of the COVID-19 pandemic, we were told that Kenya was borrowing Kshs4 billion every day. Out of the money that we borrowed, there are credible reports that tell us that Kshs43 billion was pocketed by people who have come to be known as “COVID-19 heist billionaires.” In fact, what was expected of the Departmental Committee on Health was to go in there and lift the veil so that we are able to see the actual faces of these thieves who were able to take away Kshs43 billion out of money that we do not have, because we borrowed it.

It has been said before that COVID-19 is not just a health challenge. The COVID-19 will test governments, economies and civilisations. Right here in this country, I can say that we have been tested and shaken. It begs for us to get our priorities right because if we do not face COVID-19 in the way we are supposed to, it will annihilate this nation.

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

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

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It is saddening. It is pathetic. It is immoral that the protection of our frontline workers - being the medical caregivers - is an afterthought. The protection of doctors cannot be an afterthought. I was having a conversation with the very esteemed Hon. (Dr.) Nyikal and he reminded me that one doctor in this country serves over 16,000 patients. When we lose a doctor, we are not only talking of the name of one individual, maybe a Dr. Were, passing on we are talking about a Kenyan who is offering a service to 16,000 people out there. Over and above that, it takes a lot of investment to train a single doctor. This country invests in that one individual all the way up to their level of specialisation. For us to imagine that it can be an afterthought to protect a medical worker in this country means that we have our priorities upside down.

The truth of the matter is that it is becoming very clear, finally, that corruption kills. This is a direct link - a bold thick line not a dotted line - between corruption and deaths. We were expecting that the Departmental Committee on Health would go into the Ministry of Health, Afya House and KEMSA and lift the veil so that we know who the people who took away Kshs43 billion are.

The 64 pages of this Report that we have received tell us that Kshs43 billion disappeared with the KEMSA board and with the Principal Secretary of the Ministry of Health. We want to know if we are throwing the KEMSA board and the PS under the bus. Who are these other people who ought to take political responsibility for the mess that has happened in the health sector? We are very keen to also know who the owners of the companies that are being hidden in this COVID-19 heist are.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Kiarie, just hold on. There is a point of order. Hon. Sabina Chege, what is out of order?

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Speaker. It is wrong for any Member to come and misinform this House. The things that he is alluding to - that we sacrificed a few people - clearly shows that he had not read the Report.

When Hon. Kutuny was responding to Hon. Wamalwa, he urged Members to read the Report because it has 40 recommendations, including what has been added by Hon. Kioni. The names of the companies, the directors and the CR12 are part of that Report. It is a huge Report. It is not just 64 pages. There are attachments. Members, I kindly request that you do not mislead this House. Read the Report. It is Kshs23 billion and not Kshs43 billion. That was what was spent. The loss, as per this Report, is Kshs2.1 billion. The KEMSA used Kshs7 billion. How much of the Kshs43 billion were we supposed to investigate? Let us not politicise this thing. Be focused and informed.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Kiarie, let us try to keep to the Report as it is. Proceed.

**Hon. John Kiarie** (Dagoretti South, JP): Hon. Temporary Deputy Speaker, I stand guided. Some of these issues that I am talking about are in the public domain. The knowledge of the facts that happened in the KEMSA heist are out in the public. They are not a preserve of a few Members or of the Committee. I will continue.

We were expecting to see this veil being lifted so that we can know some of the people who had companies that were a few days old and who did not show up in the Committee investigation. When the Committee went to do their own investigation, they found materials worth over Kshs10 million branded in the insignia of those companies that we are being told did not do business with KEMSA. We want the veil lifted so that we are able to adopt a report that is conclusive.

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Finally, I await the report from the Public Investments Committee because I pray that it might carry a bit more meat and be beefier than the Report that we have received. For that reason, I oppose the Report.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Kiarie, I agree that this particular debate is very emotional. It is a terrible time. I have just received news of the loss of one of my very good friends, Joshua Nyawara, who passed on a few minutes ago courtesy of this terrible thing that we are currently debating. This thing is real. Hon. Kiarie, Hon. Millie Odhiambo must know him. She will also tell you that matters that we are speaking to of lifting the veil are technical terms of law. Lifting the veil in companies is not something that we should take very lightly. We must find the faces behind the losses.

*(Hon. John Kiarie spoke off record)*

The next opportunity will go to Hon. John Bunyasi, Member for Nambale.

**Hon. Sakwa Bunyasi** (Nambale, ANC): Thank you, Hon. Temporary Deputy Speaker. It is a bit difficult to get across with the mask but I hope that my words will come out clearly.

Hon. Temporary Deputy Speaker, this is really depressing. I know that committees have a tough time calling a spade a spade sometimes because they have to have some balance. I guess that people expected harsher recommendations. My first prayer would be, as far as they have gone, the agencies that are being tasked will not wait for 18 years, months or two years to begin to move, like they did with the National Youth Service (NYS) saga. Probably, they will do.

Lifting the veil is a technical term as you say. We know what it means - to get down to the beneficiaries. In popular press and perhaps social conversations, people know who they are. Perhaps, it is just the difficulty of the process of mentioning them in this setting, but it is extremely important. With the little information I have, I was comparing in my mind the relative weight of punishments across countries. For example, in Kenya - I am not complaining about this - but you can commit murder, go in and after seven days, whatever it is, you can get time out and go back to your home. You can rape, go into police custody and the following day, you are released.

We have become somewhat too liberal in terms of criminal punishments. However, there are other countries including some of those that are our biggest trading partners in which corruption of this kind is settled by the firing squad. That cannot be unfair, particularly in this case where the theft, graft and corruption resulted in deaths.

*(Applause)*

It is not just that someone built a mansion and we can just carry on. At the minimum, we have lost lives attributable to these malpractices.

This is extremely serious. I was even inclined to say, why did they not just completely dissolve the institution called KEMSA? In that, we even change the name and start afresh with something else other than letting them carry on with business. This is in the DNA of the institution. The KEMSA comes on-and-off, in-and-out on these accusations over the years that they have existed, as well as their predecessor agencies. I doubt that what we will do will be sufficient deterrence.

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Hon. Temporary Deputy Speaker, from reading the Report, I noted that out of the 19 Members, five did not sign. I hope they had good reasons. Maybe they were away or something. But five not signing, I do not think it is because they do not want their signatures to be seen there. This is a serious matter and I would have thought that everyone should have signed just to show that there was consensus. Consensus is the new ugly word in town. That there was consensus enough within the Committee. Nevertheless, I do not want to make an issue out of that at all. I am just mentioning it in passing.

Reading the observations, we find names of the officers involved in various agencies named. When you go to the recommendations, they have remained with the titles, but I guess you have to flip back to find out who they are talking about. This Report would be read in totality when it goes to any of these agencies. However, this is one that I would urge the Departmental Committee on Health to keep their eyes on. There are requirements here that they should report on a couple of things after such and such a time, so that we can be kept abreast on where things are going. It is a bad season.

Even from an academic point of view that I cannot miss, the International Monetary Fund is in town and they are familiar with all these things that we are doing. If you compare the money that we are asking from them to the money that are lost in this Report, just in the Ministry of Health only, not what they have investigated... When I was in the Public Accounts Committee four or five years ago, every accounts that we did, we had to send the Principal Secretary away several times. What is lost in the Ministry of Health alone, probably exceeds the amount of money that we are going to be asking from them.

We are in bad shape. I hope these people are not just shamed, but end up in jail. We should see them in stripped clothes. If not that, we will not have gone far enough.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. (Dr.) Pukose, you may have the Floor.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Temporary Deputy Speaker for allowing me to contribute to this Bill. Observation No.23 that the Committee is on receipt of a letter whose reference number is given there, dated 15<sup>th</sup> April, 2020, addressed to the CEO, KEMSA, Ministry of Health, reads that:

“Approving the procurement of goods worth Kshs758,690,583.25 as contained in the schedule annexed to the letter, upon inquiry on the genesis and import of the letter, the PS submitted documentation including several emails clarifying the role of her office in the process. However, the verbal explanation given by the PS was inconsistent with the documentation submitted.”

Hon. Temporary Deputy Speaker, looking at this trend and having listened to the President give a 21-day notice to the EACC and the DCI to investigate, you are left wondering why the PS is still in office. Does it also go in tandem with the DCI standing and giving an investigation? He has been very fond of going to the media and giving briefings on how investigations are being done and nothing comes out of it. This is something that we need to move away from. It is high time that the President acted on some of these officers.

Through this COVID-19 and the pandemic in general as it is, many frontline workers have perished. As you can see, it is not only the frontline workers, but every citizen of this country. It is a serious matter that we need to put our act together as a country. When we look at KEMSA having committed many of these heists where people come up with companies which

are formed two weeks into operations and are given tenders worth billions of money, then you realise that it is a big scheme.

I like the recommendation by the Committee that the investigative agencies take appropriate action. When you look at the recommendations of the Committee, you look at the position they are in. We have PPEs which are in the warehouse which need to be used by the healthcare workers to save lives. The masks need to be given to vulnerable groups. Do we leave them lying there? No, we cannot leave them lying there. The Committee recommends that within 14 days of adoption of this Report, those PPEs must be given out and the masks must be distributed.

There are recommendations here that can further be improved by the Public Investments Committee. To me, this is a good start by the Committee that we adopt this and make sure that we release the PPEs. But we ask the investigative agencies to follow the COVID-19 billionaires, freeze their accounts, recover the money they have taken so that there is no loss and make sure that all who conspired to do this, beginning from the PS, the CEO and everyone else hidden behind the companies, are arrested and be brought to justice.

It is more than 100 days after the President gave notice and the DCI and the EACC directors have done nothing. The file is brought to the DPP and then taken back. What is it that we are doing? That should not be happening in a country where we have responsibilities unless these people are colluding to continue stealing from the public.

When I looked at issues to do with the BBI, first, the Health Service Commission was there. In second launch of the BBI, the Health Service Commission was there, but in the final draft, the Health Service Commission is missing. So, I asked my colleague...

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Your time is up, Hon. Pukose.

*(Hon. (Dr.) Robert Pukose spoke off record)*

You know it is five minutes and many Members would like to have a say. You have had your say and day.

Hon. Emanikor, you will hold on for a short while because the Leader of the Majority Party takes precedence and he has indicated he is ready to speak now. You will be next. Hon. Kimunya, Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Report of the Committee and commend them for a job well done. When we look at the full Report and the annexures, we appreciate the depth of the inquiry.

We all know that the UN in its report on COVID-19 and human development perspectives referred to this pandemic as a human development crisis. The World Health Organisation declared the virus a global pandemic. Echoing the statements of these two reputable organisations, I wish to state that this pandemic is perhaps the worst to hit our generation. We were not there in 1918 but we have seen the impact on a global scale. When you look at the number of people who are affected directly by the disease, affected because they have somebody they care for or affected by fatalities, it is a global pandemic. It has brought the whole economy of the world on its knees and changed the way our lives move or revolve or even the way we go about our business.

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When the outbreak came into our country in March 2020, I am aware that a number of far reaching measures were put in place, some of which continue up to date. As much as we may downplay some of those measures, if they had not been put in place, the fatalities and infection rate we see now would have perhaps been in multiples.

The Government established the National Emergency Committee on 27<sup>th</sup> of February 2020 which was mandated to ensure that concerted efforts and response are put in place towards this pandemic. At this point, as we condemn what is happening and say what the Committee should have done, I would like to look at, first of all, the work of the response committee because they have been coordinating these efforts and the work and efforts of our frontline workers. I know they have suffered fatalities as they save lives. Basically, they risk their lives to save lives. But because they are coordinated and efforts have been put in place, we are only talking of 1,427 people who have died as of today. I know one person dead is bad enough, but if we did not have these efforts in place, all these limitations on socialisation, the numbers would have been worse. We are talking about 80,102 people who have been infected. If we look at how many people have passed on compared to the number of infected people, it gives a fatality rate of about 1.7 per cent. We are way below the global average which is 2.3 per cent. That tells us that Kenya is doing something good to avoid fatalities. There are countries that are way above the global average, yet they are in the developed world. We are doing something and we must commend our health workers. Even with the limitations they have, at least, they are able to do something.

Despite the health protocols, social distancing measures and directives that were put in place, the Government also allocated Kshs26 billion through this House. Part of that money is what the Committee has been looking at in terms of what happened to it. Development partners also put in their money, including Jack Ma's Foundation's kits that we now know some of it is yet to be traced. I did not expect the Committee would have been turned to detectives overnight to go looking for where it disappeared to. At least, the Committee has highlighted that matter for further investigation.

It is unfortunate, obviously, that even as the Government, this House, Kenyans and the international community have made efforts to contain the pandemic including the private sector, which has donated quite a bit of their money to contain the effects of COVID-19 and offer support, the Ministry and health workers, some of these efforts have been derailed by circumstances that have been highlighted in this Report.

Loss and misuse of public funds is not unusual in Kenya, but it is disastrous and ought to be condemned in the strongest terms possible. As Members have highlighted here, it is even worse when these funds that are potentially lost would have saved lives. I have read the Report and I have not seen where they say that money has been lost, money may have been misused or there is no evidence yet to suggest that money was properly used until we get these investigations completed. I thank the Committee for wording their Report in a professional way. They are not judging. Anyone. They are not saying that somebody took the money or somebody has stolen money but red flags have been raised that perhaps things are not right and they require further investigation. The worst thing is that whether lost or potentially lost, this money was meant to save lives. Anyone who takes this money is like a chap who takes an ambulance to misuse or misuse any live saving public resource and should be declared a national enemy.

You may recall and it has been highlighted here that His Excellency the President, Uhuru Kenyatta, directed that investigations be done and a report on the expenditure of the COVID-19 Fund is prepared. I am glad the Committee has reinforced this call and I believe that even when

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we receive the report from Public Investments Committee and the report of the Senate Committee and all other committees that are looking at this, the message will be the same. Let us have this investigation expedited. That is what we needed to get, so that we do not look at newspaper headlines which have their own motives or do not look at reports by some extortionist editors which have their own motives. We should have a formal report to say that we put in so much money in KEMSA. What did it do with the money? There is debate as to what would have happened if, for example, KEMSA had decided that it does not have money, so they could not buy PPEs and the escalation of the pandemic found that we did not have PPEs yet the only body that is mandated to purchase was sitting idle because there was no money. Those are some of the things we need to look at, but that is for the investigators to look at extenuating circumstances. I read and seem to get the impression of KEMSA arguing that they bought PPEs at the prevailing market rate then, which was very expensive then because they did not want to be caught as a country without adequate stocks. In the event, globally, supply chains were enhanced to respond to the global pandemic and the production cost went down and prices went down.

However, the poor KEMSA, with its rigidity in purchasing, found itself with all these stocks of highly priced items which the Committee is now recommending. Perhaps, we need not start blaming the chicken that was eaten because it headed straight to the mongoose. We need to start thinking of the best thing to do. We have PPEs and we have sick people. We must sort them out because it will not change the values. That is paperwork but, at least, we have PPEs in the country that we can use. They were bought for purposes of mitigating potential loss. Hence I support the Committee's recommendation on that aspect.

Having looked at this Report, I particularly like the Committee Recommendation No.28, which is to amend Sections 35 and 69 of the Public Procurement and Asset Disposal Act of 2015. When we do things in the Committees, the standard reports we get here basically say "investigate" but this Committee has gone further to identify a loophole in the law. If we seal it we will, perhaps, save future losses of money. I commend this Committee. Let this be a lesson for other Committees. When you do an inquiry, identify not just the loopholes, but also which law we can tighten as Parliament to avoid that loophole being used by somebody in the future...

*(Hon. Amos Kimunya's microphone went off)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Kimunya, I will add you one minute.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you. That is why I need to commend the Committee.

On investigations, this Committee has identified all the persons and companies of interest and recommended that they be investigated by competent persons. I hear Members here asking for listing of the companies or individuals. That is not how things are done. This company has 83 suppliers. Let the Directorate of Criminal Investigations (DCI) do the investigations. That is what we should be doing as a House. Purporting to become investigators and crime-busters overnight when we are Members of Parliament will only lead to mudslinging in this House. I commend the Departmental Committee on Health for setting the standard on how inquiries should be done.

Hon. Temporary Deputy Speaker, with those remarks, I beg to support and commend the Committee for the professional way it has handled this matter.

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**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well. Hon. Kimunya, your contribution is noted. We shall now have contribution from Hon. (Ms.) Emanikor, Member for Turkana County.

**Hon. (Ms.) Joyce Emanikor** (Turkana CWR, JP): Hon. Temporary Deputy Speaker, at the outset, I wish to support the Report. Since I am a Member of the Committee, I will not go into the detailed recommendations because that has already been articulated by my Chairperson and Vice-Chairperson.

When we were investigating the aspects of accountability, austerity and compliance of KEMSA with the Public Finance Management (PFM) Act and the Public Procurement and Asset Disposal Act, we realised that they failed that exam because they told us that they did the procurement using the reverse procurement method or the retrospective method where they just called suppliers to bring supplies to their stores without negotiating. That is why we found so many things in their warehouse.

The other thing we checked is the timeliness of supplies because we are talking of life and death here. Again, on that, they failed because even the retrospective procurement which was meant for emergency did not realise that purpose. Finally, we were also looking at the protection of health workers. Again, that was an exam that KEMSA failed because if they would have supplied these things in time, we would have saved the life of our health workers.

Given the looming strike, the high risk our health workers are exposed to and having lost over 32 health workers, 10 of whom were consultants of high repute and long-time training, coupled with the prevailing panic among the Kenyan public and the overstretching of both health facilities and staff, I urge this House to adopt this Report.

Hon. Temporary Deputy Speaker, distribution of PPEs to public facilities will help in the current fight against COVID-19. You may have seen Hon. (Dr.) Nyikal with his contagious tears during the Committee meeting. We did not cry because we were unable to act. We cried because of the pain that we saw these frontline workers facing. We know leaders all over the world have been crying. Even Jesus cried. I know that even Prophet Mohamed – Peace be upon him – also cried severally because of the pain that his people went through.

The Exchequer also delayed with the funds, especially the funds that were meant for the counties. When we went out to the counties, we realised that most of the monies had not been spent because it got there towards the end of the financial year. The other thing is that the Kshs500 million that was meant for group life insurance for health workers is also still held at either the National Treasury or the Ministry of Health. We have said that money should be sent straight to the National Hospital Insurance Fund (NHIF) to provide medical cover for health workers. This explains why some county governments have gone to private insurances. However, private insurance companies are not covering COVID-19. So, we urge the governors and their county governments to review the insurances covers they have purchased for their doctors so that COVID-19 is included.

The resurgent transmission of COVID-19 in the country, and particularly the rate at which it is hitting the rural counties, is causing an alarm and fear. This calls for urgent action. That is why we want this House to approve this Report.

Thank you.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. (Ms.) Emanikor, it is true that the shortest verse in the Bible, John 11:35, says Jesus wept. These are true circumstances that would have seen Jesus weep.

The next contribution will be from Hon. (Ms.) Adagala, Member for Vihiga County.

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**Hon. (Ms.) Beatrice Adagala** (Vihiga CWR, ANC): Thank you, Hon. Temporary Deputy Speaker. I am also a Member of this Committee. We have gone through pain working all over and visiting several counties, hospitals and organizations like KEMSA to investigate matters concerning COVID-19 and the KEMSA scandal. It has not been easy. It has been a difficult task for this Committee having meetings with various stakeholders and the people concerned. We eventually came up with this Report.

Many Kenyans and medics have died of the COVID-19. This is a pandemic we were not ready for. For the sake of the people who lost their lives, including those who are still losing their lives, we need to adopt this Report so that the necessary entities or bodies that are supposed to do proper investigations can go on with their work. People are talking of 'COVID-19 millionaires.' As a Committee, we really tried our best. The security apparatus should now come in and act on the Committee's recommendations and handle the remaining cases to see that if it is corruption, people who are concerned and have taken money from this COVID-19 kitty at KEMSA are prosecuted and maybe recover the money. Right now we are in the second wave of this pandemic. It is serious. We need masks. Our people in the villages need masks, treatment and PPEs. The medics and the frontline workers need to be supplied with the necessary materials. Somebody said the backline workers must also be looked at.

So, as a Committee, we have done what we could. Some of it is in the whole country's domain. It was so emotional to some of the leaders, especially our senior doctor here. People may look at it and think it is a simple thing. My party, the Amani National Congress (ANC), has lost a Member just because he could not get oxygen in one of the hospitals in the village. This is a serious matter. It is not a laughing matter.

This House needs to support Members of the Committee with what it has come up with so that proper investigations are done by the investigative entities, to bring culprits to book so that Kenyans can know those who embezzled funds meant for COVID-19. It is a curse. Somebody is in the ICU gasping for oxygen and you steal equipment or medicine meant to rescue Him. It is a curse.

Hon. Temporary Deputy Speaker, you have even said Jesus wept. As a country, we are weeping. This pandemic is not an easy thing. As the Cabinet Secretary says, if we treat this pandemic normally, it will treat us abnormally. So we have to work. We have to see as a Parliament, we represent Kenyans who are out there suffering. Let us take the Committee's recommendations very seriously and work on them.

I support this Report.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well done, Hon. Adagala, Member of Vihiga. We will now have contribution from Hon. Jeremiah Kioni, Member for Ndaragwa.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Thank you, Hon. Temporary Deputy Speaker, for that opportunity. I want to join my colleague in saying that even as we support this Report and commend the work that has been done by the Committee, without doubt, we need to ask for a little bit more from Committees that table Reports in Parliament. Kenyans look upon us and this House. We speak on behalf of Kenyans. Even when I see Hon. Nyikal shed tears, it is not anything else. It is really a demonstration of where we are as a country. I do not envy any person in Government. I was in the United States of America and I can tell you that this contributed heavily to Trump losing his seat. It is a very difficult time when you are in Government to be in this kind of a situation.

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The Cabinet Secretary said if you treat the disease normally, it will treat you abnormally. I want to say that for those who treated this as an opportunity of business, a normal business opportunity, it will treat them abnormally. The money you got from here will haunt you to the grave. This is not where you go to make money. You must be a very evil person. How do you look for money when people are dying of this kind of thing? You must be a person beyond rescue. Subjecting us to these kinds of things is really an annoying thing. I know you must supply equipment and do all those things. However, for once, let us have some human feeling. Stop looking for money in this kind of thing. I do not want to say much, but it is really hurting. I have been to my constituency a number of times and people are really passing on because of COVID-19. The tens of numbers we are told here on a daily basis is a terrible statement of numbers. Perhaps, those are the number of people we are burying in Ndaragwa alone. I know we must be fed on something.

I support the Report because it is a good one. They did well, but certainly we need names here in another one or two weeks. That is why we would want to see something being done by the Ethics and Anti-Corruption Commission (EACC). I certainly would expect PAC and PIC to do much better, in terms of naming the persons who are supposed to be investigated. I do not see any harm when you say the head of this department carries the name of the person into the Report. You will not have said anything else. You will still have just carried the name of the person you want investigated into the Report. That way, as Parliament, we would be helping even the Executive to fight this corruption.

The Committee has said that the companies that are involved are 85. Again, if there is somebody who had the mind of constituting a company for purposes of trading with COVID-19 disease or pandemic, let that person forget it. That is already a thing that needs to be known by Kenyans. It is not for us to do anything else, but to know that in the event that we entrust you tomorrow with this kind of an office, you will be taking a human heart to those offices.

We must go beyond the issue of the law and what the law states. We need to entrust some of these offices with people who have a feeling for Kenyans. I want to say it again that I sat among members of our community yesterday in a place called Shamata. When you look at them—of course, we are all masked – you could quite tell what people are thinking, but you feel for them. They are looking upon us to give them solutions. I was seated there, I was almost helpless because there was nothing else I could do other than cry with them. What I am saying is that, other than these Reports being good as we are now saying, let us look for ways of allowing people who have a human heart into these offices and not people who can give you.... It will be terrible if there is a Member of this House who has benefited from this money while we are being expected by the people out there to help them.

I am not saying this because I have anybody in mind. I am speaking from my heart. I am crying as Nyikal did. It is only that you cannot see my tears.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): The Hon. Thuku Kwenya, Member of Kinangop. Hon. Nyikal, you will speak. You are the next on my list.

**Hon. Zachary Thuku** (Kinangop, JP): Thank you, Hon. Temporary Deputy Speaker, for this opportunity to contribute to this Report by the Departmental Committee on Health.

It is interesting that we are discussing a pandemic that is with us. Of course, about eight months ago when it was declared a pandemic, the country started its preparedness. Nevertheless, we are still grappling with its reality by losing our frontline workers, losing citizens and many of our citizens getting infected day in, day out. The most interesting thing that I have read from this Report is the fact that KEMSA still holds about 95 per cent of the stocks that were procured

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albeit irregularly. Maybe the law was not followed. I use the word “maybe” because there is active investigation that is ongoing.

I join my colleagues in the outcry that we have as to whether there was propriety in procurement. From what I get from this Report, indeed, supplies were procured. The only question that begs today is about propriety, on whether the law was followed, whether there was corruption and issues like those. The most important thing that I want to address myself to is the recommendations that have been brought about as further recommendations from No. 20 to 39.

The Departmental Committee on Health is giving us very good recommendations as far as this Report is concerned. It is giving it impetus as to what needs to be done, even if the investigations are ongoing. We cannot have PPEs lying in KEMSA stores when our doctors are dying. We seem helpless while help is just a drive away. I support the recommendation that PPEs held at KEMSA stores be distributed to our health facilities and schools. This morning, I saw a clip of a worried parent in Kisumu over his child in school after the death of a student who had also infected three other students. They are all dead and there are others who are admitted in hospital. This is a very sad occurrence yet we have PPEs in our stores. We cannot allow ourselves to suffer a double tragedy; loss of money and loss of lives. We must save one and I believe that life is more precious. This Report should be passed and expeditiously implemented as far as PPEs are concerned because this is a scourge that is ongoing and we are yet to see the end.

The recommendation of ensuring that our frontline medics get insurance cover is not something that we should be debating today. It should have been done like yesterday. They are our soldiers and they should have access to the best medical care. We cannot afford to lose more doctors. It is very expensive to train a doctor in this country and it is sad that you end up losing a life and monies used in their training.

Hon. Temporary Deputy Speaker, as I conclude, under Recommendation No. 39 on medical insurance cover and arrears for contract staff, it is sad to note that it is still pending. How many times must we debate and sound an alarm before it is implemented? Money has been set aside, and yet nothing is happening. Someone must bite the bullet. If the Principal Secretart, who is the Accounting Officer, or the Cabinet Secretary are sleeping on the job, they should step aside and allow other competent Kenyans to run the Ministry of Health so that Kenyans stop going through this pain and shame.

I support the Report and hope that it is going to be implemented.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well spoken, Hon. Kwenya. This equipment should be distributed to those who need it urgently with the urgency it was procured. It was expected that it would have been rapidly distributed to those who need it.

Hon. Nyikal, you have the Floor.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to speak to this Motion. I want to thank Hon. Kioni for the amendment that has helped us to direct actions. I feel vindicated; today, as I heard many people speaking, I have a feeling that if they were with me as we were listening to the health workers, they would have cried with me. When we hear the number of deaths every day, we are losing people with families. They are not gunny bags that we are counting. They are leaving children, wives and husbands behind. We move on and those that we have trained and mandated to help those who are dying are also dying. To many of us here, the healthcare workers dying might just be numbers, but to me they are people I know; some were my students, colleagues and a few were my teachers. Hon. Jude Were Omollo is dead, but has not been buried. He was amongst the

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first three people who started kidney dialysis that everybody is talking about. He is now gone but luckily, he was teaching and so he has trained some people.

As a country and leaders, as we see numbers, there are people behind them and feel for them. If we do not feel for them, we will make very bad decisions. We went through the process as a Committee and I want to state that people are mad at what happened at KEMSA and the Ministry of Health with the companies that conducted shoddy businesses. It was very disappointing and annoying. In our case, after we went through that and felt the anger, the health workers came and told us what was happening, we could directly link it to what we saw. It is the meeting where we cried that gave rise to Recommendation No. 30 onwards. I believe our feeling was not in vain. These recommendations touch on what should be done for people who are suffering. The other recommendations are looking at systems and what should be done to people involved, either jailed or fired. Even if we jail and fire them, they will still be alive. If we implement these recommendations, we are going to save people.

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

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

Hon. Temporary Deputy Speaker, COVID-19 has shown us that our health system is weak. It has also shown that corruption eats through the system and kills people. I want to state that the corrupt and businesspeople who are involved in this have killed more people than the doctors' strike can kill. That is why I cried, but today I am strong. I believe that crying for your people is not a sin or a weakness. This matter touches on the four main systems of our health system, namely; financing, human resource, health commodities and governance. Money was there, but it was not used. KEMSA procured all the commodities that we have heard about. There was poor communication between the Ministry, the board and the CEO. We have made a recommendation to that extent. When we have looked at those and look at these recommendations, PPEs are supporting our people. The health workers are dying and they do not have group life cover. Some health workers do not have insurance covers.

Hon. Temporary Deputy Speaker, please add me a minute.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Please do not cry in the one minute. I will add you a minute.

**Hon. (Dr.) James Nyikal** (Seme, ODM): We must look after our health workers. Hon. Pukose spoke to this and I want to agree that we need the Health Services Commission, whether it is in the Constitution or statutory. We will make it a health constitution that will manage our health workers. I think the counties will agree that they need some help in managing health workers, and this Commission will help us do that.

With those remarks, I support the Report.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Member for Kinangop, Hon. Thuku, have you spoken to this?

**Hon. Zachary Thuku** (Kinangop, JP): Yes.

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**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Members, if you have contributed to this, please take out your card to avoid confusion. Member for Kiharu, Hon. Ndindi, you have the Floor.

**Hon. Ndindi Nyoro** (Kiharu, JP): Thank you, Hon. Temporary Deputy Speaker, for this chance. It is disappointing for me having read the Report of the Departmental Committee on Health. In my opinion, it is full of explanations for small things, verbosity and platitude. I would have preferred more far reaching recommendations. I say this knowing very well what has been happening in our country. As other Members before me have spoken, this is no longer about statistics and academics. It is more about victims and their families that have suffered through this pandemic. Many of us followed through the Committee's sessions. The anger that we witnessed, the people of Kiharu and I expected harsher recommendations in regard to the vendors and the businesspeople who were involved in the KEMSA billionaires' saga.

It is fair to say that we were on a good trajectory prior to the KEMSA scandal. Many Kenyans were cautious and they were putting on their masks. Afterwards, the Kenyan population started to relax in following the regulations because some of them thought that the COVID-19 pandemic was for minting money. Therefore, the liability of the careless Kenya afterwards goes to the masterminds of KEMSA scandal that we are talking about today. We have talked about the vendors. The Committee has tried to capture some of the companies' names. However, this country has a tendency of seeing peculiar faces when summonses are called. We need to go further to the beneficiaries who own these companies. Most of the people who attended the Committee's sessions were proxies of the real owners of the billions that have been stolen. I hope the recommendations for deeper investigations will not just present these faces, but unmask the real beneficiaries of the billions that were stolen from KEMSA.

I have read the observations and the recommendations. Going by the recent history of most public officers in senior Government offices, when you are embroiled in such a scandal, the honourable thing to do is to step aside so that credible investigations can be conducted. We have seen some of the people in the management of KEMSA out of office. I want to ask on the Floor of this House: what is the Principal Secretary of the Ministry of Health doing in office? We have seen in the Report that he wrote letters directing the management to give tenders to some companies. The honourable thing for PS Mochache to do is to step aside so that we have credible investigations. Also, in this House, the leadership of the Departmental Committee on Health has to be called to order. I have looked at the recommendations. I was waiting to see Meraky Health Care Company Limited. I know the official owners of that company are part of the leadership of the Departmental Committee on Health of this House. We have to stop the hypocrisy and speak out on this matter. We are talking about lives lost while some grandiose people are out there lavishly eating money that was supposed to save lives.

Thank you, I object.

**Hon. Joshua Kutuny** (Cherangany, JP): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Kutuny, are you on a point of order?

**Hon. Joshua Kutuny** (Cherangany, JP): Yes, Hon. Temporary Deputy Speaker. As we had said earlier, Members should avoid bringing their political differences from out there to this House. Casting aspersions on the integrity of the leadership of the Departmental Committee on Health without evidence is wrong. There was an opportunity for Members to appear before the Committee with evidence against anybody, but they never appeared. This is the same thing they

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have done with the Building Bridges Initiative (BBI). They have not given any evidence. So, anybody trying to oppose this Committee is protecting the COVID-19 billionaires.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order! Hon. Kutuny, Members know the general rules of debate. If you insinuate any improper motive on another Member of this House, you need to bring a substantive Motion or substantiate your claims. It was earlier directed that we should confine ourselves to that which is within the Report and avoid personalising issues. With that, going forward, let us confine ourselves to the rules of debate of this House. The Leader of the Majority Party, what is it?

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, based on what you have guided and the earlier guidance given on this debate on avoidance of personalisation of issues, will I be in order to ask that you order that the words uttered by Hon. Ndindi Nyoro in casting aspersions on the leadership of the Committee be expunged from the record of the proceedings of this House? Now that he has finished his contribution, he may not be able to provide evidence.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Leader of the Majority Party, we need to proceed. Based on what I have directed, that going forward... You know, Hon. Kutuny, you put in your point of order after the Member had spoken. So, you were talking to issues that have been overtaken by events.

Hon. Members, going forward, we will not allow personalisation of debate. I want us to proceed from here. We cannot regurgitate matters that have already been debated. Let us have the Member for Ganze, Hon. Mwambire Ngumbao.

**Hon. Teddy Mwambire** (Ganze, ODM): Thank you, Hon. Temporary Deputy Speaker. From the outset, I support the Report. If you can remember, we tried to form an *ad-hoc* committee which was misconstrued by other Members and at the end we lost that opportunity. At that time, we had a vision that in future, if we will not be careful, such things will occur. If you go through the Report and the information that we got from other committees, it is evident that there was total confusion. I do not know whether that confusion was administrative or it was orchestrated by some people to make sure that they divert attention, so that they can sneak huge amounts of money. You can imagine a Chief Executive Officer of KEMSA writing directly to the Principal Secretary, National Treasury. Administratively, he is supposed to write to the Principal Secretary of the Ministry of Health.

These are some of the issues we do not even know where they came from. As Members, we need to be careful and honest. Some Members think of others who want to be sacrificed. We need to put it very clear that the money which was taken is blood money. We have lost a number of our colleagues, Members of County Assemblies and a number of Kenyans. The arithmetic of issues and deaths in this country is surging on.

With regard to health workers who have issues, they lack critical care services. Level 4 hospitals across the country do not have oxygen. Why is this happening? The Ministry should guide the county governments. We are informed that they are not getting supplies because of this and that – thugs have invaded KEMSA. Action should be taken against the thugs who invaded KEMSA. We do not mind who is coming from which tribe or region. It is time to ensure that everyone who was involved is punished. There is diversion of argument, but almost everyone is supporting this idea. Tomorrow, some might claim that their tribe is being targeted simply because we are targeting the thugs who invaded KEMSA. Action must be taken against those who were involved regardless of where they come from.

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It is a total curse if you see an elderly man crying in the public. I respect Hon. Nyikal. He is more of my father. My father is 96 years old. He might not be my father, but maybe, an uncle. We saw him cry because of what is happening in this country. It is an indication that whoever is in office should do what he is supposed to do. We cannot allow people to turn this nation into a banana republic. Let us ensure that everyone supports it. I know there are some reservations. However, those reservations should be kept aside at this hour so that we pass this Report. Thereafter, serious action should be taken right away. Before Christmas, we must see people dancing in jails because of messing up with Kenyans.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuyu): Did Hon. Ngumbao say that Hon. Nyikal is 96 years old?

*(Hon. (Dr.) James Nyikal spoke off record)*

I might have heard it wrong. Nevertheless, I think he said that with nice words about him. Hon. Shaban, kindly, have the Floor.

**Hon. (Dr.) Naomi Shaban** (Taveta, JP): Asante sana, Naibu Spika wa Muda, kwa kunipatia fursa hii nami pia nizungumzie swala hili nyeti.

Hii ni Hoja inayoleta taarifa kuhusu makadirio ya pesa iliyooleanwa kutoka wizara tofauti tofauti. Vile vile, Kamati ya Bunge itueleze kuhusika kwenye makadirio ya kuhakikisha kuwa zile pesa tulizokuwa tumekadiria tuliweza kuzibadilisha zitumike kwenye janga hili. Sio siri kwamba kuna utukutu mwingi katika nchi hii. Wafanyibiashara wasiokuwa na nia nzuri walitumia janga hili kujinufaisha.

Kamati ya Bunge inayosimamia masuala ya afya imezungumza kinaganaga juu ya matatizo yaliyoko, haswa, zile pesa zilizofujwa badala ya kutumika vile ilivyotakikana. Ni dhahiri kwamba wale waliofanya biashara na KEMSA hawakujua Wakenya wanahitaji usaidizi kwenye janga hili. Wahudumu wa afya wanajikaza ili Wakenya wapate huduma.

Eneo langu la uwakilishi Bungeni liko mpakani. Tuko na shida ya Coronavirus kutoka nchi jirani na pia kwetu kwenyewe. Tumepigika sana. Ni shida kubwa iliyoko kule kwa sababu mtu akija hospitali akose kivuta pumzi, hata kama haugui Coronavirus, hawezi kusaidika maanake hawawezi kupata njia ya kupata hewa ya haraka ili atibiwe.

Wakenya wako na shida kubwa sana. Ninashangaa kuwa mtu anaweza kulala usingizi akijua amechukua pesa amezifuja kwa ufisadi na kuweka mfukoni na kulala akifikiri ametajirika ama akitarajia kuwa wanawe wanatakikana kuishi vizuri kuliko Wakenya wengine. Ni jambo la aibu na la kusikitisha. Ninatumai kufikia sasa watu waliohusika wangekuwa wakichezea jela, kama kweli kuna vita dhidi ya ufisadi humu nchini.

Ni laana na dhambi. Nilimuona aliyekuwa Katibu wa Kudumu tuliyefanya kazi naye, Dr. Nyikal, na ambaye pia ni daktari, akibubujikwa na machozi. Watu wengine walifikiri ni utani. Jambo hili si la utani. Ni la ukweli. Alizungumza kwa uchungu. Na hayo ndio machungu yanayokumba Wakenya wengi, haswa, tukiwa viongozi tukijua kuwa mikono yetu imefungika. Tunashindwa vile tutawasaidia wananchi, haswa kwa sababu Mhe. Nyikal mwenyewe ni daktari. Yeye alizidiwa zaidi kwa sababu ya ule uzito na shida aliyoiona na kutokuwepo na uwezo wa hao watu kusaidika.

Vifaa ambavyo wafanyikazi wa Afya wangetumia kujikinga havijatumika. Wauguzi wanakufa kama nzige. Hili ni jambo la kusikitisha sana.

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Ninaunga mkono taarifa hii lakini juu ya hapo, wacha nimalizie kwa kusema kuwa ni lazima watu waadhibiwe.

Asante.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Member for Siaya County, kindly have the Floor.

**Hon. (Dr.) Christine Ombaka** (Siaya CWR, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity.

I support this Report. It is touching our lives. We are in a state of war. We have been invaded by COVID-19 that is killing so many people – It is mass destruction. In a state of war, a country prepares itself. A country has soldiers who must face the world as the rest watch or give them encouragement. When they prepare to go to war, they have equipment with which to fight the war and win. There is psychological preparedness. They are well paid, healthy and ready to go and win the war. We have a war that we are fighting.

The aggressor is the COVID-19 war which is invisible. We cannot see it, but it is killing us. We have our soldiers – doctors and nurses – who are in the frontline being denied a chance to fight the war. They have no equipment to fight it. They have no PPEs, no good salaries, and they are not properly insured. They are dangling around and fighting a war that is also killing them. I think we are immoral. This is an immoral country. We have had many cases of corruption. Kenya is known to be corrupt. We have lost so much money in different areas, but in this one we should not have lost even a single cent. The thieves who are stealing will also die. How are they prepared to fight COVID-19?

I think we are not being smart. This is a nation where people do not reason nor value life. They steal where they survive on. You cannot be a rich man just because you have stolen and somebody has died, then you want to celebrate that you are a rich person. How can you be proud of that description? You do not want to be a billionaire having stolen money for people who should be alive. What I am saying is that I support this Report, but the most important thing about it is that action must be put in place. Action is to arrest and that is what will make this Report viable. Those who have stolen money and got tenders in a wrong way must face the law. That is where the Report is needed and that is what I expect. The job is well done by the Committee, but what is now left is the next step.

Let us arrest people and show that we are serious. Let us prove that we as committees can make recommendations which can be listened to and be put into action. That is when we shall be relevant. I support the job they have done. I watched them on television when they were interviewing KEMSA people and it was painful. You talked about Hon. (Dr.) Nyikal crying. I cried too when I saw him crying, because for a doctor to weep, it means it is more than what we know. He is inside it. He is a medic and knows the pain. He knows what it takes to be a doctor and you do not have PPEs. Who would want to face that kind of war? You cannot go to war with your naked hands, you are a human being and can die. We have lost doctors and Kenya does not have enough doctors. We have never had enough and we are losing them again. So, how can we be so careless? How can we allow doctors to die when we can save them and when KEMSA can do something better than what they have done? My time is up, but I would have said a lot of bad things about those who stole money that was supposed to protect human beings.

I thank the Committee very much for a job well done and I support the Report.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Let us have Hon. Kamuren. You only have one minute.

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**Hon. Daniel Tuitoek** (Mogotio, JP): Thank you Hon. Temporary Deputy Speaker for giving me this opportunity to, at least, say something for that one minute. First, we are in difficult times. These are days when COVID-19 is ravaging our nation. We are discussing a very important Report.

Although I support the Report, I think it is not quite complete. The Report has outlined the roles of the Ministry of Health and KEMSA. We have seen that there were serious violations of the procurement rules. People were being given tenders on phone. We also saw that the President had even directed that action be taken within 21 days, but up to now we have not seen any report. We have not seen any report from the agencies which were tasked to unmask the COVID-19 millionaires. We have been told of companies which are hidden, 25 suppliers who have not been availed to the investigators. We call upon those who know those companies to have them availed to the investigators. On the current recommendation which has been availed here, it is good that NHIF covers the frontline staff and PPEs be availed to all the hospitals. Let us take seriously this issue of COVID-19 because we are losing doctors who have been trained for many years and citizens of this nation.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Members, as we all know the Motion was time bound. It is now time for the Mover to be called upon to reply.

Let us have Hon. Sabina Chege. However, if you will be benevolent enough to give them time, I will allow you.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Speaker, if I had more minutes, I would have given my Vice Chair a chance because it is good that I first thank this House. This is because the money we are talking about in the Second and Third Supplementary Budget was allocated by this House. This House was also generous enough to get part of its budget to allocate to specific facilities.

As I start, I want to say that this House did a good job. I also thank the President because he has been on the forefront in fighting corruption. He has been on the forefront to ensure that health workers are taken care of. That is why we got the first allowance of three months for the health workers. I take this opportunity to also thank my colleagues. This was not an easy investigation. I feel sad when I see people trying to politicize issues, settle political scores and act like they are in their village markets. They just come here to say things that they might have seen on social media and they want now to put their colleagues to shame. It is a shame and I want to say that my Committee did a lot of work. We received a lot of documents and out of those documents we met with the suppliers and KEMSA. There were some that had contradicting information and we even had to recall the Ministry and KEMSA to come back and give their second submissions.

There is this whole thing called retrogressive procurement, if you read our Report. It is something we said we want to know how to handle it or just to have clarity on the same. When we called the Public Procurement Regulatory Authority (PPRA), they said they were not sure about how it should work. Yes, it was an emergency and a lot of managers from KEMSA who came said they acted out of goodwill. Panic was in the whole Republic of Kenya and for the first one month even for Members of this House, finding a mask in shops was hard. We know how much it was costing. It was not even available. You could not even find masks in pharmacies. So, they were difficult times and that is why we have given agencies that have all what it takes to investigate and come out and tell Kenyans whether the money was lost or not. We have talked about consultations. The KEMSA Board took a back seat when the management of KEMSA

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decided to overspend the money that they had in their own budget. So, I am very happy for the Members who have supported this Report.

We need to take care of our health workers. We allocated money for 30 beds for frontline health workers at Kenyatta National Hospital (KNH). Right now, doctors are sick and we have recommended – it was not part of these recommendations, but in the meetings with KMPDU – that every county should have a center so that they can take care of their health workers. If these health workers are sick, who is going to take care of Kenyans? We also had candid discussions because of the goodwill between the SRC, Ministry of Health and NHIF on the final recommendation that we have done.

We agreed with KMPDU that, if there is goodwill, they can also have mercy on Kenyans and call off the strike. These are conversations that are ongoing. Next week we will meet to make sure that our health workers are at least cushioned because these are special times. Kenya is not the only country that has struggled with COVID-19. I think the Ministry also did a very good job in the beginning and that is why we flattened the curve, but what happened when we reopened? Again the numbers went up. So, I would want to urge Members that even as we go back to our constituencies, we should check. I want to tell the Senate Committee to wake up because oversight of the counties is under the Senate. You have seen a stalemate in Laikipia and Kirinyaga counties.

Hon. Temporary Deputy Speaker, I thank you and the House. I urge that we support the Report so that we have a way forward. I also urge the department that we have given work to do to make sure that everything is handled well.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): You should reply Hon. Sabina for the record.

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

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Is your microphone on?

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Yes, my microphone is on. I reply and thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Members, for a good reason we will defer putting the Question on the Report until when it comes next in the Order Paper. Let us move to the next Order.

*(Putting of the Question deferred)*

APPROVAL OF THE CONVENTION ON  
INTERNATIONAL HYDROGRAPHIC ORGANIZATION

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

**Hon. Katoo ole Metito** (Kajiado South, JP): Thank you, Hon. Speaker. I beg to move the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on its consideration of the Accession to the Convention on the International Hydrographic Organization (IHO), laid on the Table of the House on Tuesday, 17<sup>th</sup> November 2020, and pursuant to the provisions of section 8(4) of the Treaty Making and Ratification Act, 2012 approves the Accession to the Convention on the International Hydrographic Organization (IHO) by the Republic of Kenya.

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Hydrography is a branch of applied sciences which deals with measurements and descriptions of the physical features of oceans, seas, coastal areas, lakes and rivers as well as the prediction of their change over time, for the primary purpose of safety of navigation and in support of all other marine activities, including economic development, security, defence, scientific research and environmental protection.

This is a very important aspect or branch of science that Kenya requires to survey the orderly exploitation of its marine resources. As a state party to the International Convention for the Safety of Life at Sea, Kenya is further obligated to collect, compile, publish and disseminate up to date nautical information and ensure the greatest possible uniformity in charts and nautical publications.

Discharging these obligations requires membership to International Hydrographic Organization which sets the standards for hydrography co-ordinates hydrographic efforts and is the body recognised by the United Nations (UN) as the competent international organisation for hydrography and nautical charting.

This Convention was approved a long time ago on 26<sup>th</sup> July 1991 by the Government of Kenya. The establishment of a national hydrographic office under the Department of Survey in the Ministry of Lands and the Kenya National Hydrographic and Oceanographic Committee (KNHOC) was established to coordinate the acquisition and dissemination of hydrographic information to maritime users.

Kenya obtained an observer status at the International Hydrographic Conference, an organ of IHO since 1982. The IHO was established in 1921 and as at August 2019 it comprised of 92 member states. On 22<sup>nd</sup> November 2012 the Cabinet approved the application of the Accession to the IHO Convention.

Let me go through a few articles of this Convention which are 23.

Article I establishes the organisation and its headquarters in Monaco, France.

Article II provides that the Organisation shall have a consultative forum of purely technical nature and the objectives are:

- (a) To coordinate activities of national hydrographic offices;
- (b) To ensure the greatest possible uniformity in nautical charts and documents;
- (c) To foster the adoption of reliable and efficient methods of carrying out and exploration of hydrography surveys; and
- (d) To develop the science in the field of hydrography and technics employed in the descriptive oceanography.

Article III outlines the Members of the organisation. The Members are governments which are party to the Convention and I have said they are 92.

Article IV establishes the International Hydrographical Conference (“Conference”) which is very important and the International Hydrographical Bureau (“Bureau”) as the chief organs of the organisation.

Article V outlines the mandate of the Conference. It is mandated to -

- (a) direct the work of the Organisation;
- (b) elect Members of the Directing Committee and the President of the Bureau;
- (c) examine the reports of the Bureau;
- (d) make decisions on all proposals of a technical or administrative nature for the Organisation;
- (e) approve the budgets of the Organisation; and

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(f) adopt Regulations of the Organisation and make necessary amendments.

Article VI outlines the general rules governing a conference session. It requires the holding of an ordinary session of the conference every five years. The holding of an extraordinary session of the conference is subject to the approval by the majority of the member governments. A session is convened with, at least, six months' notice accompanied by an agenda. The conference shall elect its president and vice-president. Each member government has one vote, but for purposes of voting on the election of the Members of the Directing Committee, each government is entitled to a number of votes which is determined by a scale established in relation to the tonnage of their fleets. Decisions of the conference is by a simple majority of the member government present, with the president having a casting vote.

The Bureau which is the other very critical element of this Convention may consult member government through correspondence between sessions of the Conference on the technical functions of the Organisation.

Article VII mandates of the Bureau to-

- (a) establish a close and permanent association between national hydrographic offices;
- (b) study any matters relating to hydrography and the allied sciences and techniques and to collect the necessary papers;
- (c) further the exchange of the nautical charts and documents between hydrographic offices of Member governments;
- (d) circulate the appropriate documents;
- (e) guide and advise countries engaged in setting-up or expanding their hydrographic service;
- (f) encourage co-ordination of hydrographic surveys with relevant oceanographic activities;
- (g) extend and facilitate the application of oceanographic knowledge for the benefit of navigators; and
- (h) cooperate with international organisations and scientific institutions with related objectives.

Article X mandates the Directing Committee of the Bureau to administer the Bureau in accordance with the Convention Regulations and Conference directives. It comprises of three members of different nationalities with one as president. Once elected, the Committee serves for five years and the vacancy in the Committee between sessions is filled through a by-election correspondence.

In Article XII, the official language is English and French. If you do not pay your contribution, you are suspended. As we speak...

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): I think the orange should be one minute and the red one minute.

**Hon. Katoo ole Metito** (Kajiado South, JP): I thought I had many minutes in moving. I was saying DRC and the Dominican Republic are in suspension for not paying their dues up to date.

Finally, it comes into force three months after the date on which 28 governments become parties. Currently there are 92 members. So, the convention is in force.

With those few remarks, I beg to move and, with your permission, request Hon. Kwenya Thuku to second.

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

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**Hon. Zachary Thuku** (Kinangop, JP): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to second this Motion on the Accession to the Convention on the International Hydrographic Organization by the Republic of Kenya.

In the interest of time, I wish to confine myself to the benefits so that we can apprise ourselves on why we need to be a member of this organisation. States belonging to IHO are in much better position to comply with the requirements of Safety of Life at Sea (SOLAS) Regulation 9. SOLAS is an organisation that deals with safety of life at sea. We also find that the IHO and IBH, the regional hydrographic commission and all other bodies of the IHO provide a valuable source of advice and experience for development of strategies and technical administrative policies aimed at improving hydrographic capacity. So, that is another benefit that accrues from being a member.

For maritime states, it is vital to ensure that state parties benefit from technical administrative policies in improving hydrographic capacity and capability by supporting national maritime objectives in the wider sense. For maritime states, it is vital to ensure that services indicated in SOLAS 4 Regulations are in place. This requires trained human resource. We do not have capacity as a country but by being a member, we benefit from training from experienced member states.

There is also the opportunity of tapping experience from IHO member states in defining the national hydrographic agency and the regulations and procedure that govern it. It constitutes a valuable resource that is very difficult to evaluate in monetary terms. That is a serious benefit of being a member.

As I conclude, there is the development of nautical charts. These are drawings that really try to explain where the boundaries are and the resources that are within our waters. In the past we have not benefited from the development of the charts. They have been developed by the member countries and our business has been to implement them. By being a member, we will benefit from being the developers of those charts and then implementing, as opposed to countries that are not member states. Member states also have the right to join working groups and establish and develop standards. That is another serious benefit, whereby you can join any working group that establishes the standards.

Finally, many IHO member states are on the frontline of hydrographic developments and, therefore, profit from the collective advancement of technology. There is evolving technology in terms of maritime and, therefore, being a member state, you benefit from such. I wish to take this opportunity to support and second this Motion as it is presented by our Committee.

Thank you, Hon. Temporary Deputy Speaker.

*(Hon. Amos Kimunya and Hon. Katoo ole Metito consulted loudly)*

**Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuyu): Order, Leader of the Majority Party and the Chair.

*(Question proposed)*

Let us have Hon. Jeremiah Kioni, Member for Ndaragwa.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Hon. Temporary Deputy Speaker, I thank you for that opportunity to contribute to this Motion. I thank the Departmental Committee on Defence and Foreign Relations for tabling this Report. Even before I go into the details of the Report, I

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commend this Committee. I have noted that over time, they have continued to table for our debate and passing as a House, various conventions that the country has signed or would want to get into. I know that the Chairman of Departmental Committee on Defence and Foreign Relations is keen. I do not know why his debates normally come towards the end of the Session. I do not know whether it is by design or it is the fate. On a number of occasions we tend to debate these conventions a little bit towards the end of the sitting of the House. However, I commend them for what they have done. It is one of the Committees that has been very active in tabling reports that are well thought out and that have been considered by the Committee.

It is in the requirement of our Constitution 2010 that all conventions must be brought to this House for us to pass before the Government assents to them. The purpose is to ensure that at no time should we later in life start complaining about conventions that tie us down even as we try to do our own legislation. This is informed by what used to happen under the Constitution that was given to us by the queen where we would never know the kind of conventions the government entered into, only for us to be informed, perhaps, even in international conferences. We are a signatory to this Convention and for that reason, we need to behave in a given manner. That is part of what this House is expected to do in the implementation of the Constitution.

When we say that agencies are not implementing the Constitution 2010... At times you will notice that some of the proposals that were contained in the very first draft of the BBI had a lot to do with implementation of the Constitution as it is today. Perhaps, we did not even need to have brought those recommendations under the BBI. I want to say that this House is part of the agencies required to implement the Constitution. While we are supposed to oversee implementation of the same by other agencies, this House has a lot to play and one of the ways that the House is doing that is by what the Committee, under the chairmanship of Hon. Katoo is doing. That is, ensuring that these conventions are discussed in this House and taken on the whole.

Again, I commend the Committee and support the Report that they have tabled. It is certainly a very technical report. I wish there is a way of taking us through so that we can completely understand what they are trying to do. There are very serious technical provisions there. Even as they were presenting, it was evident that they were also very familiar with them. Some of them were from Miami and they were reading them to us. All in all, it is a good thing and we support the Committee.

I support and I thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Kioni, if you are not able to understand the technical report, you do not have to drag the Chair into your mix. Instead, just ask for help from the Chair.

Let us have Hon. Odhiambo Okoth, Member for Suba.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I want to thank the Committee for bringing this Report on the Convention and International Hydrographic Organisation. The only thing I would have wanted to find out from the Committee is: they have made reference to us seeking accession, when I actually thought they should be bringing it for ratification. Perhaps, because of time, they may not be able to respond to that. That is one of the technical things that Hon. Kioni may not understand. Perhaps, the Chair might also be perplexed because it is legal.

I just want to say that one of the things that has been mentioned by the Chair is that this Convention seeks to promote the use of hydrography for the safety of navigation and all other marine purposes and to raise global awareness on the importance of hydrography.

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It also seeks to improve global coverage, availability and quality of hydrographic data, information, products and services and to facilitate access to such data, information, products and services. It also seeks to establish and enhance development of international standards for hydrographic data, information, products services and techniques and to achieve the greatest possible uniformity in the use of these standards.

Other than setting the standards, it also provides for nautical charts. This is what I think the Seconder of the Report was talking about. One of the reasons why I am interested in this is, if you actually look at the Convention, even though it talks about marine, it also makes references to lakes. For us the people of Suba North, that is of great interest especially because there are certain policy decisions that the Government makes in relation to the nautical charts. One of them is, at some point, the Government would close the lake for a period of four months and people could not fish because the Government would say that there is a depletion of resources, especially fisheries. Over time, I negotiated with the Ministry to ensure that with technology now, we can do exit and entry of fishing vessel, which in simple terms is fish caging. With that, you do not need to stop.

I just want to thank the Government because that has since been done. However, it has brought the other challenge that we know that this kind of survey helps with. There is already competition about the paths that people follow even when you have caging and people need to fish. It is creating a lot of challenge between those who are doing traditional capturing of fisheries and those who are doing caged fishing. So, for us to join this organisation, it will enhance our capabilities as a nation, where we do not have technical expertise. What I would like to encourage and I am hoping that the relevant Ministry will look into this, if you look at the Convention, it makes reference to the International Convention on the Law of the Sea.

However, the law of the sea and the convention we are talking about focus a lot on the oceans and the archipelagic waters and very little on internal waters. I am hoping that even this body that has been established will then focus on internal waters, especially now that the country has focused on the blue economy and there is a lot of resources that we have under the blue economy. If we do our surveys properly and well, and if we do our nautical charts very well, there is a lot that is yet to be discovered, perhaps even the cure for COVID-19 and other ailments that we do not already know about.

Hon. Temporary Deputy Speaker, if you gave me just one minute since the time is almost up, I can say just one thing to the Committee. If you look at the Treaty Making and Ratification Act, I would like to encourage the Committee - I do not think we are following the Act in the way we bring reports – that in the future, if you are bringing a report, please follow what the Act says we ought to do.

I thank you. I support.

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

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to contribute to this and to support the Accession to the Convention on the International Hydrographic Organization (IHO) by the Republic of Kenya, which is an initiative that was started in 1991, then reinvigorated in 2012 and, at last, it has found its way to the House.

I know the Mover and the Seconder have highlighted a number of benefits. However, I want to put it on record that as a country, we moved into blue economy. There is a lot of emphasis on the blue economy. With this accession to the Convention, it will provide the country

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with these multilateral platforms where we can exchange knowledge, information and ideas with the rest of the world. We need to exploit and develop our blue economy which for the record, covers upwards of 11,230 square kilometers of inland water, plus another area of 103,320 square kilometers of the extended continental shelf. It is a lot of blue economy that can be harnessed from that mass of water.

By accessing this Convention on IHO, after ratification of this treaty, the benefits will outweigh the cost of that membership. The other benefits had been outlined and I do not want to repeat. It is a very straightforward thing. We just need to do it. It is the best thing to do. It is good for the country, the economy and it is also good for the world because Kenya, being a coastal country, needs to join the global family who are surrounded by waters so that we can work on this matter together.

With those words, I beg to support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Katoo ole Metito, we have two minutes. Are those sufficient for you to reply?

**Hon. Katoo ole Metito** (Kajiado South, JP): Thank you, Hon. Temporary Deputy Speaker. I thank Members who have contributed.

I want to make clarification between “accession” and “ratification”. Accession is accepting the offer or the opportunity to become party to the treaty when it is already negotiated. When it comes to ratification, it is the actual signing by the state to agree that they will be bound by the treaty. So, once approved by this House, the state will sign to ratify.

Hon. Temporary Deputy Speaker, we have two shares as a state. According to our tonnage and each of them, we will be paying in terms of finances an annual sum of USD7, 800. You can withdraw, but after being into it for five years and after giving a one-year notice. This treaty can also be amended, but by a two-thirds majority of the party states.

With those few remarks, I beg to reply.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Members, we will defer the putting of the Question until when we have it next on the Order Paper.

*(Putting of the Question deferred)*

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Members, the time now being 6.59 p.m., this House stands adjourned until Tuesday, 1<sup>st</sup> December 2020, at 2.30 p.m.

The House rose at 6.59 p.m.

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