



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

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THE HANSARD

Wednesday, 8th March 2023

The House met at 2.30 p.m.

[The Speaker (Hon. Moses Wetang'ula) in the Chair]

PRAYERS

QUORUM

Hon. Speaker: Serjeant-At-Arms, you may ring the Quorum Bell.

(The Quorum Bell was rung)

Order, Hon. Members! We now have quorum to transact business.

Hon. Members at the back, take your seats so that I can convey a petition. Take your nearest seat.

(Hon. Members took their seats)

PETITIONS

ILLEGAL ACQUISITION OF PRIVATE LAND BY THE DEFUNCT AWENDO TOWN COUNCIL

Hon. Members, Article 119 of the Constitution accords any person the right to petition Parliament to consider any matter within its authority. Further, Standing Order 225(2)(b) requires the Speaker to report to the House any petition other than those presented by a Member.

In this regard, Hon. Members, I wish to report to the House that my office has received a Petition from one, Mr. Boniface Otieno Opere of Identification Number No. 4238636 and four others representing members of Tim Kinda Self-Help Group in Awendo Town, Migori County. The petitioners state that in 1988, the allocation of plots to various persons was halted by the then South Nyanza District Plot Allocation Committee on grounds that the Government had not acquired the said pieces of land.

The petitioners claim to have lodged a complaint with the Ministry of Lands, Housing and Urban Development and were confirmed to be the legal owners of the said land. As further as 2003, Awendo Town Council embarked on evicting land owners without any notice and orders from any court on grounds that the said parcels of land had been compulsorily acquired by the Government.

Hon. Members, the petitioners consequently took legal action in 2005 by suing Awendo Town Council at the High Court in Kisii which ruled in their favour. Unfortunately, the Council failed to produce acquisition and compensation documents to the courts as directed. Further efforts by the petitioners to compel Awendo Town Council to produce acquisition and compensation documents were thwarted as the appeal was dismissed and directed to the District Land Registrar to issue title deeds to the original land owners.

The petitioners further state that Awendo Town Council, having been dissatisfied by the judgement of the Court of Appeal, applied for certificate to appeal its decision at the Supreme Court which was dismissed. The petitioners, therefore, pray that the National Assembly engages the Ministry of Lands, Housing and Urban Development to ensure that the petitioners are fully compensated for the lands they lost due to illegal allocation by the defunct Awendo Town Council.

Having established that the matters raised in the Petition are well within the authority of the House, further that the matters raised are not pending before any court of law, Constitutional or legal body, I hereby commit the Petition to the Public Petitions Committee for consideration pursuant to Standing Order 208A. The Committee is required to consider the Petition and report its findings to the House and the petitioners in accordance with Standing Order 227(2).

I thank you.

Hon. Members, as usual, if there are any interested Members to comment on the Petition, I will give you 30 minutes to do so. Press the intervention button. As usual, the screen is full. I do not know if it is about the Petition.

Hon. John Mbadi (Nominated, ODM): On a point of order, Hon. Speaker.

Hon. Speaker: John Mbadi, is it about this Petition?

Hon. John Mbadi (Nominated, ODM): Hon. Speaker, it may not be relevant to this particular Petition. I do not know whether I should raise it slightly later. I have a point of order on Petitions.

Hon. Speaker: This is on the Petition.

Hon. John Mbadi (Nominated, ODM): My point of order is on Petitions generally.

Hon. Speaker: Go ahead.

Hon. John Mbadi (Nominated, ODM): Hon. Speaker, thank you for granting me this opportunity to contribute. There is a matter of concern that may require your intervention, in terms of giving direction regarding Public Petitions. I am aware that Standing Order 208A gives the responsibility of Public Petitions to the Public Petitions Committee. However, we need to be clear on the extent to which the Public Petitions can be dealt with in a way that it does not interfere with the functions and responsibilities of other committees.

I have a case in point. This is something that is of public information today. There was a Public Petition that came from one, Stephen Mutoro, regarding expenditures towards the tail end of the previous regime. That matter was actually committed to the Public Petitions Committee. However, my concern is with the reported case of how this matter is being handled. Why do I raise it with you, Hon. Speaker? Standing Order 205 is on the functions and responsibilities that are assigned to the Committee I chair, Public Accounts Committee (PAC). Standing Order 205(2) says that the PAC shall be responsible for the examination of the accounts showing the appropriations of the sum voted by the House to meet the public expenditure and of such other accounts laid before the House as the Committee may think fit.

Hon. Speaker, my concern here is that the Public Petitions Committee will deal with this matter. I can see they have already started interrogating the expenditure - who was liable, who was responsible and how the money was given out. They may end up giving a report to this House with recommendations and then we dispose of it. Then, the Office of the Auditor-General will audit these expenditures. Once the audit is done, the report is laid on the Table of the House and will be seized of by PAC. In this case, we will again look at these accounts, summon witnesses and get information. We may end up arriving at a different resolution from the Public Petitions Committee. I have two questions. There are chances that this House may end up with two different or contrasting positions on the same matter.

Two, on a matter like this, before you investigate an expenditure, you need the Office of the Auditor-General to audit it. If there is no audit by the Office of the Auditor-General, how then do you proceed to investigate a matter?

I really belaboured this point because I know chances are that politics may end up at play. As the Chair of PAC, I will be the last person to allow politics to cloud my work and responsibility. We run the risk of politicising a very serious matter of public expenditure, if we do not follow it methodically by allowing, first, the Office of the Auditor-General to audit the expenditures and then bring a report to the House and hold all the officers who are culpable to account. My concerns are two. To what extent should the Public Petitions Committee go when it comes to public expenditure? Two, as a House, can we continue to investigate a matter of public expenditure without the Auditor-General being given the first bite at it by auditing it and reporting to us professionally, so that it is dealt with properly? As Members of Parliament, we are not experts. We rely on experts who are in the Office of the Auditor-General.

Thank you, Hon. Speaker.

Hon. Speaker: Leader of the Majority Party, do you want to contribute to the same point raised by Hon. Mbadi?

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. I do not want to contribute to the Petition. I want to respond to the pertinent issues that have been raised by Hon. John Mbadi on the processing of petitions.

We must be careful so that we are not seen as if we are curtailing the work of any committee that has already begun business. All the committees of this House function and work on its behalf. I believe that the Petition you have just read will most likely end up in the Public Petitions Committee which is new. Therefore, there are issues that we will continue to polish up even within our Standing Orders, so that we create boundaries.

The issue raised by Hon. John Mbadi, as he said, is already out there in the public domain. The Public Petitions Committee has this particular Petition by Mr Stephen Mutoro who is a spirited public advocate on matters to do with consumer welfare. When he sent it to the House, it was committed to the Public Petitions Committee. If I remember well, it was either at the beginning of December or in November last year. The House went on recess soon after. The committees were yet to be inducted. It is only in this Session of Parliament that committees have really begun working on Petitions and all issues that are before them. Therefore, as I speak, the matter is properly before the Public Petitions Committee. That does not in any way exclude the Public Accounts Committee from considering the issues that will be raised by an audit report when the Auditor-General does his audit of those expenditures.

Hon. Speaker, it must not also be lost on us that Mr Stephen Mutoro sought to have a Petition to look into expenditures paid out under Article 223 of the Constitution. Last week, we approved the Supplementary Appropriation Bill which has already been assented to in the Supplementary Appropriation Act. Out of that Supplementary Appropriation Bill, you remember payments to the tune of about Ksh120 billion have, indeed, been approved by this House. I remember the payments of about Ksh14 billion were disapproved by the Budget and Appropriations Committee and subsequently, the House agreed on the disapproval of those payments. Naturally, those payments will at some point end up in the Public Accounts Committee since they were disapproved.

The Public Petitions Committee yesterday jolted the country. When I stood in my place about two weeks ago and said that this country was being looted dry in the run-up to the last election, people thought we were politicking. Of course, we are politicians, but we must not be scared of dealing with issues that are pertinent to the livelihoods of the Kenyan people. The Public Accounts Committee can, indeed, and will only consider matters to be investigated as and when an audit is done by the Office of the Auditor-General. We know that the Office of the Auditor-General will carry out its audit at the end of the financial year. These are payments

that were made in this financial year. Therefore, if we were to wait until June for the Office of the Auditor-General to carry out an audit or for the Public Accounts Committee to ask the Auditor-General to carry out a special audit, because they can do that... I am not aware whether Hon. John Mbadi has requested the Office of the Auditor-General to carry out a special audit report on the payments. I hear him say he has, which is good. By the time the Auditor-General concludes her report and it becomes a matter to be investigated, that may take some time.

We are a House that should be addressing issues that are of concern to the Kenyan people. Already the Public Petitions Committee has allowed Kenyans to get information as was availed to Kenyans yesterday by Ms Margaret Nyakang'o, the Controller of Budget. It is important for Kenyans to know so that when many of us assert that there are people in the last regime who were on a looting spree, we are often told not to say that those people were stealing, rather, we do something about it.

What needs to be done is what the Public Petitions Committee is doing. It is what Hon. John Mbadi, through his Public Accounts Committee, will later do. As you may be aware Hon. Speaker, I had a discussion with the Chairperson of the Departmental Committee on Communication, Information and Innovation, Hon. John Kiarie. They are already working towards having a joint committee to look at the policy issues and other issues that led to the payments, especially of the Ksh6.1 billion that was looted on the pretext that we were buying back Government shareholding of Telkom Kenya. I just want to caution my good friend, Hon. John Mbadi, without imputing any improper motive for his raising the issue now, that we must be cautious not to be seen to be curtailing the work of the Public Accounts Committee, especially after what was disclosed and made public yesterday. We must encourage other public officers that they have the protection of this House and its committees to avail information and furnish Members of this House and by extension members of the public with all details of the theft and looting that was carried out in the wee hours of the last regime.

When you heard the Deputy President the other day assert that money was being ferried to people's homes using helicopters, Kenyans imagined this was fiction. It is not. No wonder the desperation that was there to interfere with the elections and the election results! Maybe that is also the other reason why you see a belated attempt to try and intimidate the Government to bring back some of those subsidies that were utilised to loot from the Kenyan people. These people were fed by the fuel subsidy, Telkom Kenya, and maize subsidy. So, we must forgive them because you can never satisfy everybody's greed, but as a House, we must stand and allow all our committees to work in line. Hon. John Mbadi is a seasoned legislator. He knows our Standing Orders have the boundaries of where the Public Petitions Committee will get to and where the Public Accounts Committee will pick up from and where the Departmental Committees will pick up from and the matters which the departmental committees can inquire about.

Hon. Speaker, as you consider this, I want to beg that the issue that has been raised by Hon. John Mbadi... Let us be cautious not to be seen to be curtailing the relay and disclosure of critical information to the public. It is important that Kenyans get to know how their country was looted so that we can stop future regimes from stealing from Kenyans.

I said yesterday as I was contributing on the issue of extrajudicial killings that if we form a habit of burying our heads in the sand and burying our history by saying that we should forget what was done yesterday and move on, we will get into the cycle of people stealing and impunity being entrenched in our governance structures. I am sure Hon. John Mbadi does not want us to take that direction. I have confidence that when the Auditor-General finishes her special audit, Hon. John Mbadi will also table a report to tell us how that money was looted and include an audit trail. When I said that the Ksh6.1 billion ended up in people's personal accounts in the Cayman Islands, I knew what I was speaking about and I assured the country and the House that when time comes, we shall divulge all this information and we expect all

investigative agencies from the Ethics and Anti-Corruption Commission (EACC) to ensure that they get to the rock bottom of this matter and hold people to account. Equally, we expect that none of us, the political leaders, will start crying foul that this and that person is being targeted, or we should not be held here, we can only appear at the Directorate of Criminal Investigations (DCI) or the EACC for one hour because we are busy. You cannot be busy now and you were busy looting from us only six months ago.

With that, I submit that we allow the Public Petitions Committee to carry on with their work in line with our Standing Orders and allow the Public Accounts Committee and the Departmental Committee on Finance and National Planning when the time comes, to deal with the issues as they should. Should tragedy befall any of these committees that Hon. John Mbadi is saying, all Members of Parliament, the 349 of us, are very intelligent people, we shall be able to decipher which committee has been diligent and unravelled the truth and which one has sought to cover up the truth, if that ever comes to be. Therefore, I beg that we allow the committees carry out their work in line with our Standing Orders.

Thank you.

Hon. Speaker: Yes, Hon. Mbadi.

Hon. John Mbadi (Nominated, ODM): Hon. Speaker, let it go on record that I did not raise this matter to cover up anything.

Hon. Speaker: That is how I understood you.

Hon. John Mbadi (Nominated, ODM): I want to be very clear. I am not in the business of covering up for anyone because I am not privy to any information. Probably, the Leader of the Majority Party does.

I also want to clarify that regarding the expenditure under Article 223 of the Constitution, as I promised here, we have already asked the Office of the Auditor-General to do a special audit for all those expenditures that have been incurred this financial year that is ending. I also know that the Auditor-General is overwhelmed, but we have asked her to specifically audit that.

Finally, when I sought this clarification, I hope it was understood that I am just wondering that when it comes to public expenditure, to avoid politicising it, you need to have an independent audit. That is what I thought. Otherwise, we may end up just playing to the gallery, playing politics, and having some public officers... By the way, any public officer who appears before Parliament will always try to exonerate himself or herself. To be sure that the officers appearing before us are telling the truth, we need a proper audit of the funds.

Once we have the audit report, the officers concerned will, therefore, address themselves. At the moment, it is all about rumours in my view, which may be addressed before the Committee. That was my concern. Are we dealing with a case where an independent body has audited and if not, is it the right way to proceed?

If this House, through you, Hon. Speaker, feels that we can go that way, I have no problem. I will have my time to deal with these accounts at the appropriate time, but I was just worried that we are proceeding in a manner that seems like we are investigating a public expenditure without involving the Office of the Auditor-General which is mandated through our Constitution to be looking at our expenditure and reporting on them. That is my concern. It has nothing to do with interest.

I absolutely have no interest. I do not have an account outside Kenya. My accounts are only in Co-operative Bank of Kenya, Kenya Commercial Bank (KCB) and Diamond Trust Bank (DTB). You can go and check. There is no money which has... I have never carried anything with a chopper apart from myself and maybe, my accompanying luggage. I have never carried money in a chopper. That is my point.

(Laughter)

Hon. Speaker: Thank you, Hon. Mbadi. Leader of the Majority Party, I want comments on the Petition on Awendo Land. Hon. John Kiarie. The matter between Hon. Mbadi and the Leader of the Majority Party Leader is rested there. I will deal with it.

Hon. John Kiarie (Dagoretti South, UDA): Thank you very much, Hon. Speaker.

Concerning the matter of the Awendo land, to my mind, the Public Petitions Committee, as has been formed in the 13th Parliament, is up to task and very current on matters that are happening in the country. Whatever recommendation that will come out of the Public Petitions Committee, is not bound by other recommendations that will come out of any other office in the land.

The biggest concern by the submissions that have been made was the questioning of the mandate of the Departmental Committee on Communication, Information and Innovation on the matter of Telkom. I would like to bring it to the attention of the House that I, as the Chairman of the Departmental Committee on Communication, Information and Innovation, has written to you, officially, asking...

Hon. Speaker: Hon. Kiarie, you are definitely not commenting on the Awendo Petition.

(Laughter)

The matter you are talking about is a matter we prosecuted yesterday or a day before. You have written to me, and as per my competence, I am working on it. It is not before the House.

Thank you.

Hon. John Kiarie (Dagoretti South, UDA): I am well guided, Sir. I will conclude it by saying...

Hon. Speaker: Whether you are supporting the Awendo petitioners or not.

Hon. John Kiarie (Dagoretti South, UDA): Hon. Speaker, the Petition found its way and is rightly before this House and you committed it to the Public Petitions Committee, and it is raising an extremely emotive issue of the extrajudicial killings and forced disappearances. Each Member in this House can tell you of a case of disappearance...

Hon. Speaker: Hon. Kiarie, you are now discussing two Petitions that were dealt with yesterday.

(Laughter)

Hon. John Kiarie (Dagoretti South, UDA): Hon. Speaker, I rest my case. Thank you.

Hon. Speaker: I think you have been too busy of late with your constituents. Amb. Benjamin Lang'at, Ainamoi Constituency, could you kindly comment on the Awendo Petition?

Hon. Benjamin Lang'at (Ainamoi, UDA): Thank you, Hon. Speaker for giving me this opportunity to comment on this Petition of Awendo Land.

When I listen to the chronology of events, I can see very good Kenyans who have tried their best to resolve their issue and all the authorities have failed them. I urge the Public Petitions Committee to listen to these Kenyans and call the necessary authorities so that this matter is resolved and the said Kenyans are settled as per their request.

Thank you.

Hon. Speaker: Hon. James Wandayi, Ugunja Constituency.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Speaker, I did not intend to comment on this.

Hon. Speaker: I can see your name on my list. Then give way to someone else.

Hon. Opiyo Wandayi (Ugunja, ODM): I would have wanted to say something about the matter that was being canvassed by Hon. John Mbadi, but I am obliged. Thank you.

Hon. Speaker: That issue is closed. Hon. Kuria Kimani, Molo Constituency.

Hon. Kuria Kimani (Molo, UDA): Hon. Speaker, I do not wish to comment on this issue.

Hon. Speaker: Not on this one. Those who wanted to comment on the Petition, please, press the intervention button. Hon. Raso Dido.

Hon. Ali Raso (Saku, UDA): Thank you very much, Hon. Speaker. I wish to comment on the Awendo Land. Land in Kenya is either private, public or community land. If a private or community land needs to be excised for public use, the procedure in law is very clear. Any attempt by a Government or *quasi*-government body to acquire private land by force without following the due process of the law is illegal.

This House should rise to protect properties of individuals because how else will foreigners invest in Kenya if their rights of owning properties are not protected? For that reason, I support that Petition. I believe the Public Petitions Committee should do a good job on it so that individual properties are protected.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. (Dr) Nyikal James. Seme.

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Speaker for giving me this opportunity to comment on this Petition.

We are all terrestrial animals which means we live on land. The land is the single most important property one can have. If people's land is taken illegally, they proceed to follow the process until the end and nothing happens, then the system has failed them.

I, therefore, support this Petition, but it also raises one issue: We are seeing so many petitions. We need to ask ourselves whether our institutions as established, are serving our people, or we have institutions that do not care about the people. People follow the process, get to a place where they should be compensated, but do not get compensated. Will it be possible that all these issues of this nature will be brought to Parliament?

When people come to Parliament so often, it means they have lost confidence in the other system particularly, the judicial system.

I support this. What it means is that the loss of confidence and the inability of institutions to protect our people should be noted.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. (Dr) James Nyikal. Hon. Elachi Beatrice, Dagoretti North Constituency.

Hon. Beatrice Elachi (Dagoretti North, ODM): Thank you, Hon. Speaker. I also rise to support the Petition. When you look at the Petition, you realise it started even before we went into the new Constitution. The people of Awendo have sought answers since 1988. We have come to 2003 and we do not have anything called Awendo Township Council. That is why they find themselves believing that this House can give them justice. I think it is important for the Public Petitions Committee to realise that that has been the case for a very long time. There is need to finalise this matter for them. More importantly, it is not just this matter. Many people are going through many challenges because of promulgating the new Constitution. They find themselves wondering how to deal with the Ministry of Lands and the Judiciary. We know that we have arbitration. I am hoping the Public Petitions Committee will start bringing us reports even for the petitions we have seen in this House. When you look at the 90 days within which the Committee should respond to petitions, I think time has lapsed for some of them. It will just be fair if this House gives recommendations for any petition received.

With those few remarks, I support.

Hon. Speaker: Hon. Innocent Mugabe, are you on this Petition? Member of Parliament for Baringo North, are you on this Petition? Go ahead.

Hon. Joseph Makilap (Baringo North, UDA): I rise to support this Petition. If you realise, many Kenyans are duped through judicial processes because of the big boys who satisfy their quotas and make rulings in favour of or against innocent citizens who could have otherwise benefitted from compensation. I agree with the Member from Seme on the coming of this Petition to this House. That is a vote of no confidence on the Judiciary in this country from the public and the people of Awendo.

Secondly, there is need to regularise the number of petitions to this House. If there is a petition in Kisumu County, the County Assembly of Kisumu should deal with that petition at that place rather than bringing everything to the National Assembly. If there are land grabbers in Awendo, then sort out the land grabbers at that particular place because you know best those that were able to change.

I support this Petition.

Hon. Speaker: Order, Member for Baringo North. Order! This is the National Assembly of Kenya. Any Kenyan from any part of Kenya has the right to come to this House to prosecute their interests and the interests of people they live with. You are totally out of order.

Hon. Stephen Mule, are you queuing for this?

Hon. Stephen Mule (Matungulu, WDM): Thank you, Hon. Speaker. First and foremost, I support the Petition. I ask the Committee to move with speed. There are many Kenyans in the country whose lands were acquired illegally since 1988. It is either by their former office of the Town Clerk or current county governments. I want to bring to the attention of the Public Petitions Committee the fact that people have gone through the court process to reclaim their land. The court has ruled that they be compensated or their land be returned to them. Then, the county governments of the day do not pay the Kenyans and they are not able to return the land. They are not willing to cooperate. The kind of ruling and expectations we have from this Committee is that it should look at all issues regarding land illegally acquired from the public, a family, and an individual. They should have justice for their property in this country.

I support, Hon. Speaker.

Hon. Speaker: Member for Marakwet West. He will be the last on that.

Hon. Timothy Kipchumba (Marakwet West, Independent): Thank you for giving me an opportunity to comment on this very important Petition. The issue raised by the petitioners from Awendo cuts across the entire Republic of Kenya. It represents a random sample of what happened. The local authority as was established then allocated several parcels of land to people in county councils. When there was change from county councils or local authorities to county governments, there were many problems and challenges not fully addressed by the local authorities. There are so many issues to do with transfer of land from local authorities to county governments, especially in Elgeyo Marakwet County from where I come. I prevail upon the Committee looking at this matter to look at the entire country and see whether they can resolve the issues that individuals had.

Local authorities in this country had the authority to issue allotment letters. However, county governments revoked them when they came in. The people who acquired parcels of land under local authorities remained without those parcels. I fully support the Public Petitions Committee to look at the Petition fully with a view to recommending compensation to individuals who were given or allotted land and received allotment letters during county councils or local authorities. These people were subsequently evicted or their land forcibly taken over by county governments as currently constituted.

I pray that this Committee looks at the length and breadth of this issue. The Public Petitions Committee should also reopen what the Transition Authority did on matters to do with land by county councils, so that they can get an in-depth understanding of the issues our people faced. I pray that this Committee opens the report of the Transition Authority with a view of looking at the atrocities faced by the people, especially losing their land.

Hon. Speaker: Thank you, Hon. Timothy. That ends contributions on that Petition.

Hon. Members, I acknowledge Kikuyu Boys High School from Kikuyu in Kiambu. They are in the Speaker's Gallery. In the Public Gallery, we have Star Sheikh Academy, from Mavoko in Machakos, ACK Kamutu from Mbeere North in Embu, Merryland Community Centre from Embakasi East in Nairobi, and Bungoma County Assembly staff. On your behalf and on my behalf, I welcome all the visitors in the House of Parliament.

Next Order.

PAPERS

Hon. Speaker: The Deputy Leader of the Majority Party, Hon. Owen.

Hon. Owen Baya (Kilifi North): Thank you, Hon. Speaker. I beg to lay the following Papers on the Table of the House:

Reports of the Auditor-General and the Financial Statements in respect of the following institutions for the year ended 30th June 2021, and the certificates therein.

- (a) The Cooperative University of Kenya;
- (b) The Kenya Railways Corporation; and,
- (c) The Dr Daniel Wako Marende Technical and Vocational College.

Reports of the Auditor-General and Financial Statements in respect of the following constituencies for the year ended 30th June 2021, and the certificates therein:

- (a) Sotik.
- (b) Kanduyi.
- (c) Kisumu West.
- (d) Rarieda.
- (e) Emuhaya.
- (f) Kinangop.
- (g) Garsen.
- (h) Luanda.
- (i) Bureti.
- (j) Ainamoi.
- (k) Belgut.
- (l) Gem.
- (m) Sabatia.
- (n) Vihiga.
- (o) Nyando.
- (p) Kisumu Central.
- (q) Lamu East.
- (r) Galole.

Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30th June 2022, and the certificates therein:

- (a) New Partnership for Africa Development/Africa Peer Review Mechanism (NEPAD/APRM) Kenya Secretariat;
- (b) Anti-Counterfeit Authority;
- (c) Local Authorities Provident Fund;
- (d) Kenya Industrial Property Institute;

- (e) Railway Development Levy Fund (Holding Account) – State Department for Transport;
- (f) Technical assistance to enhance the capacity of the President’s Delivery Unit (ADB Grant No.5500155012902) project – State Department for Interior and Citizen Services;
- (g) National Police Service Commission Staff Car Loan and Mortgage Scheme Fund; and,
- (h) Kenya Youth Employment and Opportunities Project (Credit No. IDA 5812-KE) – Micro and Small Enterprises Authority.

I thank you, Hon. Speaker.

Hon. Speaker: Vice-Chairperson of the Procedure and House Rules Committee.

Hon. Gladys Boss (Uasin Gishu County, UDA): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

The Sixth Report of the Procedure and House Rules Committee on Amendments to the Standing Orders.

Thank you, Hon. Speaker

Hon. Speaker: Thank you. Next Order.

NOTICE OF MOTION

ADOPTION OF SIXTH REPORT ON AMENDMENTS TO THE STANDING ORDERS

Hon. Gladys Boss (Uasin Gishu County, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Sixth Report of the Procedure and House Rules Committee on Amendments to the Standing Orders, laid on the Table of the House on Wednesday, 8th March 2023 and pursuant to the provisions of Article 124(1) of the Constitution and Standing Order 265 –

- (a) approves the proposed amendments to the Standing Orders as contained in Annex 3 of the Report;
- (b) resolves that the amendments agreed to in Committee of the whole House and approved by the House shall take effect on Thursday, 23rd March 2023; and,
- (c) further resolves that the Questions pending reply as at the commencement date shall be disposed of by the respective committees.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Deputy Speaker.

Next Order.

QUESTIONS AND STATEMENTS

Hon. Speaker: Hon. Members, I will start with the Statement by the Member for Embakasi Central, Hon. Benjamin Gathiru. Where is the Hon. Member? Can you give the Member a microphone? There you are *Mheshimiwa*.

REQUEST FOR STATEMENT

UNFAIR TRADING PRACTICES BY FOREIGN INVESTORS IN KENYA

Hon. Mejjadonk Gathiru (Embakasi Central, UDA): Thank you, Hon. Speaker. Pursuant to the provisions of Standing Order 44 (2) (c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Trade, Industry and Cooperatives regarding unfair trading practices by foreign investors in the country.

Hon. Speaker, the country has been experiencing an influx of foreign investors in various sectors, including manufacturing and agriculture, among other sectors. While these investments can bring much needed capital and expertise, there has been concern that such investments, particularly in trade, are also occasioning unfair competition to local businesses, especially the Micro, Small and Medium Enterprises (MSMEs) in Nairobi City and the surrounding counties. Of note, foreign traders like the case of China Square that recently aroused hue and cry among local traders, take advantage of economies of scale and access to goods manufactured in their home country, which they retail and even hawk locally at prices that are far lower than what local traders can manage due to high costs resulting from import duty and supply chain cost.

The impact of the unfair competition and trading practice is significant and if not checked, local traders stand the risk of operating at a loss or being forced to exit the market, which will result to loss of jobs, decline in national revenue and general reversal of the significant gains that have been made growing the economy from the base.

It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Trade, Industry and Cooperatives on the following:

1. Could the Chairperson outline the policies and regulatory mechanism that guide licensing of foreign investors to operate retail businesses in the country and the circumstances under which China Square was cleared to undertake such business in the country?
2. What measures have been put in place to ensure that local traders are cushioned from unfair trading practices and competition from foreign investors, particularly in retail trade, including measures for protection and promotion of local investments and enterprises with a view to ensuring long-term growth and development in the Kenyan economy.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Member. Is the Chairperson for the Departmental Committee on Trade, Industry and Cooperatives here? Any Member of the Committee present, convey to your Chair that we need a response in two weeks' time.

Let us go to Questions now. The first Question is by Hon. Rindikiri Murwithania.

ORDINARY QUESTIONS

Question No.26/2023

CATEGORIZATION OF BUURI CONSTITUENCY AS ARID AND SEMI-ARID REGION

Hon. Mugambi Rindikiri (Buuri, UDA): Hon. Speaker, pursuant to the provisions of Standing Order 42A (5), I rise to ask the Cabinet Secretary for East African Community, the Arid and Semi-Arid Lands (ASALs) and Regional Development the following Question:

- (a) Could the Cabinet Secretary explain the criteria used by the Ministry to categorize some regions in the country as Arid and Semi-Arid Lands (ASALs)?

- (b) (ii) Could the Government consider reviewing the criteria used and categorize Buuri Constituency as Arid and Semi-Arid region, considering that the aridity index is high in most parts of the constituency?

Thank you, Hon. Speaker.

Hon. Speaker: The Question will be replied to before the Departmental Committee on Regional Development. Is the Chairperson here? Expect the response in two weeks' time.

Next is Hon. Aduma Owour, the Member for Nyakach.

Question No.27/2023

ACTION TAKEN TO PREVENT INCIDENCES OF ATTACKS
BY HIPPOPOTAMUSES IN SONDU MIRIU

Hon. Aduma Owour (Nyakach, ODM): Hon. Speaker, this is the one and only Member for Nyakach. Hon. Speaker, pursuant to the provisions of Standing Order 42A (5), I rise to ask the Cabinet Secretary for Tourism, Wildlife and Heritage the following Question:

Could the Cabinet Secretary –

- (a) Explain the circumstances that led to fatal injury of Meshack Otieno Oloo of ID Number 14605662 on 12th February 2023 and death of Silvance Oluoch Otieno, a minor on 19th February, 2023 following an attack by stray hippopotamuses in the area?
- (b) State why no actions have been taken to address the above listed cases which were reported to Sondu Miriu Police Station and also to the Kenya Wildlife Service (KWS) regional office in Kisumu?
- (c) State any compensation plans that the Ministry has put in place for farmers whose crops were destroyed by the said hippopotamuses, and the families that lost their loved ones through attacks by wild animals?
- (d) Outline the immediate measures that the Ministry has put in place to curb incidences of attacks and destruction of crops by the straying hippopotamuses in the various wards in North Nyakach, Central Nyakach and West Nyakach?

Hon. Speaker, it is worth noting that the kid who lost his life was in Standard Eight and a candidate. These hippopotamuses were straying into homesteads. I would want to know what has been done and the measures being put in place to compensate our farmers in West Nyakach, where this menace has been rampant.

Hon. Speaker: Thank you, Hon. Member. Is the Chairman of the Departmental Committee on Tourism and Wildlife here? If any Member of the Committee is here, please, inform your Chair that we need an answer in two weeks' time.

Member for Matungulu, Hon. Stephen Mule, ask Question 28/2023.

Question No.28/2023

SAFETY OF KENYAN TAXPAYERS' MONEY HELD
AT EAST AFRICAN DEVELOPMENT BANK

Hon. Stephen Mule (Matungulu, WDM): Hon. Speaker, pursuant to the provisions of Standing Order No. 42A (5), I would like to ask the Cabinet Secretary for the National Treasury and Economic Planning the following Question:

- (a) Could the Cabinet Secretary explain the circumstances that have led to the payout of over USD2.8 million in legal fees between the year 2014 and 2020

by the East African Development Bank (EADB), of which the Republic of Kenya is a shareholder under the EAC Treaty?

- (b) (ii) Could he clarify the terms of the tenure of Office of the Director-General of the said Bank and confirm if the current holder is lawfully in office?
- (c) Could he state the reasons why the shareholders in the said bank, particularly Kenya, which is the largest shareholder, have not been paid any dividends during the tenure of the current Director-General?
- (d) Could he state the measures being taken by the Ministry to safeguard Kenyan taxpayers' money held at the EADB at the headquarters in Uganda?

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Mule. Chairman of Departmental Committee on Finance and National Planning, the Member for Molo; when can you bring the response?

Hon. Kimani Kuria (Molo, UDA): I will bring it in two weeks' time, Hon. Speaker.

Hon. Speaker: Two weeks. So be it.

On Question No.29, can we have the Member for Mathare, Hon. Anthony Oluoch?

Question No. 29/2023

DELAYED POSTING OF MEDICAL INTERNS

Hon. Anthony Oluoch (Mathare, ODM): Hon. Speaker, I rise to ask the Cabinet Secretary for Health the following:

- (a) What steps is the Ministry taking to expedite the posting of medical interns who graduated in 2022 but have not received posting letters yet they ought to have commenced their internship in January 2023?
- (b) (ii) What measures is the Ministry taking to fast-track internship for the affected students, noting that they cannot practise anywhere in the country until they obtain medical licences, which are only issued after they complete their internship?
- (c) What steps is the Ministry taking to address the general shortage of doctors in the country?

Hon. Speaker: Thank you, Hon. Oluoch. Chair, Departmental Committee on Health, Dr. Pukose, when can you bring the response?

Hon. (Dr.) Robert Pukose (Endebess, UDA): Thank you, Hon. Speaker. I want to thank Hon. Oluoch for that Question. I will bring the response to the House in two weeks' time.

Hon. Speaker: Thank you, Member for Endebess. Next is Question No. 30/2023 by Hon. Jared Okello, Member for Nyando.

Question No. 30/2023

COMPENSATION OF RICE FARMERS IN WEST KANO AND AHERO IRRIGATION SCHEMES

Hon. Jared Okello (Nyando, ODM): Hon. Speaker, permit me to, first, congratulate you. You have added an additional feather in your hat. You are now the Rt. Hon. (Dr) Moses Masika Wetangula Odhiambo.

Hon. Speaker: Where does Odhiambo come from? Must you be an Odhiambo for you to have a doctorate certification?

Hon. Jared Okello (Nyando, ODM): Hon. Speaker, it goes without saying that we have told people not to throw stones aimlessly past Kericho all the way to Busia border, otherwise

you can hit a doctor or a professor. Going forward, we shall be very careful, protecting you within the compound. No stones shall be thrown where you are.

Hon. Speaker, I would like to ask the Cabinet Secretary for Agriculture and Livestock the following:

- (a) Could the Cabinet Secretary explain the interventions that the Ministry has instituted to mitigate and end the huge losses suffered by rice farmers in West Kano and Ahero Irrigation schemes due to long periods of drought and invasions by Quelea birds that consume approximately 20,000 tonnes of rice in every harvest?
- (b) (ii) Could the Cabinet Secretary state the steps the Ministry is taking to compensate farmers who have experienced major losses through the aforementioned occurrences?

I thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Jared. Chairman of Departmental Committee on Agriculture and Livestock, Hon. Mutunga, are you here? If we have any Members of the Committee, please tell your Chair to bring the answer in two weeks' time.

Hon. Members, that brings us to the end of the Questions and Statements segment.

Next Order.

PROCEDURAL MOTION

EXTENSION OF PERIOD FOR CONSIDERATION OF PUBLIC PETITIONS

Hon. Speaker: Yes, Member for Turbo. Proceed.

Hon. Janet Sitienei (Turbo, UDA): Thank you, Hon. Speaker. I beg to move the following Procedural Motion:

THAT, notwithstanding the provisions of Standing Order 227 (2) (Committal of Petitions), this House resolves to extend the period for consideration of the Public Petitions specified hereunder by the Public Petitions Committee by a further period of forty-five (45) days with effect from 8th March, 2023 –

- (a) Completion of House Units for Kibera Residents funded by the World Bank;
- (b) Degazettement of Hola Irrigation Scheme land presented by Hon. Said Hiribae, MP; and,
- (c) Funds spent by National Government contrary to provisions of Article 223 of the Constitution.

Hon. Speaker, the Petitions were committed to the Public Petitions Committee on 10th and 15th November 2022, pursuant to Standing Order 227 (2) and are due today, 8th March 2023, after taking into consideration the suspension of Committee sittings during the long recess by the Hon. Speaker. The Committee has since made steps in consideration of the Petitions by the petitioners and various stakeholders. However, there are stakeholders who are yet to appear before the Committee to respond to the petitions. We also need time to make planned site visits.

[The Speaker (Hon. Moses Wetang'ula) left the Chair]

[The Temporary Speaker (Hon. Omboko Milemba) took the Chair]

The Committee is dedicated and keen on pursuing matters referred to it to finality and provide relevant responses to the petitioners. It is against this backdrop that the Committee requests the House to grant it more time to enable it finalise the processes and present comprehensive reports on the Petitions.

Hon. Temporary Speaker, I beg to move and request Hon. Susan Kiamba to second the Motion.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Seconder?

Hon. Suzanne Kiamba (Makueni, WDM): Thank you, Hon. Temporary Speaker. I am a Member of this Committee. In dealing with each Petition, we realised that we needed to understand the complex realities surrounding it. This required engagement with a wide range of stakeholders, which needed more time. That made it quite challenging for us to complete the assignment as planned.

Secondly, we realised that dealing with Petitions was not a linear progression but rather a back-and-forth exercise. It saw us having to sometimes go back and meet several stakeholders several times, not mentioning the fact that some of them were not available at the required time.

Based on all these realities, I beg to second.

(Question proposed)

Hon. Members: Put the Question!

The Temporary Speaker (Hon. Omboko Milemba): Is it the mood of the House that I put the Question?

Hon. Members: Yes!

(Question put and agreed to)

BILL

First Reading

THE NATIONAL RATING BILL
(National Assembly Bill No.55 of 2022)

(The Bill was read the First Time and referred to the relevant Departmental Committee)

SPECIAL MOTION

REPORT ON NOMINEE FOR APPOINTMENT AS DEPUTY
GOVERNOR OF CENTRAL BANK OF KENYA

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Joint Committee of the National Assembly and the Senate and approves the appointment of Dr. Susan Jemtai Koech as the Deputy Governor of the Central Bank of Kenya.

The Temporary Speaker (Hon. Omboko Milemba): Please, read out the Motion as it is on the Order Paper. Give him the Order paper.

Hon. Kuria Kimani (Molo, UDA): Thank you, Hon. Temporary Speaker. I stand guided.

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

THAT, taking into consideration the findings of the Joint Committee of the National Assembly Departmental Committee on Finance and National Planning and Senate Standing Committee on Finance and Budget in its Report on vetting of Dr Susan Jemtai Koech for approval as Deputy Governor of the Central Bank of Kenya, laid on the Table of the House on Tuesday, 7th March, 2023 and pursuant to Sections 13B (1) and 13C (1) of the Central Bank of Kenya Act, Section 8 (2) of the Public Appointments (Parliamentary Approval) Act 2011 and Standing Order 216 (5)(f) of the National Assembly Standing Orders, this House approves the appointment of Dr Susan Jemtai Koech as Deputy Governor of the Central Bank of Kenya.

Hon. Temporary Speaker, on this great day when we celebrate International Women's Day, when I imagine a gender-equal world free of bias, stereotyping and discrimination, a world that is diverse, equitable and inclusive, and where differences are valued and celebrated, this House will go into the history books as having contributed to putting influential, qualified and competent women in leadership and at the decision-making table where it matters.

I congratulate all the female leaders in this House as we celebrate International Women's Day. I know most of them are in New York. For those who are here, led by our Deputy Speaker, Madam Boss, and all the women of this House, we celebrate you today.

(Applause)

We celebrate all women in the country who are captains in their respective fields whether in banking, finance, construction, political leadership or academia. We also celebrate the great women at home who are hardly celebrated despite the fact that they ensure that our meals are cooked, clothes are pressed, diaries are diarised, beds are made and houses are cleaned.

Article 231(1) of the Constitution provides for the Central Bank of Kenya, whose mandate is as follows: Formulate monetary policy; promote price stability; issue currency; oversight the financial sector; and, perform other functions conferred on it by an Act of Parliament.

Hon. Temporary Speaker, Cap. 491 establishes the Office of the Deputy Governor, who shall be appointed by the President through a transparent and competent process, and with the approval of Parliament. The Deputy Governor shall perform such functions as the Governor may assign to that office.

Having received a Message from His Excellency the President on the nomination of Dr. Susan Jemtai Koech for appointment to the position of Deputy Governor of Central Bank of Kenya, the Hon. Speaker of the Senate and the Hon. Speaker of the National Assembly, on Tuesday 14th February 2023 and on Wednesday, 15th February 2023 respectively issued Communication and directed that the approval hearing for the nominee for appointment to the position of Deputy Governor of the Central Bank of Kenya be conducted jointly by relevant Committees of the Houses of Parliament as required by the Central Bank Act Cap. 491 of the Laws of Kenya.

The name of the nominee and her curriculum vitae were referred to the Departmental Committee on Finance and National Planning. The Joint Parliamentary Committee held preliminary joint sittings on Tuesday, 28th February 2023 to prepare for approval hearing and consider memoranda from members of the public, if any. The vetting of the nominee by the Joint Committee complied with the constitutional and legal requirements and established procedures for the hearing.

The Joint Parliamentary Committee adhered to the provisions of Article 118 of the Constitution on public participation and openness in carrying out the approval process. A notification inviting members of the public to the hearing was placed on mainstream media on Saturday, 18th February as required by Section 6 (4) of the Public Appointments (Parliamentary Approval) Act of 2011. We did our joint hearing on Tuesday, 20th February 2023.

The hearing was guided by the provisions of the Constitution of Kenya, the Central Bank of Kenya Act, the Public Appointments (Parliamentary Approval) Act and the Standing Orders of the respective Houses of Parliament. The Committee made observations based on the Constitution and legal requirements as well as submissions of the nominee during the approval hearing. Further, the Committee was seized of the provisions of Article 231 of the Constitution, together with Section 13B and C of the Central Bank of Kenya Cap. 491.

Pursuant to Section 13B of the Central Bank Act, the Public Service Commission invited applications from suitably qualified persons for the position of Deputy Governor of Central Bank of Kenya. The advertisement was published in the print media and on the Commission's website on 1st November 2022 and 9th November 2022. The application period closed on 21st November 2022 with a total of 79 persons submitting applications desirous to become the next Deputy Governor of the Central Bank of Kenya. I have annexed that Report and it can be accessed by Hon. Members.

The Committee considered the nominee's academic qualifications, employment record and work experiences, membership to relevant professional associations, public service, political activities and affiliations, potential conflict of interest, suitability for the position, tax compliance, integrity and other thematic areas that are required of one to be appointed Deputy Governor of Central Bank of Kenya.

Hon. Temporary Speaker, the nominee is a Kenyan citizen. She does not hold a dual citizenship. She was born on 22nd March 1983 in Marakwet West Constituency in Elgeiyo Marakwet County. The nominee holds a Doctorate in Business Management from Moi University, having graduated in 2015. She is also a holder of Master's Degree in Business Administration in Strategic Management, and Bachelor's Degree in Business Management and Human Resource Management from Moi University.

Dr. Susan also holds a Diploma in Banking. The nominee has worked as a Principal Secretary, State Department of Wildlife between 2018 and 2019. She was also the Principal Secretary for the State Department of East African Community, and also acted as Principal Secretary for the State Department for Regional Development.

Prior to joining the Public Service, Dr. Susan served in the banking sector, rising through the ranks from the entry point at Kenya Commercial Bank (KCB) all the way to becoming a Regional Manager of KCB. The nominee informed the Committee that she has held other leadership positions, including being the Vice Chairperson of the Kenya Institute of Bankers, and the Vice Chair of Elgeyo Marakwet County Service Board. She was involved in the Training and Development Committee while at the KCB. She is a member of Kenya Institute of Bankers and a member of Kenya Institute of Management. She is also a part-time lecturer at Mount Kenya University. She has served as Board of Management (BOM) Chairperson at St. Peters Kapkata Secondary School, as a patron of Suwerwa Cooperative Society and as a BOM Chair of St. Francis Girls School Suwerwa.

The nominee has extensive experience in banking and I am very happy that she brings rich experience having been a banker herself. Before joining the Government, she served in the banking sector. Therefore, if this House approves her nomination, she will be taking her skills to the Central Bank of Kenya. In fact, when we were doing the interviews, we were telling her that perhaps she was even doing the wrong job being the PS for the Ministry of Wildlife and everything else.

This is where she really belongs because it matches her academic qualifications. It matches her long experience as a banker with KCB. She has also demonstrated a lot of interest, including continued membership in the Kenya Bankers Association.

The nominee, in our considered opinion, meets the requirements of Chapter Six of the Constitution on leadership and integrity, having been issued with clearance certificates by the relevant agencies, including the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), the Office of the Registrar of Political Parties (ORPP) and the Higher Education Loans Board (HELB).

Hon. Temporary Speaker, we did not receive any memorandum that opposed her nomination to the position. The nominee, as I said, has in-depth knowledge of the state of the financial development in Kenya and linkages to economic sectors across the region.

We put this nominee to task on the current move from the banking sector to Feature Integration Technology (FINTEK) because you realize that back in the 1990s, there was a revolution in the banking sector, all through to new millennium in 2001-2002. That was when we had a mushrooming of commercial banks, including Equity Bank, which have since progressed to greater heights. Over the years, we progressed to mobile phone banking and that could explain the success stories of mobile phone banking platforms like M-PESA and AIRTEL Money, and all the other mobile phone money transfer services.

There is an interesting trend that is coming up with digital lenders. They are coming up with digital savers where most of our young people do not even hold bank accounts. They operate from their mobile phones and when they need to access loans, they go to these digital services. We asked whether she is versed with that and whether she is privy to the fact that there is not even proper legislation to regulate the same. That is why there is a lot of harassment by the operators of mobile phone lending apps. It is because there is no clear legislation and policy framework to regulate their operations. She demonstrated that she understands the field. So, once she gets into office, she will hit the road running to make sure that the FINTEK companies, which offer important financial services on digital platforms, are regulated.

Hon. Temporary Speaker, we even discussed with the nominee about international stuff like crypto currencies like Bitcoin, and that is where the country is at the moment. We are talking about loss of billions or trillions of shillings in Bitcoins. Nowadays there is even a new trend of FOREX trading, where we have many people doing some legitimate business and others doing illegitimate business. Someone will tell you that they can multiply your money and enable you to make so much money through FOREX trading. If we do not move with time, these things will soon catch up with us and we will find ourselves in a situation where money has been lost. Kenyans are losing their money and there is no law that we can tie those developments to. We did put this lady, Dr. Susan, to task.

I beseech this House to approve the nomination of Dr. Susan for appointment as Deputy Governor of the Central Bank of Kenya, especially at this time when we are celebrating International Women's Day. This great, competent, qualified, experienced lady deserves to serve as the Deputy Governor of the Central Bank of Kenya.

Hon. Temporary Speaker, with those remarks, I beg to move and request the Committee's Vice Chairperson, Hon. Amb. Benjamin Lang'at, the Member for Ainamoi, to second the Motion.

Hon. Benjamin Lang'at (Ainamoi, UDA): Thank you, Hon. Temporary Speaker. I rise to second this Motion. The Chair has done a good job. He has raised all the points that we, as a Committee, had. The approval at the Committee level was unanimous both at the Senate and National Assembly. When you look at Dr Susan's curriculum vitae, it is clear that she is the most qualified lady to hold the position of Deputy Governor of the Central Bank of Kenya. As the Chair said, she holds a PhD in Business Administration, a bachelor's degree, and a Diploma in Banking. In terms of experience, she has held leadership positions in this country

as a Principal Secretary both for East African Community from 2018 to 2019 and State Department for Wildlife from 2019 to 2022.

The Committee was expected to check the nominee's suitability. This was done by checking her academic qualifications, experience and integrity. She is qualified in all those areas. I ask the House to approve the nominee so that we release her to start her duties. As we speak today, we have several challenges affecting our economy. In the past year, the Kenya Shilling has depreciated by over 30 per cent from Ksh100 per dollar to Kshs135 currently. The cost of living is still an issue.

I ask the House to approve the nominee so that she can resolve all those issues. I request the House to support the Motion. I second, Hon. Temporary Speaker.

(Question proposed)

Hon. Members: Put the Question, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Is it the mood of the House that I put the Question?

Hon. Members: Yes.

(Question put and agreed to)

The Temporary Speaker (Hon. Omboko Milemba): Next Order.

MOTION

GENERAL DEBATE ON PROPOSALS TO AMEND THE CONSTITUTION AND THE STANDING ORDERS

THAT, noting the contents of a memorandum submitted to Parliament by His Excellency the President asking Parliament to consider initiating amendments to the Constitution; acknowledging that actualisation of the proposals which relate to, inter alia, the composition of Parliament as provided for in Articles 97 and 98 of the Constitution in order to attain the two-thirds gender principle, the creation of the Office of Leader of Official Opposition in Parliament, and the inclusion of various funds in the Constitution would necessitate amendment to the Constitution while the restructuring of parliamentary oversight to allow for Cabinet Secretaries to appear before the Houses of Parliament to respond to Questions by Members would require the amendment of Standing Orders; further acknowledging that the Speaker, vide a notification issued on 9th December 2022 referred the matters raised in the memorandum to the Departmental Committee on Justice and Legal Affairs with regard to proposals relating to the implementation of the two-thirds gender principle and the establishment of the Office of the Leader of Official Opposition; the Joint Parliamentary *Ad Hoc* Committee with regard to proposals to amend the Constitution to entrench the Constituency Development, Senate Oversight and National Government Affirmative Action funds; and the Procedure and House Rules Committee with regard to proposals to amend the Standing Orders to strengthen parliamentary oversight of the Executive so as to facilitate public participation, pursuant to Article 118 of the Constitution; now therefore, pursuant to the provisions of Articles 1 (2) and 95 (2) of the Constitution, this House notes, considers and makes general comments on the proposals contained in the Memorandum by the His Excellency the President.

*(Moved by Hon. Kimani Ichung'wah
on 15.2.2023 – Morning Sitting)*

(Resumption of debate interrupted on 7.3.2023)

The Temporary Speaker (Hon. Omboko Milemba): Very well. On this Motion, Hon. Jessica Mbalu was on the Floor and she had a balance of six minutes.

Hon. (Dr) James Nyikal (Seme, ODM): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): What is out of Order?

QUORUM

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Speaker, we probably do not have a quorum in this House.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Serjeant-at-Arms, ring the Quorum Bell for 10 minutes. Meanwhile, no Member should leave the House.

(The Quorum Bell was rung)

Very well Hon. Members. We may proceed. We now have quorum.

Hon. Members, order! We are on Order No. 11 on General Debate on Proposals to amend the Constitution and Standing Orders. The next person to contribute on this is Hon. Joseph Emathe, Member for Turkana Central. Is he in the House?

Proceed, Hon. Joseph. Give him the microphone.

Hon. Joseph Emathe (Turkana Central, UDA): Thank you, Hon. Temporary Speaker. From the outset, I support the Motion on General Debate on the Proposals to Parliament to consider amending the Constitution and Standing Orders. It is critical that we consider the three issues as raised and ensure that the Constitution actually speaks to them. The President is giving us a good foundation. Checking Government, ensuring that duties and responsibilities are segregated, and making Cabinet Secretaries to come to this House is very important and pertinent. I sit in the Committee on Procedure and House Rules and I want to thank the Members of that Committee because soon we will have Cabinet Secretaries joining us during Question Time.

Secondly, the gender issue needs to be considered as provided. I am one of those persons who support and consider that today is the World International Women's Day. I support that consideration knowing that it is important to practise it even as we celebrate the International Women's Day today.

Thank you, Hon. Temporary Speaker.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Millie, on a point of order?

Hon. Millie Odhiambo-Mabona (Suba North, ODM): On a point of order, Hon. Temporary Speaker. Let me take this opportunity to wish all the women a happy International Women's Day. That is not my point of order.

My point of order is actually to the leadership of the House. We have been discussing this issue that is ongoing on the Floor for a long time and we all know that it is headed nowhere. We are actually conversing yet Parliament is a very serious House. We are not supposed to converse. You either have a Bill or a Motion that is passed and has an end. This has no end game. We are like women conversing in a market. When are we going to have serious House

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business? We want Bills that relate to issues that concern Kenyans. Remember inflation is high and people are hungry. When are we going to deal with real issues that touch Kenyans, instead of amorphous issues which are neither Motions nor Bills? I do not know what they are. It is like jelly, neither here nor there.

I know Hon. Ichung'wah was a very effective Chairman of the Budget and Appropriations Committee. I do not know if he was given the wrong docket, because since he became the Leader of the Majority Party, he has been bringing here amorphous things. I even have a Bill which you can bring here, the Family Reproductive Health Care Bill, which has already matured. You can bring it so that we discuss serious issues affecting reproductive issues. We do not have to see a Senator going to the other House with stained pants. Let us discuss issues that will move us forward. Some of us are very serious and want to move forward. We do not want to come here just to converse in the manner of there should be this-and-that, or there should be Cabinet Secretaries, or there should be women representation without a Bill. We are just conversing. We either have a Bill or a Motion in place. Otherwise, we are not spending our time usefully.

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. Millie. So, what is your point of order?

Hon. Millie Odhiambo-Mabona (Suba North, ODM): My point of order is that the House leadership needs to bring us substantive issues in the House so that we use our time meaningfully. We actually have multiple roles. I have just run from a Budget and Appropriations Committee, where we are dealing with Budget Policy Statements, only to come here to find this marketplace again? Honestly.

The Temporary Speaker (Hon. Omboko Milemba): Very well, you have been heard now. Leader of the Majority Party

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Temporary Speaker. I hear what Hon. Millie is saying and she has every justification to say whatever she is saying. Her views are well noted more so by the House Business Committee. However, Hon. Millie is not a first-time Member of Parliament. If anything, she now qualifies to be the grandmother of this House

(Hon. Millie Odhiambo-Mabona spoke off record)

She is actually our grandmother in the House and she knows it is the House Business Committee that schedules business to be transacted in the House. It is not the work of the Leader of the Majority Party. I am sure she knows that. Since she just wanted my attention, I have given it to her.

(Laughter)

She also knows the important business she is doing in the Budget and Appropriations Committee is the next very important business that will be on the Floor of this House. She knows we processed the Appropriation Bill last week. She was not there yet she is a Member

of the Budget and Appropriations Committee. She has just walked in. As usual, she walks in at around 4.30 p.m.

(Laughter)

Maybe the first thing Hon. Millie should know is that the House sits from 2.30 p.m. and there has been a lot of good business. Hon. Millie, the National Ratings Bill was here for the First Reading. You can start acquainting yourself with it now that it is already before the House.

On the other Private Members' Bills, I would encourage you to walk to the Table Office or the Clerk's office and establish exactly where your Bill is. I have not seen any Bill of the nature you purport to be before the House Business Committee. Maybe you can follow up with the Bill tracker and get to know where your Bill is. I encourage Members, like Hon. Millie, to follow up on their Bills. For the Government Bills, they are well in line. Those that have been passed by the Cabinet will be lined before the House Business Committee (HBC) for consideration and scheduling of business.

As usual, tomorrow, Thursday at 2.48 p.m., Hon. Millie, please, note the time, I will be reading the business that is listed for next week. You should, however, not belittle the work that is before the House in terms of Motions and the general debate on constitutional amendments. Part of what the Deputy Speaker tabled this afternoon... I know the ultimatum given by your party leader was ending today and, probably, that is what you were working on. While you were away, the Standing Orders Report by the HBC was tabled and is scheduled, hopefully, for debate tomorrow afternoon. It is good you be present. I am sure, at one point, you worked in the HBC; it will be good to hear your contribution. Otherwise, there is a lot of business lined up and I just need to encourage you to be appearing in the House in good time; not at 5.00 p.m. when everybody is about to leave.

Hon. Millie, do not belittle the contributions. I know there are about 100 Members plus who have contributed to this general debate on constitutional amendments. This debate is not for nothing. It will inform what will eventually become the Constitution of Kenya (Amendment) Bills, for example, the issue of the two-thirds gender rule which is very dear to Hon. Millie Odhiambo. There are also the issues of creation of the Office of the Leader of Official Opposition, anchoring of the National Government Constituencies Development Fund (NG-CDF), Senate Oversight Fund, and the National Government Affirmative Action Fund (NGAAF) in our Constitution. It is, therefore, only fair you allow those who are interested to give their remarks. You may not have contributed, but kindly allow the other Members who have not contributed to do so in order to enrich what will eventually get into the Bill. Therefore, it should not be seen like that particular Motion is superfluous or a wastage of the House's time. It forms part of what will eventually inform the Bill.

Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Very well. I think that matter is settled. There are Members who want to speak to this particular Motion. We shall have the Member for Butula, Hon. Maero Oyula. I know there are many Members who have not spoken to these matters. So, let us allow them to speak.

Hon. Oyula, you may proceed.

Hon. Maero Oyula (Butula, ODM): Thank you, Hon. Temporary Speaker. May I take this opportunity to congratulate our women in Kenya on this International Women's Day, particularly, the women of Butula Constituency who supported me to be here.

I support the current Motion in as far as it does not touch on the amendments that affect NG-CDF, NGAAF and Senate Oversight Fund. I will not support other areas at the moment, but will only do so with regard to anything to do with NG-CDF. As you know, NG-CDF is one of the funds that have developed this country. It is, therefore, important that it is

safeguarded from threats coming from anywhere that, say, it should be removed or disbanded. I do not have much to say because I had already talked about it earlier.

I only support the issues to do with NG-CDF, NGAAF, and the Senate Oversight Fund. Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Very well. If you had spoken on this particular Motion, you may want to declare it early enough so that you do not speak to it twice. Let us have, Hon. Paul Biego. I am told he had already spoken. Hon. Johana Kipyegon? Is he not in the House? I can see the Member for Kibra, Hon. Orero?

Hon. Peter Orero (Kibra, ODM): Thank you, Hon. Temporary Speaker. Before I speak to this Motion, just like my colleagues, I want to wish all the women good luck on this International Women's Day.

This Motion before us touches on various aspects of constitutional change. It is going to be a piecemeal change on the Constitution. Some of the areas that are proposed for change will require a referendum. The amendments must be consistent with the requirement of our laws. We have the NG-CDF in this Motion. Since the inception of the NG-CDF, we have had court determinations stating that it is not legally constituted. We have an opportunity now to look at the matter again and ensure that we anchor it in the Constitution.

Money from the NG-CDF has helped Kenyans all over the country. When you go to our constituencies, you realise that NG-CDF has done a lot more than any other fund in existence. Members need to anchor it in our Constitution so that the future generation is guaranteed enjoyment of our efforts. The same goes for the oversight money proposed for the Senate. They also need to carry out their work effectively. You will, however, realise that these issues have been lumped together with that of creation of the Office of the Leader of Official Opposition.

At the moment, our country has a system that is not parliamentary. We are going to mix our current system with something else if we allow Cabinet Secretaries to come and answer Questions in Parliament. Is ours a parliamentary or a presidential system? In a presidential system, we have the Leader of the Majority Party and the Leader of the Minority Party. We have to review and see whether we are still going to maintain the presidential system or have a hybrid of the presidential and parliamentary systems. Before we pass this Motion, we must be sure about where our country is headed. Are we going to have a hybrid system or a presidential system, which is in our 2010 Constitution? When we create room for the Leader of the Official Opposition, it must be definite because in the 2010 Constitution there is a requirement that we subject such an amendment to a referendum.

I, however, take this chance to support that the NG-CDF, NGAAF and the Senate Oversight Fund to be anchored in our Constitution.

The Temporary Speaker (Hon. Omboko Milemba): Thank you.

Hon. Kassait Kamket, Tiaty Constituency.

Hon. Kassait Kamket (Tiaty, KANU): Thank you, Hon. Temporary Speaker.

I rise to support this Motion. The Constitution of Kenya, 2010 is piece of supreme law that we gave to ourselves albeit under very difficult circumstances. It was the late Hon. Michuki who made the famous confession that although they had clamoured for change of the Constitution without knowing that that moment would arrive, when it did, they did not know what to do. Indeed, the late Michuki went ahead and confessed that all they were after was the removal of the former President Moi from power. They disguised their intentions in constitutional amendment proposals. Now we find ourselves in a situation where we have a mongrel of a Constitution. As leadership, we have to be very careful when we talk about the Constitution.

There is a saying that you do not have to fix it if it is working. The Constitution we inherited at independence was working very well. The hybrid system had served this country

for so long and so well. I have the experience of having been a member of staff of this National Assembly. I have observed, from the Hansard Box up there, members of the Executive and Ministers come to answer Questions on the Floor of this House. At that time Ministers were also MPs. There was no better and accountable system of government. What did we do? We went ahead and borrowed some systems from the United States of America or I do not know where. We created a Parliament that speaks to itself. What do we do in this Parliament? We speak to ourselves. Nobody is listening to us. Cabinet Secretaries are busy with their meetings. There is no better authority than the authority of the Speaker making orders to a Cabinet Secretary when he or she is seated here with us and listening to those orders.

When Chairpersons of committees come to answer Questions, what are we doing? We are speaking to ourselves. We are making a mockery of representation. For instance, how can I ask Hon. Chererot, Member for Kipkelion East, a parliamentary Question because he is a Chairman of a Committee? When I follow up with him on a supplementary question he has no answer at all. I think it is time we brought Cabinet Secretaries to Parliament. That is so that we as the elected representatives of the people hold them to account and the Speaker sitting on your Chair makes orders to that Cabinet Secretary. That way, any matter will be resolved; whichever matter the Member is raising.

On the matter of the NG-CDF, my heart pains when I see all these busy bodies trying to besmirch its good name. Where I come from, 90 per cent of projects ever completed have been done by the NG-CDF. Giving credit to myself, I feel proud of the amount of work I have done for my people since I became an MP in 2017. In order to safeguard the NG-CDF from all the busy bodies that have been litigating around, it is our job as MPs to entrench that piece of legislation and make it unreachable to all those litigants. The same applies to the NGAAF as well as the new fund that we are proposing, the Senate Oversight Fund. If we do not do this as a House, we will be exposing ourselves to the hellbent shenanigans in the streets. There is a lot of jealousy in this country, especially from those we defeated in elections. Their job is just to hire funny lawyers on the streets there to try to kill the dreams of Kenyans. We have a choice as MPs. As said by the speaker ahead of me, we have a choice as the leadership. What kind of democracy are we going to practise? Are we going to practise parliamentary, presidential or a hybrid democracy?

I came up with what I thought was a very good piece of legislation to amend the Constitution during the last term. I made suggestions. I believe what needs to be done in this country and what serves this country best is a hybrid system of government. That is what is happening even among neighbouring jurisdictions. In Uganda and Tanzania, they have hybrid systems. It is working very well for them. It is time we reverted to the Constitution that we threw without knowing what we were throwing away.

With those remarks, I beg to support.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Caroline Ng'elechei.

Hon. Caroline Ng'elechei (Elgeyo Marakwet County, Independent): Thank you for giving me this opportunity.

Firstly, today being International Women's Day, let me wish all the women in this House and outside this House a happy day. Being a woman is sometimes so challenging because we should be all-rounded. We deal with so many issues from our homes, Parliament, the streets of Nairobi, and Iten where I come from. I wish good to each woman, especially those who wake up to come and legislate for their people.

Secondly, let me wish the great women of Elgeyo Marakwet a happy International Women's Day. They are faced with so many challenges, especially in this period of insecurity. They have to endure and persevere a lot during this time of war in their county. I encourage them to keep our hopes alive. We believe that the storm will soon be over. There is a special woman you discussed today. I would have wished to contribute on the Motion but you did not

give me an opportunity. She is Dr Susan and she comes from Elgeyo Marakwet County. I also wish her a happy International Women's Day. Indeed, the gift came at the right time.

Concerning the issue under discussion, I am not new to it. I contributed my bit last time. That is never enough because this issue touches on us. Today being an International Women's Day, I will just do a follow up of my contribution of last time on the two-thirds gender rule.

The Temporary Speaker (Hon. Omboko Milemba): Order. As I indicated, you should declare if you contributed on this Motion then we allow a Member who had not spoken on the same Motion to have a bite. If you had spoken on it, we may move to other Members.

Hon. Caroline Ng'elechei (Elgeyo Marakwet County, Independent): Just allow me to add something new on the discussion. I am not repeating what I said.

The Temporary Speaker (Hon. Omboko Milemba): Please, that is taken. Let us have the next Member and that is Hon. Christine Ombaka. Had you spoken on this Motion?

Hon. (Dr) Christine Ombaka (Siaya County, ODM): Thank you for giving me this opportunity. Before I contribute, I also want to wish all the women a happy International Women's Day. Women work very hard, from morning to the next morning. They carry the burden of the family. They are working mothers. They have all sorts of work. We celebrate them because they are heroes. In Siaya, I talked to quite a number of them today. They are celebrating in the stadium. I wish them all the best. I recognise they are hardworking women. They are role models. They are the eye of the community.

My contribution to this constitutional amendment will not be a big one. I just want to highlight the fact that the three funds we are talking about, that is, the NG-CDF, NGAAF and the Senate Oversight Fund are very relevant funds that we need to entrench in the Constitution. Every Member of Parliament needs some funds to control and use in various projects that they have implemented in their constituencies.

I remember when I first came to this House in 2013, Women Representatives did not have any funds. There was no NGAAF. We never had this money for four years. The NGAAF came into existence in 2016. During that time, between 2013 and 2016, I suffered a lot as a Woman Representative because I had nothing to contribute to society. I had neither money for bursary nor projects to implement. I looked so weird in the middle of my fellow Members of Parliament who had NG-CDF. That time, the late Hon. Jakoyo Midiwo was my Member of Parliament and we went to many places together. We worked very closely as we accompanied each other to many *harambees*. One day he carried Ksh1 million to give to a school that wanted to construct a laboratory. I never had any money on me. I only had Ksh10,000 from my pocket and I looked so out of place when my colleague Midiwo contributed Ksh1 million. People started wondering whether I was a Member of Parliament since my contribution was so little compared to my colleague's. It was difficult to explain but I looked totally embarrassed because my contribution was far too little compared to what Jakoyo Midiwo was contributing. That tells that if a Member of Parliament does not have any funds to control or make use of in a community, that Hon. Member will have a difficult time trying to convince the community that he or she is a good leader capable of representing them.

When NGAAF came into existence in 2016, we started seeing the light of day and we have actually worked very hard as Women Representatives with this little money. So, it needs to be entrenched in the Constitution because as it is right now, it is within the Ministry of Public Service, Gender and Affirmative Action and anybody can remove it when they want. It is not safe where it is. So, I support its entrenchment in the Constitution.

Senators do not seem to be visible in the community because they have nothing to offer to the people. People do not know what role the Senators play because they do not have NG-CDF or any kind of fund. So, their visibility is minimal and that is why we have every justification that these funds must be introduced so that they too can be seen to be working. They can use the money for oversight and they will be more visible that way. Right now, their

position is a bit precarious. They are not easily recognised and people do not know what their roles are. For us to empower each other as Members of Parliament, each Member of Parliament should have something to work with, to control and to use for development in the community. *Wananchi* out there do not judge you by how you talk in Parliament; they judge you by the projects you implement for them. So, funds are very important and whatever funds we agree on, whether it is NG-CDF, NGAAF or Senate Oversight Fund, they must be safeguarded and entrenched in the Constitution.

My last point is on the issue of Cabinet Secretaries coming to Parliament to answer Questions. They still come even without this Constitution being amended. They come, not in Parliament, but in our committees, especially during budget-making process. We always invite them to come over and sometimes they do and sometimes they do not come. They are also a total disappointment in some cases where they do not turn up and they do not give any reason but only send their representatives. If you bring them in plenary to answer Questions, challenges are going to be there and we need to be prepared for that. If they take all the time answering Questions, then we will never pass any Bills here. They may occupy too much of our time. My fear is that committees, where they should be answering Questions, will have no role to play. They will be rendered irrelevant. The committees will not have much to do because Cabinet Secretaries will be coming to plenary to answer Questions.

The next thing is this: Is it a Building Bridges Initiative (BBI) issue? Can it be clearly explained? If it is BBI, let us implement what we had proposed in the BBI. It is not so clear as to how it is, but challenges will be there when we bring Cabinet Secretaries into plenary to answer Questions. A lot of time will be consumed. We may not be able to have enough time for them. The right place to have them is within a committee set up as it is right now.

Thank you for giving me this opportunity. I support the Motion.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Joseph Chererot.

Hon. Joseph Chererot (Kipkelion East, UDA): Thank you so much, Hon. Temporary Speaker, for giving me time to contribute to this Motion.

First of all, let me take time to congratulate our women because today is the International Women's Day. I specially want to congratulate our African women who take a lot of time to fend for their children and to do house chores. On this one, we give them credit and I treat them as our heroines. So, congratulations to our women because of what they do. Congratulations also to the women in this House who have been contributing to Motions and Bills. Indeed, they represent their constituents.

Hon. Temporary Speaker, we have talked a lot about this Motion. Remember we passed the Constitution in 2010 while it had some issues and we used to talk about the 20 per cent that could be amended. In the 2010 Constitution, we considered the Bill of Rights and that is why we have a challenge with the issue of Lesbian, Gay, Bisexual, Transgender, Queer or Questioning, Intersex Asexual and more (LGBTQIA+) that came out the other day. It is because of the 2010 Constitution.

I support the amendments that have been brought because they will help us, especially with regard to the two-thirds gender rule which has been a thorn in the flesh of many in this House. It has taken a long time to be attained even though our women have been fighting for it. I am grateful that the President is the one pushing for these changes. The other day he talked about it during Valentine's Day. He said that before the end of the year, he will make sure that something is done about the two-thirds gender rule in Parliament.

Hon. Temporary Speaker, the other thing is about Cabinet Secretaries coming to the House to answer Questions. I support this 100 per cent because Cabinet Secretaries are the Executive. In most cases, having them come before committees is like entertaining bureaucracy and we know that will take a lot of time for issues to be sorted.

On NG-CDF, there have been a lot of problems and, as a result, derailed development in our country. If it is entrenched in the Constitution, that Fund will be protected. It is the same thing with the NGAAF and the proposed Senate Oversight Fund. So, this will help us to deliver services as Members of Parliament.

On the issue of the Office of the Leader of Official Opposition, it will go a long way in making the opposition leaders, now and in the future, perform their duties effectively with a lot of decorum.

Thank you, Hon. Temporary Speaker. I support this Motion.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Eng. Nebart Muriuki, Member for Mbeere South. Try the next microphone just close to you. It is already on.

Hon. (Eng.) Nebart Muriuki (Mbeere South, Independent): Thank you, Hon. Temporary Speaker, for giving me this opportunity to contribute to this important Motion. Before I do that, I want to join my colleagues in congratulating and thanking the women of this country during this International Women's Day. In particular, I want to recognise the women of the constituency that I represent, Mbeere South, for the hard work that they do. Mbeere South is a semi-arid constituency. At this time that the country is experiencing one of its worst droughts in its history, the women of Mbeere South wake up very early in the morning and walk up to 20 kilometres to look for water for their families. They also fend for their families. I congratulate and thank those women. A family without a woman in Mbeere South is a lonely family. It can easily go without water and food. However, by the grace of God, women are strong and they are supporting their families. I request that those women are supported to fend for their families through relief food.

On the Motion, I support it. When we talk of elected leaders in this country, whether they are MPs, Women Representatives or Senators, they are not different from the people they represent. To them, they voted in their best people, and they expect...

(Hon. Memusi Kanchory crossed the Floor without bowing)

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. Member! Why are you crossing the Floor of this House without bowing? Please, just go back and do the correct thing. That is not how you treat this House.

(Hon. Memusi Kanchory bowed at the Bar)

Very well. Come back. You may proceed, Hon. Member on the Floor.

Hon. (Eng.) Nebart Muriuki (Mbeere South, Independent): Thank you, Hon. Temporary Speaker. I thought it was directed at me.

The Temporary Speaker (Hon. Omboko Milemba): No.

Hon. (Eng.) Nebart Muriuki (Mbeere South, Independent): Thank you. I was saying that for the people we represent, whether they vote in a woman representative, a Member of the National Assembly or a Senator, their expectation is the same. When they bring their problems to those leaders, they expect them to sort them out. Unfortunately, like we are witnessing now in this country, when a new Government takes over, those who did not make it will start to ensure that those who won do not perform. They will want to make them ineffective so that it can be said that they are useless and they should be removed from office before their term ends. That is what has been happening with the NG-CDF. Those who went to court to block it knew that this Fund is doing miracles in this country. They knew that anything that got down to *mwananchi* was through the NG-CDF, which is transforming the country. The essence of the litigations was to try and make the Government and the MPs that were elected ineffective. I support that we entrench NG-CDF, NGAAF and the Senate

Oversight Fund in the Constitution so that we seal the loophole that people have been using to make this country remain backwards and under-developed just because they were pursuing their personal interests.

Kenya is experiencing the worst time because of drought. If you look at the NG-CDF, many children would not have gone to school if the Fund was not there. The Fund has assisted many families to take their children to school when they had very little money to support their families. Most of the resources that families have are now going to food. We should broaden the scope of that Fund. There are things, especially health, which we cannot do with that Fund because it is under the functions of the counties. As we know, health is a very key issue in every family and community. The MPs find themselves in a tricky situation when they are asked to support health issues. We get requests to support heavy medical bills, buildings and equipping dispensaries, but our hands are tied because those are the functions of the counties. As we propose to amend the Constitution, we need to broaden the scope of the NG-CDF so that it covers most of the needs that affect the people that we represent.

On the issue of ministers appearing before this House to answer Questions, I support it. We know that when we refer Questions to Committees, they also have to refer them to Ministries that have to communicate back to this House through the Committees. When communication is done that way, information is lost. If we have Cabinet Secretaries appearing before the House to represent their Ministries and engage us on whatever issues that arise on a one-to-one basis, information will not get lost. However, we cannot make the Committees of this House irrelevant. My proposal is that before a CS appears before this House to engage the MPs, he must of necessity engage with the Committee so that when answering questions before the House, he has the full backing of the Committee. In other words, the Cabinet Secretary will be answering Questions on behalf of the Committee. He will not be engaging the Members of the Committee in the House. The Committee Members should be coming to support the Cabinet Secretary fully aware of what he will present before the House. I support this proposal with a rider that Cabinet Secretaries must fully engage Committees before appearing before this House.

On the two-thirds gender rule, it has proved impossible to achieve through elections. So, if we come up with a mechanism of topping it up through a constitutional amendment, then it will give room for representation of minority communities. Minority communities are not just regional and in the counties. We can have minority communities within a constituency, a county and a region. So, if the two-thirds gender rule can be incorporated in the Constitution in such a manner that topping up of Members is allowed, minority communities will have opportunities to get nominations to come to this House. That way, everyone in the country will be fully represented in this House. I support that.

I support the creation of the Office of the Leader of Official Opposition so that the opposition can conduct their business in the House instead of on the streets. If that had been allowed, the mass action we are hearing about would not be spoken about out there. It would have been spoken about and discussed right in this House to see the pros and cons of having mass action at this particular...

The Temporary Speaker (Hon. Omboko Milemba): Hon. Peter Lochakapong.

Hon. Peter Lochakapong (Sigor, UDA): Thank you, Hon. Temporary Speaker, for giving me this chance and opportunity to add my voice to this Motion. At the outset, I wish all the women of Kenya a happy International Women's Day.

I support the proposal to amend the Constitution at this particular time. By entrenching the NG-CDF in the Constitution, we will avoid the many court cases that we have seen in the recent past. This will sort out those who have been very busy engaging in that kind of activity and extorting people through that process.

Everybody in this country appreciates that from its inception to date, the NG-CDF has done a lot. The NG-CDF has brought many parts of this country closer in terms of development and made them equal. This is because we share our national Government revenue to every constituency on an almost an equal basis, which is a good thing. We have put up classrooms, security installations in terms of police posts and houses, and chiefs' offices using the NG-CDF, which have enabled administrators at the lower level to perform their work well. Ensuring that we move on with the NG-CDF without any interference from any quarter is a good idea.

Entrenching the NGAAF in the Constitution is also a welcome move. Just like the NG-CDF, NGAAF is also doing good work within our constituencies and counties. The Senate Oversight Fund will enable Senators to oversee resources that are sent from the national Government to counties without being compromised. As it is now, chances are that to a great extent, and because of limitation of resources, Senators are unable to effectively oversee whatever resources have been appropriated to counties. Creating an oversight fund for Senators will empower and facilitate them, and they will have no excuse while overseeing whatever resources counties will receive. Therefore, this is a good idea and I support it.

Hon. Temporary Speaker, we have on very many occasions attempted to pass the two-thirds gender rule in this House with no success. The proposal to amend the Constitution so that we can effectively achieve the two-thirds gender rule through a proposed formula is a welcome idea. We will now sort out what we have been unable to do for the last 10 or so years. It is, therefore, important that all of us support this proposal so that we achieve the two-thirds gender rule in this House.

Amending the Standing Orders so that Cabinet Secretaries come and answer Questions that are of concern or affect the people of Kenya is also a good idea. Many times, when Cabinet Secretaries appear before Committees, they just answer the Question as it is presented to them. They may sometimes not be prepared to answer any follow-up questions. The mere fact that Cabinet Secretaries will know that they are appearing before this House will make them prepare adequately. This is so that should there be follow-up questions, that Cabinet Secretary will be more than prepared to answer them appropriately while in the House.

Many times, when Committee Chairpersons are taken to task over matters in terms of follow-up questions, they are not able to answer them. They always request for time to consult. If Cabinet Secretaries come here themselves, some of these things will be addressed on the Floor of the House almost immediately. That is a very good idea and it tells you how much this Government is willing to be accountable to Kenyans. Having Cabinet Secretaries appearing in the House shows that the Government has nothing to fear in terms of being accountable to the people of this Republic. That is welcome.

Finally, the proposal to create the Office of the Leader of Official Opposition is a good thing. That office should be facilitated and financed through public funds. Therefore, whenever the leader of official opposition wants to undertake programmes, projects or do anything else, we will know where we to find him. It will not be like the current situation where even if you wanted to engage him, you may not really know where to find him. I believe that now that, that office will be facilitated and financed through public funds, it will be more accountable. This is because Kenyans will demand for accountability from that office because any office that enjoys the benefits of being financed through public resources must also be accountable to Kenyans. We will make the Office of the Leader of Official Opposition be a bit more accountable to Kenyans and keep the Government of the day in check. That is a good thing. It will ensure that everybody is kept on their toes and does what is required of them.

Hon. Temporary Speaker, with that, I support this Motion. Thank you very much.

The Temporary Speaker (Hon. Omboko Milemba): Okay. Hon Charo Kazungu. Is he in the House?

Hon. Kenneth Tungule (Ganze, PAA): Thank you, Hon. Temporary Speaker, for giving me this opportunity to contribute to this Motion. Before that, I also join my colleagues in wishing the women of Kenya a happy International Women's Day. A special mention goes out to the women of Ganze, who are very hardworking and have borne the brunt of the hard life that they are experiencing there because of high levels of poverty and also effects of the current drought. The women of Ganze are very resilient because they wake up every morning and walk long distances to look for water and to do all kinds of menial jobs to fend for their families. In all those hardships, they have remained courageous, resilient and have maintained decorum. Therefore, special mention goes out to them as they celebrate this International Women's Day.

Coming back to the Motion, I want to support it as it is timely. The NG-CDF has done a lot of wonders in the constituencies. There are many projects that have been initiated and completed through the NG-CDF. As my colleagues have said, many regions in this country have been brought at par because of that Fund.

There are many busybodies out there who have kept fighting that Fund. I think they are doing this for their own selfish benefits. The Fund has remained very vulnerable. It is high time as Parliament we entrenched it in the Constitution so that we can cushion it from those kinds of busybodies.

We have so many projects that are done through that Fund which are not funded through the counties. One of the arguments that have been fronted by people who are fighting it is that that Fund should go to the counties. We know that according to Schedule IV of the Constitution, there are those functions that were never devolved. It is those functions that are being taken care of by the NG-CDF right now. Once that Fund goes to the counties as those people are demanding, we will have no funds to take care of the functions that were never devolved. In the education sector, for example, counties only fund the pre-primary education. However, from primary schools all the way to tertiary institutions that can be funded through the NG-CDF.

We have seen many students benefitting from the NG-CDF bursaries. In an area like Ganze where I come from, poverty levels are very high. Majority of the people out there depend on the NG-CDF bursaries to take their children to school. Once this is removed, then it means many people are not going to access education. I support the idea that the Fund needs to be entrenched in the Constitution so that we can protect it for posterity.

The NGAAF is a fund that has brought a lot of dignity to the Office of the County Woman Representative. I remember this is an office that used to be ridiculed by many people. Some were alleging that County Women Representatives were flower girls of MPs and Governors, and there was nothing that they were doing. Having this kitty to take care of the functions of that office is also a timely thing to do. This is so that the County Woman Representative can deliver services to the *wananchi* going forward.

I also support the Senate Oversight Fund. Having worked in the counties before I joined Parliament, I know that there is need for Senate to oversee what is happening in the counties. Many a times, Senators serve at the mercy of the governors to provide the oversight role. I am not intending to impute improper motives, but it is very easy for the governors to compromise Senators and, as a result, not provide oversight as they are required. If they have a fund of their own, they can come up with their own programmes without involving the governors. They can visit those counties and follow up on the monies that were sent there by the national Government. In doing so, it is going to bring a lot of value to the monies that are sent there. Once governors know that senators can come there without relying on them for facilitation, I think a lot of good work is going to happen at the counties and this will benefit the country.

The issue of Cabinet Secretaries coming to the Floor of the House to answer Questions is a good idea. As it is right now, it is the Committee Chairmen who take responsibility of

answering Questions in this House. Most of the answers that are given here are generic and not satisfactory to most of the Members. Hon. Members have no avenue to ask further questions because it may take another two to three weeks for them to get an answer to a supplementary question. Once those Cabinet Secretaries come to this House, they will be prepared enough for the Questions. They will give satisfactory answers, and if there are any follow up questions from the Members, it will be easy for the Cabinet Secretary to give answers as well. I support the idea that those Cabinet Secretaries need to come to the House to answer Questions from the MPs.

The issue of two-thirds gender rule has been an elusive one in this House. There have been many attempts by this House to crack it in vain. This amendment gives a formula on how to achieve that. It is not beginning in this House, because I know it has happened in the counties where we have been having gender top-ups. We can also do it here so that we can once and for all get a solution to that kind of problem.

The only issue here, maybe, is a complication that has been brought about by the Supreme Court when they allowed the issue of LGBTQIA+. They sort of re-defined the meaning of gender once that rule is approved in this country. This is the reason why this Parliament needs to refuse the ruling by the Supreme Court. We used to know gender as either male or female, but with this new ruling that has come into being, it means gender has now expanded. We have male, female, gays, lesbians, queer and all those things. It means now there will be a lack of clarity on how we are going to achieve the two-thirds gender rule again. It is not about male and female anymore because the scope of gender has been expanded. This is another reason why we need, as Parliament, to make sure that the ruling does not come into effect in this country.

Finally, I support the issue of the Office of the Leader of Official Opposition. Government needs checks and balances. The best person to do that is the runner up in an election. Once this person is facilitated using Government funds, I know he or she is going to keep the Government in power on toes, which is good for the running of the country. It provides enough oversight and this is going to be of benefit to the people of the country at large.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Let us have Hon. John Kiragu, Member of Parliament for Limuru.

Hon. (Eng.) John Kiragu (Limuru, UDA): Thank you, Hon. Temporary Speaker for giving me an opportunity to contribute. First, I want to salute the women of this nation. I particularly honour my mother, wife, two daughters and also not forgetting the great women of Limuru, who are the major engine of development in our constituency. I will not also forget the two ladies, First Lady and the Second Lady, who have led this nation in times of prayers. As a God-fearing nation, we know that God will come through for us even at a time like this.

I support this Motion, particularly on this Women's International Day on the matter of two-thirds gender rule. It is about time that we finalised on this matter. This issue has been there for some time and the President has provided a very simple formula of how we can achieve it. The women of this nation need to be supported in this matter. We know their contribution and how important they are in this nation. We need to achieve the two-thirds gender rule, particularly in this House.

Hon. Temporary Speaker, I also rise to support anchoring of the NG-CDF, NGAAF and Senate Oversight Fund in the Constitution. Having served in the 11th Parliament, I saw what the CDF can do. During that time which was five years ago, we in Limuru established five secondary schools in areas where transition to high school was a very difficult thing. We know that there are the challenges of improving education and security. This Fund helps a lot in solving this matter. However, we know that it is not everybody who is happy with how NG-CDF works. It is practical and achieves results, and some people have been fighting it. There

are people who are against development. They are jealous and think that the poor should not have an opportunity to improve their lives. This Fund supports the people who are at the bottom of the economic ladder, and they are able to move themselves up and contribute a lot in this country. The last two weeks after issuing bursaries in Limuru to about 13,000 children, we still have a challenge of being unable to help many others who cannot afford enrolling themselves in Form One. I organised a marathon to raise more funds, and through it, we were able to take 50 more children who were at home to school. It pains me a lot to hear people say that since the Fund is not in the Constitution, it is not good. It should be entrenched in the Constitution, so that the enemies of the poor will have nothing else to base their argument on.

I support the NGAAF because it will help in dealing with special needs and reaching out to the people who are not well off. The Senate Oversight Fund is good because it helps the Senators oversee the work that is done on the ground. If you go around in most of the counties, to be honest, most of what you see are NG-CDF projects. The Senate will help to push the governors so that more money for development is seen on ground.

I also support the revision of the Standing Orders to allow Cabinet Secretaries to come to the Floor of this House. This will help us get answers to the Questions that we raise through Committees. We know that it will be a time for us to also evaluate the performance of the Cabinet. Most of the answers given through the Committees are sometimes not serious because they know that the Cabinet Secretaries appear before Committees. As for those selective Questions that the House will find necessary for the Cabinet Secretaries to come and answer on the Floor of the House, it will help us provide better oversight.

There is the issue of the establishment of the Office of the Leader of Official Opposition, which is a good idea. Anybody who will serve in the opposition will be facilitated. They will have a research team to help them address the issues that they need to raise with the Government. When you listen to people shouting and talking about what the Government is doing in rallies, the information is not always researched or factual. However, with an office and facilitation, it will help enhance democracy in this country.

I thank you for giving me the opportunity to contribute. I support the Motion.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Fabian Muli, Member for Kangundo.

Hon. Fabian Muli (Kangundo, GDDP): Thank you very much, Hon. Speaker for giving me this opportunity to join my colleagues in deliberating on this Motion. Let me start by congratulating the women of this country, especially from my constituency. I wish them all the best as they celebrate their day.

At the outset, the NG-CDF has been very contentious in this country. Many people feel that it is meant for MPs. However, I want to put it clearly that it is for Kenyans. It is money from the taxpayers of this country which is used to pay school fees of the vulnerable children in our community. In the CDF Act of 2003, we were getting 2.5 per cent of the national revenue. It grew to 3.5 per cent of the national revenue in the CDF Act of 2006. The CDF Act, 2013 is the one that has been highly contested in the court. This is why our President has brought up a good idea of entrenching it in the Constitution. We use NG-CDF today to do the things we promise during campaigns.

When people vote for you in any political seat as a Member of County Assembly (MCA), governor, MP or Senator, they expect value for it. The NG-CDF is used by MPs to give people value. If you check how the document is organised, there is money for administration, security, sports, environment, infrastructure and education. We also need to remember the Church; 0.5 per cent of the Fund should be set aside for religion - either the church or the mosque. I am saying that because the NG-CDF functions for Kenyan communities but not for MPs. It is very important for the NG-CDF to be anchored in the Constitution and all those votes should be mentioned: administration, environment or security.

We should mention the amount which is allocated as per the policy document of the schedule of the NG-CDF. I support the proposal from our President.

There is another proposal to create the Office of the Leader of Official Opposition. We need to understand that it is very important to oppose, but we need to do it objectively. I do not need to oppose just because I was competing with you. We need to grow a democracy which is progressive. If you are doing the right thing today, I will support you. However, if you are doing the wrong thing, I will oppose you. That is what we call ideological thinking in terms of democracy. The Azimio la Umoja-One Kenya Coalition got almost 5 million votes. They need an office where they can be heard. Every Kenyan needs to enjoy the right of this jurisdiction. The Office of the Leader of Official Opposition should have funds.

I am also going to challenge the people in Azimio that they should not feel like this Fund is meant for them. This Fund is meant for the person who becomes runners-up in the presidential elections. Most likely, this Bill may take effect after 2027, and I am sure that our party, the GDDP, may become number two. I may actually be campaigning for these funds for my party. I am not seeing the Azimio Party becoming number two anymore. I know who will be number one, but they will not be number two. So, they should not feel like we are seeking funds for them. We are creating a fund for Kenyans who are contesting for presidential seats. There is always someone who becomes number one, another one becomes number two, and another one number three and so forth. So, we are talking about number two because we do not know which group will become number one. As party leaders, we are also willing to get into the challenge and become number one or two. If we become number two, we will have mobilisation fund. We will need to meet our supporters, oversee the Government and ensure we support the democracy of this country.

The other thing that we need to look at as a country is the issue of elections and understanding. In this House, we have Leader of Majority Party and Leader of Minority Party. This House has no opposition. In as much as we support these proposed amendments, how will this House be organised? We have to consider our Standing Orders. We may consider having the Leader of Majority Party to be the leader in Government and a position to be created for opposition leader to sit in this House. I do not see how we are going to facilitate somebody in an office somewhere who leads other people in the House from outside and not inside the House. So, in our Standing Orders, we need to consider opposition leader not only to be visiting the House to address Members once a year, but give him a seat in this House.

On the issues of having Cabinet Secretaries coming to this House, you saw what happened recently. Members of Parliament were given opportunities to serve as Cabinet Secretaries. We made those people to resign from their office, we gave the Independent Electoral and Boundaries Commission (IEBC) a lot of work and their voters were made to vote again for other leaders. We need to anticipate that an MP or a Senator can become a Cabinet Secretary because as it were, if they are coming to the House, they will just be answering Questions. What is the point of keeping a Question until the Cabinet Secretary comes to the House, whereas I can just ask whatever time it is if he is also a Member in the House? I support this proposal of amending the Constitution and the Standing Orders but going forward, we might end up in a constitutional review on some of these proposals. We need to consider MPs and Senators to be Cabinet Secretaries instead of being appointed from outside. Getting an MP to become a Cabinet Secretary pushes the constituents to go for another election and the net effect is that the IEBC will end up spending a lot of money, and people in the constituency also spend their time to vote.

The President has shown goodwill by giving hope to our Senators. A Senator leads a whole county. A county like Machakos, where I come from, has nine constituencies. This person will use all the logistics to campaign. He will make all the promises, for instance, that he can build a class, he can start a cooperative society, or he will support this or that.

Unfortunately, he has no funds to keep those promises. We, therefore, need to give value to the seat of a Senator. They need to be given value so that they can even give bursaries.

Today is International Women's Day. The President has come up with an arithmetic to show us that the two-thirds gender rule can be achieved in government offices, this House and the Senate. We do not even need to debate about this. It is just a matter of supporting it.

On the issue of giving Cabinet Secretaries chance to come to this House, we need to consider some functions. There are some functions which we give to Cabinet Secretaries and yet, we have devolved them. For instance, health. It is showing that in this country, the county governments have failed to organise the health sector. We should propose that health becomes a function of the national Government. We need to save Kenyans from suffering in public hospitals. There is no medicine and there is no proper control of doctors. We also do not have hospitals categorised accordingly.

With those few remarks, I support. Thank you very much.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Aden Mohammed, do you want to speak on this?

Hon. Mohammed Adow (Wajir South, ODM): Thank you, Hon. Temporary Speaker. Let me join my colleagues in wishing our ladies and women a happy International Women's Day. We are wishing them well, we support them and we are with them in all their endeavours.

On the issue of two-thirds gender rule, it is a no brainer. Our Constitution has already ordained that we should have the two-thirds gender rule, and we have not done it up to today. It is an indictment to this Parliament. The Supreme Court in the last session said that this House is unconstitutional. They even wrote to the President asking him to dissolve it. It is high time as National Assembly and Parliament we passed the two-thirds gender rule and allow, at least, each gender to be represented either in one or two-thirds gender. So, I urge my colleagues both in the Senate and National Assembly to pass this proposal. I do not think the Senate has that problem, but as a constitutional amendment, let us pass it. As far as the leader of opposition is concerned, I think it is up for debate.

Hon. Adagala Beatrice (Vihiga County, ANC): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Adagala, what is your point of order?

Hon. Adagala Beatrice (Vihiga County, ANC): Thank you. I rise pursuant to Standing Order No. 35 (1) to claim that there is no quorum. Before you give your judgement, I wish all the Kenyan women a happy International Women's Day.

The Temporary Speaker (Hon. Omboko Milemba): Well, Serjeant-at-Arms, could you please ring the Quorum Bell?

Hon. Mohammed Adow (Wajir South, ODM): Hon. Speaker, should I proceed or wait for the bell?

The Temporary Speaker (Hon. Omboko Milemba): Please wait.

(Quorum Bell was rung)

ADJOURNMENT

The Temporary Speaker (Hon. Omboko Milemba): Hon. Members, the bell has been rung for 10 minutes, and I can confirm that there is no quorum in the House.

The time being 5.46 p.m., this House stands adjourned until Thursday, 9th March 2023, at 2.30 p.m.

The House rose at 5.46 p.m.

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