

# PARLIAMENT OF KENYA

## THE NATIONAL ASSEMBLY

### THE HANSARD

Thursday, 2<sup>nd</sup> July 2020

The House met at 2.30 p.m.

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

### PRAYERS

### MESSAGES

#### REFERRAL OF THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL, 2020 BY HIS EXCELLENCY THE PRESIDENT

**Hon. Speaker:** Hon. Members, I have two messages. The first Message is from His Excellency the President on the Public Finance Management (Amendment) Bill 2020.

Hon. Members, you may recall that on 6<sup>th</sup> May, 2020, the National Assembly passed the Public Finance Management (Amendment) Bill, National Assembly Bill No.2 of 2020. The Bill was sponsored by the Leader of the Majority Party. Following its passage, I did present the Bill to His Excellency the President for assent in accordance with the provisions of the Constitution and our Standing Orders. However, in exercise of the powers conferred under Article 115(1)(b) of the Constitution, His Excellency the President, by way of a Memorandum dated 11<sup>th</sup> June 2020, has since referred the Bill back to the National Assembly for re-consideration.

Hon. Members, in his Memorandum, His Excellency the President has expressed reservations on Clause 2 of the Bill which sought to amend section 24 of the Public Finance Management Act, 2012, by introducing sub-section 2A, to provide that the Parliamentary Service Commission may, with the approval of the National Assembly, establish any other funds for the purpose of Parliament or a House of Parliament. Amongst the reasons for his reservations, His Excellency the President notes that amending the law in the manner proposed in the Bill may lead to duplication of Funds intended for Parliament since one is already established.

He further adds that the provision in the Bill may also have adverse impact on the principle of separation of powers between the Executive and the Legislature with regard to the management of public monies. To fully accommodate his Reservations, His Excellency the President recommends that the Bill be amended to permit the establishment of other parliamentary funds, but limit the purpose of such funds to cater for Parliamentary Mortgage, Parliamentary Car Loan and the Parliamentary Catering which, indeed, was the intention of the Bill.

Hon. Members, Standing Order 154(2) requires the House to consider the President's Reservations within twenty-one (21) days upon receipt. In this regard, upon receipt of the Reservations, I directed the Clerk to circulate the same to all Members so that they can familiarise themselves with its contents. At the same time, I also referred the Reservations of His Excellency

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the President, as contained in the Memorandum, to the Departmental Committee on Finance and National Planning for consideration. I am informed that the Committee is ready to table its Report on the said Reservations this afternoon. The Report will ease the process of reconsideration of the Bill in the Committee of the whole House later during this Sitting.

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

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

The House is accordingly guided.

I thank you.

#### SENATE DECISION ON BILLS

Hon. Members, the second Message is the decision of the Senate on four Bills.

Hon. Members, pursuant to provisions of Standing Order No.41, I wish to report to the House that I have received Messages from the Senate regarding its decision on the following four Bills:

1. The National Drought Management Authority (Amendment) Bill, (National Assembly Bill No.26 of 2019).
2. The Petition to County Assemblies Procedure Bill, Senate Bill No.22 of 2018.
3. The Office of the County Attorney Bill, Senate Bill No.3 of 2018.
4. The County Early Childhood Education Bill, Senate Bill No.26 of 2018.

The first Message is in respect to the passage of the National Drought Management Authority (Amendment) Bill (National Assembly Bill No.26 of 2019 which seeks to amend the National Drought Management Act of 2016. The Message reads:

“The Senate considered and passed the Bill without amendments on Tuesday, 30<sup>th</sup> June 2020 and now requests the National Assembly to refer the Bill to His Excellency the President for assent”.

In this regard, I hope to send the said Bill to His Excellency the President for assent.

The second and third Messages relate to the decision of the Senate on the National Assembly amendments to the County Attorney Bill, Senate Bill No.3 of 2018 and the Petition to County Assemblies Procedure Bill, Senate Bill No.22 of 2018, respectively.

Hon. Members, the Messages read:

“The Senate considered and approved the National Assembly amendments to the two Senate Bills on Tuesday, 30<sup>th</sup> June 2020”.

The last Message is in respect to the decision of the Senate on the National Assembly amendments to the County Early Childhood Education Bill, Senate Bill No.26 of 2018.

The Message reads:

“On Tuesday, 30<sup>th</sup> June 2020, the Senate considered and approved the National Assembly amendments to Clauses 2, 8, 9, 15, 16, 20, 23, 24, 25, 29, 30, 35, 41, 43, 46, 47, 56, 63, 64, 66, 69

and the Second Schedule and rejected the National Assembly amendments to Clauses: 27, 28, 33, 36, 37,44 and 68 of the County Early Childhood Education Bill, Senate Bill No.26 of 2018”.

Hon. Members, in this regard, therefore, the said Bill will stand committed to a mediation committee in accordance with Article 112 of the Constitution. Consequently, the Leader of the Majority Party and the Leader of the Minority Party in the House are hereby directly to expeditiously nominate three and two Members respectively for appointment to the mediation committee to be established in consideration of the Bill. Once constituted, the Committee will be expected to speedily embark on the process of developing a mediated version of the said Bill in accordance with Article 113 of the Constitution.

Thank you, Hon. Members.

## PETITIONS

*(Several Hon. Members entered the Chamber)*

**Hon. Speaker:** Members making their way into the Chamber, could you, please, take your seats?

I have two Petitions to report on. The first one is Petition No.15 of 2020 regarding encroachment of the Nairobi National Park.

### ENCROACHMENT OF NAIROBI NATIONAL PARK

Hon. Members. Standing Order No.225(2)(b) requires the Speaker to report to the House any petition other than those presented by a Member. I, therefore, wish to report to the House that my Office has received a Petition submitted by Ms. Maureen Memmo of the Wildlife Now Foundation.

The Petitioner wishes to draw the attention of the House to some of the proposals in the Nairobi National Park, 2020-2030 Management Plan. The Petitioner avers that the current encroachment to the National Park by projects such as the Southern Bypass, the Standard Gauge Railway and the Internal Container Depot has led to degradation of the environment through increased air and noise pollution, change in migratory paths of wildlife, increase in human wildlife conflict and decreased sighting of animals.

The Petitioner is, therefore, concerned that some of the proposals in the Management Plan such as fencing and introduction of eateries may contribute further to the deterioration of the Park.

The Petitioner prays that the National Assembly, through the Departmental Committee on Environment and Natural Resources, looks into the matter to ensure that the future of this unique Park located right in the middle of the Capital, is not threatened by continued encroachment.

The Second Petition No.17 of 2020 regards the obstruction of tarmacking of the Konza-Katumani Road.

## OBSTRUCTION OF TARMACKING OF KONZA-KTUMANI ROAD

Hon. Members, I wish to report to the House that my Office has received a Petition submitted by Mr. Bernard Kioko Mutisya and five others on behalf of the residents of Vota Mua Ward in Machakos Town Constituency.

The Petitioners wish to draw the attention of the House to the obstruction of a road upgrade project undertaken by the Kenya Urban Roads Authority between Konza and Katumani by the registered owner of LR No.353/2.

The Petitioners aver that the continued use of the road by the public and the fact that the road has been maintained by the Government for over 30 years forms the basis for the National Lands Commission to create a public right over the parcel of land.

The Petitioners are apprehensive that the delay in the commencement of the upgrading of the road occasioned by the actions of the owner of the parcel of land is inhibiting the construction of the road despite more funds having been allocated by the Government for the project.

The Petitioners, therefore, pray that the National Assembly, through the Departmental Committee on Lands, intervenes to ensure the portion of the land LR No.353/2 ordinarily utilised as a road is converted to create a public right of way in accordance with Article 40(3)(a) of the Constitution and Section 143 of the Lands Act.

Thank you.

There is also a Petition to be presented by the Member for Laisamis, Hon. Arbelle Marselino. Proceed.

## COMPULSORY ACQUISITIONS OF LAND BY KDF

**Hon. Marselino Arbelle** (Laisamis, JP): Thank you, Hon. Speaker, for giving me this opportunity. I have a Petition regarding the compulsory acquisition of land in Marsabit County by the Kenya Defence Forces.

On behalf of the residents of Karare Ward, Marsabit County, I draw the attention of the House to the following:

THAT, Article 63 of the Constitution of Kenya provides for the recognition and protection of communal land rights, while the Community Lands Rights Act affirms rights of communities in the administration of community land;

THAT, the United Nations Declaration of the Rights of Indigenous People advocates for free, prior and informed consent in legislative and administrative measures affecting the indigenous people;

THAT, the residents of Marsabit County and, more so, the Rendille Community who are a predominantly pastoral community, depend heavily on existing agro-friendly land for the feeding of their livestock;

THAT, the Karare Ward being a water catchment and prime season area for the pastoral community of Karare, Songa, Logo Logo, Kamboye, Laisamis, Kargi and Kor communities play a central role in the viability of pastoralism in Laisamis Sub-county;

THAT, the community has previously lost 150,000 acres of land to the Lake Turkana Wind Power Project, which was compulsorily acquired despite the objection by the community;

THAT, in 2019, the Kenya Defence Forces (KDF) expressed interest in acquiring 250,000 acres of land in Saku Sub-County;

THAT, owing to the environmental sustainability and cultural practices, impact on availability of pasture for livestock as well as food for residents, the community had proposed acquisition of an alternative piece of land in Kubikalo, which was turned down for reasons unknown to us;

THAT, on 29<sup>th</sup> May 2020, the KDF moved into the land with bulldozers to the contested land despite the objection and protest by the community;

THAT, the compulsory acquisition of land will result in loss of livestock to malnutrition and other related complications and consequent loss of livelihoods of an estimated 25,000 livelihoods;

THAT, consequently, the Government will incur additional cost approximated at Kshs144 million in food hand-outs to the affected residents;

THAT, the efforts to have the matter addressed by the relevant authorities, who include the Marsabit County Government and the County Commissioner, have been futile;

THAT, this matter is not pending in any court of law or constitutional or legal body.

THEREFORE, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Lands, investigate the matter with a view to grant the Petitioners their right and equally make any other further orders deemed fit in the circumstances of the Petitioners.

And your humble Petitioners will ever pray.

**Hon. Speaker:** It is directed to which Committee? Sorry, Hon. Arbelle. Is it the Departmental Committee on Lands?

**Hon. Marselino Arbelle** (Laisamis, JP): Affirmative, Hon. Speaker. It is the Departmental Committee on Lands.

**Hon. Speaker:** Very well. For all the three Petitions, I will allow some few comments, clarifications and observations. I will start with Hon. ole Sankok, also known as David.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Speaker. I am commenting on the first Petition on the issue of encroachment of Nairobi National Park. As much as we may require a national park within Nairobi, we also require development projects like the Standard Gauge Railway (SGR) and the Northern Bypass.

Of course, we need to conserve the environment and our wildlife, but we have left Maasai Mara National Reserve, Tsavo National Park, Amboseli National Park, Aberdare National Park, Mount Kenya National Park and others for the wildlife. We cannot, again, leave our Capital City for wildlife. Let us also be diplomatic and reason that we need these development projects within our centre. The population is expanding in our urban centres and we need all those infrastructure projects. We cannot leave animals everywhere, including in our Capital City.

Thank you, Hon. Speaker.

**Hon. Speaker:** Let us hear the Member for Igembe Central.

**Hon. Kubai Iringo** (Igembe Central, JP): Thank you, Hon. Speaker. I wish to comment on the Petition of my brother from North Eastern regarding the KDF. I support the Petition because the KDF, despite the fact that they have got a special place in our society of them being the people who take care of our borders' security, sometimes they go over-board to encroach onto peoples' lands without telling or acquiring the lands from them.

In my constituency, the KDF just got into people's lands, put up beacons, secured that place and they are saying that it is now their land. They did that without even consulting the lands offices, the county government or committees! They just grab land. Despite the fact that we would like them to have enough land for their purposes, they need to acquire them legally and not in an

orthodox way. They should not just put beacons and, at the end of the day, claim that the land is theirs whereas it is the people's land.

I support the Petition.

**Hon. Speaker:** It is safe to correct you for saying that the Member is from North Eastern. Hon. Marselino Arbelle is the Member for Laisamis, which is a constituency in Marsabit County and not North Eastern.

Let us have the Member for Saku, which is also in Marsabit County.

**Hon. Ali Rasso** (Saku, JP): Thank you, Hon. Speaker. I wish to add my voice to the weighty Petitions that have been placed. These are very weighty matters. It is about the national security, but we must also look after our people. I believe these are competing needs.

Hon. Speaker, with your indulgence, I will request that for the Petition by my brother from Marsabit, the Departmental Committee on Defence and Foreign Relations be enjoined because I believe that, in the interest of national defence and also in the interest of the people, we need to look at both sides of the coin. As the MP for Saku, I would agree with the Petition raised by my brother, Hon. Marselino Arbelle that, we need to look at that particular Petition in depth and breadth so that the interest of the community living there is not affected.

Thank you, Hon. Speaker.

**Hon. Speaker:** Let us have the Member for Tigania West.

**Hon. John Mutunga** (Tigania West, JP): Thank you, Hon. Speaker. I would also like to add my voice to the Petition by the Member for Laisamis.

Last year, I stood in this House and asked a Question on the way the KDF staff behave when they are dealing with the communities around them. I was specifically referring to the 78 Tank Battalion based in Isiolo, where one driver is on record for killing three people by running over them with a Kenya Army vehicle. Even as we seek land for the KDF to undertake their exercises or training, it is important for them to be cautioned to coexist with the community in the best way possible.

Hon. Speaker, I also wish to comment on the issue of the Nairobi National Park. There are a lot of rumours about a hotel that is likely to be put up in the middle of the Nairobi National Park. We know that it is the decision of this country to have that national park around the City of Nairobi as an income-generating activity and also for purposes of making Nairobi what it is – the only city in the world with a national park next to it. When the Ministry gazettes construction of a huge hotel in the middle of the National Park, we missed the point. I would like this matter to be discussed so that we do not have hotels built right in the middle of Nairobi National Park, but probably, in locations that will enable coexistence with animals and also manage the environment better.

I support the Petition.

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

**Hon. Richard ole Kenta** (Narok North, ODM): Thank you, Hon. Speaker. I would like to add my voice more specifically on Hon. Arbelle's Petition. The people of Laisamis, just like other pastoralist communities, rely on their land for their survival. That is because they are pastoralists and have no other sources of income. Taking away their grazing land is actually destroying those communities. Before those lands are taken away, there must be the issue of compensation because, if you just come and use the law to forcefully take lands from communities, then you are denying them their human rights, which I believe should not happen.

The Army is notorious for disrupting the lives of the people whose land they take over. The community should be consulted and, if the local people do not want this military installation in their midst, then they should be listened to.

On the issue of Nairobi National Park, I believe this is a jewel that should not be destroyed. There is no other country with a game park in its city and, especially, in the capital city. We must protect our national park. It has been there and it must be retained for the benefit of our children.

Thank you, Hon. Speaker.

**Hon. Speaker:** Let us now hear the Member for Pokot South.

**Hon. David Pkosing** (Pokot South, JP): Thank you, Hon. Speaker, for giving me an opportunity to add my voice to the Petitions. As I support, as the Chair, Departmental Committee on Transport, Public Works and Housing, I want to state that if you look at the Questions we are receiving, even in these two Petitions, it is emerging that there is a level of conflict between the people and national installations and assets. In the case of Laisamis, we are seeing a conflict with national installations such as the Kenya Defence Forces (KDF), the Nairobi National Park and the Standard Gauge Railway (SGR). In view of this, as we make our contributions, we want to urge the committees that are going to adjudicate this matter to remember that, as they look at the people, they should also protect our national installations. The question would be: Who owns KDF, SGR and the national parks? It is us. It is not the other persons. Those who are complaining are our people and voters. As they look at that, they should arrive at an equilibrium such that, as they protect the people, they should also remember that those installations rely on us as leaders.

I support the two Petitions.

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

**Hon. Kareke Mbiuki** (Maara, JP): Thank you, Hon. Speaker, for giving me an opportunity to comment on the Petition on the encroachment of the Nairobi National Park. At the outset, I want to state that the Committee is seized of this matter in terms of the encroachment of the Nairobi National Park. We had scheduled a meeting with the Cabinet Secretary last Monday. It was unfortunately postponed. This Petition is timely because we can now deal with this matter holistically. We are seeing a lot of conflict within the Government agencies. The Kenya Wildlife Service (KWS), which is the custodian of Nairobi National Park, is having a conflict with Kenya Railways. Kenya Railways is a State agency in charge of SGR. We have the Kenya National Highways Authority that has put roads cutting across the national park. We also have the Inland Container Depot, whereby some of the land belonging to KWS has been hived off by the Kenya Railways. The Ministry has sought indulgence with the Committee so that the various Government agencies can sit and iron out these issues. We can then communicate to this House. I hope the Committee will prosecute this matter with urgency because there is a serious conflict between State agencies in the jurisdiction of Nairobi National Park.

Thank you, Hon. Speaker.

**Hon. Speaker:** Let us now hear the Member for Kangundo.

**Hon. Fabian Muli** (Kangundo, Muungano): Thank you, Hon. Speaker, for giving me an opportunity. First, I support this Petition. Apart from our national park being grabbed, there is a lot of confusion in the Ministry of Lands. The people with land title deeds in Joska. Kamulu and KBC area look like they are not bona fide citizens of this country. Someone would just come and grab your land and chase you away. I am not sure whether the Ministry of Lands is advising other Government organs on the importance of land to human rights. It is not just about the wildlife, but we need to protect our people in terms of the ownership of their properties. We have received many petitions. There are people who organise crimes by opening societies and backdating them

and saying that they were registered in 1963 and they own land. If you go to the Land Registrar, you will find out that society did not even exist at that time. The confusion of land ownership in Kamulu and Joska towards KBC is the same problem that people who are supposed to take care of our citizens are going to grab our national parks. I would be happy if we could summon the CS, Lands to explain the ownership in respect of land in this country.

Thank you, Hon. Speaker.

**Hon. Speaker:** Finally, let us have the Member for Kitui South.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Thank you, Hon. Speaker. I would like to comment on the Petition raised by Hon. Musa Arbelle concerning the KDF. I want to promise that the Committee will deal with this matter and give it the attention it deserves. These matters are cross-cutting. We have received matters from Nanyuki, Meru, Isiolo, Laikipia and recently, from Nairobi. If you look at the issues raised by the Hon. Members, they are more or less the same. Not long ago, the same matters were raised by Hon. Cate Waruguru and Hon. Jaldesa. The issues are cross-cutting. In some cases, the land belongs to the army but the information was not properly pegged for people to know that the land belongs to the KDF. We need to look for a way to holistically deal with these so that they do not keep coming up again as petitions. That is the comment I wanted to make.

Thank you, Hon. Speaker.

**Hon. Speaker:** The three Petitions are referred to the respective committees to which they are addressed for processing.

Next Order!

#### PAPERS LAID

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Legal Notice No.104/2020 relating to the Public Health (COVID-19 Restriction of Movement of Persons and Related Measures) Order and the Explanatory Memorandum from the Ministry of Health;

Legal Notice No.105/2020 relating to the Public Health (COVID-19 Restriction of Movement of Persons and Related Measures) (Daadab Refugee Complex and Kakuma Refugee Camp Extension Order) and the Explanatory Memorandum from the Ministry of Health;

Legal Notice No.106/2020 relating to the Public Health (COVID-19 Restriction of Movement of Persons and Related Measures) (Mombasa County (Extension Order) and the Explanatory Memorandum from the Ministry of Health; and,

Legal Notice No.107/2020 relating to the Public Health (COVID-19 Restriction of Movement of Persons and Related Measures) (Mandera County) Extension Order) and the Explanatory Memorandum from the Ministry of Health;

**Hon. Speaker:** The Chairman, Public Accounts Committee, Hon. Opiyo Wandayi.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

AFROPAC Report of the Public Accounts Committee on the Technical Working Committee on the Strategic Plan 2019 Workshop held in Pretoria, Republic of South Africa from 4<sup>th</sup> to 11<sup>th</sup> November, 2018.

**Hon. Speaker:** The Chairman, Departmental Committee on Finance and National Planning.



**Hon. Isaac Ndirangu** (Roysambu, JP): Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House today Thursday, 2<sup>nd</sup> July, 2020.

Report of the Departmental Committee on Finance and National Planning on its consideration of the President's Memorandum on the Public Finance Management (Amendment) Bill, 2020.

Thank you.

**Hon. Speaker:** The Chairman, Public Investment Committee (PIC).

**Hon. Abdullswamad Nassir** (Mvita, ODM): Hon. Speaker, I beg to lay the following Paper on the Table of the House today Thursday, 2<sup>nd</sup> July 2020.

The 23<sup>rd</sup> Report of PIC on its consideration of the Auditor-General's Report on Financial Statement of State Corporations.

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

When you bring those reports, please allow them for some disinfection.

### NOTICE OF MOTION

**Hon. Speaker:** The Chairman, PIC, you have the Floor.

#### ADOPTION OF 23<sup>RD</sup> PIC REPORT

**Hon. Abdullswamad Nassir** (Mvita, ODM): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the 23<sup>rd</sup> Report of the PIC on its consideration of the Auditor-General's Report on Financial Statement of State Corporations laid on the Table of the House on Thursday, 2<sup>nd</sup> July, 2020.

**Hon. Speaker:** Next Order!

### ORDINARY QUESTION

#### *Question No. 086/2020*

#### STATUS OF CONSTRUCTION OF MUMBUNI- KATHIANI ROAD

**Hon. Robert Mbu** (Kathiani, WDM-K): Thank you, Hon. Speaker. I rise to ask Question No.086 of 2020 directed to the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development:

- (i) Could the Cabinet Secretary explain why the construction of Mumbuni- Kathiani Road in Kathiani Constituency has never been completed despite having been allocated funds in the Financial Year 2011/2012?
- (ii) Could the Cabinet Secretary confirm that the quality of workmanship on the completed part of the road met the set construction standards and specifications, taking into account that the said part has already developed potholes following the recent rains?
- (iii) Are there steps being taken by the Ministry to ensure the road is completed as per the set standards, specifications and timelines?

Thank you.

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Transport, Public Works and Housing. The Question by the Member for Mwingi North is deferred at his request. He has said he is held up out of Nairobi.

### QUESTION BY PRIVATE NOTICE

*Question No. 012/2020*

STATUS OF INVESTIGATIONS INTO ROAD ACCIDENT

*(Question deferred)*

### ORDINARY QUESTIONS

**Hon. Speaker:** The next Question is by the Member for Tharaka Nithi, Hon, Beatrice Nkatha Nyaga who has also requested for its deferment. The request has been acceded to. The Question is deferred.

*Question No. 012/2020*

STATUS OF DESERT LOCUST ERADICATION

*(Question deferred)*

**Hon. Speaker:** The next Question is by the Member for Tigania West, the Hon. (Dr.) John Kanyuithia Mutunga who has also requested for its deferment. The request has been acceded to. The Question is also deferred.

*Question No. 106/2020*

POLICY MEASURES FOR CANDIDATES WHO  
FAIL TO ATTEND SCHOOL LEARNING SESSIONS

*(Question deferred)*

**Hon. Speaker:** The next Question is by the Member for Samburu North, the Hon. Alois Lentoimaga. Come to the Dispatch Box.

*Question No.109/2020*

DISARMING OF NATIONAL POLICE RESERVISTS

**Hon. Alois Lentoimaga** (Samburu North, JP): Thank you, Hon. Speaker. I rise to ask Question No.109 of 2020 directed to the Cabinet Secretary for Interior and Coordination of National Government:

- (i) Could the Cabinet Secretary explain the circumstances that led to disarming of the National Police Reservists (NPRs) without any consultations in July 2019, considering the fact that they were recruited, trained, provided with uniforms and deployed to assist the National Police Service personnel in 14 counties in Northern Kenya?
- (ii) (ii) Could the Cabinet Secretary re-consider revoking the order of disarming and ordering re-arming and deploying of the NPRs to the aforementioned vulnerable areas to provide security?
- (iii) What specific measures are being implemented by the Ministry in the interim to safeguard residents of Northern Kenya counties and, in particularly, the counties of Samburu and Marsabit due to rising insecurity?

Thank you.

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

The last Question is by the Member for Baringo, Hon. Joshua Kandie.

*Question No.115/2020*

CONSTRUCTION OF STALLED KIRANDICH WATER DAM PHASE II

**Hon. Joshua Kandie** (Baringo Central, MCCP): Thank you, Hon. Speaker. I rise to ask Question No.115 of 2020 directed to the Cabinet Secretary for Water Sanitation and Irrigation:

- (i) Could the Cabinet Secretary explain why the construction of Kirandich Water Dam Phase II Project in Baringo Central Constituency has stalled since 2016?
- (ii) Could the Cabinet Secretary give the status of the said project since inception, in terms of the funds that were allocated, funds already paid to the contractors and the pending allocation?
- (iii) What measures has the Ministry put in place to ensure speedy completion of the project and payment of contractors?

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Environment and Natural Resources.

That ends that segment of Order No.7. Let us now move on to the next segment which is request for statements and responses.

**REQUEST FOR STATEMENTS**

**Hon. Speaker:** The first request is by the Hon. Member for Wundanyi, Hon. Danson Mwashako.

**Hon. Danson Mwashako** (Wundanyi, WDM-K): Thank you, Hon. Speaker. First, I want to seek your indulgence on my statements. I gave in my statements last week and you approved them on Tuesday. I had two statements and I expected one to come on Tuesday and the other one today. Unfortunately, only one has made it today. So, I want to indulge you to allow me to read both of them. The one that is not in the Order Paper today is time bound; it is on private universities that are forcing first year students to pay fees this month.

**Hon. Speaker:** Proceed.

**Hon. Danson Mwashako** (Wundanyi, WDM-K): Thank you, Hon. Speaker.

## STATUS OF MZIMA II WATER PROJECT IN TAITA TAVETA

**Hon. Danson Mwashako** (Wundanyi, WDM-K): Thank you, Hon. Speaker. Pursuant to Standing Order 44(2)(c), I wish to request for a statement from the Chairperson of the Departmental Committee on Environment and Natural Resources regarding the Mzima II Water Project.

Taita Taveta County is gifted with the Mzima Springs within Tsavo National Park. The Mzima Springs currently supply about 15,000 cubic metres of water a day to Mombasa. As it is now, Mzima I does not benefit the people of Taita Taveta County. The larger part of the county experiences acute water shortage since the pipeline was predesigned to serve Mombasa County, leaving the host community thirsty. It is notable that this water project was commissioned in 1957 and 63 years later, no new pipeline has been laid to increase the capacity of the water resource so as to meet the ever-growing population and needs of the people. The old pipeline is choked, inadequate and unable to serve the ever-rising demand for this scarce commodity.

Apart from the promises by the Government to establish Mzima II Water Project, no meaningful steps have been achieved so far. Failure to allocate funds to the project in the national budgets of Financial Years 2019/2020 and 2020/2021 has remained the major hurdle to this project.

However, the Cabinet Secretary for the National Treasury has indicated and confirmed that there is a funding proposal from China Exim Bank of Kshs29 billion that has been cleared by the Attorney-General for signing. It is against this background that I seek a statement from the Chairperson of the Departmental Committee on Environment and Natural Resources on the following:

- (i) Could the relevant Ministry provide information regarding the financing position the Government has made so far to fund Mzima II Water Project? What is the actual amount of funds that will be required to actualize the project? When will the construction of the project commence and when is it expected to be completed?
- (ii) Could the relevant Ministry confirm whether the financing agreement has now been signed and why it has taken inordinate time to conclude these negotiations?
- (iii) Could the relevant Ministry confirm that the first beneficiary of this project shall be the people of Taita Taveta and that water will reach Wundanyi Town and Kishushe Location?
- (iv) Could the relevant Ministry provide the project design, showing the scope of the project, and confirm that Taita Taveta residents will be given first priority?

## REPORTING TIMELINES FOR GOVERNMENT-SPONSORED UNIVERSITY STUDENTS

The second one, Hon. Speaker, is a request for a statement regarding reporting timelines for first year government-sponsored university students placed in private universities. It is disheartening to note that private universities are now forcing the newly-placed students to report as early as 6<sup>th</sup> July 2020 through online registration, purporting to begin virtual lectures by 13<sup>th</sup> July 2020. Prior to these dates, the students are being called upon to have paid school fees and purchased for themselves laptops or smart phones. This is causing pressure to poor parents, guardians and students, and many of them are contemplating calling off a full academic year. It is

against this background that I seek a statement from the Chairperson of the Departmental Committee on Education and Research on the following:

- (i) Could the Ministry provide a list of all private universities and their first year semester dates, if already set, and fees charged?
- (ii) Could the Ministry outline measures in place to safeguard poor Kenyans during this time of the Coronavirus pandemic and have the universities wait until the Higher Education Loans Board (HELB) processes loan applications for Government-sponsored students?
- (iii) Could the Ministry push university reporting or opening dates for first year students until official college and university opening dates, if allowed, as will be advised by the Government after reviewing the COVID-19 risk status?
- (iv) We appreciate the changing times we are in and virtual learning may be the new normal. However, can virtual learning be reserved for continuing students and have first year students, who have not even stepped into a university environment, wait until it is safe to report physically to campus as opposed to beginning lessons before physical orientation?

I thank you, Hon. Speaker.

**Hon. Speaker:** The first request is directed to the Chairman of the Departmental Committee on Environment and Natural Resources. Hon. Kareke Mbiuki, the Member for Maara, are you in a position to respond?

**Hon. Kareke Mbiuki (Maara, JP):** Thank you, Hon. Speaker. The Member for Wundanyi, Hon. Danson Mwashako, is a friend of my Committee due to a number of questions and petitions which he normally submits to the Committee. I want to make a commitment that within the next three weeks, we will be able to have a comprehensive statement on the issues of the pipeline which he has sought.

Thank you, Hon. Speaker.

**Hon. Speaker:** That is reasonable given the calendar of the House. The second request is directed to the Departmental Committee on Education and Research. Is Hon. Julius Melly in the House? The request will be directed through the Office of the Leader of the Majority Party for response. The second request is from the Member for Githunguri, Hon. Gabriel Kago.

#### OUTBREAK OF FOOT AND MOUTH DISEASE IN KIAMBU COUNTY

**Hon. Gabriel Kago (Githunguri, JP):** Thank you, Hon. Speaker. Pursuant to Standing Order 44(2)(c), I wish to request for a statement from the Chairperson of the Departmental Committee on Agriculture, Livestock and Co-operatives with regard to the outbreak of Foot and Mouth Disease in Kiambu and, particularly, in Githunguri Constituency.

Over the last few decades, the dairy industry in Kenya has witnessed phenomenal growth. Kiambu County is among the regions that are well known for milk production and it is home to several dairy processors. Livestock farming is a predominant economic activity which contributes to over 17.4 per cent of the county's income. The county is the lead producer of milk in the country, with over 350 million litres annually. Dairy cattle farming is done both in large and small scale, mainly for commercial purposes. Growth in this sub-sector has been encouraged by a ready urban market in Thika, Ruiru, Kiambu and Nairobi, and the availability of local food processing factories. However, dairy farming calls for a lot of attention in handling the animals. Challenges

encountered by small-scale farmers include outbreak of diseases, poor storage facilities, delayed payment by co-operatives, poor infrastructure for delivering milk products, expensive feeds and supplements and lack of economies of scale for dairy farming.

Hon. Speaker, for the past few months, dairy farmers in Kiambu County have suffered huge losses as a result of livestock deaths due to an outbreak of Foot and Mouth Disease. The disease was first reported in September 2019 and has claimed over 1,200 dairy cows. To date, the disease has not been contained. This has greatly affected the livelihood of thousands of farmers who rely on dairy farming as their main source of livelihood. For instance, Githunguri Dairies, the processor of Fresha Milk and other products, has seen a reduction in milk processing from 300,000 litres to 220,000 litres per day. It is on these grounds, therefore, that I seek a statement from the Chairperson of the Departmental Committee on Agriculture, Livestock and Co-operatives. In the Statement, the Chairperson should inform this House on the following:

- (i) What measures have been put in place to urgently contain Foot and Mouth disease in Githunguri Constituency and Kiambu County?
- (ii) What measures have been put in place to prevent and contain livestock disease outbreak in the country, particularly in Githunguri Constituency?
- (iii) What programmes are in place to ensure that dairy farmers in the country and in particular Githunguri Constituency are provided and equipped with information on proper and safe animal husbandry practices to help them manage their livestock in the event of such cattle disease outbreaks?
- (iv) Could the Government consider re-stocking the livestock lost in Githunguri Constituency as a result of the Foot and Mouth Disease outbreak to help the farmers recover the animals they have lost to the disease?

Thank you, Hon. Speaker.

**Hon. Speaker:** Your request is directed to the Departmental Committee on Agriculture?

**Hon. Gabriel Kago** (Githunguri, JP): Yes.

**Hon. Speaker:** There is some crisis in that Committee which I am aware of, and I am sure, the rest of the House is. As it stands, the person who was the Chair was moved from that Committee. The Vice-Chair was elevated to become a Majority Whip. So, Hon. Kago, your request will be channeled through the Office of the Leader of the Majority Party until such time that it will be established a clear leadership of that Committee.

The third request is by the Member for Kilifi North, Hon. Baya Owen, a very active Member. Today, you are sitting in a very unusual place.

**Hon. Owen Baya** (Kilifi North, ODM): Yes, they took me to the wrong place.

**Hon. Speaker:** I am used to seeing you very close to the Chair.

**Hon. Owen Baya** (Kilifi North, ODM): When I come back, I hope I will be on the Majority side.

**Hon. Speaker:** But you are still in the House. Kindly, proceed.

#### RELIABILITY OF TESTING KITS FOR COVID-19 IN THE COUNTRY

**Hon. Owen Baya** (Kilifi North, ODM): Hon. Speaker, pursuant to Standing Orders No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Health regarding the reliability of testing kits by the various service providers who conduct testing for Covid-19 in the country.

Hon. Speaker, on 8<sup>th</sup> June 2020, samples were taken from one Miss Khalid Nafula Mwanaidi of Kilifi North by M/s. Lancet Laboratory in Mombasa Lab Ref: No.73600097 and results released on 15<sup>th</sup> June 2020, which confirmed that she was positive for COVID-19.

On 13<sup>th</sup> June 2020, samples were also collected from the same person by the Kenya Medical Research Institute (KEMRI) under Lab Ref: No.KWTP17735 in Kilifi and results were released on 15<sup>th</sup> June 2020, confirmed that she was negative for COVID-19. On the same day, samples were also collected from her children namely Khalid Muganda and Khalid Mwangolo Mugandi by KEMRI Lab Kilifi under Ref: KWTP17732 and KWTP17736, respectively, and the results released alongside that of their mother tested negative for COVID-19.

Hon. Speaker, it is against this background, that I seek a Statement from the Chairperson, Departmental Committee on Health on the following:

- (i) In view of the two contradicting state of results in respect of Ms. Khalid Nafula Mwanaidi and her children, what is their right COVID-19 status?
- (ii) What steps is the Ministry of Health putting in place to ensure that testing kits for COVID-19 meet the World Health Organisation (WHO) standards?
- (iii) What steps is the Ministry of Health putting in place to ensure that tests carried out in various laboratories in this country meet the scientific attributes of reliability, validity and consistency?

Thank you.

**Hon. Speaker:** Sorry, your request is to which Committee?

**Hon. Owen Baya** (Kilifi North, ODM): The Departmental Committee on Health.

*(Hon. Sabina Chege entered the Chamber)*

**Hon. Speaker:** The Chair of the Departmental Committee on Health is in the House, but obviously, if you see where she is, I am sure she has not even heard anything.

*(Hon. Sabina Chege walked to her place)*

Hon. Sabina Chege, do you want to respond? I thought I said you come in and occupy this seat, but you appear to be occupying another one on the gangways. The Member for Kilifi, Hon. Baiya has sought a Statement.

**Hon. Sabina Chege** (Murang'a CWR, JP): Hon. Speaker, I heard him. It is about the COVID-19 test. We are already doing some inquiry on the capacity of a testing kit. So, I will ask the Hon. Member to give me two weeks and we will be done so that we can combine the two inquiries that we were doing and then I will be able to give an answer to the House. Since we are going on Recess, though I am not so sure, immediately we re-convene, I will be ready with the answer.

**Hon. Speaker:** Indeed, and as I said on Tuesday, I want to encourage all of you to go for voluntary testing. It is absolutely important so that when you go to your various constituencies, you will keep safe distance. The Member for Nyando, I can see you have already done it.

The next section of that order is responses. The Chairperson for the Departmental Committee on Implementation, Hon. Ole Kenta, Kindly, have the Floor.

HOUSE RESOLUTION TO ALLOCATE KSHS3 BILLION  
TOWARDS COVID-19 MITIGATION MEASURES

**Hon. Richard ole Kenta** (Narok North, ODM): Thank you, Hon. Speaker. This is a response to the Statement on the House Resolution to allocate Kshs3 billion towards COVID-19 mitigation measures.

Pursuant to the provisions of Standing Order No.44(2)(b) of the National Assembly, the Leader of the Minority Party, Hon. John Mbadi, MP, sought leave of the House during the afternoon Session of Thursday 18<sup>th</sup> June 2020 to request for a Statement on the implementation status of the House Resolution to allocate Kshs3 billion to various hospitals in the country to go towards COVID-19 mitigation measures. The queries on the said statements were whether the funds had been disbursed, how much and if not, why have the funds not been disbursed.

Hon. Speaker, the Committee proceeded to call the Cabinet Secretary for Health to appear before it. We had actually invited him on 24<sup>th</sup> June 2020. Unfortunately, he could not make it but on 30<sup>th</sup> June 2020, the PS appeared. Her response, though given, was not really satisfactory. Her response was as follows: 37 hospitals were allocated a total of Kshs3 billion in the Supplementary Estimates II for the year 2019/2020. The allocations were as follows:

1. Kenyatta National Hospital and Mbagathi Hospital – Kshs600 million.
2. Kenyatta University Teaching and Referral Research Hospital – Kshs500 million.
3. Moi Teaching and Referral Hospital – Kshs400 million.
4. Jaramogi Oginga Odinga Teaching and Referral Hospital – Kshs400 million.
5. Kitui Hospital – Kshs300 million.
6. Mandera Hospital –Kshs300 million.
7. Coast General Hospital – Kshs500 million.

Hon. Speaker, she further responded that the COVID-19 cases were on an upward trajectory. Therefore, it was necessary to accelerate the containment of the pandemic. The Ministry requires Kshs2 billion for testing kits and Kenya Medical Training College (KMTC).

The Ministry had requested the National Treasury for rationalization of the Kshs3 billion approved by Parliament through Supplementary Budget III for the Financial Year 2019/2020, which was to be applied as follows: Kshs1.5 billion for testing kits and reagents and Kshs500 million for the expansion of KMTC which is a treatment centre for asymptomatic and mild cases. This is to avoid spreading the diseases and, more so, by the people who do not show signs of the disease and to protect the vulnerable members in the community.

On whether the funds were disbursed, the answer is that they were never disbursed. When they appeared before us, they confirmed they had appeared before the Budget and Appropriations Committee. They asked for rationalisation of the budget as follows: Kenya National Hospital Kshs250 million, Kenyatta University Hospital Kshs200 million, Jaramogi Oginga Odinga Hospital Kshs100 million, Moi Teaching and Referral Hospital Kshs200 million, Kitui Hospital Kshs50 million, Mandera Hospital Kshs50 million, Coast General Hospital Kshs150 million and Kshs500 million for quarantine facilities.

The Ministry confirmed that the National Treasury disregarded their request and the money was never disbursed. When the Committee asked about the ring-fenced Kshs3 billion, they said they needed the money for purposes of ensuring the disease was contained. However, when pressed by the Committee to explain how they could use the money disbursed by Parliament for



other purposes, they confirmed they could not use it. They requested the Committee to follow-up and assist them meet the necessary requirements.

Hon. Speaker, I think it is important for this House to get to know the requests so as to assist this Ministry. This is because if Parliament does not assist this Ministry then, we are facing a terrible pandemic and people will suffer more than anybody would want to believe. They said the major fund from the Government of Kenya...

**Hon. (Ms.) Sabina Chege** (Murang'a (CWR), JP): On a point of order, Hon. Speaker.

**Hon. Speaker:** There is a point of order, Hon. ole Kenta.

**Hon. (Ms.) Sabina Chege** (Murang'a (CWR), JP): On a point of order, Hon. Speaker. The Statement the Chair is reading to the House has been passed. I want to remind this House that we passed the Supplementary Budget III. The matter asked by the Hon. Member has already been addressed by this House, sorted and the money ring-fenced.

That is why we did the Supplementary Budget III so that the money that the Ministry wanted to use for other activities was reallocated. We gave them more funds and that money was ring-fenced. I am sure when the Member met with the Ministry; they did not have this new development. So, the answer he is reading now is not correct. So, I do not think we need to go on with this Statement. I stand guided.

**Hon. Speaker:** I thought so, Hon. Kenta. I am aware these things were sorted out in Supplementary Budget III.

**Hon. Richard ole Kenta** (Narok North, ODM): Hon. Speaker, I reached out to my colleague the Chair of Health on this matter and we were supposed to do it together. I know that money was allocated from the salaries and that is what I will conclude with. I think we owe it to this House to give answers. This is because if she had given answers before, this matter would not have come to the Committee on Implementation. It is actually a failure on her part as the Chair of the Departmental Committee on Health to implement what she is supposed to. That is why this matter has come before us.

**Hon. Speaker:** The Chairperson does not implement.

**Hon. Richard ole Kenta** (Narok North, ODM): She is supposed to follow-up because it was not for us to answer this Question, but the Departmental Committee on Health.

**Hon. Speaker:** The Committee on Implementation is the one which is supposed to follow-up.

**Hon. Richard ole Kenta** (Narok North, ODM): The bottom line is that there is inordinate delay in the releasing of these funds. The blame is on the National Treasury and I think this is something this House should address. This is because if money is released by Parliament - in fact, the Kshs2 billion was from travel allowance of MPs - it was supposed to assist Kenyans by saving them from this disease.

Up to now, the funds have not been released. That is why the Departmental Committee on Health should have pursued this matter. What was the logic of passing the money if it has not assisted the people and they are dying daily? Hon. Speaker, I agree to some extent that, by the time we got this Question, it was overtaken by events.

**Hon. Speaker:** For the general information of membership and not just Hon. ole Kenta, the Supplementary Budget III was assented to on 30<sup>th</sup> June. The accompanying warrants were also signed alongside the Supplementary Appropriation III Bill. The signing of the warrants is the final process authorising release of funds from the Consolidated Fund. I can confirm to you this has happened and it is for this reason that I presented the Bills.

**Hon. Richard ole Kenta** (Narok North, ODM): Thank you, Hon. Speaker. I think Kenyans should sleep knowing they will be attended to because that money will be disbursed as soon as possible to alleviate their suffering.

**Hon. Speaker:** Very well. Thank you, Hon. Kenta. The next response is by the Chair of Transport, Public Works and Housing. Hon. Pkosing.

**Hon. David Pkosing** (Pokot South, JP): Thank you, Hon. Speaker. Pursuant to the provisions of Standing Order 44(2)(C) the following Hon. Members requested for Statements from the Chairperson, Departmental on Transport, Public Works and Housing.

The Statement regarding the status of the construction of Elwak-Fino Roads was by Hon. Ibrahim Mude, MP Lafey Constituency. The Statement regarding the Status and Utilization of Funds allocated for Construction of Bomet Town- Kapkoros-Litein Road, Tenwek Hospital Road and others to bitumen standard was by Hon. Ronald Tonui, MP Bomet Central. The Statement regarding Compulsory Transportation of Cargo through the Standard Gauge Railway was by Hon. Abdullswamad Sherriff, MP Mvita Constituency.

Regarding the Elwak-Fino Road, the Statement was responded by the Ministry yesterday before the Hon. Member and he was very satisfied with the response by the Ministry, which I table. On the Statement regarding the status of roads in Bomet Town, you guided us earlier that we invite the owners of the Statements to appear before the Ministry, so that they can ask for further clarification - which my Committee did. So, we followed your instruction to the letter.

Hon. Tonui and the Ministry appeared before my Committee yesterday. According to our evaluation, he was satisfied 80 per cent. The remaining 20 per cent we referred the Ministry to go back and iron out. The problem was who should construct the roads in Bomet Town and its environs. There was confusion whether it is the National Government or county government. That confusion was not cleared. Therefore, my Committee, following your directive, referred the Ministry back to go and sort out that confusion so that it can be cleared and a further Statement filed before this House. Hon. Tonui was with us and he agreed on that point.

On the third Statement, which was sought by Hon. Abdullswamad, in August 2019, an order was jointly issued by the Managing Director of Kenya Ports Authority (KPA) and the Commissioner-General of KRA mandating the use of the SGR to transport all import cargo destined for Nairobi and beyond. Subsequent to this, the Cabinet Secretary issued an order suspending the above order by KPA and KRA. I want to confirm from the response to the Statement, which I will table, that the order by the two institutions, according to the Cabinet Secretary, remains suspended.

Hon. Speaker, part (ii) of the Statement request was about the Mombasa-Naivasha SGR cargo freight service. Last week, you gave direction on the matter and gave us one month to bring to the House a comprehensive statement. This is a preliminary Statement. The Cabinet Secretary says that in May 2020, he issued a directive on transit cargo. He says that he mandated the use of SGR to transport transit cargo from Mombasa to Naivasha. The primary reasons for this directive were to contain the spread of COVID-19 and it was as a result of consultations amongst the East African Heads of States and a follow-up meeting by the Ministers responsible for transport in all those countries.

Various stakeholders, including our regional partner States, have requested for additional infrastructural investment at the Naivasha Internal Container Depot (ICD) and the Ministry is making those investments as I give this Statement. The additional investments include an expanded marshaling yard, whose work has started and will be completed by 15<sup>th</sup> July 2020.

Meanwhile, the Ministry continues to hold consultations with all the stakeholders, including the Hon. Member who sought the Statement. According to the Ministry, this means the use of the Naivasha ICD. In that response, the Ministry says that the service is no longer compulsory. It is optional. As you directed earlier, the Hon. Member appeared before the Committee meeting where the Ministry was represented.

Hon. Speaker, for the time being, we found this response satisfactory, pending the bigger inquiry. You ruled that my Committee shall, within one month, file a very comprehensive report seeking the House to resolve on this matter so that we can conclusively and earnestly address the issue of the relationship between the SGR and other stakeholders in the cargo transport sector. At our meeting yesterday, we agreed that we need to find a reconciliatory position. The Hon. Member was at my Committee meeting, where we agreed to follow your instructions. The Ministry and the Members are available to seek further clarifications. It was done properly. So, I assure the House that, within one month, we will file a comprehensive report that is aimed at reconciling the people with the SGR and SGR with the people, so that we move together as a country.

Thank you, Hon. Speaker. I table the preliminary Report.

*(Hon. David Pkosing laid the Paper on the Table)*

**Hon. Speaker:** The Member for Mvita, you can use Swahili. I am sure you are more comfortable.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Ahsante sana, Mhe. Spika. Nitatumia lugha ya taifa, Kiswahili.

Wiki iliyopita, tulikubaliana na ukatoa amri kuwa Kamati ya Uchukuzi iweze kukaa na tukaweza kukaa jana na tukaafikiana vile mwenzangu alivyozungumza kwa Kiingereza kuwa amri ya kusafirishwa kwa mizigo na makasha yanayopelekwa nchi jirani kutumia SGR, kama ilivyokuwa amri ya kwanza ya kupeleka mizigo mpaka Nairobi, haipo tena. Wameiondoa amri hiyo. Huu si ushindi wa upizani bali ni ushindi wa hekima ya kutumia sheria vile inavyotakikana.

Pili, kwa sababu Bunge hili hutengeza miswada na sheria, nawaomba Wakurugenzi wa Shirika la Reli nchini, wale wa Halmashauri ya Bandari ya Kenya, na wale wa Halmashauri ya Kukusanya Ushuru (KRA) wasitafute sababu ya kuwa hawakuambiwa. Bunge lina nguvu kuwaliko. Nina imani kuwa wale wenye kutufahamu wataelewa kuwa hawataki vita na sisi. Kwa hivyo, amri hii iweze kutekelezwa bila kusubiri na bila jambo lolote.

Mwishowe, tumekubaliana na mwenzangu na tutarejea majumbani na kuzungumza na washikadau wote ambao ni mawakili, wafanyabiashara na wenye kuhusika na mambo ya bandari.

Mwisho na muhimu zaidi, tunauliza ni kwa namna gani SGR itawafaa watu wa Mombasa na Wapwani kwa jumla, na sio Wapwani na watu wa Mombasa waifae SGR. Pili, pia tutaenda sambamba kuhusiana na mambo ya bandari ya kuwa ni njia gani bandari yetu itatufaa sisi na kuwafaa wengine, na sio sisi kuifaa bandari.

Ahsante sana, Mhe. Spika. Leo ni wazi kuwa Bunge limeonyesha kuwa lina hamu ya wananchi wa Kenya katika masuala haya.

**Hon. Speaker:** It is a win for the people. Hon. Pkosing, you are the one to respond to the request by Hon. Ronald Tonui. Are you the one to respond?

**Hon. David Pkosing** (Pokot South, JP): Yes, Hon. Speaker, and I did respond to Hon. Tonui. I also did respond for Hon. Ibrahim Mude.

**Hon. Speaker:** Is Hon. Ibrahim Mude or Hon. Tonui in the Chamber? Hon. Tonui, I can see you. Can you press your intervention button?

**Hon. Ronald Tonui** (Bomet Central, JP): Thank you, Hon. Speaker. I confirm that I appeared before the Committee, but we did agree that the response which was given was not well done. I believe the Ministry reverted to KURA while the matter should have been handled by the Ministry Headquarters. So, the response by KURA was inadequate. I believe the Committee has directed the Cabinet Secretary to go back and come with another Statement. I think that was the true position. So, the issue of 80 per cent and 20 per cent is not accurate. It is highly misleading. There was nothing that was done on it. It was rescheduled for another sitting in two weeks' time.

Thank you, Hon. Speaker.

**Hon. Speaker:** Can we get the response from the Chair of the Departmental Committee on Environment and Natural Resources on the request by Hon. Mwashako?

**Hon. Kareke Mbiuki** (Maara, JP): Thank you, Hon. Speaker. The Member for Wundanyi, Hon. Danson Mwashako, sought a Statement on mining royalties and community development agreements from the mining activities of large-scale miners, pursuant to Standing Order No.44 (2) (c). He specifically raised the following concerns in the Statement request:

- (i) whether the Ministry could provide a list of all large-scale mining companies in the Coast Region and the amount paid by each as royalties since the enactment of the Mining Act, 2016;
- (ii) whether there were royalties being paid prior to the Mining Act 2016 and how much each company had paid by then in the Coast region and whether the communities will get any share of the royalties;
- (iii) whether the Ministry could provide a tabulation of the actual share of royalties in shillings going to the three main beneficiaries as per the Mining Act ratios of 70:20:10 – that is, the national Government getting 70 per cent; county governments, 20 per cent and the communities 10 per cent; and,
- (iv) whether the Ministry could give a clear roadmap and actual date it intends to operationalise the sharing of royalties provision and, more so, what the communities expect.
- (v) The quantities of iron ore which have been extracted annually in Kishushe Location, Wundanyi Constituency for the last 10 years and the Ministry to provide information on the quantities transferred by RK Sanghani and Wanjala Mining Company after obtaining the court order, and how much royalties have been paid on this consignment.
- (vi) how the Ministry safeguarded the one per cent community share of the total annual as stipulated in the Mining Act and the amount due to the people of Kishushe, Wundanyi since the Act came into force.
- (vii) the Community Development Agreements (CDAs) that have been gazetted and those that are still outstanding in the Coast and the inauguration of the ones gazetted.

Hon. Speaker, the Committee engaged the Ministry of Petroleum and Mining on the above concerns raised by Hon. Danson Mwashako. I, therefore, wish to respond to the above issues as follows:

On the list of large-scale mining companies in Coast region and the amount paid by each as royalties since the enactment of the Mining Act 2016, currently, there are only three mining licences in the Coast region, which include the following:

- (a) Base Titanium Limited, which covers 16.7 square kilometres and specialises in mining titanium. The lease starts from 2004 to 2025 and the company is based in Kwale County.

- (b) Rockland Limited, which covers 0.799 square kilometres and specialises in mining gemstones. The licence is valid from 1991 to 2023 and the company is domiciled in Taita Taveta County.
- (c) Universal Resource International Limited, which covers 1.8 square kilometres and specialises in mining industrial minerals and manganese. Its licence was granted in 2014 and will be expiring in 2040. The company is based in Taita Taveta.

Hon. Speaker, among the three companies with mining licences in the Coast region, only two are in production as stipulated in this Report together with their shares of royalties paid to the national Government. However, there are numerous small-scale mining permits for gemstones, whose royalty contribution is on average about 20 kilometres annually. I have a table here, which is indicating the amount of royalties paid by Base Titanium and Rockland Limited from 2016 to 2019, and it is in the Report, which I will table shortly.

On whether the mineral royalties were being paid prior to the Mining Act 2016, how much each company had paid by then in the Coast region and whether the community will get a share of this royalty, I will respond as follows:

Legal Notice No.187 of 2013 imposed royalty payments for all the minerals sold prior to this Notice. Only holders of the mining leases were liable to pay royalties as one of the conditions in the lease. For instance, we have Base Titanium - which I have given the tabulation of how much they paid in 2014 - which paid Kshs171,000 and Kshs307,000 in 2015.

Hon. Speaker, on the tabulation of actual shares of royalties in shillings going to the three main beneficiaries as per the Mining Act 2016, I wish to respond as follows:

Loyalties are classified as national Government revenue paid to the Consolidated Fund. Currently, there are no provisions for direct sharing of royalties. However, the Mining Act 2016 provides for a royalty sharing formula of 70 per cent to the national Government, 20 per cent to the county governments, and 10 per cent to the mining community. To enable sharing of the royalties, the Government, through the State Department for Mining, drafted Minerals Royalty Sharing Regulations under the Public Finance Management (PFM) Act. These regulations are still under consideration by the National Treasury. Currently, royalties are not being shared in absence of the enabling legal instrument. Sharing of royalties will commence once the National Treasury publishes the regulations.

On a clear roadmap and actual date that the Ministry shall operationalise the share of royalties, more so when we expect the communities and the county allocations to be released from the central account in the Central Bank of Kenya (CBK), I wish to respond as follows:

A royalty sharing roadmap will be developed once a royalty-sharing framework is established by way of publication of the regulations by the national Government. So, as soon as these regulations are put in place, the roadmap will be communicated.

Hon. Speaker, the quantities of iron ore that have been extracted annually in Kishushe Location, Wundanyi Constituency for the last 10 years, the quantity of sales or export of iron ore extracted from Kishushe by RK Sanghani and Wanjala Mining Company for the last 10 years, have been tabulated as per the data which I will table. However, due to the protracted dispute between Wanjala Mining Company Limited and Kishushe Ranching Cooperative Society Limited - who are the landowners on land ownership consent - no iron ore transportation and export were done for the period from 2015 to 2017. There is a table which is annexed in this Report.

On the quantities of iron ore moved or transferred by Wanjala Mining Company after obtaining a court order and royalties paid on this particular consignment, I wish to respond as follows:

M/s RK Sanghani transferred about 109,700 metric tonnes of iron ore from Kishushe to their yard in Mombasa after the court order; the out of court settlement of 26<sup>th</sup> February 2018. About 55,000 metric tonnes of the transferred amount was exported in July 2019 and a total of Kshs35 million paid as loyalty. The remainder amount of about 57,700 metric tonnes of iron ore is still lying at Messrs. RK Sanghani yard in Mombasa awaiting export.

On how the Ministry has stipulated in the Mining Act to safeguard the one per cent community share of the total revenue and how much is due to the people of Kishushe, Wundanyi since the Act came into force, I wish to respond as follows:

The Ministry has drafted CDAs guidelines, which have undergone public participation. The draft is before the Attorney-General and the same will be presented to Parliament in line with the Statutory Instruments Act for approval. These guidelines provide for how the funds are to be used, accounted for, as well as the code of conduct of the mining rights holder and the committee. The amount due to the community is, at least, one per cent gross sales per calendar year. The CDA takes effect from the date it is entered into between the company and the respective community.

Finally, Hon. Speaker, on CDAs gazetted, the ones which are still outstanding in Coast region, and when the inauguration of new ones gazetted will be, I wish to respond as follows:

The following are the gazetted CDAs in Coast region: We have Samruddha Resource Kenya Limited, which is based in Kishushe community, *Kenya Gazette* No.1628 of 21<sup>st</sup> February 2020, in Taita Taveta County. There is also Base Titanium Limited and Mrima Bwiti Resettlement Scheme in Lunga Lunga Sub-County, *Kenya Gazette* Notice No.1626 of February 2020. This is based in Kwale and Base Titanium is based in Msambweni Sub-County as well as Likoni Sub-County.

Thank you, Hon. Speaker, I submit.

*(Hon. Kareke Mbiuki laid the Document on the Table)*

**Hon. Speaker:** Hon. Danson Mwashako.

**Hon. Danson Mwashako** (Wundanyi, WDM-K): Thank you, Hon. Speaker.

I want to thank the Chairperson because when I sought the Statement, he was not in the Chamber. The Statement has taken a whole month, which is not right. We sought this Statement on 4<sup>th</sup> June 2020 and they seconded it. You have done a whole month. So, I expected a comprehensive Statement.

Two weeks ago, Hon. Speaker, we had the opportunity to meet the Chief Administrative Secretary before the Committee and I raised issues that I expected are in their Report, following my seeking of the Statement.

A number of things we raised in the Committee have not been responded to. That is the same Statement the Chief Administrative Secretary read before the Committee. None of the many issues I raised have been captured. I do not even want to mention them here because it would take time.

I will seek your indulgence again. Let me give you a quick example. They are introducing a company called Samruddha Investments as the one that has entered into a Community

Development Agreement with the community yet in the first table, it does not even show that company as one of the large-scale companies in Taita Taveta or the Coast region.

Secondly, I asked about how much had accrued in the Central Bank of Kenya accounts as royalties. The community back home has been told to expect about Kshs6 billion to come back to the community. Through this Statement, I wanted to put that to rest so that it can be known exactly how much the community would get after the regulations come through this House. Now they say that because there are no regulations, they cannot speak about that. This is despite the fact that in the last financial year, Kshs1.6 billion was collected as royalties. We wanted to know the share for the people of Kishushe, Kwale and others, out of that amount in the 2019/2020 Financial Year. Now, the Statement does not mention any amounts. It states that because there are no regulations, it seems like we have nothing.

Finally, I suspect that the National Treasury and the Department of Mining are hiding something. Why are the regulations taking too long? The Act was passed in 2016.

**Hon. Speaker:** Just a minute. Member for Wajir North, you are in this Chamber without a mask. Get out! Serjeant-at-Arms, make sure that Member is out!

*(Hon. Ibrahim Ahmed was escorted out of the Chamber by the Serjeant-at-Arms)*

We cannot be the ones not following the health protocols. If you are doing this in the Chamber, it just explains how you behave out there in the constituencies. He should go out for the balance of the day.

Proceed.

**Hon. Danson Mwashako** (Wundanyi, WDM- K): Thank you, Hon. Speaker. I suspect there is a conspiracy between the National Treasury and the Ministry of Mining and Petroleum. We have been waiting for those regulations for four years yet the National Treasury and the Ministry of Mining and Petroleum are not telling us how much has accumulated in the CBK account as royalties. That means that that money has been utilised for other things and the community should expect nothing. If that money is intact, they should tell us that under titanium, this is the amount that has accumulated and we are just waiting for regulations.

**Hon. Speaker:** Hon. Mwashako, so that we do not do things in vain, why do you not move a Motion seeking specific resolutions? The issues you are raising are very pertinent, but I have no answers for them. I suspect the Chairman will not give you any answer. If you tabled a Motion seeking specific resolutions by this House, especially on the lines that you are now raising, there would be something for a follow-up by the Committee on Implementation. We should not be seen to act in vain. Why have regulations not been made? That is a question that needs to be asked. Why is the person supposed to make those regulations sleeping on the job?

**Hon. Danson Mwashako** (Wundanyi, WDM-K): I stand guided, Hon. Speaker. I will table a Motion.

It is important that those ministries take Parliament's work seriously. It is really disappointing that after sitting for two hours with the CAS, the Statement did not even change a comma. They need to take us seriously. I stand guided. I will develop this into a Motion, so that the House can canvass and make resolutions.

**Hon. Speaker:** Very well. Next Order. Leader of the Majority Party, do you have any Statement on business?

BUSINESS FOR THE WEEK COMMENCING 28<sup>TH</sup> TO 30<sup>TH</sup> JULY 2020

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, pursuant to the provisions of Standing Order No.44(2)(a), I rise to give a Statement on behalf of the House Business Committee which met today, Thursday, 2<sup>nd</sup> July 2020 at 10.00 a.m., to prioritise business for consideration.

The House is scheduled to proceed on a short recess commencing tomorrow in accordance with the Calendar of the House as amended on Tuesday, 30<sup>th</sup> June 2020. In this regard, the House Business Committee has not scheduled any business for next week. However, upon resumption from recess on Tuesday, 28<sup>th</sup> July 2020, the following business will be prioritised:

There will be consideration in the Committee of the whole House of the Tea Bill (Senate Bill No.36 of 2018), if we do not commence or conclude it today, and the Gaming Bill (National Assembly Bill No.38 of 2019). We will also be considering the Second Reading of the Refugees Bill (National Assembly Bill No.62 of 2019), if we do not conclude it today. We will also be considering the Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bill No.27 of 2018) and the County Law Compliance and Enforcement Bill (Senate Bill No.25 of 2018).

There will also be consideration of the County Allocation of Revenue Bill, 2020 and Third Generation Allocation Formula for counties. The two instruments are before the Senate and should they be received next week, they may be referred to the Budget and Appropriations Committee for consideration and thereafter, the House may be recalled for a special sitting to consider them. On the other hand, should the recess end before the two documents are submitted to the National Assembly, they shall be referred to the relevant committee for consideration, pursuant to the Procedural Motion that was passed on June 30<sup>th</sup>.

You may also recall that the Departmental Committee on Finance and National Planning is currently considering the nominee submitted by His Excellency the President for approval as the Auditor-General. Further aware that the House, by a Resolution passed on 30<sup>th</sup> June, extended the time for consideration of the nominee by a further period of 14 days from 8<sup>th</sup> July 2020. It, therefore, means that the extended timeline will lapse on 21<sup>st</sup> July when we will still be on recess. In this regard, we anticipate that the House will be recalled for a special sitting to consider the nominee.

The House Business Committee will reconvene on 30<sup>th</sup> July 2020, to consider business for the week beginning 4<sup>th</sup> August 2020.

I wish to lay this Statement on the Table of the House.

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

**POINT OF ORDER**

DELAYED RELEASE OF MONEY FOR PAYMENT OF SALARIES TO UNIVERSITY STAFF

**Hon. Speaker:** Hon. John Mbadi, you have an intervention.



**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. Under that same Standing Order No.44 (2) (b), it is clear that the Leader of the Majority Party or the Leader of the Minority Party, as the case may be, may make a statement relating to their responsibilities in the House or activities of a Committee. It is on that basis that I sought a Statement on the issue of the Kshs3 billion expenditure under the Ministry of Health. This afternoon, if you allow me, I want to direct a concern to the Departmental Committee on Education and Research.

There is Kshs6.6 billion that this House allocated in the second Supplementary Budget, which was meant for payment of salaries to universities staff. Up to now, the information I have is that money has not been released to various universities. Therefore, I want to call upon the Departmental Committee on Education and Research, as a way of executing the oversight role of this House, to follow-up this matter, invite the relevant Cabinet Secretary or the accounting officer to explain why universities have not received this money to make payments to the universities staff who were promised this money through a Collective Bargaining Agreement (CBA).

#### RELEASE OF FUNDS FOR FREE PRIMARY AND SECONDARY EDUCATION

Finally, Hon. Speaker, there is also a concern which I want to ask the Departmental Committee on Education and Research to deal with regarding the release of free primary and secondary education funds. In most schools, the teachers who are employed by boards of management and other staff are not receiving their salaries now. With this difficulty that we are facing as a result of the COVID-19 pandemic, life is very difficult for these Kenyans. Can the Committee deal with this matter and report back to the House, as a way of overseeing funds that have already been appropriated by this House?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Departmental Committee on Education and Research is accordingly directed to delve into the matter and report to the House when it reconvenes. Next Order.

#### MOTION

##### ADOPTION OF REPORT ON PUBLIC PROCUREMENT AND ASSET DISPOSAL REGULATIONS 2020

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Public Procurement and Asset Disposal Regulations, 2020 (Legal Notice No. 69 of 2020) laid on the Table of the House on Thursday, 25<sup>th</sup> June 2020, pursuant to provisions of Section 180 of the Public Procurement and Asset Disposal Act, 2015, and approves the Public Procurement and Asset Disposal Regulations, 2020.

*(Hon. (Ms.) Fatuma Gedi on 30.6.2020)*

*(Debate Concluded on 30.6.2020 – Afternoon Sitting)*

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

*(Question put and agreed to)*

Next Order.

## BILL

### *Second Reading*

#### THE CARE AND PROTECTION OF OLDER MEMBERS OF SOCIETY BILL

*(Hon. Amos Kimunya on 17.3.2020)*

*(Resumption of Debate interrupted on 30.6.2020)*

**Hon. Speaker:** Who was the Mover of this Bill? The Chairperson of the Departmental Committee on Labour and Social Welfare or any Member of the Committee can reply. I can see that Hon. David ole Sankok is ready to reply.

**Hon. David ole Sankok** (Nominated, JP): Hon. Speaker, thank you very much for giving me this opportunity. I beg to reply.

*(Laughter)*

*(Question put and agreed to)*

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

**Hon. Speaker:** Next Order.

## MOTIONS

#### APPOINTMENT OF A MEMBER TO HOUSE BUSINESS COMMITTEE

**Hon. Speaker:** The Chairperson, Committee on Selection.

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

THAT, pursuant to the provisions of Standing Order No.171(2), and further to the resolution of the House on 13<sup>th</sup> February 2020, this House approves the appointment of Hon. Mohamed Abdikhaim Osman, to the House Business Committee in addition to those specified under paragraphs (a), (b), (c), (d) (e) and (f).

The House recalls that Hon. Aden Duale used to sit in the House Business Committee as the leader of the Government business. I was also a Member of the HBC. With the changes that took place, we have a vacancy. The HBC approved that we appoint Hon. Mohamed Osman to fill the vacancy that is there. This is one of the powers which are reserved for the HBC. It does not go through the Committee on Selection. We really wish to ask the Members to approve his appointment, so that the HBC is fully constituted. I do not want to belabour this point.

I beg to move and ask Hon. Mbadi to second the Motion.

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

**Hon. John Mbadia** (Suba South, ODM): Hon. Speaker, the Leader of the Majority Party said it all. When Hon. Duale was the Leader of the Majority Party, Hon. Kimunya was a Member of the HBC. By virtue of him being the Leader of the Majority Party, he automatically becomes a Member. His position is vacant. It will not be tidy to keep Hon. Duale in that Committee. It makes sense that we replace him with someone else in that Committee. That is what we are proposing to do.

I second the Motion.

*(Question proposed)*

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

**Hon. Speaker:** Is it the mood of the House that I put the Question?

**Hon. Members:** Yes.

*(Question put and agreed to)*

**Hon. Speaker:** Next Order.

#### APPOINTMENT OF A MEMBER TO COMMITTEE ON PARLIAMENTARY POWERS AND PRIVILEGES

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

THAT, pursuant to the provisions of Section 15(1)(a)(ii) of the Parliamentary Powers and Privileges Act, 2017, Standing Order No.175 and further to the resolution of the House of 4<sup>th</sup> March 2020, this House approves the appointment of Hon. Josphat Kabinga Wachira to the Committee of Parliamentary Powers and Privileges, in addition to the ones specified under Section 15(1)(a)(i) of the said Act.

This appointment under this Order is tied to the appointments in the next Order, in that there is already an existing Member in the Committee on Parliamentary Powers and Privileges. Hon. Speaker, I intend to request that we step down Order No.12 for further consultations.

*(Applause)*

This is because as much as we are ready within the Jubilee Coalition, I gather that, perhaps, there is consultation that still needs to be held within the Minority Party. And to be able to carry the full list for the entire House, it is important that we give room for that negotiation and for people to consult and be comfortable. It also gives us an opportunity, even from our own side, to reconsider where people may feel that they are still in one committee or have probably not been fully considered.

Because I will be asking for a stepping down of Order No.12, could I also ask that we step down Order No.11? Then we will take some time between now and next week, and when we are ready, perhaps, when we reconvene to approve the Auditor-General or some other time, I will then write to you, Hon. Speaker, to give us a specific date when we can come and approve this list.

*(Applause)*

Hon. Speaker, I wish to submit.

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**Hon. Speaker:** Very well. It looks like there is broad support. Apparently, there is bipartisan approval.

Let me hear Hon. John Mbadi.

**Hon. John Mbadi** (Suba South, ODM): Hon. Speaker, I am very excited because I had some issues which we need to resolve with my colleague from the other side, the Leader of Majority Party. I am happy the Leader of the Majority Party has seen it fit for us to consult. This is the spirit of the handshake, the spirit of negotiation, consultation and agreeing on the way forward.

*(Applause)*

I want to thank the Leader of Majority Party, and that is in concurrence with the Minority side. I support the withdrawal.

**Hon. Speaker:** But the Leader of Majority Party said that he intends to apply for stepping down of the next Order. In the meantime, for the stated reasons, I accede to the request and order that the business appearing as Order No.11 be stood down.

*(Order No.11 stood down)*

So, we move to the Next Order. Chairperson of the Committee on Selection, Hon. Kimunya.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Speaker. I formally request that we step down Order No.12, for the reasons I advanced earlier.

**Hon. Speaker:** I think this does not require... It appears that everybody is desirous that that happens. Therefore....

*(An Hon. Member spoke off record)*

This is the problem of you not reading the Standing Orders. It was a request, there is no Question to be put. The request was not made to the House, but to the Speaker. So, I accede to the request for the reasons that have already been explained. I stand down the business and allow for further and other consultations. Is it Hon. Nyamai Kaki who said: "further, other and better"?

And Mother? Now, what is that? Please, do the consultations. I am always available to do the needful.

*(Order No.12 stood down)*

Before we go to the next Order, which is Committee of the whole House, I had received the indication that the Member for Tigania West intended to make some representation to the House.

**Hon. John Mutunga** (Tigania West, JP): Thank you, Hon. Speaker. I stand on behalf of the Vice-Chairperson of the Departmental Committee on Agriculture and Livestock concerning what you said about the Committee. It does not have a Chairperson and the Vice-Chairperson is our Whip. He asked me to move the amendments. But, Hon. Speaker, upon consultations, I stand to request that we stand down the business listed in Order No.13 for various reasons.

I would like to cite the following reasons...

**Hon. Speaker:** Is it the entire Order No.13? I thought there is a specific one.

**Hon. John Mutunga** (Tigania West, JP): No. It is specifically Order No.13 (ii), which is the Tea Bill, Senate Bill No.36 of 2018, which was supposed to go the Committee of the whole House this afternoon.

Hon. Speaker, this Bill has elicited a lot of interest. Tea is a very important subsector in the country and it has a lot of interest too. We have had interest from within and without. I want to thank the Members because very many of them have already submitted their amendments which were supposed to be considered today. We have looked at the proposed amendments by the Members and those proposed by the Committee and we have realised that there is a lot of interfacing. Therefore, we are requesting that we be given some time to do some winnowing so that we can present to the House amendments that do not have a lot of repetition and that will create due clarity, so that when we go for mediation - which we are sure we will - we will have a clear document that will be useful for the negotiation.

Hon. Speaker, I submit.

**Hon. Speaker:** Very well. I think Hon. (Dr.) Mutunga has given very valid reasons. And because the Committee does not have a Chairperson, and the Vice- Chairperson, who is the Majority Whip, is indisposed, he is not in the House, it is only fair that we also allow that. I have also looked through these various proposed amendments and I would encourage the various Members who have proposed amendments to also have a chance to sit with the Committee and see whether you can bridge the gap, so that we do not have so many amendments coming to the House. Where there is ability to concur, if you are unable to agree, then your amendments will still be considered by the Committee of the whole House.

For the reasons stated, I order that business appearing as Order No.13 (ii); the Tea Bill, Senate Bill No.36 of 2018 be stood down.

*(Committee of the whole House on Tea Bill stood down)*

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

## IN THE COMMITTEE

*[The Chairman (Hon. Moses Cheboi) took the Chair]*

## PRESIDENT'S RESERVATIONS TO THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL

*Clause 2*

**Hon. Chairman:** Order, Hon. Members. I thought I should be calling the Leader of the Majority Party. So, you are the one taking that role. You are seated in an extremely difficult position to manage. Proceed, Hon. Ndirangu, the Vice-Chairperson.

**Hon. Isaac Ndirangu** (Roysambu, JP): Hon. Chairman, I beg to move:

THAT, Clause 2 of the Bill be amended by deleting proposed Section 2A and substituting therefor the following new section-

(2A) Notwithstanding the provisions of sub-section (1), the Parliamentary Service Commission may, with the approval of the National Assembly, establish the following public funds-

- (a) Parliamentary Mortgage (Members) Scheme Fund;
- (b) Parliamentary Mortgage (Staff) Scheme Fund;
- (c) Parliamentary Car Loan (Members) Scheme Fund;
- (d) Parliamentary Car Loan (Staff) Scheme Fund; and,
- (e) Parliamentary Catering Fund, for the purposes of Parliament or a House of Parliament.

Hon. Chairman, the recommendations of the President have been wholly accommodated and the Members of our Committee sat and came up with a Report recommending the adoption of the President's reservations as such.

Thank you, Hon. Chairman.

*(Question of the amendment proposed)*

**Hon. Chairman:** Let me give a chance to a few Members. Hon. Sankok surely has something to say.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Chairman.

The import of the amendment is very clear. If it is not well structured, we may end up having duplication of funds that are available in the national Government or county governments like the Uwezo Fund and the Youth Enterprise Fund. But when it is specific that it is funds that are supposed to be used within Parliament, then the President's reservation is very good advice. We take it wholeheartedly. I support it.

**Hon. Chairman:** Let us hear from the Parliamentary Service Commission, Hon. Namsi Shaban.

**Hon. (Dr.) Naomi Shaban** (Taveta, JP): Thank you, Hon. Chairman for giving me this opportunity to say something about the President's Memorandum.

The mortgage and car loan for Members and staff of the Parliamentary Service Commission has been running as a revolving Fund through some regulations. We felt that there was something more we needed to do from the way it was running so that it becomes a Fund that can be relied on. Despite the difficulties in running it, I commend our administrator, the Clerk of the National Assembly, who has done a fantastic job. We are now very happy that His Excellency the President has recognised it and felt that it should be part of the Public Finance Management Act.

**Hon. Chairman:** Lastly, Dr. Nyikal. There is nothing medical, by the way.

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**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Chairman.

As I stand to support this, I would like the Parliamentary Service Commission to be extremely careful when they are implementing the car loan. I hope it is not meant to replace the funds Members have been getting for cars. That will then disadvantage Members of Parliament compared to other State officers of their level who have cars which they use on a daily basis given by the Government. If that is removed, then we will be having cars that we will be servicing on our own. That is the only thing the Parliamentary Service Commission should look at when implementing. Otherwise, I support.

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

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 2 as amended agreed to)*

**Hon. Chairman:** That marks the end. Therefore, I call upon the Mover to move reporting of the Bill.

**Hon. Isaac Ndirangu** (Roysambu, JP) Hon. Chairman, I beg to move that the Committee do report to the House its consideration of the President's Reservations to the Public Finance Management (Amendment) Bill, (National Assembly Bill No.2 of 2020) and its approval thereof without amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

## REPORT

### PRESIDENT'S RESERVATIONS TO THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL

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

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the President's Reservations to the Public Finance Management (Amendment) Bill (National Assembly Bill No.2 of 2020) and its approval thereof without amendments.

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

**Hon. Isaac Ndirangu** (Roysambu, JP): Hon. Temporary Deputy Speaker, I beg to move that the House do agree with the Committee in the said Report.

I request Hon. Kimunya, the Leader of the Majority Party, to second the Motion for agreement with the Report of the Committee of the whole House.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to second.

I thank both the Committee and His Excellency the President, for facilitating the creation of these funds within Parliament, so that membership can benefit from the utilisation of these funds in a way that can be fast-tracked without having to, every time there is an issue, refer it to the National Treasury. So, there is a lot of self-regulation that will build into this for the better management of the Fund for facilities for Members.

I beg to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Should I proceed to put the Question, Hon. Members?

**Hon. Members:** Yes.

*(Question put and agreed to)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Let us now move to the next Order.

## BILL

### *Second Reading*

#### THE REFUGEES BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Proceed, Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to move that the Refugees Bill (National Assembly Bill No.62 of 2019) be now read a Second Time.

The principal object of this Bill is simply to provide mechanisms for recognition, protection and management of refugees, which will then give effect to the 1951 United Nations Convention that relates to the status of refugees, together with the 1967 Protocol that relates to the status of refugees, and the 1969 Organisation of African Unity (OAU) Convention – as it was known then – governing the specific aspects of refugees' problems in Africa.

Every Kenyan who lives in Kenya knows that we are one of the biggest hosts of refugees from within the region. So, this Bill comes in at a critical time when we really have to look at how we can recognise, protect and manage refugees, so that even as they come within our borders from the neighbourhood, there is a proper legal framework that puts into effect all these other protocols



and conventions that have been passed and which as per as our Constitution, we have already domesticated.

Clause 3 of the Bill basically provides the definition of a refugee. The details of that are contained within the Bill. So, I really do not want to go through all that. We are talking of refugees in Kenya, who are obviously here because they fear persecution because of their cultural, religious or political beliefs. They have left their countries of origin and migrated into Kenya. We then need to figure out how we know that person 'A' is a refugee and person 'B' is not.

The Bill basically puts that into context and defines who a refugee is. It is one who has been compelled to leave his or her place of habitual residence in order to seek refuge in another place outside his or her country of origin or nationality due to all those other conditions and unstable public order within their country of origin. It also gives the Cabinet Secretary in charge of refugee affairs, on recommendation of the Refugee Advisory Council, to designate a person a refugee.

The Bill establishes some administrative units under Part II, which is basically the Department of Refugee Services. It also establishes the Refugee Advisory Committee and the Refugee Status Appeals Committee, whose organs will work together in terms of determination and management of refugees. Particularly, Clause 7 establishes the Department of Refugee Services. Clause 9 establishes the Refugee Advisory Committee, and Clause 11 establishes the Refugee Status Appeals Committee. Basically, this Committee will succeed the Refugee Appeals Board that was established under the Refugees Act, 2006, and whose main functions shall be to hear and determine appeals.

This Bill contains elaborate provisions that relate to regulation of application for refugee status and these are captured in Part III. We will get a detailed report from the Members who have scrutinised the Bill. Clause 13 establishes the Refugees Status Eligibility Panel, whose functions shall be to review recommendations made on refugee status determination.

Hon. Temporary Deputy Speaker, allow me to give a brief summary of the content of the Bill. Part I, as usual, contains the preliminary provisions, which include the Short Title, the commencement date, interpretation and definitions as to who can be included or excluded from the refugee status and when one ceases being a refugee.

Part II of the Bill contains provisions on administrative matters. Part III contains provisions on application for refugee status. Part IV contains provisions on reception for refugees and asylum seekers. Basically, it contains provisions on how refugees are treated from the time they enter into Kenya, how they are designated, the duties of the refugee reception officers and security screening. All those are captured within Part IV.

Within Part V, we are looking at the rights and duties of the refugees and the asylum seekers within Kenya. Part VI looks at the control of the designated areas. For example, Kakuma is a designated area. Members need to just look through this part because it also provides for the requirements to reside within a designated area, how to control a designated area, and how to restrict persons within that area. It also provides the link between the national and county Governments. Obviously, these people will be within counties. That is all that is covered within Part VI.

Part VII covers the whole issue of integration, repatriation and resettlement of refugees because one cannot be a refugee forever. At some point, they will need to be reintegrated back into their communities or within the host community. This part provides for the modality of doing that. Particularly, it provides for consideration of refugees in terms of development matters - including

affirmative action for women, children and Persons with Disabilities (PWDs) - as well as voluntary repatriation and resettlement of refugees within Kenya.

Next are miscellaneous provisions, which are contained within Part VIII. This part covers issues of registration for refugees and asylum seekers, offences and penalties, repeal of Cap. 173 of the Refugees Act as well as the transitional provisions of moving from the existing law to the new law once it is passed by Parliament. Part X contains provisions on delegated legislation. It empowers the Cabinet Secretary to make provisions generally to give effect to this Act and prescribe anything else that is not covered.

So, I believe this Bill is timely. As I said, Kenya is host to several people from our destabilised neighbourhoods. I am not sure whether we have any Kenyans out there claiming to be refugees. We have always been a haven of peace. I hope through this Bill and proper management, we will be setting the standards for the rest of the world in terms of how you host people from destabilised countries. The passage of this Bill will ensure that when people who have problems in their countries of origin seek safe haven in other countries, they are not treated as lesser human beings than they were or they would like to be. I believe that is the spirit of this Bill.

I thank the Committee because they have done extensive work and they will take us through the Bill in detail, after which Members will be free to ventilate and enrich it, so that by the time we get to the Committee of the whole House, we can have a model Bill for the rest of the world.

With those remarks, I beg to move and ask Hon. Paul Koinange, who is the Chairperson of the responsible parliamentary committee, to second.

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

**Hon. Paul Koinange** (Kiambaa, JP): Thank you, Hon. Temporary Deputy Speaker. I beg to second the Refugees Bill, 2019.

The Refugees Bill, 2019 (National Assembly Bill No.62) was read a First Time on 10<sup>th</sup> September, 2019 and committed to the Departmental Committee on Administration and National Security for consideration and report to the House pursuant to Standing Order No.216(5)(c). Consequently, in accordance with Article 118 of the Constitution and Standing Order No.127(3), the Committee sought views from the public by way of written memoranda and further conducted public hearings in the following counties: Nairobi, Mombasa, Nakuru, Uasin Gishu, Garissa and Turkana.

Hon. Temporary Deputy Speaker, organisations and institutions that made presentations to the Committee on the Bill include the following: County Government of Garissa, refugee leaders in Nakuru County, refugees living in Dadaab, Refugee Consortium of Kenya, Danish Refugee Council of Kenya, Kituo Cha Sheria, United Nations High Commissioner for Refugees, Amnesty International and International Rescue Committee. Other individuals who submitted their proposals to the Committee include: Francis Njoroge and Allan Muriuki of Strathmore Law School and Ekai Nabenyio, a lawyer and representative of the host community in Turkana. The Committee noted various comments in support of or against provisions in the Bill and recommends amendments to the Bill as provided in the Report.

Hon. Temporary Deputy Speaker, permit me to highlight important provisions in the Bill that deal with the issue of refugees and their protection. First and foremost, by dint of Articles 2(5) and 2(6) of the Constitution, all international conventions that have been ratified by Kenya now form part of Kenyan law. These include the Universal Declaration of Human Rights, the Refugee Convention and the Protocol relating to the Status of Refugees, the OAU Convention governing the specific aspects of refugee problems in Africa, and the African Charter on Human and People's Rights. These treaties play a complementary role in ensuring protection of refugees.

Secondly, the Bill provides for the institutional and legal framework for the recognition, protection and management of refugees. The Bill establishes various offices and institutions which include the Department of Refugee Services, the Commissioner for Refugee Affairs, Refugee Advisory Committee, Refugee Status Appeals Committee and the Refugee Status Eligibility Panel. These institutions are tasked with coordination of activities and programmes relating to refugees, provision of adequate facilities and services for the protection, reception and care of asylum seekers and refugees within Kenya, among others.

Thirdly, the Bill is underpinned by a number of fundamental principles most notably:

- (a) Non-discrimination where provisions of the Bill are to be applied without discrimination as to race, religion, origin of country, age, among others;
- (b) The principle of non-refoulement which provides that no one shall expel or return a refugee against his or her will to a territory where he or she fears threats to life or freedom; and,
- (c) Refugee self-reliance as provided for in Clause 28 (4) of the Bill. It states that refugees shall be enabled to contribute to the economic and social development of Kenya. This has been further enhanced in providing required documentation at both levels of government.

Finally, the Committee proposes amendments to the Bill for consideration in the Committee of the whole House, most notably, Clause 28 of the Bill, where the Committee proposes to insert new clauses that relate to the right of the refugees to work to enable them to contribute to the Kenyan economy.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Chairman, I hope you are winding up.

**Hon. Paul Koinange** (Kiimbaa, JP): Yes, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Was that a mistake? You have five more minutes.

**Hon. Paul Koinange** (Kiimbaa, JP): Right of documentation, freedom of movement and all these rights are subject to the laws applicable in Kenya.

Secondly, inclusion of vulnerable persons, who include persons who have suffered trauma, old age and special groups that need special attention and protection afforded by authorities who undertake refuge processing activities.

The Committee is also proposing New Clause 39 that provides for confidentiality in handling refugee information. This is in line with Article 31 of the Constitution that provides the right to privacy and data protection.

Hon. Temporary Deputy Speaker, it is my considered view that the enactment of this Bill with proposed amendments will enhance the realisation of refugee rights in Kenya. I want to invite Members to read the Report of the Committee. I also want to thank Members of my Committee who took time to visit refugee camps and came up with the proposed amendments to the Bill.

Hon. Temporary Deputy Speaker, I second. I thank you.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Member for Mwea, you have the Floor.

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to contribute to the Refugees Bill.

From the outset, I want to state that I am a Member of the Departmental Committee on Administration and National Security. We visited most of our refugee camps for us to come up with these proposals. The effort to repeal Cap.173 that governs refugees in our country started in the 11<sup>th</sup> Parliament. A lot of work was done and we relied on that effort to improve on what we have. As we are all aware, Kenya is the epicentre of peace in East and Central Africa. This means that we are a host of a number of refugees in this region. It is important that this country adopts the best of the Bills to govern the affairs of refugees. We want to lead as an example. We want to ensure that as we host refugees, they become a resource and not a problem in this country.

This Bill proposes integration of refugees into the host communities. We should not look at refugees as people living in secluded areas, but as people who can contribute immensely to the economy of this country. It is important that we come up with a Bill that enables them to participate in the development agenda of our country. We are also aware that, as we host them, some of the neighbouring countries they come from are stabilising and we want to come up with a smooth way of voluntary repatriation of refugees.

Hon. Temporary Deputy Speaker, it is important that we develop an online system to help us track down the movements of refugees even as we allow integration into the community. When we visited some of these areas, we noticed that some refugees were holding Kenyan citizens' identification cards (IDs) as well as refugee cards. This is something that can be sorted out once we streamline our systems and ensure that records are well kept.

We are looking at establishing relevant institutions that will help in the management of refugee affairs. We can learn from past experiences and ensure that management is streamlined. We also want to address some of the conflicts between refugees and communities. It is important for this House to note that in some instances, refugees have been perceived to live better than the communities around them. This has caused tension between them and the communities. Therefore, it is important that as we look at the welfare of refugees, we also look at that of the communities living around them to ensure that the conflicts are resolved. A number of bodies are being formed including the appeals body, so that it will no longer be one person making decisions on refugees. The bodies will continuously review processes that govern refugees in this country through a committee. The Bill proposes a committee to continuously review policies that govern refugees in this country.

Therefore, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Well said. Hon. Members, please, take note that you have five minutes. This is to help you put your thoughts in order. Let us have Hon. Oundo Ojiambo, Member for Funyula.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker. I support the Refugees Bill (National Assembly Bill No.62 of 2019) before us. Kenya has always been a safety haven hosting families that run away from chaos in the neighbouring countries, especially Somalia and the Democratic Republic of the Congo (DRC). Probably, it is our ability to host refugees that has allowed us to receive international recognition. Refugees come with benefits and problems. We should focus on the good tidings of refugees instead of focusing on problems. Since they run away from problems, initially they will be a problem. I agree with my colleague who has just contributed that there is a continued feeling that at times refugees are treated

better than the local communities. This Bill, after being refined, should address those challenges and fears, so that refugees are not seen as a nuisance, but as part and parcel of the problems that we, as members of the national community, must bear for the purpose of offering humanity.

The Bill is gender administrative in nature. It provides administrative institutions to manage refugee affairs from handling applications all the way to integration of refugees. However, there are a few issues in the Bill that need to be addressed. First, is Clause 20 that deals with women and children. I hope the Committee will take note of this at the Committee of the whole House. On the issue of protection of children, children who are refugees and reside in Kenya should be subjected to the same requirements as Kenyan children under the children Act. They are here not by choice, but by circumstances beyond their control. They are no longer enjoying their youth and their years are running by, unless they are given the same protection like Kenyan children as provided in the Children Act. In the event they are integrated in the society, there will be a mismatch between the Kenyan children and the refugee children. Once we accept refugees to come, we must accept that we are going to live with them for many years to come.

Part VII of the Bill is on integration, repatriation and resettlement of refugees. In this country, we have many refugees who have been, in one way or the other, integrated into the society, but they have never been considered as useful members of the society. When we go to the Committee of the whole House, we need to address that issue. What happens to refugee women who get married to Kenyan men? Do they comply with the requirements of relevant laws in terms of migration and are denied documents like IDs to justify their citizenship? What happens to refugee children who come when they are still toddlers, go through our education system and continue to offer services to this country yet there are no provisions on how they can be integrated in the society? Those are some of the areas that we need to refine, so that the Bill that we will come up with will allow integration. Countries like the United States of America (USA) have developed because of immigrants. They have been good at adopting immigrants. For us, we might have to follow the same, so that we can accommodate refugees.

With those few remarks, I support.

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

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. I support this Bill. This is an idea whose time has come. Who am I to resist? Kenya has been a haven for peace in a continent that has been marred by civil wars, guerilla wars and *coup d'état*. So, when many people have problems in their countries, they want to go to havens of peace like Kenya. If you remember, we have had four Heads of State who were democratically elected. Two of them retired voluntarily, handed over the baton of leadership and went home. That is why we are admired far and wide as a haven of peace.

I want to congratulate the Committee. It did extensive public participation, interrogated communities that host refugees and organisations of and for refugees. It also brought on board international instruments that Kenya ratified and are part of our laws. It is high time, and that is why I support this Bill, for us to rethink the whole issue of refugees. We can use them as a human resource. If a lion can adopt a baby Oryx which is naturally its food, why can we not, as a country, adopt refugees and use them as a human resource? My colleague had alluded to the fact that USA is developed because of immigrants. We can adopt refugees as immigrants and use them to steer our economy to greater heights. Most of them are qualified doctors, engineers, researchers and teachers. We can tap on that human resource. A human brain channeled to proper use is of more worth than all gold mines in Ghana and all oil wells in Libya.

So, if we can tap into this human resource, especially the human brain that refugees come with, we can use refugees as a human resource. It beats logic to seclude them and kind of confine them. They are running from their countries because of threats to their lives and then we imprison and confine them. I think it is high time we rethought the issue of refugees. This Bill addresses most of the issues. We should adopt them and use them to steer our economy. Most of them are very qualified.

Children who are born of refugees, which crime have they committed? We have our own children and we give them registration. Our Constitution is very clear that any child born within the borders of Kenya is qualified to be a Kenyan citizen. We should give these children an opportunity to be part of us. Human resource is not easy to come by. Some refugees have taken years of education - eight years in primary school, four years in secondary school and several years in college and university. Ours is just to tap the human resource and use it to steer our economy. So, I support this Bill 100 per cent. It should be fast-tracked, so that we can implement it as soon as possible. I request the Committee of Hon. Koinange to fast-track it. We need it like yesterday. We need it implemented immediately.

Thank you very much, Hon. Temporary Deputy Speaker.

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

**Hon. (Prof.) Jacqueline Oduol** (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to speak on this Bill. From the outset, I would like to congratulate and thank the Committee for a very clear exposition on a very important Bill. I support this Bill, specifically because it seeks to help us as a country, both at the national and the county governments, to recognise those who seek asylum, protect them and protect the host communities. It also seeks to ensure that there is clear management of refugee affairs and that we can maintain the rule of law. It also seeks to ensure that we do not create problems as we seek to solve other problems.

Part IV on integration, repatriation and resettlement seeks to look at how there will be shared use of social amenities. It also seeks to ensure that there will not only be designated areas, but an attempt to provide a way of ensuring that refugees not only feel at home, but also understand that they need to respect those that they found in the country. I would want to take note of the fact that the Bill takes into account the special attention that we give to the vulnerable members of the society like children and women. It also seeks to ensure that attention will be given whenever there will be assistance that is required.

As I close, this is a very important concern because with the COVID-19 pandemic, we have had cases, not in Kenya, but in areas across our borders, where as we seek to alleviate the suffering of women and children, at times if we do not have proper laws and regulations, those vulnerable groups have suffered. It is for this reason that I support the Refugees Bill. I would want to see that we provide a framework in the Bill to allow not only peaceful coexistence, integration and protection, but also that particular attention is given as is required to different groups, and most importantly that host communities would also be respected.

I support the Bill, Hon. Temporary Deputy Speaker. Thank you for the opportunity.

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

**Hon. (Dr.) Naomi Shaban** (Taveta, JP): Asante sana, Mhe. Naibu Spika wa Muda, kwa kunipatia nafasi hii pia mimi niunge mkono Mswada huu ambao utaleta sheria ya kusimamia wakimbizi wa nje. Kenya ikiwa moja ya nchi za Umoja wa Mataifa na ikiwa imeweka sahihi kwenye mikataba ya kusimamia masuala ya wakimbizi wa nje, wakati umewadia hata sisi pia tuweke sheria ambazo zinaambatana na mujibu wa mikataba ambayo imetolewa na Umoja wa

Mataifa. Si siri kwamba Kenya inalinda masilahi na imepeana makao kwa wakimbizi wa kutoka maeneo ya nchi jirani, haswa wale ambao wamekuwa na matatizo nyumbani kwao kwenye walikotoka na wakahamia huku kwetu. Walivyohamia hapa kwetu, Umoja wa Mataifa umekuwa ukishikana na Serikali yetu ili kuhakikisha kuwa wakimbizi hawa wanaweza kuishi kwenye maeneo yale bila hali ya wasiwasi. Lakini ni vizuri kuwa sheria hii ikishapitishwa itaweza kuwalinda wakimbizi hawa. Lakini juu ya hapo, wale ambao wamewapokea kwenye maeneo yao waweze kuishi vizuri na wao kama majirani na kujua baada ya miaka hii yote, hao wamekuwa ndugu zetu. Vilevile ni vizuri kufahamu ya kwamba kule ambako wakimbizi hawa wamekimbia ni maeneo ambayo yana ukame mgumu. Hata wale ambao wanaishi kama majirani ambao wamewapokea katika maeneo yao pia wanastahili kutambuliwa na Umoja wa Mataifa.

Yangu ni kuunga mkono na kushukuru kuwa Serikali yetu kwa miaka hii yote imekuwa ikiwalinda wakimbizi wa nje. Vilevile, tunajua kuwa watoto ambao wamezaliwa hapa nchini Kenya wanatakikana kuwa na haki kama watoto wetu. Wakimbizi wengine wamekaa hapa miaka zaidi ya 20 au 30 na wamejua kuwa hapa kwetu Kenya ni kama kwao nyumbani.

Mhe. Naibu Spika wa Muda, naunga mkono.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): For one minute, I was confused whether ‘refugees’ in Kiswahili is *wakimbiaji* or *wakimbizi*. But I think it is *wakimbizi*. I am educated.

Hon. Millie Odhiambo-Mabona.

**Hon. (Ms.) Odhiambo-Mabona** (Suna North, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I support the Bill, except I was hoping the Committee would have given us reasons why they are introducing a new Bill after the old one. I do not know what mischief they are trying to redress. I have looked at the new one and there are minor differences which could have been effected through amendments. I am happy that the Bill has non-reformat provision. Even though the Chairperson of the Committee has spoken about non-discrimination as a principle, it is missing in the Bill. So, I hope they can provide for that.

Because of time, I will not get to the background that Members have talked about. I just want to raise some issues that I have noticed are of concern. Number one, in terms of definition, I would like to request the Committee to expand the definition of essential services to include shelter and reproductive rights. We have seen through COVID-19 that when you have responses that are health-related and you do not specify reproductive health, then pregnant women suffer. I am happy that the word ‘spouse’ includes common law spouse. Under refugee circumstances, it is likely to happen that people would meet and marry. I am also happy that the Bill includes children born out of wedlock. I would encourage the Committee to use the recognised international language: a treaty is not done; it is adopted. I would want to also encourage that internationally there is a growing adoption of other grounds for recognition of refugee status, including torture, cruel, inhuman and degrading punishment or treatment such as cases of female genital mutilation (FGM) or killings. Cases where a person can actually prove that they are running away from such instances are considered. That should be included.

Hon. Temporary Deputy Speaker, if you look at Clause 4(d), you will find that a person should not be denied refugee status just because he or she has sought asylum in another country; it should be that he or she has been granted asylum in another country.

I am not very happy with the advisory Committee as constituted because it is very Government-heavy. When it is Government-heavy, it is very difficult to ensure gender representation. I suggest that, like the old law, we provide representation of civil society. There is a clause that I always have a problem with; and I have seen it in the Tea Bill that I had proposed

an amendment to. I was told it is money Bill, but I do not think it is –that the Committee should hire experts and not co-opt people. This is poor governance practice. You cannot find a system through which people are hired and then you go and co-opt.

The composition of the appeal's body is good but, I urge that we include the gender commission and also to just announce a little more of the role of the UNHCR. Under Clause 19, I would also suggest that the breaches on non-reform and principal should also include issues that I have spoken about including social and gender based violence or forced pregnancies. We know of countries where there have been such cases. There is also too much discretion under Clause 19. Too much discretion is usually the mother of dictatorship and impunity. So, maybe, we need to limit that. The 60 days that is provided under Clause 22 is too short. I would like special attention be given to persons with disabilities, women and children, but I think the old law had a stronger provision which we need to strengthen. Under Clause 28, we need to strengthen both rights and duties under the UN Conventions of 1951, its protocol and the AU Conventions so that we actually provide specifically.

Article 4 is on religious rights. I had indicated before that we need to include the issue of nondiscrimination, which I do not see in the Bill. In terms of time, I have really tried. We do not have time. Otherwise, I will try and push some through amendments.

I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Sopan Tuiya): That was a very specific contribution. I believe that the Chair is following keenly. Also, Hon. Millie you can follow through in the next stage of the Bill. Let us have Hon. Manje Wathigo.

**Hon. Joseph Manje** (Kajiado North, JP): Thank you, Temporary Deputy Speaker, for giving me this chance to contribute to this Motion on creation of the Refugee Bill, which is timely. This is the time we should come up with a good management of refugees.

I will start by giving an example in my constituency in one of the wards where we have so many people from Congo. They have occupied a very big space because they normally go to one area. They have started a church and a football team. When I tried to check properly, I found that most of them do not have proper papers to stay in that place. That is why I thought it is a very good Bill coming at this particular time so that we can manage this group.

Our country is also sandwiched between these refugee producing countries like Somalia and Sothern Sudan which are not stable. Therefore, we expect to have large numbers coming to our country. So, if we do not organise ourselves, then they will occupy and most likely they will take the resources belonging to Kenya. We cannot forget that when they come to our country, they also compete with the little resources available. For example, if they come, and occupy some areas, apart from where they are designated like Dadaab and Kakuma... They also come to urban areas. You will find them doing manual jobs which Kenyans can do and small businesses like hawking and haircutting. It should be managed and organised so that, at least, Kenyans do not feel the pinch from outsiders. Every national have their own country and if they are not stable in their countries they should not destabilise us. That is why internationally governments try to stabilise other governments so that their people do not move for the meagre resources that are available. When they come to Kenya, they come with their own culture and influence. Like in my place, you will find people who do not practice relationships the way we do and so they tend to influence our children. Therefore, I think we should come up with very good regulations on when they come to our places and are `integrated; they should be integrated in a good manner.

We cannot also forget the kind of insecurity they bring to our country. Like the terrorism that happened the other time when they hit our hotel. When the Government tried to check, it was



organised in a refugee camp. These are the issues that we should come up with and do good amendments that will make this Bill a good law.

I support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Sopan Tuiya): Hon. (Dr.) Makali, you have the Floor.

**Hon. (Dr.) Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for this opportunity.

First of all, I want to thank the Chair and the Committee Members for this important Bill. The truth of the matter is that this Bill has gone through very intensive public participation. Most of the key institutions working in this area have been consulted and have given their input. The truth of the matter is that it has not been easy to get this Bill to where it is today because as Members are saying, there is a lot of interest coming from different stakeholders. One of the things that were quite difficult to get through in this Bill was the issue of balancing between human rights and national interest. Refugees come to this country and they have laws that safeguard them in terms of their own human rights. At the same time, even though we have opened the gates for them, we must also safeguard our national interests. These are things like what Hon. Manje was talking about – issues of national security and all that.

Looking at the Bill, you will realise that there are provisions to take care of most of these areas. For example, who will qualify to be a refugee? What vetting processes would they go through before they are admitted? That is to ensure that their own human rights and their validity or eligibility as refugees is also factored into the whole process.

The other issue is, and this has happened in this country, where we have had situations where communities living next to the refugee camps claim to be living a life worse than the refugees. Attempts have been made in this country where the local community wants to go in as refugees so that they can benefit. Basically what that is saying is that there are some of them who when they come to Kenya they will live better than Kenyans. The question we need to ask as national leaders is we must make sure that even as we accommodate refugees, they should not appear to be enjoying more than our people. To me, that would be sending a wrong signal to Kenyans.

The other issue and the big question is, should we allow them to work? If you look at the Bill, you will find that there is a provision for them to be allowed to work. The people who push for human rights would say it is better they work and it makes sense. In a country like Kenya where unemployment is so high, what that means is, they will come and start competing for the fewer opportunities which are there for our people. To me, these are issues which need to come out very clearly in the Bill and it has tried to do so.

The appeal process is captured in the Bill if you are denied the status of a refugee in this country. On how you go about to ensure that even as you are denied that opportunity, it is not for the sake of it... There must be serious reasons why you are denied. There are a number of other advisory bodies in the Bill in terms of how this issue should be addressed. I like what Hon. Millie has said that there are gaps.

What I recommend as we move forward with this Bill because I belong to this Committee, is that Hon. Millie should document those issues so that we can compare them with what other bodies had submitted. This is because we got a lot of submissions. This Bill has gone through many circles in the process of ensuring we do not leave anybody behind. I must confess that it is not easy to get a perfect Refugees Bill. The interests are too many, and we must accommodate all of them but others are partially accommodated.

Even as I support, there is still room for improvement. I want to encourage Hon. Members to look at the Bill. Where they think there are gaps, they should push them forward. So, as we go to the Third Reading, we will factor in most of these concerns to make sure we have a Refugees Bill or an Act which will safeguard the refugees' interests. At the same time, it will be safeguarding the interests of Kenyans who are the host community.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Chepkut what is the number of your seat.

**Hon. William Chepkut** (Ainabkoi, Independent): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Refugees Bill No.62. From the outset, it is a good Bill that will ensure management and organisation of refugees in our country.

I congratulate the Departmental Committee on Administration and National Security because it ensured that public participation according to Article 118 of the Constitution was followed. Public input was availed and I have no doubt in my mind that bold regulations were followed. In my constituency, Kapsoya Town is in the Central Business District (CBD) of Eldoret Town. We have more than 5,000 refugees from South Sudan.

We have a global pandemic which is a crisis that has never been witnessed by mankind. I thank Kenyans for following the measures instituted. Seventy five per cent of the total population of Kenya is composed of young people and most of them are unemployed. So, let us accommodate the refugees. They should follow the rule of law and order. They should also be friendly, co-exist perfectly, maintain good relations and live in peace.

In my constituency, as opposed to other areas, they are living in peace. They have intermarried and there is perfect co-existence. I urge other refugees in our country especially those in Kakuma to follow regulations, laws and order because they can instill their own culture in our country. The definition of this Bill is not properly done. In future, promotion of co-existence should be spelt out properly. Regarding intermarriages, if a child is born in Kenya it becomes a citizen. The legal framework is perfect and excellent. The Departmental Committee on Administration and National Security has done a great job.

I support without reservations.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. King'ola Makau, the Member for Mavoko, you have the Floor.

**Hon. Patrick Makau** (Mavoko, WDM-K): Thank you, Hon. Temporary Deputy Speaker for giving me a chance to contribute to the Refugees Bill No.62. I want to agree with Hon. Members that when you look at refugees in Kenya, we must strike a balance between those who are under the UNHCR... I have seen in Kakuma and Dadaab that refugees who are registered in UNHCR centres live within their laws but do not adhere to Kenyan laws. Therefore, there is a lot of law breaking. Looking at this Bill, the Committee is trying to address some of these issues.

We should look at the welfare of the refugees versus our locals. Sometimes, it is true that refugees in this country are treated better than locals. I think this causes a lot of discomfort among the locals. It also encourages our people to be registered in refugee camps. Recently, when I looked at how countries voted for and against Kenya non-permanent UN Security Council membership... I was disappointed to see countries we have hosted their people all along like Ethiopia and Somalia voting against us. I wondered whether Kenya did wrong to host their people.

The English have a saying that, scratch my back, I scratch yours. It is high time we favoured Kenyans. This is because if they cannot favour us at a time of need, then who are we to treat the

people well yet, they cannot reciprocate? It is important to note refugees' professionalism and tap it. I have seen the Scandinavian countries have tapped the professional capacities of refugees. So, we cannot equate Kenya with those countries since we are a developing country. This is because there is competition of available resources.

I think it is important even as we make laws that govern refugees to consider human rights. We are at a time when Kenya is trying to take off economically. I think we should safeguard what we have so that the future generations can occupy those opportunities before we engage outsiders.

Therefore, I cannot agree more with this Bill, which provides for a balance between locals and refugees. I am sure we have experts in this House who will bring amendments. I will also look at it, so that if there is anything I feel will disadvantage Kenyans and cause bad blood between refugees and Kenyans; I will bring it to the attention of the House and probably even initiate amendments during the final stages of the Bill.

With those remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Let us now hear Hon. Murugara Gitonga.

**Hon. George Gitonga** (Tharaka, DP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this timely Bill. We need to look into the issues of refugees in the country with some form of finality. Kenya has hosted refugees for a long time – almost since Independence as turmoil ravaged through Africa and people had to move and be accommodated in other countries where there was peace.

Amongst communities hosting refugees, there is the notion that refugees are actually treated better than our citizens. That is why refugees lead better lives. They may be lives of supply without much work but this is because of the sort of laws we have in the country. I was privileged to join the stakeholders while doing public participation in respect of this Bill. I visited Kakuma Refugee Camp. Then there was another settlement called Kalubei, which was meant to actually move the refugees from the initial status to some status akin to becoming Kenyans. This Bill will deal with the reception and registration of refugees, which is very important. This is because we also know that there are criminals who commit atrocities in their countries and they find refuge in our country. We must be able to vet so that we only give refugee status to those who qualify.

This Bill also forms institutions that will govern the discharge of duties pertaining to refugees. This is very important. However, most importantly, there must be a provision to fund those institutions because the complaints we have is that there is no money set aside for the relevant Ministry to fund activities of such agencies. This Bill should address such complaints. Let me touch on the rights of refugees as enshrined in this Bill. They will have rights almost similar to those of Kenyans, including right to education, work and many other human rights. I agree fully that refugees are human beings. We must treat them with dignity and respect. We must accord them what is due to them. However, while we are trying to integrate refugees into our society, we must not lose track of the fact that Kenyan citizens carry the primary role, citizenship is paramount and that we must at least treat our citizens first and foremost before we go to refugees.

When it comes to work, we know there is an acute shortage of work in the country. Unemployment is ravaging our country. So, as we consider refugees for work, we must bear in mind that we have hundreds of thousands of young people in the country who have no jobs. Graduates from universities, technical training institutes and colleges are jobless. So, we must protect these ones first. When it comes to education, we must also look at the form of education we are giving to our citizens before we go to refugees. This is because we know very well that there are some counties in Kenya where the level of education and infrastructure is wanting. We

must also talk about the international community which comes in to aid refugees. As they do this, primary importance must go to the host countries. As they sort out refugee problems, let us also look at what problems, we, indigenous Kenyans have which this community must take into consideration, including what is good for us and what is good for refugees.

So, while I support this Bill, there is a lot more to be investigated and interrogated, and we will discuss this during the Committee of the whole House.

I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Let us have the Member for Seme, Hon. (Dr.) Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to discuss this Bill. The issue of refugees is a big problem in the country. This country actually has 500,000 people who live as refugees mostly from Somalia and South Sudan, and we have huge refugee camps like Daadab and Kakuma. Kakuma is actually the largest refugee camp in the world. So, it is a big problem that we have. Worldwide, there are about 25 million people who are walking around as refugees without status. Not just the numbers but we also have problems of looking after them. There are security issues that come with refugees. There are also health and human rights issues. Therefore, it is an issue that needs to be looked into carefully.

This Bill provides for recognition and protection of refugees. It seeks to give effect to the international conventions that we have signed; like the UN and OAU ones. Most importantly, it is the structures that the Bill has put in place. The Bill has put in place many very important structures, starting with creation of a refugee department within the Public Service. It will be funded and, therefore, it will be easy to supervise. It has an advisory committee which will advise the Commissioner for Refugees. It will have a status appeal committee and a panel that will look at the issue of refugees.

However, what has come out that I think we need to look at in this Bill is that the Commissioner for Refugees and the Minister have a lot of discretion throughout this Bill, but we do not find structures that will curtail some of these discretions or put in place regulatory processes. Probably, the appeal committee will do that but it is something I have looked at in the Bill. A lot of authority has been given to the Minister and the Commissioner for Refugees. The other thing that is not clear in this Bill – which we need to look at – is the relationship between the Advisory Committee and the Commissioner. Looking at it officially, you realise that the commissioner is working under the advisory committee but you do not see a clear structural relationship. My concern is that in future there may actually be a conflict between them.

The other issue that I noted is the composition of the committee. It is a purely Government committee. As Hon. Millie has said, we need to include the civil society and religious organisations in that committee. The appeals committee replaces the appeals board that is in the Act. Again, it is solely appointed by the Minister and you do not get any representation from the civil society and religious organisations. Again, that is an issue we need to look at. However, it establishes a proper process of application and eligibility. The eligibility panel is an important panel that advises the Commissioner. There are very good provisions in this Bill; like Clause 16, which provides for screening people for health. However, it does not say what you do after you screen them. The provision for protection of women and people with disabilities is very good.

As Hon. Odhiambo-Mabona said, the exclusion for consideration just because you have applied to another country is not correct. It should be that you have actually been given asylum in

another country. So, you find that the establishment of the designated areas and the settlement officers that look after these areas and protection of how you get into...

*(Hon. (Dr.) James Nyikal's microphone went off)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Is Hon. Anthony Kiai in the House? Oh, you are seated in an unlikely position.

**Hon. Anthony Kiai** (Mukurweini, JP): Thank you, Hon. Temporary Deputy Speaker. Yes, today I am in the Opposition, but I have not shifted. I want to appreciate, and I am seated next to my classmate, Hon. Odhiambo-Mabona.

Hon. Temporary Deputy Speaker, I stand to support this Bill. This Bill is an improvement on the Act of Parliament that is already in place. But I would want to say two or three things other than what Hon. Odhiambo-Mabona has said. You realise that, this is an issue that brings about that delicate balance between human rights and national interests. Kenya, as it is, hosts some of the largest refugee camps in the world - at Kakuma or Dadaab. So, the problem of refugees in Kenya is such a big one. We, therefore, need to have a law that governs and manages refugees in Kenya.

Some of the issues that are raised here really go into the security of this country because issues of refugees also overflow into security issues and they need a proper law to manage them. If you look at the law, which I have had a chance to look at when I had the privilege of being in the Departmental Committee on Justice and Legal Affairs... We visited those refugees both in Dadaab and Kakuma. You will see that when the refugees come into our country, there is competition for resources. Some of the issues we picked in those refugee camps are that the refugees are treated better than the locals. The refugees are given better working and job opportunities than the locals. The refugees are always treated better by the law than the locals. Indeed, the facilities that they enjoy, like the schools that are donor-funded, the hospitals and the likes are better than the existing ones. Therefore, we need to have a law that will govern those issues before they become an insecurity issue.

Hon. Temporary Deputy Speaker, the friction of culture is also another issue. You realise that when the refugees congregate somewhere, they move with their culture which sometimes is incompatible with the local culture. Those issues also generate a lot of animosity between the locals and the refugees. However, not all is lost. I realise that this Act has a very huge chunk about integration. Refugees being human, they need to be integrated into the proper local system either by making sure that they are given safe refuge out there and are integrated in those local societies or country. The section about integration talks about what happens in a situation whereby two refugees sire a kid who is stateless. What is the status of that kid who is born by two refugees? What happens when a local marries that refugee and they have kids? What is the status of those kids? The law, as it is, states that they cannot become Kenyan citizens. In other places like in the United States of America (USA), the moment you are born in their country, you automatically become a citizen. We need to look at such issues.

The issue of asylum also needs to be addressed because when you arrive in Kenya for instance, and you apply for asylum locally, you are also in conflict with the immigration laws. Most likely, you will be returned back as a person who is not needed on Kenyan soil. So, we need to reconcile the Refugee Act with the Immigration Act, Penal Code, and the international conventions to ensure that once the Refugee Act is debated and agreed on, it is not in conflict with the existing laws. Otherwise, it will be shot down.

I stand to support. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Maoka Maore, you have the Floor.

**Hon. Maoka Maore** (Igembe North, JP): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to contribute to this very important Bill. This is a Bill that should have been enacted on the eve of Somalia fall. We have been having the unfortunate credit of having to neighbour a failed state for close to 30 years. It is important to note that the definition of a refugee and the status that one enters into, as somebody who is running away from conflict, violence or persecution. When you are a refugee, if you are repatriated back to your homeland, there is a threat to your life in very many ways. That is usually the difference between somebody who is seeking asylum and someone who is seeking refugee status.

When you look at Africa, we are only second to Ethiopia in terms of the volume of the refugees that we host. So, for us, as a country, the word “refugee” should actually ring a bell to everybody. For that reason, you have seen the influx of the Somali citizens, who came in two different categories that is, the women and children who are vulnerable and were concentrated in camps and there are those who earn money, they came and transformed the lifestyle of Nairobi. For instance, you find that in most estates which they occupied, they were tripling the price of houses, both rental and purchase.

Hon. Temporary Deputy Speaker, when we have this scenario of refugees — and this Bill has come at the right time — we know that when the United Nations (UN) security agency that caters for refugees was defining the life of a refugee, it was specifically to help the Europeans who had been displaced by World War II. For that reason, that is why you find that the protection of a refugee is quite a serious affair because it involves the Europeans. Now that the Europeans are far away from that plaque, it is we Africans and most of the other developing countries. You can see what Bangladesh is going through with the Rohingya, the displacement of the war in the Middle East and others for example.

Hon. Temporary Deputy Speaker, when we talk about a refugee, he or she is a human being like you and me. It is for that reason, when we have this piece of legislation trying to define and protect refugees, it could not have come at a better time than this time. We need, as a country, to integrate those refugees who are within our borders and provide them with facilities even nearer where they are settled. We know the UN and there is huge money to those who know about those cartels of the UN and others. The money involved is huge. For that reason, you would find that the facilities at the refugee camps are usually better than those of the communities nearby. However, we should always respect, with a lot of dignity, those people who have had the unfortunate status of being refugees.

With those few remarks, I beg to support this Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): The Member for Kasarani, Hon. (Ms.) Mercy Wanjiku, you have the Floor.

**Hon. (Ms.) Mercy Wanjiku** (Kasarani, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Refugees Bill, 2019.

Nobody chooses to be a refugee. It happens because of issues to do with neighbouring countries. It is good that we put things in order because many times, the locals view refugees as a security threat. I will give an example of Kasarani Constituency. We have almost 10,000 Congolese refugees. You will find most of the complaints at the administration office or the Office of the Deputy County Commissioner (DCC) are about refugees. Within the estate, you will find that the locals are not able to accommodate them. When we have a Bill that will ensure that law

and order is maintained or that there will be harmony between the refugees and the locals, it will be in order. Usually, we say that today it is this country and tomorrow it will be another country. We cannot compare ourselves with a country like Germany which is hosting millions of Syrian refugees. Whether a country hosts a few or many refugees, it is good to have law and order in place.

It is high time we ensured that our locals do not feel like the refugees have come to take their resources. It has been cited in the House that sometimes you find they have more resources in terms of money. They are able to purchase. Through marriage, you find that a refugee is able to become a citizen. It is high time that we supported this Bill as a country so that we live in harmony. We know that when our locals feel threatened, it would be difficult to convince them that we are not hosting for a particular advantage.

Various estates, especially in Nairobi County, have refugees from Sudan and Rwanda. I have given an example of Kasarani where we have Congolese refugees. Sometime when you go to the estate, you find that the local men are not really complaining about the female refugees. They only complain about the male refugees. During construction of roads, they say that male refugees take all the casual jobs because most of the time, one is not asked for an ID card to engage in casual labour. They just present themselves and whoever is present is accommodated. The complaints we have in our offices is that people from such and such a country are coming to take our jobs. In the local churches, men say they have no problem with the female refugees. I do not think we need to accommodate one gender over the other. We need to make sure that whatever is being set is right and correct so that we accommodate them as a family.

When I began, I said that no one chooses to be a refugee. It is high time that we ensure that all the matters surrounding the Refugees Bill are catered for. Even if everything is not dealt with, at least we will live in harmony so that our people do not feel that refugees have come to take our resources or our peace and security.

I support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Well said. Let us have the Member for Teso North, Hon. Kaunya Oku.

**Hon. Oku Kaunya** (Teso North, ANC): Thank you very much, Hon. Temporary Deputy Speaker for the opportunity to support this Bill. I am a Member of the Departmental Committee on Administration and National Security of the National Assembly. I support the sentiments by our Chairman.

When going out to the field, especially when we visited Kakuma and Dadaab we found that we have a big number of refugees in our country. The total number is 474,044 refugees. Only 1,473 were voluntarily repatriated. Therefore, this Bill is critical in helping the country to manage the refugees in terms of their recognition, protection and registration.

One of the issues that we encountered was the encampment policy. This is a policy where, throughout the world, refugees are kept within a camp for a long time for control purposes. This incumbent policy is changing, whereby countries are now adopting integration policies. This integration policy has been addressed in the Bill by giving the Cabinet Secretary (CS) the power to make certain regulations so that at different levels of admission and registration of refugees, they can then be resettled at a certain stage. The reason for this is partly the balance between security and the issue of human rights or the rights of refugees. This includes the right to employment and the right to settlement.

All countries worldwide first look at their national security. Secondly, they look at the rights of their citizens and the rights of the refugees who come into their country. This particular

aspect of encampment is something that needs to be strongly considered, especially for genuine refugees who have been around for a long time and have been properly vetted.

We had a case in Dadaab where a young man was born in 1991 after the refugee influx. He schooled there. We met him and he gave a testimony. He had remained in the camp and was now 28 years old. The country has to decide how to deal with those cases where a child is born and is a refugee. There are certain rights that have to be guaranteed within the law.

Members have ventilated on other aspects of the Bill. This Bill is meant to align the management of refugees with the Constitution. We had the Refugees Act No.13 of 2006 which was not aligned with the 2010 Constitution. This Bill seeks to align that with the 2010 Constitution which brought about several changes including the titles of “Minister” which is now “Cabinet Secretary”.

Lastly, I support this Bill because it has provided for all the institutional arrangements, right from the Department of Registration. We also have several other provisions for...

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Let us have the Member for Ijara, Hon. Sophia.

**Hon. (Ms.) Sophia Noor** (Ijara, PDR): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I come from a county that hosts refugees. I have had a lot of experience with refugees. It has been very difficult for us as the host community because when they came 30 years ago, we did not have any structures or systems of engagement. There was no preparedness. Nobody was expecting that kind of a problem in our neighbouring country. We did not have specific laws that addressed refugees’ issues. When they came, everything became a hustle for the communities. They destroyed the environment and everything that was there, so that they could get something like firewood. As a county, our environment and wildlife were completely destroyed. There were insecurity problems all over. This is something that affected both the host community and refugees. I appreciate that we have come up with a Bill whose objective is to provide for recognition of refugees, their protection and management, in line with 1951 United Nations Convention relating to the Status of Refugees.

Hon. Temporary Deputy Speaker, there are several protocols like the African Union Protocol that specifically addresses the refugees’ problems in Africa. Those are the things that our Bill has recognised today and taken into account in line with the conventions that we, as a country, have rectified. We appreciate it today. Refugees have rights and duties in any given situation. When you go to a country today as a visitor, you must abide by the visa that you are given and the rules. I really appreciate that this Bill has clearly brought out the duties and rights of refugees who assemble in Kenya. They are already in the UN Convention which we are Members. We have rectified some of those UN conventions.

If an enabling situation is provided, the refugees can contribute heavily in the economic and social development of this country. I want to give you an example. I went to Minnesota State in the USA where we have more than 150 million Somali refugees. The kind of businesses and engagements that they do and the way they have turned around the economy of Minnesota State has gone down in the American history. They contribute huge tax returns to the Government which is used for development. This is the right time. We are doing the right thing. When you are doing the right thing, it brings out issues. It is important to facilitate the refugees and give them proper documentation both at the two levels of Government: national and county levels. Once we integrate them and give them the opportunity to be part and parcel of this country, and particularly to co-exist....



**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): You have made your point, Hon. Sophia. Let us have the Member for Lagdera, Hon. Garane Hire.

**Hon. Mohamed Hire** (Lagdera, KANU): Thank you, Hon. Temporary Deputy Speaker. At the outset, I wish to thank the Committee and commend them for a good job. The Refugees Bill has come at the right time.

The issue of refugees is a global phenomenon. With the many displacements that are happening all over the world, it is likely that refugees will increase. This refugees' problem which is a global scenario requires us to have proper laws to address it. Kenya has hosted refugees for the last 30 years. It is embarrassing that we are talking of having laws to address their problems 30 years later. These laws should have come at the beginning of this problem. The global problem of refugees is not unique in Kenya. Kenya being the country that hosts the largest or second largest number of refugees, it should be a trendsetter in having proper laws.

I represent a constituency that neighbours Dadaab Refugee Camp, which is the largest refugee complex in the world. Being a neighbour to that complex, I have first-hand information of the life in refugees' camps. It is not a good thing. There is this perception that refugees are lesser humans which is not the case. Nobody wishes to be a refugee. It is a natural process which happened to those people. It can happen to anybody. There is tension, demonstrations and killings in Ethiopia. If they spill, I do not think that the neighbouring countries are prepared to handle them. Having these laws is very critical.

I want to go back to the Bill which is good. There are some critical issues that it is expected to address. One of it is the integration of refugees which does not come out clearly. For instance, refugees are kept in camps. There are so many countries that accept refugees in this world, including Germany and Turkey, and their population is large. Those people are not put in camps. They have proper policies and laws that allow the host countries to integrate them to be part of the society. If we allow these people to live within the society, we would not be talking of most of the problems like insecurity or competition of resources. There are about 400 refugees in Dadaab Camp. These are ready markets for people.

Finally, I want to advise the Committee to look at the global Comprehensive Refugee Response Framework, which is a very important declaration made by 193 members of the United Nations. It specifically calls for great support for countries that host refugees in finances and helping them to see how they can integrate them with the host communities.

When the Bill comes to the Committee of the whole House, I am sure that we will have some amendments.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Yes, Member for Lagdera, you will have an opportunity to interact more in the next stage, which is the Committee of the whole House, where you can go into the details of whatever reservations you may hold.

Member for Kabondo Kasipul, Hon. Akinyi Obara.

**Hon. (Ms.) Eve Obara** (Kabondo Kasipul, ODM): Thank you very much, Hon. Temporary Deputy Speaker. I know that a lot has been said but let me also add my voice and support the Bill. As it has been noted, the Bill is generally progressive and administrative in nature, providing for the rights of the refugees in Kenya. I am happy to note that it is very clear on integration of the refugees with the communities so that they can share amenities, which has been mentioned by many of us here today. This is critical as it has been noted that there are instances where these refugees actually have better services than the locals themselves. Therefore, an attempt to integrate the two is worth commending.

Finally, so that I do not repeat what has already been said, the Bill also incorporates international standards in the process, therefore, placing our country as a jurisdiction that complies with international laws.

Once again, I support. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Member for Masinga, Hon. Mbithi.

**Hon. Joshua Mwalyo** (Masinga, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for this opportunity. I want to say something about this Bill. Indeed, we thank the Committee for the good work, for thinking about this Bill, so that we can have structures to govern the refugees in this country.

These are human beings just like us and they need to be taken care of the way the Constitution takes care of each of us. The Bill will bring sanity to the management of refugees so that they can have structures in place to manage them and their affairs. Many have said that this country has been hosting these refugees for over 30 years, indeed, we have been very generous. This is a generous country. We have been able to take care of them. Even when some people wanted them to be kicked out of this country, the administration said that they would still hold on to them and they are still here.

That is why we are being honoured or paid by God because we are taking care of the vulnerable; those who do not have places to go and those that are unable to help themselves. It is very important to help someone who will never be able to help you. Therefore, it is an honour for this country to have taken care of the refugees from Sudan, Somalia, and other countries. We even used to take care of the refugees from Uganda when Idi Amin had chased them from their country.

We have become a host country; a country that is so generous. Therefore, this Bill will help bring sanity in all the ways and to have some controls. Some of these refugees do not behave well, others behave well while others live large, especially the ones who were coming from South Sudan before their independence. They used to live in Karen and Lavington and they were the envy of many. Some of us wondered why they lived large yet, we as the citizens could not afford to live like them.

To me, this is a God-sent opportunity that we can bring order to the management of these human beings called refugees because they are human like us. I remember one day there was a newspaper article from Kakuma that one of the refugees there had put up a huge wholesale business that sold everything until Equity Bank had to open a small branch to only cater for that one person because he was banking a lot of money. To me, these are human beings who have a lot of energy, a lot of brains and they can become good businessmen. Therefore, their being taken care of by this Bill will help them.

Also, in the refugee camps there is a lot of employment because international organizations normally bring their professionals to do logistics in those camps; to supply food and other essential items to the refugees and this creates employment. If all these can be brought together by this Bill, then it will be a good thing so that we can move forward.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Let us have the Member for Makueni. I will urge you that between you and two other Members, you have nine minutes. So, if you could be gracious enough to do three minutes each, then the whole list can be cleared and everyone will contribute.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Thank you, Hon. Temporary Deputy Speaker. Let me take a different view from what Members have said so that we do not repeat ourselves.

Refugees are a worldwide crisis and the earliest this was spotted was 3,000 or 4,000 years ago, when in the Mosaic Law we are able to see cities of refuge. Funny enough, the Mosaic Law, other than in very unlikely situation has not been contradicted by much legislation in the world. If you look at the Mosaic Law, one of the requirements was to take care of the refugees, the homeless, the less fortunate and those without food. It was really a serious requirement. And when someone committed manslaughter, they would run to a city of refuge.

Coming to modern times, the Chair of the Committee on Administration and National Security, Hon. Koinange is aware, we have a gentleman called David Beasley, who is the Director of World Food Programme (WFP) and he has been traversing the world including Kenya. He is a great person to us because he has been feeding these refugees. Statistics show that many refugees, especially children, die out of hunger if there is a little delay of delivery of these donations. This tells us that there is a problem, not only in Kenya but worldwide. This is a matter which we need to address as a country, having accommodated Somalis, South Sudanese, Burundians, Ugandans and all our neighbours.

Most of these refugees flee from war and we even have the latest from Turkey. When there was a problem in Turkey recently, some of the Turkish citizens who live here automatically became refugees.

Therefore, I really want to thank the Committee and urge Members to support this because we are now able to address the loopholes we had in the law that we could not seal. But most importantly, we have to protect these people and their human rights have to be protected. They have to be treated well because anyone can be a refugee anytime in the world.

I thank you, Hon. Temporary Deputy Speaker.

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

**Hon. (Ms.) Nasri Ibrahim** (Nominated, FORD-K): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Refugees Bill. Kenya has hosted a large asylum-seeking and refugee population, which at present is jointly managed by the country's Department of Refugee Affairs and UNHCR under the 2006 Refugee Act and the Refugee Regulations, 2009. In accordance with the Refugees Act, 2006 and the Refugees Regulations, 2009, Kenya recognises the two classes of refugees: statutory and *prima facie* refugees.

Hon. Temporary Deputy Speaker, Kenya is a signatory to a number of international treaties applicable to individuals seeking asylum and protection. Kenya acceded to the 1951 United Nations Convention relating to the Status of Refugees on 16<sup>th</sup> May 1966. Kenya also ratified the 1967 and 1981 protocols. Kenya is also a party state of the 1969 African Union – formerly known as Organisation of African Unity (OAU) – Convention governing the specific aspects of refugee problems in Africa, which she signed in September 1969 and ratified in June 1992. The proposed Refugees Bill of 2019 seeks to give effect to the above international treaties.

Part V of the proposed Bill provides for the rights and duties of asylum seekers and refugees in the country by providing the right of appeal. Asylum seekers and refugees have the right to appeal any decision of the Department of Refugee Affairs.

I am a proud Kenyan because when many African countries had war, Kenya welcomed their citizens with open hands and most of the refugees and asylum seekers today living in Kenya are home owners, business owners and live very comfortable and decent lives.

With those remarks, I support the Bill.

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

**Hon. (Ms.) Edith Nyenze** (Kitui West, WDM-K): Thank you, Temporary Deputy Speaker. I support the Refugees Bill of 2019 because it puts some recognition into the management and protection of refugees and brings about some order.

There has been a lot of lawlessness whereby refugees would come with their own rules and way of behaviour. The Refugees Bill of 2019 seeks to put in place structures so that we can avoid lawlessness in our country. It is a delicate balance whereby the Bill seeks to provide for humanitarian approach because these are human beings. Imagine that you have undertaken so much development, including educating your children and establishing businesses. You have put everything in place and you think it is time to settle and then you are told to leave your country because of some insecurity. That is why when refugees come to a country like Kenya, we should have a humanitarian approach but we should appreciate that the whole process is a delicate balance because we should also take care of our own. Kenyans should be given the first priority in jobs, education, businesses and allocation of resources because the refugees will one day go back to their country. If we give them advantage over our own, we will eventually suffer. So, there should be a balance between the humanitarian approach and considering that some refugees are a security threat, including terrorism. It is, therefore, good for the Bill to balance between being a brother's keeper and providing security to Kenyans.

It is good to know the maximum number of refugees who can be kept in a camp. Some camps have very many people. Instead of giving them refuge, you find that the camp becomes like a prison. So, it is good to have structures in place. I support the Bill.

Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Member for Kitutu Masaba, I will give you two minutes because we are out of time.

**Hon. John Mose** (Kitutu Masaba, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me a chance to add my voice to this very crucial Bill. To start with, Kenya has been extremely hospitable to the refugees from several countries like Somalia, Sudan, Uganda, *et cetera*.

Whereas we have had various challenges, I can assure you that we have also been beneficiaries of the refugees. Therefore, this is a timely Bill as it brings recognition, protection and management of refugees. It is fashioned in such a manner that at the end of the day, refugees are not a problem, so to speak. I am sure, as past speakers have said, most of the time refugees cause problems to our country like being a threat to security and even the economy. However, as much as they have problems, at the same time, when they come, they come with blessings. This is because we have the issue of creation of jobs in the refugee camps which enhances our economy and this is attributed to donors and investors who have interest in taking care of the refugees.

Finally, with the coming into effect of this Bill, Kenya will attain high level of recognition in the domain of countries in the world that have hosted refugees. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Very well. Hon. Members, we have come to the end of the debate time for the Refugees Bill and at the same time we do not have any more requests for contribution from Members. Therefore, I will go on to call upon the Mover to reply.

Proceed, the Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, when I was moving, I indicated that it is a very important Bill. Indeed, I expected the House to be full because of the magnitude of the problem, but it looks like most Members are more interested in Committees than the business of the House. I must record my disappointment because on a matter of an international nature like this, with Kenya hosting so many refugees, one would have expected a

bigger turnout. I was expecting Members who interact with all these refugees to be more interested in knowing how to determine who a refugee is and once we know that so and so are refugees and we grant them status, we think of how to manage them and determine where they belong. Anyway, that is the nature of our politics.

I accordingly thank the Members who stayed behind and were able to input their views. I also thank you, Hon. Temporary Deputy Speaker, for bearing with an empty House as we debated this. Now that we have closed the debate, I hope they do not come and open the debate at the Committee of the whole House stage where they would want to be heard on their views yet they had the opportunity.

I also thank the Committee because they did a good job and we will work together in terms of bringing any amendments that will be required both from the stakeholders and the Committee so that we can, at least, have a Bill that will stand the test of time.

With those remarks, I beg to reply.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Very well, Leader of the Majority Party. At least, the Members who stayed behind maximised on debate time of the Bill. We got some quite substantive contributions. We shall defer the putting of the Question until next time when we have this business on the Order Paper.

*(Putting of the Question deferred)*

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Members, the time being 6.50 p.m., the House stands adjourned until Tuesday, 28<sup>th</sup> July 2020, at 2.30 p.m.

The House rose at 6.50 p.m.