

PARLIAMENT OF KENYA**THE NATIONAL ASSEMBLY****THE HANSARD****Wednesday, 10th November 2021**

The House met at 2.30 p.m.

*[The Deputy Speaker (Hon. Moses Cheboi) in the Chair]***PRAYERS****QUORUM**

Hon. Deputy Speaker: Hon. Members, we are just short of the required numbers. Therefore, I order that the bell be rung for 10 minutes.

(The Quorum Bell was rung)

Order, Members! We now have the required quorum to transact business, so let us begin.

PAPER LAID

Under this particular Order, let us have Hon. Abdi Tepo.

Hon. Abdi Tepo (Isiolo South, KPP): Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker, I beg to lay the following Paper on the Table of the House:-

Report of the Committee on Delegated Legislation on its consideration of the Environmental Management and Coordination Impact Assessment and Audit (Amendment) Regulations, 2016 - Legal Notice No. 149 of 2016.

Hon. Deputy Speaker: Very well. Let us go to the next Order.**NOTICE OF MOTION**

Again, let us have Hon. Abdi Koropu Tepo representing the Committee on Delegated Legislation.

**ANNULMENT OF ENVIRONMENTAL MANAGEMENT AND COORDINATION IMPACT
ASSESSMENT AND AUDIT (AMENDMENT) REGULATIONS**

Hon. Abdi Tepo (Isiolo South, KPP): Hon. Deputy Speaker, I beg to give notice of the following Motion:

THAT this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Environmental Management and Coordination Impact Assessment

and Audit (Amendment) Regulations, 2016, laid on the Table of the House on Wednesday, 10th November, 2021, and pursuant to provisions of Section 18 of the Statutory Instruments Act, 2013, and Standing Order No.210(4)(b), annuls in entirety the Environmental Management and Coordination Impact Assessment and Audit (Amendment) Regulations, 2016, published as Legal Notice No. 149 of 2016.

Hon. Deputy Speaker: Very well. Let us go to the next Order.

QUESTIONS AND STATEMENTS

On this particular one, we will start with Ordinary Questions. I know we also have requests for Statements and replies to Statements. Starting us off this afternoon is the Member for Kisumu Town West, Hon. Olago Aluoch.

Hon. Olago Aluoch (Kisumu West, FORD-K): Thank you, Hon. Deputy Speaker. My constituency is Kisumu West not Kisumu Town West.

Hon. Deputy Speaker: Yes, that is actually true. It is Kisumu West. I thought it is to the west of the city, but let us proceed.

(Laughter)

At one point, I think you were representing Kisumu Town West.

Hon. Olago Aluoch (Kisumu West, FORD – K): You are right; it is to the west of Kisumu City.

Hon. Deputy Speaker: Proceed.

ORDINARY QUESTIONS

Question No. 468/2021

MEASURES TO DEAL WITH EMERGENCIES AT KISUMU INTERNATIONAL AIRPORT

Hon. Olago Aluoch (Kisumu West, FORD – K): Hon. Deputy Speaker, I rise to ask Question No. 468 of 2021 directed to the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works:

- (i) Could the Cabinet Secretary explain why the Kenya Airports Authority (KAA) does not have its own dedicated search-and-rescue boats at the Kisumu International Airport for utilisation in case of an emergency plane crash into Lake Victoria?
- (ii) Considering that the southern tip of the Kisumu International Airport's runway is adjacent to the shores of Lake Victoria, what measures has the Kenya Airports Authority put in place to deal with possible emergencies that may arise during take-offs or landing of aircraft from this side of the runway?

Hon. Deputy Speaker: That will be replied to before the Departmental Committee on Transport, Public Works and Housing.

Let us go to the Member for Kaloleni, Hon. Katana.

Question No. 469/2021

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MECHANISMS TO ESTABLISH ROOT CAUSE OF ARSON IN SECONDARY SCHOOLS IN KALOLENI

Hon. Paul Katana (Kaloleni, ODM): Thank you, Hon. Speaker. I rise to ask Question No. 469 of 2021 to the Cabinet Secretary for Education:

- (i) What mechanisms has the Ministry put in place to establish the root causes of incidences of arson occurring in public secondary schools in Kaloleni Constituency, such as Ngala Memorial Secondary, Kinarani Secondary School and other affected schools across the country, and to further forestall any new occurrences?
- (ii) Could the Cabinet Secretary clarify whether there is correlation between the compressed academic calendar and the increased incidents of arson in public secondary schools?

(Loud consultations)

Hon. Deputy Speaker: Order! Members, take your seats. Who is that Member? Proceed.

Hon. Paul Katana (Kaloleni, ODM): I will proceed.

- (iii) What measures has the Ministry put in place in meeting the cost of renovating the razed down facilities in order to ease the financial burden already incurred by parents and guardians?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you. That one will be replied to before the Departmental Committee on Education and Research.

Next is the Member for Marakwet West.

Question No.470/2021

GAZETTEMMENT OF CHESUMAN POLICE STATION

Hon. William Kisang (Marakwet West, JP): Hon. Deputy Speaker, I rise to ask Question No.470/2021 to the Cabinet Secretary for Interior and Coordination of National Government:

- (i) Could the Cabinet Secretary explain when the Chesuman Police Station in Tunyo Division of Marakwet East will be gazetted, having been commissioned in 2017, and further state the timelines within which the gazettement shall be undertaken?
- (ii) Within which timelines shall the Ministry provide Chesuman Police Station with a motor vehicle and other equipment to enable the police officers to effectively serve the residents of Tunyo Division?
- (iii) When will the Ministry reinstate the National Police Reservists to supplement the enormous security workload currently being undertaken by police officers in Kerio Valley of Elgeyo Marakwet County?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: That one will be replied to before the Departmental Committee on Administration and National Security.

The next Question is by Hon. Babu Owino. He made a request in the morning that it be deferred and I accept. So it is deferred.

Question No.471/2021

RATIONALE BEHIND SENDING KEMSA WORKFORCE HOME

(Question deferred)

Let us go to the last one by the Member for Alego-Usonga, the Hon. Atandi.

Hon. Samuel Atandi (Alego-Usonga, ODM): Hon. Deputy Speaker, just give me one second I get the Question.

Hon. Deputy Speaker: What were you doing in the last 20 minutes? You could be assisted with the hard copy; that will make it easy for you. We can have somebody quickly...

Question No.472/2021

ILLEGAL ENGAGEMENT OF WPP SCANAD PLC BY KENYA POWER

Hon. Samuel Atandi (Alego-Usonga, ODM) Hon. Deputy Speaker, I rise to ask Question No. 472/2021 to the Cabinet Secretary for Energy and Petroleum:

- (i) Could the Cabinet Secretary explain the criteria employed by the management of Kenya Power to engage WPP Scanad PLC, which is a multinational company, in its operations as outlined in the Report of the Auditor-General on the Kenya Power for the year ended 30th June, 2020, contrary to Section 103(1) of the Public Procurement and Asset Disposal Act, 2015?
- (ii) What specific steps have the Board of Management of Kenya Power and the Ministry of Energy taken to ensure that Kenya Power recovers monies paid out to WPP Scanad as a result of this illegal and irregular engagement?
- (iii) Could the Ministry consider blacklisting and debarring WPP Scanad PLC from taking part in any future public procurement in Kenya; and what action has been taken against individuals culpable of the irregular payments?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: That will be replied to before the Departmental Committee on Energy.

That marks the end of Questions; so we move to Statements. To start us off is the Hon. Duale, Member for Garissa Township.

REQUESTS FOR STATEMENTS

UTILISATION OF FUNDS FOR DROUGHT MITIGATION

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, pursuant to the provisions of Standing Order No.44(2)(c), I rise to seek a Statement from the Chairperson of the Departmental Committee on Finance and National Planning regarding the status of the drought management funds for the Financial Year 2020/2021, and the deteriorating drought situation in northern Kenya.

Hon. Deputy Speaker, on Wednesday 8th September, 2021, His Excellency the President Uhuru Kenyatta declared the drought a national disaster. Consequently, the Cabinet Secretary for the National Treasury and Planning released, on 10th September, 2021, Ksh2 billion to the Ministry of Devolution to support mobilisation of food, water and other necessitates to the families affected by drought ravaging several counties. The National Drought Management Authority (NDMA) estimates that 2.1 million Kenyans are facing acute food insecurity and are in urgent need of humanitarian assistance in the next six months.

The deterioration in food security situation in the north is found in the counties of Garissa, Wajir, Mandera, Marsabit, Isiolo and Tana River more prominently, and I am sure colleagues in the House will agree with me. The dismal performance of the March-May long rainy season compounded by the effect of COVID-19 and the poor performance of the previous short rains attribute to this situation. The NDMA projects the situation to worsen further and that 2.4 million Kenyans in that region will suffer during the October-December period if the short rains, as forecasted, fail. These counties are Baringo, Kitui, Lamu, Garissa, Wajir, Tana River, Isiolo, Turkana, West Pokot, Makeni, Marsabit, Samburu, Laikipia and Mandera.

The deteriorating drought situation has led to conflict of resources in the counties such as Marsabit and Wajir, thereby hampering peace efforts in the region. Carcasses of animals are widespread along the routes in that region. No water trucking is taking place; no food distribution is taking place and, above all, the animal offtake is not found in any of our livestock markets. The National Assembly appropriated, in the Budget for the Financial Year 2021/2022, Ksh8.9 billion for the Climate Smart Agricultural Productivity Project; Ksh1.1 billion to enhance drought resilience and sustainable livelihood; and Ksh178 million towards ending drought emergencies in Kenya. Further, there is an appropriation of Ksh529.5 million for livestock and crop insurance scheme which staggers compensation for 1,000 livestock, camels, cattle, sheep and goats in 10 counties in this Financial Year. Under the Department of Arid and Semi-Arid Lands (ASALs), the National Assembly appropriated Ksh5.8 billion for the drought management for the Financial Year 2021/2022, comprising of Ksh4.1 billion for Kenya Hunger Safety Net Programme targeting 125,850 beneficiary households.

It is against this background that I request a joint Statement from the Chairperson of the Departmental Committee on Finance and National Planning, and the Chairperson of the Departmental Committee on Administration and National Security to:

- (i) Provide a Report on the Ksh2 billion released by the Cabinet Secretary for the National Treasury and Planning on 10th September 2021 to support counties affected by the drought. Further to confirm whether the funds so far released is a Supplementary Appropriation under Article 223 of the Constitution and, if so, whether the required parliamentary approval was sought and granted within the stipulated timelines of the two months, as per Article 223(2) of the Constitution.
- (ii) Provide a comprehensive report including tabulation on the total disbursement from 1st July, 2021 to date by the National Treasury to relevant government Ministries, Departments and Agencies to mobilise food, water, pasture, livestock offtake programme and other necessities in the drought affected counties.
- (iii) Provide a comprehensive Report by the Cabinet Secretary (CS) Ministry of Water, Sanitation and Irrigation and the Ministry of State for Special Programmes on the total number of boreholes, water pans and small dams constructed to address the worsening water situation in northern Kenya, including the total number of persons supported by water dams and supply units.

- (iv) Provide a comprehensive Report on the total number of livestock including camels, cattle, sheep and goats in the offtake programme and those compensated from 1st July 2021 to date under the Livestock and Crop Insurance Scheme in the State Department for Livestock. This includes the total compensation for each type of livestock.
- (v) Provide a comprehensive Report by the CS, Ministry of State for Special Programmes on the total number of beneficiaries provided with water, food and other essentials under the Kenya Hunger Safety Net Programme which is targeting 125,850 beneficiary households in the Financial Year 2021/2022.

Hon. Deputy Speaker, because of the acute issues facing the people of northern Kenya about their livelihoods, for the first time I really want to ask, through you, if this Statement can be delivered next week. This is because people and animals are dying and this is a matter of priority for Kenya and the House.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: That looks like a fair request. Let me hear from the Chair or Vice-Chair, Departmental Committee on Finance and National Planning.

Hon. Isaac Ndirangu (Roysambu, JP): Thank you, Hon. Deputy Speaker...

Hon. Deputy Speaker: The Vice-Chair, Departmental Committee on Finance and National Planning, we want to know how quickly this can be done, because it is a very serious issue and something which is live. So, tell us how you think we can go about this quickly as this will be of help to the House.

Hon. Isaac Ndirangu (Roysambu, JP): Thank you, Hon. Deputy Speaker. The former Leader of Government Business has asked for very comprehensive and detailed information about the status of drought management funds for the Financial Year 2021/2022 regarding the deteriorating drought situation in northern Kenya. On behalf of our Committee and the Departmental Committee on Administration and National Security, I request you give us two weeks to answer this Statement.

Hon. Deputy Speaker: To me it looks like two weeks will be long.

Hon. Isaac Ndirangu (Roysambu, JP): A fortnight from now.

Hon. Ali Rasso (Saku, JP): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is it, Hon. Rasso?

Hon. Ali Rasso (Saku, JP): On a point of order, Hon. Deputy Speaker. I have listened to the Statement by the former Leader of the Majority Party. The same was asked by Hon. Rehema Jaldesa and also by him a few months ago, until the President declared drought and famine a national disaster. As far as we are concerned, once the President has made a proclamation, then something should be happening on the ground.

Hon. Deputy Speaker, we depend on rain-fed agriculture and our main subsistence economy which we survive on is livestock. From what we are seeing, Nairobi is sleeping. There are people who are deliberately dragging their feet so that it reaches a point where it will not only be the livestock that are dying, but also people. So, we want that response in days, not in weeks because they already have a response.

Hon. David ole Sankok (Nominated, JP): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: Okay. Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): On a point of order, Hon. Deputy Speaker. People are dying and already animals are almost finished. So, when the Member from the 'royal

suburb’ – it is unfortunate that the Vice-Chair is also from Nairobi – and not just anywhere, but the ‘royal suburb;’ so, he may be unable to understand when we talk about drought.

Hon. Deputy Speaker: What is this about the royal suburb?

(Loud consultations)

Hon. David ole Sankok (Nominated, JP): Hon. Deputy Speaker, I know it is Roysambu, but it is called the ‘royal suburb’. It is Roysambu for Hon. Mwathi and I understand where he comes from, but for those of us who learnt the Queen’s English, it is called ‘royal suburb’. The Vice-Chair of the Committee is from the ‘royal suburb’ and he may not understand what His Excellency Aden Duale is saying when he talks about drought. This is because when you live in Nairobi as a royalty, it is difficult to understand such issues.

So, I urge and request him to give us an answer within days, not weeks. If possible, let us have it tomorrow, because they already have it. Drought was already declared a national disaster and we are just asking where are the water bowsers, the animal feeds supposed to be given to our animals, how many have been given and where is the animal offtake programme? It is as simple as this.

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): On a point of order, Hon. Deputy Speaker? I think I heard...

Hon. Deputy Speaker: Just a minute Hon. Shamalla. Hon. Sankok was also on a point of order. It is okay, because he has just finished

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): He referred to...

Hon. Deputy Speaker: Just a minute. He has just finished his contribution.

Hon. David ole Sankok (Nominated, JP): Hon. Deputy Speaker, let us forgive her. She is a “mono” in this House and has not understood that you cannot raise a point of order on top of another point of order.

Hon. Deputy Speaker: Order, Hon. Sankok! I have sorted out your matter. So, please, do not give yourself powers you do not have. So, take your seat.

Hon. David ole Sankok (Nominated, JP): Thank you, Hon. Deputy Speaker. I have been educating these “monos,” but they are not fast learners.

Hon. Deputy Speaker: Proceed Hon. Shamalla. Just a minute, let me give you the microphone.

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): Thank you, Hon. Deputy Speaker. I rise on a point of order seeking clarification. Are Members of Parliament referred to as Excellencies? I heard Hon. Sankok referring to Hon. Duale as ‘His Excellency.’ Is he His Excellency waiting to be a governor?

Hon. Deputy Speaker: Really, I will not bother too much about how Members refer to themselves, especially when they are giving themselves titles. I would not want to come in because even you, being a Member, to be referred to as an Hon. Member is something that is supposed to be bestowed on you by others. So, if in the heart of Hon. Sankok...

(Hon. David ole Sankok spoke off record)

Order!

So, if in the eyes of Hon. Sankok, he is an excellent Member; well, I will not have any problem with it. I know with your very good English, you would want some things done in a

certain manner. You see, this is the National Assembly, and some things are done in a particular way. So, there should be no problem.

Let us sort out the more important issue with the Hon. Vice-Chair. This time I am not even bothered to talk to you as the Member for Roysambu, because you are the Vice-Chair of the Departmental Committee on Finance and National Planning. Are you able to squeeze it and bring it a little faster, because this is a very serious issue?

Hon. Isaac Ndirangu (Roysambu, JP): Yes, Hon. Deputy Speaker. I appreciate the concerns raised by Members regarding the situation in the country, particularly in the 10 counties affected by drought, which is quite grave. However, it may take some time to collect all this information from the various Semi-Autonomous Government Agencies (SAGAS) and Government Departments. We can do our best and perhaps try to bring it in a week's time, if it pleases the Hon. Members.

Hon. Deputy Speaker: Kindly try as much as you can. This is a very serious issue touching on lives of people and so, it is important.

Hon. Mwathi, what is the issue? I thought that matter is now sorted.

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Deputy Speaker, for the chance. I was looking at the Order Paper and I can see the request for Statement is supposed to be designated to the Departmental Committee on Finance and National Planning. However, in his submission, Hon. Duale has asked for a joint Statement from the Departmental Committee on Finance and National Planning and the Departmental Committee on Administration and National Security. My query is how is this going to be done and who will take responsibility, because his request reads differently?

Hon. Deputy Speaker: The lead Departmental Committee will be the Departmental Committee on Finance and National Planning. Should they require good information from the Departmental Committee on Administration and National Security, that will be fine. But the lead Committee is the Departmental Committee on Finance and National Planning.

Okay, we will go to the next one, which is by the Hon. Sossion on school unrests.

CAUSE OF SCHOOL UNRESTS IN THE COUNTRY

Hon. Wilson Sossion (Nominated, ODM): Thank you, Hon. Deputy Speaker.

Pursuant to the provisions of Standing Order No. 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Education and Research regarding the ongoing school unrests in the country.

The country has experienced an increasing outbreak of school unrests in the ongoing second term of learning. Already, over 30 institutions of learning have experienced arson and related destruction of property. They include Buruburu Girls High School, Kijabe Boys High School, Kanjuri High School, St. Luke's Boys High School-Kimilili, Chavakali High School, Osingo Mixed Secondary School, Dr. Krapf Memorial School, Moi Girls High School-Marsabit, Kipkabus Boys High School, Muthambi Boys High School, Kabolecho Secondary School, among several other schools.

The burning of dormitories, classrooms and laboratories has left some students and teaching staff nursing various injuries. It has also led to the closure of some learning institutions. It is rather unfortunate that in most of these cases, it is parents who will be compelled to pay the repair and reconstruction of the damaged school properties, thereby aggravating the struggles they already face in raising school fees for their children.

In view of the fact that this cycle of school unrests seems to have a repetitive pattern in almost every academic year, I wish to seek a Statement from the Chairperson of the Departmental Committee on Education and Research on the following:

- (i) In view of the proper governance structure in existence in managing schools and the education sector in general, what are the causes of the ongoing unrests in schools across the country?
- (ii) What practical measures is the Ministry of Education, Science and Technology pursuing in addressing the current spate of unrests in schools?
- (iii) Has the ministry involved all relevant stakeholders in addressing and mitigating past and present occurrences of unrests in schools?

Thank you, Hon. Deputy Speaker. Since this is a matter that is of great national concern, I also request that the Statement be made available within seven days.

Hon. Deputy Speaker: What is your point of order, Hon. Fatuma?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Deputy Speaker, there is something that is unusual, and it is really worrying me. Seated next to me is Hon. Abdullswamad Sheriff, the Member of Parliament for Mvita. Looking at him, he is wearing the colours of the Amani National Congress (ANC). I am really worried, because I do not know why he has left that side to come and sit with me here. So, he has to declare and tell us what his intentions are. Otherwise, let him leave to the other side.

Hon. Deputy Speaker: I think that is irrelevant. I am colour blind. So, what colour is he in? What is your colour? It is irrelevant to these issues, anyway. But, let us just confirm. Hon. Nassir?

Hon. Abdullswamad Nassir (Mvita, ODM): Hon. Deputy Speaker, the gentlemen and ladies from the United Democratic Alliance (UDA) are calling it yellow. The ones from other parties are calling it their colour. But I think my heart, body and soul are painted orange and we are the loyalists of the party, the tie notwithstanding. I wish to inform my sister that this is a lime-green tie.

(Loud consultations)

I know I am on demand on the other side, but I am afraid to say that I belong to the Orange Democratic Movement (ODM).

Hon. Deputy Speaker: You are already taken. So, let us leave that. It is irrelevant. Looking from where I am, Hon. Nassir looks smart. I would really not bother about the colour of the tie. Well, let us see the colour of the brain or the heart, you said.

So, let us proceed to dispense with this one of Hon. Sossion. Now, I see the Chair of the Departmental Committee on Education and Research is in the House. Remember that one of the questions that were asked also touches on this, in spite of the fact that it is taken for a specific constituency. I think it is something that you can do quickly. How quickly can you do it, Hon. Chair?

Hon. (Ms.) Florence Mutua (Busia CWR, ODM): Thank you, Hon. Deputy Speaker.

Hon. Sossion being one of my Members in the Committee is very well aware that the CS is appearing tomorrow. This being a very urgent issue, I think it would be proper that the CS addresses it immediately he appears tomorrow. We have 12 other Questions by Members who have been informed to appear tomorrow so that we can answer the Questions.

Hon. Deputy Speaker: That is very kind of you, Hon. Chair. The only thing that I would ask you is to make sure that it is detailed so that it does not become one that is quick and thin. Let the CS fully apply himself to this matter, which is of concern.

(Some Members raised their hands)

I see some few Members putting up their hands. I do not like Members putting up their hands. Let us see Hon. Pkosing. What is it? I will give a chance to two Members only.

Hon. David Pkosing (Pokot South, JP): Thank you, Hon. Deputy Speaker. As provided for in our Standing Orders that we make some comments, I thank you for giving me this chance.

As they do that and as I support what Hon. Sossion is asking on the cause of the burning of schools, I am helping or urging the Departmental Committee on Education and Research to look at this issue called delocalisation. I think the negativity of delocalisation is actually maturing. So, as much as they look at the other issues and also concentrate on the students, I want them to look at that. It is because, if you come to West Pokot County, where I come from and where I was born, delocalisation has caused mayhem in performance. The schools are completely underperforming. Can you imagine; if people like the Pokot, who are used to being cattle rustlers...

Hon. Deputy Speaker: I am inclined to feel that you are digressing. Of course, I know you as an international expert on these things. You are digressing because the issue you are tackling is completely different. If you are attaching it to unrest in schools, it makes sense.

Hon. David Pkosing (Pokot South, JP): It is close. This is very close to unrests, and I am giving my reasons, Hon. Deputy Speaker.

Hon. Deputy Speaker: You are talking about the issue of delocalisation and performance. What I would request you, Hon. Pkosing, is to file a substantive Statement Request then we can deal with that one also. Well, anyway, you have been heard, Hon. Pkosing.

Now, I am trying to see this Member here. I am having an issue with the gadgets. That Member behind Wanyonyi. I see a problem with technology. That must be Osotsi.

Hon. Godfrey Osotsi (Nominated, ANC): Hon. Deputy Speaker, this issue of indiscipline in school is a very serious one. It is affecting almost every region in this country. I would suggest, through your indulgence, that you allow the Committee to be held in the open so that many Members here can attend and discuss this matter with the CS so that a permanent solution to this problem is found. There could be many reasons for having this problem. Some are policy issues, as Hon. Chair of the Departmental Committee on Transport, Public Works and Housing has said. Others could be as a result of the 100 per cent transition, which has caused congestion in schools. So, there are various reasons that Members in this House – some who are experienced like *Mheshimiwa* Omboko Milemba and *Mheshimiwa* Sossion here – can address conclusively. So, I request that as the Committee meets tomorrow, let them meet in this Chamber and you allow as many Members as possible to attend.

Hon. Deputy Speaker: We will dispense with that quickly. Hon. Chair of the Departmental Committee on Education and Research, where are you having your meeting?

Hon. (Ms.) Florence Mutua (Busia CWR, ODM): Fourth Floor, Continental House.

Hon. Deputy Speaker: Well, I know quite a number of Members can attend that meeting, if they wish and there is space there. I wanted to be sure so that we can tell Members that the Cabinet Secretary will be in Continental House, Fourth Floor. At what time?

Hon. (Ms.) Florence Mutua (Busia CWR, ODM): At 10.00 a.m.

Hon. Deputy Speaker: 10 O'clock. So, please avail yourselves. Let us have Dr. Wakhungu Wamalwa and that will be the end.

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Thank you, Hon. Deputy Speaker. On the same matter, there is a school that was burned and tabulation of costs done. When you tabulate, the total amount of money parents are supposed to pay comes to almost Ksh70 million. When you look at the destruction, its value is not even a quarter of that amount. So, the question is, as we look into it, is it by design or the management is involved for purposes of monetary gain? Let us look at this matter holistically. The rate at which this matter is spreading is as if it is an inside job. You cannot rule that out. I humbly request the Committee to summon the management of those respective schools to establish whether it was, by any chance, an inside job. It cannot just happen simultaneously then they are quick to ask parents to pay that amount of money. When you do the tabulation, that amount is exorbitant. That is my humble request.

Hon. Deputy Speaker: Take it to the Committee tomorrow. Let us go to the next Order.

Hon. (Dr.) Robert Pukose (Endebess, JP): On a point of Order, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Pukose, what is it? We have sorted out that one. I am hesitant to allow you to speak. What is that different matter?

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Deputy Speaker. Members normally ask Questions because of pressing matters. Two weeks before we went on recess, I went to the Table Office and raised a Question concerning my constituents, particularly on the Kenya Forest Service. As we speak today, the Kenya Forest Service has evicted about 500 families from Sosio Forest. That is a humanitarian crisis. When we ask such Questions, we want them to be prioritised in the Order Paper so that these issues are addressed urgently. I want to ask that you order the Clerk to put my Question that is in the Table Office in the Order Paper.

Hon. Milemba is interfering with me. I am asking that my Question, which is supposed to be prioritised, to be put on the Order Paper so that I can seek for a response.

Hon. Deputy Speaker: I hear you. I will administratively see what to do with it. Hon. Members, especially the Chair of the Departmental Committee on Education and Research, I hope you are going to have the Cabinet Secretary prepared. We do not want him to come and say that he is not prepared. You have picked one day which I think is fairly difficult for anyone to do it. If he is able to do that, we will be happy. I would have been happier if you gave a little more time so that that specific matter is addressed. He will be coming with a handful of Questions to answer. He might not give sufficient opportunity to this particular issue. It is something that he can easily prepare for, because it is a live issue. However, should he not be ready tomorrow, we should be able to fix another date that we are sure he will be able to answer so that we do not escape by the virtue of the notice being short.

Chairlady, let us hear what you have to say then we move to the next Order.

Hon. (Ms.) Florence Mutua (Busia CWR, ODM): Thank you, Hon. Deputy Speaker. In the course of tomorrow, I am sure that the Question on fire will be raised and that is why I have requested Hon. Sossion to be there. I am sure that Question will arise even if it is on another business. However, the Statement has to be in writing and it will be given in the seven days that Hon. Sossion has requested. At least it has to be discussed tomorrow because of public interest, even if he does not have all the facts.

Hon. Deputy Speaker: We can have the preliminaries tomorrow and should we not be satisfied, within seven days, we should get a comprehensive answer to that one. I think that makes Hon. Milemba happy.

Let us have responses to Statements. Hon. Members, let us be brief because we have a heavy afternoon. Let us start with the Statement request to be tackled by the Departmental Committee on Administration and National Security.

(An Hon. Member spoke off record)

That voice sounds familiar. It could easily be from the county. What is it Hon. Gikaria? Is it about this sector that we are going? We can leave others for tomorrow afternoon. I am not able to get you from this place.

(An Hon. Member spoke off record)

What is it?

Hon. David Gikaria (Nakuru Town East, JP): Thank you, Hon. Deputy Speaker. I beg for you indulgence on an issue that I brought last year regarding public land which had been taken over by Nakuru Blankets in Nakuru. The Departmental Committee on Lands finished deliberating on it, recommendations were made and Parliament approved them. The Committee on Implementation has never followed up on the matter. The issue was that the title deed of the land will be cancelled and the land given back to the public, because it was set aside for schools and markets.

Hon. Deputy Speaker: Let me follow it up with the Committee on Implementation.

Hon. David Gikaria (Nakuru Town East, JP): Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: I can see that the Chair of the Departmental Committee on Sports, Culture and Tourism is the one to have the first go, but we can still have it any other way. So, let us have both your Statements in quick succession so that we can save on time. You do not have to read every detail. We can see if the Member can have the rest of the information.

STATEMENTS

DISAPPEARANCE AND MURDER OF BENSON AND EMMANUEL NDWIGA

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Deputy Speaker. This is a response to a Statement sought by the Member or Parliament for Runyenjes Constituency, Hon. Erick Muchangi, who sought to be informed on the following:-

- (i) The disappearance and murder of two young men.
- (ii) Why it took so long for the police in Manyatta to...

Hon. Deputy Speaker: Order! Hon. Nassir, you seem to be a popular man, but we still need to do some spacing. I do not know whether it is your tie that is creating a lot of issues. I can see you from my screen. Hon. Members are supposed to observe social distance unless they come from the same House. Thank you.

Hon. Mwathi, proceed.

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Deputy Speaker. The Member sought to know:

- (i) Why it took too long for the police officers in Manyatta to relay the correct information to the parents.

- (ii) Whether the Inspector-General of police can explain to the members of the public what exactly happened.
- (iii) Whether the Cabinet Secretary for Interior and Coordination of National Government can assure the members of the public, businessmen and women of their security, given that businessmen and women have started fleeing Kianjokoma Market citing insecurity as the reason.

The response is as follows: On 1st August, 2021, at around 2130 hours, a team of officers from Manyatta Police Station went out on mobile night patrols within Kianjokoma Market. The patrol team was under the command of No. 65813 Corporal Benson Mputhia as the in-charge together with No. 236939 Corporal Consolata Kariuki, No. 82125 Police Constable (PC) James Mwaniki as the driver, No. 235014 PC Wanyama, No. 112274 PC Nicholas Sang' of DCI Manyatta and No. 107471 PC Lilian Cheronu, all on board GKB 277T Toyota Police Land Cruiser.

During the patrol, they arrested a total of 10 persons within the areas of Muchagori, Kavutere, Kianjokoma and Kiriari for contravening curfew orders and selling liquor after hours. The patrol team then proceeded to Karau Police Post, where they collected one person charged with the offence of assault, who was pending escort to Manyatta Police Station. Later, it was established that two of the arrested persons, who were brothers, died, a matter that is currently pending before court.

The incident sparked riots within Kianjokoma area, where Kibugu Police Station vehicle GKB 277T was burnt by the rioters. Furthermore, the rioters attacked Kianjokoma Police Station, where they burnt two other vehicles, KCG 559Y belonging to the OCS Kianjokoma and exhibit KBV 526L, and destroyed police VHF communication set, solar panel and battery. Consequently, one person was injured and two suffered gunshot wounds.

Guided by the provisions of section 87(4) of the National Police Service Act (No. 11A of 2011) and chapter 5, paragraph 3(d) of the National Police Service Standing Orders (Amendment), 2020, the Internal Affairs Unit conducted investigations into the matter. Investigations established that the six police officers were responsible for the death of the two young men, Benson Njeru Ndwiga aged 22, and Emmanuel Mutura Ndwiga aged 19.

A compiled case file was submitted to the Inspector-General and the Director of Public Prosecutions, as required by chapter 5, paragraph 3(g) of the National Police Service Standing Orders. Based on the investigations report, the DPP directed the IG to immediately arrest and arraign the suspects. The involved officers were arrested on the night of 16th August, 2021, and arraigned and charged with murder at Milimani Nairobi on 17th August, 2021, as directed.

A miscellaneous application seeking custodial orders was filed by the Independent Policing Oversight Authority (IPOA) on the same day. The honourable court granted the prayers of IPOA and the officers were detained at Capital Hill Police Station, Nairobi, pending completion of investigations by IPOA in order to complement murder charges against them. The Internal Affairs Unit is still investigating the conduct of senior officers at the station where the incident occurred to establish if there was any broken link in command leadership that led to the unfortunate deaths. Administrative action will be taken against any commander found culpable for any leadership lapses.

The Government wishes to emphasise its commitment to providing security to citizens across the country, including in Kianjokoma Market, and provision of an enabling environment for the thriving of business.

That is the statement is by the Cabinet Secretary for Interior and Coordination of National Government.

Hon. Deputy Speaker: Very quick clarifications from the Member for Runyenjes and one other Member, and that will be it. Hon. Muchangi.

Hon. Eric Njiru (Runyenjes, JP): Thank you, Hon. Deputy Speaker. I want to appreciate the statement by the Cabinet Secretary on the very unfortunate incident that happened at Kianjokoma. There was a good response by the Deputy Inspector-General of Police, who came to Kianjokoma and listened to the people on what happened to the family of Ndwiga Kamunyoti. We also want to appreciate that the presence of IPOA, the Law Society of Kenya (LSK) and the office of the DPP gave us some good attention. We hope that at the end of the day, we will get justice for the sons of Ndwiga Kamunyoti. Again, I hope that the investigations being done on the senior officers' conduct will be concluded and that nothing will be swept under the carpet, and that necessary action will be taken so that we can finally get justice for these two brothers who died at a very tender age.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you. It seems you are happy. A quick word from Hon. Mbarire. Please let it be brief. It seems everybody is happy with the statement.

Hon. (Ms.) Cecily Mbarire (Nominated, JP): Thank you, Hon. Deputy Speaker. I want to add my voice to that of Hon. Muchangi. We appreciate the work that has been done by the Committee. What happened in Kianjokoma was most unfortunate, and we hope it will never happen again, not just in Embu but in the rest of Kenya. Hon. Chairman, we appreciate what your Committee continues to do, especially in response to the very urgent issues that emerge across the country. We hope that you continue to pursue the Ministry to ensure that justice is delivered to that family and the family of the young man who died in Manyatta. We will be looking forward to a successful closure of this matter by ensuring that the culprits are locked up.

Hon. Deputy Speaker, thank you.

Hon. Deputy Speaker: The next Statement. Let us move quickly because we have a heavy programme this afternoon.

MEASURES TO RESPOND TO BOAT ACCIDENTS IN LAKE VICTORIA

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Deputy Speaker. The Member for Suba North, Hon. Millie Odhiambo, sought a Statement regarding a boat that capsized in Lake Victoria on 21st September, 2021. She particularly sought to be informed on the following:

1. The details of the measures that the Ministry has instituted to effectively and rapidly respond to boat accidents and tragedy such as the one that happened in Lake Victoria and any plans to undertake recovery.
2. The steps being taken to ensure that boat operators in Lake Victoria adhere to set safety and rescue measures.
3. Whether the Ministry has put aside funds to compensate affected families in case such fatalities occur in the future.

The response is as follows:

On 21st September 2021, at around 16.20 p.m., the Beach Management Unit (BMU) Chairman, Mr. Edward Oremo, reported vide OB No. 6/21/09/2021 that a vessel christened DUR capsized while on its way from Homa Bay to Ndhuru Beach. Search and rescue operations were commenced immediately and 11 persons were rescued and 10 bodies retrieved.

The Ministry of Interior and Coordination of National Government has deployed Kenya Coast Guard Service (KCGS) at strategic locations in Kenya's territorial waters, with the

headquarters of the inland squadron situated at the Kisumu Port. As a result of increased water traffic within the lake, KCGS has established stations in Mbita and Port Victoria. The KCGS works in close collaboration with relevant maritime agencies within the lake and has continued to sensitize the public, boat operators and the fishing community through their BMUs on the importance of compliance with safety regulations. Issues covered during sensitisations include the following:-

- (i) Proper loading.
- (ii) Certification of coxswain.
- (iii) Acquisition of boat sea worthiness compliance certificate.
- (iv) Regular inspection of small vessels certification compliance by KCGS.

As part of law enforcement, KCGS continues to conduct regular patrols, boarding patrols and inspection to ensure users of the lake observe the regulations. The KCGS also arrests and prosecutes maritime law offenders in the lake. However, the Ministry has no budget line for compensation of affected families.

Hon. Deputy Speaker, that is the Statement by the Cabinet Secretary. I wish to have some additional information because pursuant to that incident, the Committee visited Homa Bay on a fact-finding mission on 8th October 2021. During the visit, the Committee held meetings with the County Emergency Response Co-ordinating Committee under the chairmanship of the County Commissioner. The Committee also met key stakeholders including the Kenya Coast Guard, the Kenya Marine Authority, the Border Patrol Unit and the Beach Management Units. Some of the proposals received by the Committee, which will be incorporated in the Report, include facilitation of development and enactment of Homa Bay County Lake Transport Policy, sensitisation of Beach Management Units on lake safety, enhancement of the role of the Kenya Coast Guard and the Kenya Maritime Authority in policing the lake, enforcement of safety features, regular inspection of boats on sea worthiness, and registration of boats and training of crew.

My Committee, in liaison with the relevant State agencies, will push for provision of patrol boats to the police, deployment of the Border Patrol Unit by the National Police Service and equipping of police officers based at Remba, Ringiti, Mfangano Islands with modern vessels mounted with night vision equipment to facilitate clearance of goods and persons entering and leaving the country.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: On this one, I will give a chance to Hon. Millie Odhiambo and another Member to comment.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Deputy Speaker. Let me thank the Cabinet Secretary and the Committee for that response. I just want to indicate that while the Committee was in Homa Bay, we had yet another tragedy where we lost three more people. The recommendation by the Committee to have patrol boats in Remba, Ringiti, Mfangano Islands is extremely welcome. I would encourage that in the next Budget we prioritise these suggestions, so that we have security not just in relation to internal issues, but also as regards harassment of fishermen by authorities from Uganda and Tanzania, which quite often causes a lot of accidents.

I would also want to alert the Committee that one of the things that happened after they came that caused that accident is the dredging of the Mbita Bridge that is causing extremely heavy currents. That is the same sport where my father died before the bridge was dredged. By dredging the bridge, it is creating the crisis. Unless security measures are put in place, many more people will die. So, as a matter of urgency, I am requesting that that also be put in the Budget.

Finally, I also notice that the Kenya Coast Guard Service have only one boat and one station in Mbita Town that is not very effective. They are focusing a lot more on compliance by fishermen, which in a way is criminalising poverty. For instance, they are asking whether we have certification of coxswain. We are doing that through the National Government Constituencies Development Fund (NG-CDF) to help them train, but training one coxswain costs about Kshs60,000. It is not like driving a car. Being a coxswain is more expensive. I am requesting that they also consider creating a fund for rapid training. We will train some coxswains through the NG-CDF, but the other relevant agencies should also consider mounting a programme for rapid training of coxswains, so that they can comply with the maritime law. Above all, the Kenya Coast Guard should work with the local communities to create a friendly working relationship rather than harass members of the local community.

Thank you.

Hon. Deputy Speaker: I think you have spoken on behalf of all the other Members. What is your point of order, Hon. Nassir?

Hon. Abdullswamad Nassir (Mvita, ODM): Hon. Deputy Speaker, Hon. Millie mentioned something regarding the Kenya Coast Guards. Recently, I had a meeting with all the Border Maritime Units, including the Kenya Coast Guard, the Kenya Maritime Authority and the rest. Hon. Millie will be in agreement with me that some of these fishermen have more experience than even some of their trainers in coxswain operations. However, they are now being told that they have to pay for those licences. It is important that those of us from the lake and ocean region form our own caucus to ensure that these levies are removed. Our fishermen should not be paying a single penny. As it is, times are hard.

(Hon. David ole Sankok stood in his place)

Hon. Deputy Speaker: What is it, Hon. Sankok? We have sorted out that issue. It is finished. Put on your mask.

(Loud consultations)

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Deputy Speaker. Following the Statement given by Hon. Mwathi, whom I trust and respect so much, it seems that all the Members are satisfied. However, we are satisfied by the response after losing lives. Are the parents of the Kianjokoma brothers satisfied? Are the parents of those who perished satisfied? Why not try and prevent some of this loss of lives? We have seen what happened in Kondele the other day. There was violence and stoning of the entourage of the Deputy President.

As expected...

(Loud consultations)

Hon. Deputy Speaker: Order, Order! Hon. Sankok, take your seat, please.

Just a minute, Hon. Members! Order! Just take your seats. The two Members who made requests for the Statement have said they are satisfied with the answer. They did not talk about satisfaction or any other activity that has come up. Secondly, if you have any other issue, make a Statement request. So, that is a matter that is settled. Let us not belabour the point. You did not need to...

(Laughter)

I have not asked you for apology. Let us go to the next Order. I am sorry, we have the Question on Sports and Tourism. Hon. Sankok, you want to apologise, yes, but luckily, you are very close to Hon. Nassir. Quietly, apologise to him there.

VACCINATION PROGRAMME FOR TOURISM
AND HOSPITALITY WORKERS

Hon. Patrick Makau (Mavoko, WDM-K): Hon. Deputy Speaker, Hon. Owen Baya Yaa in particular sought to be informed on the following issues:

(i) Plans by the Government to carry out a vaccination programme for the tourism and hospitality workers, particularly in the Coast Region.

(ii) Whether there is a tourism recovery plan in place including marketing campaigns and public relations strategies with a view of reviving the tourism sector.

(iii) Measures the Government has put in place to cushion the tourism sector players, businesses and investments in the tourism and hospitality industry, including but not limited to waivers and amnesties on tax, tourism licences and catering levy.

(iv) Measures the Government is considering rolling out such as economic recovery support measures, including social protection measures for the local people who lost their jobs following the COVID-19 Pandemic to cushion them from the effects of the pandemic.

(v) Measures the Government is putting in place to enable fully vaccinated travellers into and out of the country in line with the set protocols without undue inconveniences.

(vi) Measures the Government has put in place to consider subsidising the cost of COVID-19 Polymerase Chain Reaction (PCR) tests on outgoing and incoming tourists to make Kenya a competitive tourist destination.

Hon. Deputy Speaker, having considered the Statement, I beg to respond as follows:

On vaccination of tourism and hospitality workers, the Ministry of Tourism and Wildlife has engaged with the Ministry of Health and the Council of Governors for tourism and hospitality workers to be considered as part of frontline workers so that they can be given due consideration when the vaccination against COVID-19 began. This led to many workers in Nairobi, Kisumu, Nakuru, Narok, Mombasa, Kilifi, Taita Taveta, Kajiado and Lamu, among other popular tourist destinations in the counties, being vaccinated. Currently, the country has more vaccines and the Ministry has lobbied tourism associations to mobilise their members to turn up in large numbers and be vaccinated leading to mass vaccinations of more than 90 per cent of the entire country including the entire Kenyan Coast.

As regards plans to revive the tourism sector during the COVID-19 Pandemic, there are several plans to revive the sector to pre-COVID-19 status before the global projected recovery in 2024 as follows –

Firstly, the Ministry established the National Tourism and Hospitality Protocol Task Force to develop health and safety protocols for the hospitality sector. This led to the awards by the World Travel and Tourism Council (WTTC) of the Safe Travel Stamp in July 2020. The country was also the first to be awarded the recommended status of the Safer Tourism Resilience Seal by the global body for rebuilding travels in August 2020.

Secondly, the Ministry, in consultation with stakeholders, has developed a Tourism Re-modelling Strategy, 2021-2025 that seeks to double tourism earnings revenue by 2030 and whose focus is on re-positioning Magical Kenya as a premium brand to attract international tourists from diverse source markets and segments. It also seeks to put in place measures to ease travel into Kenya through recognition of PCR COVID-19 test certificates and lobbying for timely lifting of negative travel advisories, undertake aggressive marketing campaigns in new international source markets such as China while maintaining and improving presence in traditional source markets, and provide incentives for our domestic travellers and develop carefully assessed and selected tourism products for niche markets such as birding, game viewing of rare and unique wildlife such as dolphins and white rhinos, among others. These include mountain-climbing and running with marathoners, strengthening the tourism protection service to enhance safety and security in the destination and strengthening enforcement of regulations on short-term accommodation rentals for visitors in different parts of the country as well as introduction of tourist ferry services along the Kenyan Coast.

This strategy also involves policy intervention on beach properties by securing them to remain for tourism-centric use and requirements for owners to improve them or be subjected to accelerated land taxation or acquisition. It involves lobbying for policies towards extended holidays for citizens when public holidays fall on weekends, freeing of the Kenyan air space to international airlines, and this has led to KLM, Lufthansa, Qatar Airways, Emirates Airlines and Ethiopian Airlines having regular scheduled direct flights to Moi International Airport, Mombasa in addition to the resumed European charter flights under the new normal. It also involves development and implementation of meeting incentives, conferences, and exhibitions and strategic collaboration with the private sector, county governments and other relevant stakeholders to ensure redistribution of international and domestic tourism in the country.

Further, the strategy seeks to reduce seasonality by hosting mega annual events like the East African Safari Rally and international events like the just concluded Under 20 World Athletics Championships during the low season months. It seeks to undertake continuous research on the tourism sector priority issues for timely remedial policy interventions, promote positive working relationships between counties and Mombasa County for the design of the Jomo Kenyatta Public Beach facilities, Malindi Waterfront for Kilifi County and digital packaging of tourism attractions for more counties. It seeks to also promote lobbying and appearing in various fora for peaceful campaigns, conduct of peaceful general elections and maintenance of peace before and after the August 2022 election results.

As regards measures to cushion the tourism sector players during the pandemic, the Ministry, through the Tourism Finance Corporation, has disbursed economic stimulus funds to the sector players comprising of hoteliers, restaurant operators, tour operators and tourism attractions...

Hon. Deputy Speaker: How much more time do you require?

Hon. Patrick Makau (Mavoko, WDM-K): About five minutes.

Hon. Deputy Speaker: Five minutes? You will have to summarise. Five minutes is too much time.

Hon. Patrick Makau (Mavoko, WDM-K): Hon. Deputy Speaker, you know this is the response of the Cabinet Secretary. I may not summarise because it is written. Let me try to mention the highlights.

The Ministry, through the Tourism Finance Corporation, disbursed economic stimulus funds to the sector players comprising of hoteliers, restaurant operators, tour operators and tourism attraction sites to the tune of Kshs2 billion in the 2020/2021 Financial Year.

The Kenya Tourism Board was allocated Kshs1 billion for innovative and targeted marketing campaigns, and they undertook the following activities –

(i) Launching of the Magical Kenya Signature Experiences Programme in February 2021. We have had 29 new experiences which were enlisted into the Kenya Signature Experiences Collection. To date, there are 24 diverse and authentic Kenyan travel experiences for travellers to pick from during their next holiday in Kenya. Additional promotions have been undertaken over social media platforms, webinars, emails and newsletters in key source markets locally and internationally for the last one year.

(ii) They have engaged in safety travel digital campaigns. Travellers and investors alike are keen on their safety during this period of the COVID-19 Pandemic. They are, therefore, out to be updated or reassured of their safety at the destinations they want to travel to.

One of the strategies to address the safety concerns of traveller was through development of online content, mobilising publicity of vaccination of hospitality staff, rallying the hospitality industry to showcase their preparedness in mitigating the impact of the COVID-19 Pandemic and preparation of continuous destination updates to share with the source markets and travel trade.

On training and sensitisation of tour guide drivers on safety protocols, being the first people to come into contact with travellers and visitors to the country, tour guide drivers play a key role in restoring confidence among visitors on destination preparedness against COVID-19. During the period, the Kenya Tourism Board hosted a series of sensitisation workshops in Nairobi and the Coastal region targeting tour guides and drivers. The main objective was to share content of the Magical Kenya safety protocols as guided by the Ministry of Health.

Hon. Deputy Speaker: You have taken two minutes and you were automatically disconnected. Press the intervention slot.

Hon. Patrick Makau (Mavoko, WDM-K): Hon. Deputy Speaker, the Member had sought more than seven Statements and I was just going through them.

Hon. Deputy Speaker: Hon. Chairman, since the person who would want to have this Statement is the Member and he probably has a copy, you could do a summary. Sometimes ministries send us very long statements yet if they can implement just a few of what they say, we would be talking about the numbers going up. So, summarise and then see if the Member can have something on it.

Hon. Patrick Makau (Mavoko, WDM-K): Hon. Deputy Speaker, I am sure the Member has been given a copy of the response. I invite him to go through it. In case he is not satisfied, the Cabinet Secretary will be coming to Parliament on Thursday. He can seek further clarification from him.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you very much. Let us hear Hon. Baya. I hope you are not going to have too much to say on that response.

Hon. Owen Baya (Kilifi North, ODM): Thank you, Hon. Deputy Speaker. I thank Hon. Makau for reading through such a long and tedious Statement. What disappoints me is the fact that the Cabinet Secretary has just lifted some materials from some strategic plan documents in the Ministry, put them together and given them to us a response. Therefore, the response does not tally in any way with the Statement request.

The most important issues raised in the Statement request are those under questions (v) and (vi). Otherwise, what the Cabinet Secretary wrote is an embarrassment. At the end he says that “this matter, whose policy mandate is not within the Ministry of Tourism and Wildlife...” I asked whether the Government could consider rolling out economic recovery support measures. Recently, the President gave a go-ahead for the rolling out of an economic recovery programme for certain sectors, but left out the tourism sector. I thought it would be the duty of the Cabinet Secretary to respond by saying that they have made a request for the people working in the tourism sector, who have suffered loss of employment, to get support just like the coffee and tea farmers that I heard the President talk about. However, the Cabinet Secretary has not made any effort at all to address those issues. That is unfortunate for a Cabinet Secretary who comes from the Coastal Region, which is rich in tourism attraction.

(Hon. Ochieng’ crossed the Floor without bowing to the Bar)

Hon. Deputy Speaker: Order, Hon. Ochieng’! Do not do that again. Proceed, Hon. Baya.

Hon. Owen Baya (Kilifi North, ODM): On what measures the Government has put in place to enable fully vaccinated travellers get in and out of the country, the Cabinet Secretary says this is not his mandate. We know that it is not his mandate. However, he coordinates the Ministry of Tourism. Therefore, he should sit with the Cabinet Secretary for Health with a view to coming up with a programme to vaccinate people moving in and out of the country. The two Cabinet Secretaries should be at the forefront in this regard, so that the tourism industry can be helped to get out of the quagmire it is in. One of the questions is what economic measures are available to help stakeholders of the tourism industry, those who are unable to service their bank loans, because the tourism sector went into a slump. There are hoteliers who cannot resume operations even if they are told to because there are tourists coming to the country. They cannot service their loans because the tourism industry has been in a slump since the beginning of 2020. These people are unable to pay the loans they had taken prior to the onset of the COVID-19 Pandemic, and banks have refused to reschedule the loans. Therefore, they will not have money to pay land rates or water and electricity. It is the duty of the Government to create a good environment for the tourism sector to thrive again. However, the Cabinet Secretary has avoided responding to this bit of the Statement request and he says this is not his mandate. He says we ought to talk to the National Treasury about these issues.

Hon. Deputy Speaker, we need to have serious people at the Ministry of Tourism and Wildlife. My constituency and county relies 90 per cent on tourism.

Hon. Aden Duale (Garissa Township, JP): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is it, Hon. Duale?

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, with much respect to the Hon. Member, he should have engaged with the Committee on these matters when the Cabinet Secretary was present.

(Loud consultations)

I have not finished. Learn the procedures. We have been here for many years. He is basically blaming the Cabinet Secretary. Was the Chairman there at that time? If he was not there,

the Chair has said the Cabinet Secretary will be coming to Parliament next Thursday for further clarifications, if the Member is not satisfied.

Hon. Deputy Speaker: Actually, I think you have hit it on the nail. I personally think the Statement would be too detailed, but not satisfying at all. The Cabinet Secretary should come with numbers. When he put these measures in place, did the tourism numbers increase? We need to get out of the conservative way of marketing tourism. That is something we will have the Member appear before your Committee on Thursday as you have asked, so that he can ask some of these questions and get responses from the Cabinet Secretary. It is not enough to put a very long Statement that gives general details. So, Chair, what do you have to say?

Hon. Patrick Makau (Mavoko, WDM-K): Hon. Deputy Speaker, I hear you, but I must admit that when the Cabinet Secretary was in, it was during the recess period and Hon. Baya never turned up.

Hon. Deputy Speaker: Let us be very clear on that because if that is the case, then it is Hon. Baya who is on the wrong. When did the Cabinet Secretary appear before your Committee?

Hon. Patrick Makau (Mavoko, WDM-K): It was two weeks ago. My secretariat tried to reach him, but they said he gave an apology and could not make it.

Secondly, I agree with him partly. I know this particular Cabinet Secretary does not respect summons from our Committee, but this time round, he came. However, one thing I want to appreciate is that Hon. Baya comes from the Coast. The Cabinet Secretary also comes from the Coast. I hear they have a caucus for tourism. I invite him to invite his brother to sit down and address this pertinent issue. However, on Thursday, the Cabinet Secretary will appear before my Committee. I invite him to come and seek further clarifications.

Hon. Deputy Speaker: Yes, Hon. Baya.

Hon. Owen Baya (Kilifi North, ODM): Hon. Deputy Speaker, I would like to be very categorical that I was never consulted or invited for any meeting by any officer from that Committee. I would have availed myself because I was in the country and this is important to me.

Hon. Deputy Speaker, we raised another issue about Ronald Ngala, but the Cabinet Secretary never appeared even after we made 10 summonses. He never appeared before the Committee to answer any of those questions. It is his tradition to never appear before Parliamentary committees. This is arrogance. He tells us that: "It is my humble submission that the above two matters under part (iv) and (v) require inter-ministerial consultation and policy directives to be issued by the Ministry of Health." Who is supposed to convene that meeting?

Hon. Deputy Speaker: Let us put it this way: Can you appear before the Committee next Thursday and pursue these matters with the zeal you are displaying right now? Take that as an invitation to the Committee.

Hon. Owen Baya (Kilifi North, ODM): I will do so. However, I want to put in on record that this is a let-down to Parliament.

Hon. Deputy Speaker: You will tell him in that Committee and we will see what comes out. We have heard you, Hon. Baya. We have agreed that he will appear before the Committee on Thursday. I hope it is not true that the Cabinet Secretary does not obey requests to come to Committee meetings. We will issue summons if he does not. Let us have Hon. Duale.

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, this is a House of records. The Chair of the Committee and the Member have both confirmed that this Cabinet Secretary does not comply with the summonses of this House. It is not about whether that Cabinet Secretary comes from the Coast or he has a brother here or there. This matter has come to the Floor of this House. If the President of the Republic of Kenya is coming to address this House in

accordance with the provisions of the Constitution, who is this Cabinet Secretary to refuse to come and respond to issues raised by parliamentarians? In fact, it has gone on record that there is a Cabinet Secretary who does not appear and this has been confirmed by none other than the Chair that oversees the Cabinet Secretary.

Hon. Deputy Speaker, you now need to give us direction and maybe give the way forward on how to deal with this Cabinet Secretary. Secondly, let these Members not look like they are lame ducks. There are provisions of the Constitution on how to deal with Cabinet Secretaries, public officers and State officers. This is the problem. Let us not compromise the role of the Legislature by letting a few Cabinet Secretaries get away with impunity.

Hon. Deputy Speaker: On this particular matter, the Cabinet Secretary appeared before the Committee two weeks ago. So, we now do not have a major reason to imagine that he will not appear next Thursday. The Chair of the Committee has confirmed that the Cabinet Secretary will be available on Thursday. I believe what Hon. Baya is talking about is also asking whether the tourism numbers have been going up and by what numbers. Sometimes we really need to put some of these things on record and see whether there is any result out of the policies that are being developed in the Ministry. So, on Thursday, you appear before the Committee. The Cabinet Secretary will be there.

Next Order!

BILLS

First Readings

THE HEALTH (AMENDMENT) BILL

THE INVESTMENT PROMOTION (AMENDMENT) BILL

THE OFFICE OF THE COUNTY PRINTER BILL

THE DISASTER RISK MANAGEMENT BILL

THE COUNTY BOUNDARIES BILL

(Orders for First Readings read - Read the First Time and referred to the relevant Departmental Committees)

SPECIAL MOTIONS

CONSIDERATION OF NOMINEES FOR APPOINTMENT TO THE
ETHICS AND ANTI-CORRUPTION COMMISSION

Hon. Deputy Speaker: That is by the Justice and Legal Affairs Committee. I believe it is Hon. Shamalla who will be moving it. You have been the one who has been asking Members to summarise. I believe you are going to be of use to the House if you do not mind, so that we can move. If there are no major issues, we will be dispensing with these Motions very quickly.

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Hon. (Ms.) Shamalla Jennifer (Nominated, JP): Thank you, Hon. Deputy Speaker. The *Hansard* will bear me witness that I do not think I have ever spoken for more than five minutes, unless I was moving a Special Motion. I will summarise.

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

THAT, taking into consideration the findings of the Departmental Committee on Justice and Legal Affairs in its Report on its consideration of Nominees for Appointment as Members of the Ethics and Anti-Corruption Commission (EACC), laid on the Table of the House on Tuesday, 9th November 2021; and pursuant to the provisions of Section 10(3) of the Ethics and Anti-Corruption Commission Act, 2011 and Sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, 2011, this House approves the appointment of Col. (Rtd) Alfred Mutweta Mshimba and Dr. Monica Wanjiru Muriu as Members of the Ethics and Anti-Corruption Commission.

Hon. Deputy Speaker, on 5th October 2021, His Excellency the President forwarded to the National Assembly for consideration and approval the notification of two individuals nominated for appointment as members of the EACC. This was in accordance with the EACC Act 2011 and the relevant sections. The names of the nominees are as follows: Col. (Rtd) Alfred Mutweta Mshimba and Dr. Monica Wanjiru Muriu. Pursuant to Standing Order No.42 (1), the names and curriculum vitae of the nominees were referred to the Justice and Legal Affairs Committee for vetting and reporting to the House within the requisite time of 21 days.

On 8th October, pursuant to Article 118 of the Constitution of Kenya and the Public Appointments (Parliamentary Approval) Act, the Clerk placed an advertisement in the print media informing the public of the intention of the Committee to conduct approval hearings and invited it to submit memoranda by way of written statements on oath, again, in accordance with the Public Appointments (Parliamentary Approval) Act. The Clerk of the National Assembly did not receive any memoranda from the public.

The Clerk of the National Assembly wrote to the EACC, the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), the Higher Education Loans Board (HELB) and the Office of the Registrar of Political Parties requesting for reports with respect to the nominees on matters touching on integrity, tax compliance, political affiliations and loan repayments. The Committee received clearance reports for all nominees from all the relevant bodies. The Committee had various sittings and the nominees appeared before it on 19th October and were vetted in accordance with the provisions of the Constitution and the law.

Pursuant to Section 7 of the Public Appointments (Parliamentary Approval) Act, the Committee considered various issues during the approval hearings. The Committee considered the qualifications of the nominees in accordance with the EACC Act 2011. I will just highlight a few provisions. They meet the requirements of Chapter Six of the Constitution, they hold degrees from recognised universities and have not less than 10 years' experience in law, leadership, economics, audit, accounting, fraud investigation, among other fields. The qualifications for appointment as a member of EACC are set out in Section 5(3) of the EACC Act and provides, amongst others, that a person shall not be qualified for appointment as chairperson or member if they are a governing member of a political party, are declared bankrupt, have previously been convicted of a felony, *et cetera*.

In addition, the Constitution sets out certain requirements regarding the appointment of persons to public office in that the State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointment bodies shall be of the same gender.

The Committee considered the list of nominees received by the National Assembly from the appointing authority, His Excellency the President, and observed that in the notification received, there was one man and one woman. If appointed, the Commission shall have two women and three men. Therefore, the Commission will satisfy the two-thirds threshold as set out in Article 27(8) of the Constitution. The Committee was expected to table its report of the approval hearing by 26th October 2021. However, the House was proceeding on recess on 21st October 2021. In this regard, the Chairperson of the Committee did move a Motion for extension of the period for consideration of the nominees submitted by His Excellency the President for appointment as members of the EACC by a period of 14 days from 26th October 2021. This was to ensure that the House complies with the requirements of the law.

The Committee, having vetted all the nominees, made the general observation that the nominees satisfy the qualifications criteria set out in Section 5(2) of the EACC Act 2011, namely, none of the nominees may be disqualified on grounds set out under Sections 5(3) and (4) of the EACC Act, and that all the nominees satisfied the statutory requirements on leadership and integrity and have been cleared by all relevant authorities such as KRA, DCI and HELB. None of the nominees has been convicted in a court of law for criminal offences in the past three years as stipulated in Article 75(1) of the Constitution. All nominees indicated that they had no potential conflict of interest. Article 77(1) of the Constitution prohibits a full-time State officer from participating in any other gainful employment and the Ethics and Anti-Corruption Commission Act provides that the chairperson and members of the Commission shall serve on a part-time basis. The Committee notes that all the nominees do not hold office in any political party and hence satisfy the provisions of the Constitution. None of the nominees has contravened the following Articles of the Constitution, namely, Article 75 on conflict of interest, Article 76 on financial probity, and Article 77 on restriction on activities of State officers. They are, therefore, fit to hold offices as members of the EACC. All the nominees have exhibited impressive knowledge and understanding of the mandate of the EACC.

In conclusion, I urge Members to read the comprehensive Report of the Justice and Legal Affairs Committee (JLAC) in order to fully appreciate and enrich the debate. I further urge Members to adopt the recommendations of the Committee as contained in the Report.

With those remarks, I beg to move and call upon Hon. “Sir” George Murugara to second. I have taken six minutes as per my watch.

Hon. Deputy Speaker: You actually did six minutes. Remember that I keep record. You had a problem with one Member being referred to as “His Excellency”. You have now just said “Sir George”. That is not perfect, but it is okay. We hope you will follow in the footsteps of the Mover. I also hope the Departmental Committee on Finance and National Planning is looking at what you are doing.

Hon. George Gitonga (Tharaka, DP): Thank you, Hon. Deputy Speaker. Believe me, I am knighted because she has knighted me, which is good enough.

Hon. Deputy Speaker, I beg to second and associate myself fully with the speech made by the Mover, Hon. Jennifer Shamalla. I urge the Members to read the Report of the Committee which has recommendations that these two persons be appointed to their respective positions.

I beg to second.

Hon. Deputy Speaker: Order! Order! Let us move quickly.

(Question proposed)

Hon. Members: Put the Question.

Hon. Deputy Speaker: Well, the Members who will be speaking should be brief, unless you have major issues against it. I will give a chance to just a few Members and then we move to the next Order. We have the *Waqf* Bill and other Motions to deal with. Let me give a chance to a few Members because it will make a lot of sense.

Let us have Hon. T.J. Please, be brief. I know you have quite some issues. I will give a chance to a few Members. So, do not worry. We have anti-corruption crusaders and others in this House. I will give a chance to Members. For those who do not have their cards, I am sorry.

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Deputy Speaker, the issue of the EACC is very important. I do not want to make it more important than the *Waqf* Bill, but issues of anti-corruption are very important in this country. We are not going to approve people here just because we do not have time or have appetite for other work that seems to be more appealing than this debate. I am concerned...

Hon. Deputy Speaker: Hon. T.J., you know the more you talk about other things... The fact that you have been given an opportunity means you have something important to say, which I know you have. So, proceed, Hon. T.J.

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Deputy Speaker, let me just also tell the House that it would not be proper not to hear from the Chair. In the absence of the Member for Kangema, I happen to be the Chair of this Committee. So, hear it from me.

Hon. Deputy Speaker: Actually, Hon. T.J., I am surprised you were not the one moving the Motion.

Hon. T.J. Kajwang' (Ruaraka, ODM): I delegated that responsibility. This is the only Committee that has understood that we are all competent. Therefore, we delegate functions to all Members because we are all equal.

Hon. Deputy Speaker, I think the Justice and Legal Affairs Committee should be congratulated for processing these nominees within a day because we were able to hold the hearings and make up our minds in the Committee. Committees charged with selection after hearing from the people who appear before them should make up their minds on the spot, even before a report is written, whether or not a person passes the suitability test. This is what happened and the Report, of course, follows as a matter of fact from the secretariat.

This lady and gentleman appeared before us and convinced us. Of course, there are Members who had issues, and very rightly so, because their ethnic composition seemed to be worrying. There are parts of this country that seem to draw more people in some of these commissions than others. This is very reasonable, but we have left it to the Floor to debate. This is because the question about origins and functionality of people is really a very wild card.

I also agree that we cannot have people drawn from the shores of the lake, the heights of the mountains or the depths of the rift all the time and think that we are in one Kenya. I am sure there must be a Pokomo somewhere who can also be entitled to do some of these things that people are called upon to do, but as a matter of suitability under Section 7 of the Act, these people qualify and are suitable for the work they have been called for. So, I support the Report that these nominees should be approved. Members should ventilate and say something, especially about the ethnic composition of people serving in public offices.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. T.J., that is well put and brief. Hon. Shabbir, Member for Kisumu East.

Hon. Shakeel Shabbir (Kisumu East, Independent): Thank you, Hon. Deputy Speaker. You are aware that I had the honour of being the Chair of the African Parliamentarians' Network against Corruption (APNAC) Caucus and all of you are Members of this particular caucus.

Of importance in the fight against corruption is that proposed members must be beyond reproach and have a passion for fighting corruption, which is a major scar in our society. It is not an issue of where they come from, but where their passion lies, whether they can be inked, are willing to put themselves in front to fight corruption and if they have been involved or suspected of any illegal or unprofessional dealings.

From that point of view, I am absolutely sure that the Justice and Legal Affairs Committee has done its job. It is now for us to look at it and confirm the appointees. Whether they are from one section or another geographically is not the issue. That is where we lose the fight. We are interested in anybody who can do whatever it takes.

(Hon. Ahmed Kolosh walked into the Chamber)

Hon. Deputy Speaker: I see Hon. Kolosh waving a one finger salute, but if he is showing his card, he is welcome to the House to queue. Proceed.

Hon. Shakeel Shabbir (Kisumu East, Independent): Thank you, Hon. Deputy Speaker. You understand the passion with which we are speaking about this matter. There are many people with this kind of passion, like Hon. Duale and others. So, I cannot fault any of the nominees, and today we are saying thank you very much. Let us hope and pray that we give them the support that is necessary for them to be beyond reproach and to continue the project effectively.

Hon. Deputy Speaker: Hon. Duale.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Deputy Speaker. I will pick from where Hon. T.J. Kajwang' left.

I rise to contribute to the debate on the Report of the Departmental Committee on Justice and Legal Affairs on the nominees. I had a chance to peruse through the Report of the Committee and noted their recommendations. However, allow me to highlight a few issues which, in my view, ought to have been considered by the Committee.

Two months ago, two commissioners resigned. They are Dr. Dabar Maalim and Rose Macharia. Madam Rose Macharia is not a Macharia of the Mountain. She is married, but she is from Taita Taveta. I participated in their initial vetting in this House. That is why today we are approving their replacements, namely, one Colonel Alfred Mutweta from Taveta and Dr. Monica Wanjiru as the new commissioners. Looking at the recommendations of the Committee, to what extent can we, as a House – I want the House to listen to me – say that the dictates of Article 232 of the Constitution have been complied with, in particular Article 232(1)(h) of the Constitution which provides one of the values and principles of public service that apply to all State organs, that there should be representation of Kenya's diverse communities? That is the Constitution. It is not Hon. Duale saying it. Assuming that this House approves the two nominees, will we say we have complied with the Constitution fully? According to Article 232(1)(h) of the Constitution, I dare say no.

Hon. Deputy Speaker, further, Article 232(1)(i) and (ii) of the Constitution of Kenya provide that members of all ethnic groups should be afforded adequate and equal opportunity for appointment in public service. That is the Constitution. If we approve these two nominees, will this House have complied with the dictates of Article 232(1)(i) and (iii) of the Constitution? I dare say no. Will the full constituted Ethics and Anti-Corruption Commission reflect a representation

of all the ethnic groups, and shall we have afforded Kenyans from all tribes equal opportunity for appointment in this Commission? I dare say no.

It is worth noting that Article 10 of the Constitution of Kenya calls upon this august House, when making decisions, to comply with the national values and principles of governance. Some of the national values and principles are inclusiveness, non-discrimination and protection of the marginalised communities. How come Dr. Dabar is being replaced by people from the Rift Valley or Western Kenya or Mount Kenya? The problem in this country is that we talk about national unity in a very deceitful way. We have a country where the President, the Chief Justice, and the Speaker of the National Assembly, the Governor of the Central Bank of Kenya, the Commissioner-General of the Kenya Revenue Authority (KRA), the Chief of Kenya Defence Forces and the Attorney-General come from one part of the country. This is not the Kenya that Hon. Raila Odinga contemplates in his Azimio la Kenya manifesto. That is why we say “let us walk the talk and say it as it is.” Let us not sugar coat such matters. Hon. T.J. has said it.

Hon. Deputy Speaker, if we approve these two nominees, it will be contrary to Article 10 of the Constitution on national values. If this House approves the two nominees and the Commission is fully constituted, its composition will not comply with Article 10 of the Constitution. From the manner the EACC has been operating, a lot of us will say that it has done a good job, but have we completed the war against corruption? I am told the remaining commissioners, including Archbishop Wabukala, are leaving office in December when their term comes to an end. On a light note, someone told me sometimes back that if an Archbishop could not fight corruption, who are we to fight corruption? We appointed an Archbishop to head this institution. Can we give up? We need to revive the integrity of this country for the future of our children. We need to re-think the fight against corruption. We need to have brave men and women who can restore order in all Government offices and parastatals.

Hon. Deputy Speaker, allow me to conclude by quoting the 16th President of the United States of America, the great Abraham Lincoln, who once said: “Character is like a tree and reputation is like its shadow.” The shadow is what we think as the people of Kenya. The tree is the real thing. We need an EACC that can fix both the tree and the shadow. Only then shall we have fixed the character and the reputation of our country. As of now, EACC, in my honest opinion, is limping and whining. We are not guests of anybody. Everybody must respect the Constitution. We are not a House that is going to rubber-stamp decisions made elsewhere, contrary to Article 10 of the Constitution.

I oppose. I oppose and say that somebody should go to court and challenge this House’s decision if the House approves, on the basis of Articles 10 and 232(1)(i) and (iii) of the Constitution.

Hon. Abdullswamad Nassir (Mvita, ODM): Mhe. Naibu Spika, nakubaliana sana na Mhe. Duale lakini akumbuke wakati mimi na Mhe. Kajwang’ tulipokuwa tukipinga makabila mengine kupatiwa nafasi kuliko makabila mengine, kuna baadhi walikuwa wakipiga kongole.

(Applause)

Tena walikuwa wakipiga kongole wakisema kuwa ni sawa. Ni mara ngapi hapa wenzangu walizungumza habari ya “tuongee sasa.” Waswahili wanasema kuwa ukitaka kujua jinsi ulivyonyeshewa aanza kujuliza tone la kwanza lilikupiga wapi.

(Applause)

Nyinyi ndio mulisababisha mtindo huu ikiwa leo, na ni lazima mukubali makosa muliowafanyia Wakenya. Hamna njia nyingine isipokua mregee nyuma muombe msamaha kwa Wakenya ya kuwa muliwakosea. Na njia ya kuomba msamaha ni kusema ya kuwa munakubaliana na sisi ambao tunataka azimio la Kenya. Leo wengine wananza kuongea juu ya baadhi ya majina. Tena angalia hekima zao. Wanajua vipengele vya Katiba ambavyo miaka yote tulikuwa tukizungumzia hapa ya kuwa Wapwani hawapatiwi nafasi. Ndugu zetu kutoka Kaskazini Mashariki hawapatiwi nafasi na ndugu zetu kutoka Luo Nyanza hawapatiwi nafasi. Leo, kwa sababu imekuwa ni sawa kwa wengine, munasahau kuwa haya yamefika hapa kwa sababu yenu nyinyi sio kwa sababu nyingine. Sasa hivi, majina yanayobadilishwa katika EACC ni mawili. Nakubaliana na *former Leader of the Majority Party* ambaye namtambua kama kiongozi wangu, lakini nataka tumkumbushe haya majina mengine yote ambayo anasema si kikatiba, yeye na wenzake ndio walioyapitisha katika Bunge hili.

Nataka kuelezea kwamba moja ya majina haya ni la Mpwani. Hili jina linalotajwa hapa, Alfred Mutweta Mshimba, ni Mpwani. Ameweza kuregesha sehemu nyingine ya Mpwani. Hivi leo, ningependa kuwaambia hao wenye kulalamika wazungumze kwa pumzi hiyo kuhusu majina hayo. Baada ya hii, kuna *Privatization Commission* na sioni jina la Mpwani hata mmoja. Ningependa kuwaambia wazungumze ili watu wenu watolewe ili wawekwe watu wetu. Tena baada ya hapo, kuna Competition Authority of Kenya na vile vile, sioni jina la Mpwani lakini naona majina mawili ya makabila mengine. Ningependa kuwaambia wazungumze vile vile na kwa hisia hizo hizo ya kuwa munataka watu wenu watolewe na kuwekwe Mpwani, Mjalu au kabila nyingine yoyote.

Hii Kenya ni ya kila mtu. Kenya sio ya mtu mmoja ama wengine. Tulikuwa tukiongea na kukohoa hapa. Tulikuwa tunazungumza hapa, sio tu katika majukwaa. Tulikuwa tunaongea hapa tukiwaambia kila siku ya kuwa munafanya makosa dhidi ya Wakenya.

Mhe. Naibu Spika, mimi nalikubali hili jina na tena nitakubali na Mkenya mwingine apewe nafasi. Hii Kenya ni ya kila mtu na kila mtu ana nafasi.

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

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Deputy Speaker. At the outset, allow me to support this Report by the Departmental Committee on Justice and Legal Affairs. This is just on the simple basis that the candidates themselves merited in their right. They did not appoint themselves into these positions because there is an appointing authority which considered their applications. These people are well placed in this House.

I wish to walk the talk of the substantive Speaker, who said that if you come into this House late and you are given an opportunity to speak, you must apologize to the Chair before you speak. I wish to refer to the former Leader of the Majority Party who taught me the first Standing Order when I came into this House. He mentioned that there are very many Kenyans such as the Governor of the Central Bank of Kenya who seem aligned to a particular community. I was his supporter and we voted for them in this House. We approved their nominations and they are duly appointed in their positions.

Therefore, notwithstanding that a Luhya is not on the Ethics and Anti-Corruption Commission list, I can see there is one in the next group.

(Hon. Aden Duale spoke off-record)

My good friend, I gave you time to speak. If you do not mind, please allow me to also speak.

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Therefore, the fact that a Luhya is not on this list it appears that there is one in the second group. Whereas I agree that we should look at the comparison in terms of the 43 tribes but on this one, it is purely aligned. The immediate predecessor came from the Coast Region and the other one also came from the Mountain Region. Therefore, in my view, it is important that we support this Report while basing ourselves on the next reports.

There are those who are saying that their tribes have not been listed on the EACC but when you go to the Privatization Commission which is due to come - and without anticipating debate - they are already captured in that. Therefore, from where I sit, I plead with my colleagues that, as we note what they have mentioned today, we must support the Report. We are only eight months away from elections and, therefore, let them reorganize. As we go into elections, let us go and look at how we are going to mix our own Kenya into one stronger nation.

Therefore, I support this Report.

Hon. Deputy Speaker: Okay. Let us go to Hon. Sheikh Abdullahi.

Hon. Major (Rtd.) Bashir S. Abdullahi (Mandera North, JP): Hon. Deputy Speaker, I want to speak to the Motion on...

Hon. Deputy Speaker: Do you want to speak to the other one?

Hon. Major (Rtd.) Bashir S. Abdullahi (Mandera North, JP): Yes, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Members, we still have others. We should probably be asking the Mover to reply now.

Hon. Millie Odhiambo.

(Loud consultations)

Order, Members! We cannot take all our time on this one. We have many other commissions coming up for discussion.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Deputy Speaker, for giving me this opportunity. Let me take this chance to say that I support even though I do not know these people personally. In supporting, it has been notified that when you look at the commissions in totality, we need to see whether we have the face of Kenya. Sometimes, it may be difficult to see, in one commission whether you have the face of Kenya but when it is manifestly crooked, then we need to think about it because then it can be challenged.

I also just want to say that one of the things that I am happy about is that we are considering gender representation and equality.

I just want to say one thing that even as these people are taking these positions, and I am hoping that we will be able to pass them, I am concerned about the growing politicization of the fight against corruption. I want to go on record on the Floor of this House that the bodies that are fighting corruption are increasingly being politicized as we go towards the elections. I raised it on the Floor of the House last year that the Suba North Constituency was actually given an order that there is loss of money which had not even been released. So, how can there be loss of money that has not left Nairobi to go to the constituency?

Again, we are having a situation where the Ethics and Anti-Corruption Commission, over the same issue, is raising concerns in Suba North Constituency. The good thing about being correct in what you do is that you will not be fearful about raising them. I want to tell the Ethics and Anti-Corruption Commission that we have thieves in this country and they should go for them and stop looking for ants where there is no issue.

I am urging the EACC that if they do not stop politicising the fight against corruption in my constituency, I am going to meet them in court. Nobody has sued them but I, Millie Odhiambo-Mabona, will sue them for politicizing the fight against corruption. I do not joke. I take people head-on because I know people in my constituency by names, the dates they took the money and the amount of money.

I want the EACC to know that they are not the only investigative arm. I am also an investigator. I have the same information that they have and I will take them head-on. So, even as they fight corruption, you cannot be telling my constituency that they have stolen money which has not reached Suba North. Some of those people are crazy. I am going to raise an issue next week on the Floor of this House. We are even being told that we have given money to a school which is supposedly non-existent and the Ministry has a letter that the school has been in existence since 1974. Is Misori Primary School in Mfangano in existence? I want to urge the EACC to do their work and look for the thieves and stop harassing people.

Thank you.

Hon. Deputy Speaker: What is it, Hon. Omulele?

Hon. Christopher Omulele (Luanda, ODM): Hon. Deputy Speaker, looking at the mood of the House and the debate so far, will I be in order to ask that the Mover be called upon to reply in accordance with Standing Order No. 95?

Hon. Deputy Speaker: Well, I do not think that I have a choice there. Hon. Omulele has stood on a relevant Standing Order.

(Several Members stood along the gangway)

Order, Members! Take your seats.

Hon. Omulele has rose on the relevant Standing Order and requested that the Mover be called upon to reply.

*(Question, that the Mover be now called upon to reply,
put and agreed to)*

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): Thank you, Hon. Deputy Speaker. The Special Motion has been deliberated extensively.

With those few remarks, I beg to reply.

Hon. Deputy Speaker: Very well. Hon. Members, we will move to the next Order and because of some circumstances, we will have the Question on this one put in the next Sitting.

(Putting of the Question deferred)

CONSIDERATION OF NOMINEES FOR APPOINTMENT TO THE PRIVATISATION COMMISSION

Hon. Deputy Speaker: Let us have the Vice-Chair of the Departmental Committee on Finance and National Planning. I know where you come from, Hon. Nassir when you use the one finger salute, I know it is in nostalgia, but I know you have since moved. So, let us relax, Members.

Hon. Isaac Ndirangu (Roysambu, JP): Thank you, Hon. Deputy Speaker. I beg to move the following Special Motion:

THAT, taking into consideration the findings of the Departmental Committee on Finance and National Planning in its Report on its consideration of Nominees for Appointment as members of the Privatisation Commission, laid on the Table of the House on Tuesday, 9th November 2021, and pursuant to the provisions of Section 5(1)(d) of the Privatisation Act, 2005 and Sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, 2011, this House approves the appointment of the following persons to the Privatisation Commission:

- (i) Dr. Edward N. Kobuthi, PhD - Member;
- (ii) Ms. Irene Njeri Wanyoike - Member;
- (iii) Ms. Celine Anyango Orata - Member;
- (iv) Mr. Salah Adan Abdi - Member;
- (v) Mr. CPA David J.O. Nyakang'o - Member;
- (vi) Amb. Wellington Pakia Godo - Member.

The Privatisation Commission has not been operational for the last several years because it has not been properly constituted. There has only been a chairman and one member. So, this recruitment will fill the six vacancies remaining. That is why these new nominees are being recruited.

Section 5 of the Privatisation Act (No. 2) of 2005 provides as follows:

That the commission shall comprise of the following members:

- (a) A chairman appointed by the President;
- (b) The Attorney-General;
- (c) The Permanent Secretary to the National Treasury and Planning;
- (d) Seven members, not being public officers, appointed by the Minister through a competitive process and approved by the National Assembly by virtue of their expertise in such matters as will ensure that the commission achieves its objectives and purpose; and,
- (e) The Executive Director.

[The Deputy Speaker (Hon. Moses Cheboi) left the Chair]

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

With the declaration of the six vacancies, the Board of the Privatisation Authority, following the expiry of the term of directors, was unable to discharge its mandate effectively as it has been currently constituted, with only the Chairman, Hon. (Dr.) Paul Otuoma and one member, Mr. John Joseph Tito. That necessitated the filling up of the vacancies for the six other directors. In light of this, the Cabinet Secretary for the National Treasury nominated Dr. Kobuthi, Irene Njeri Wanyoike, Celine Anyango Orata, Salah Adan Abdi, CPA David Nyakang'o and Amb. Wellington Pakia Godo for appointment as members of the Privatisation Commission of Kenya.

The Departmental Committee on Finance and National Planning was assigned the role of conducting the vetting of the nominees as mentioned above, according to its mandate.

Hon. T.J. Kajwang' (Ruaraka, ODM): On a point of order.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Member for Roysambu, just hold on. Hon. T.J., what is out of order?

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Speaker, they know themselves; what in other quarters I would have called "the usual suspects". It is not in order for Members to be between you and the speaker, but they have rectified. So, I will let it be.

The Temporary Deputy Speaker (Hon. Christopher Omulele): You are absolutely right, Hon. T.J. Kajwang'. Hon. Kolosh today seems to be in a very bullish mood for some reason. He seems to be quite agitated. I do not know what it is that is agitating him.

Proceed, Member for Roysambu.

Hon. Isaac Ndirangu (Roysambu, JP): In the interest of time, I will only say that the nominees have been vetted by the National Assembly. Invitations for memoranda were placed in the newspapers to afford Kenyans public participation. No adverse memoranda were sent. Therefore, the nominees have been found to be qualified, according to the requirements of the Act and pursuant to the provisions of our Standing Orders. In compliance with Section 6(9) of the Public Appointments (Parliamentary Approval) Act, the nominees have been found to be in conformity, both in qualification and prudence.

This House, therefore, requests and urges Members to vote, recommend and support our Committee in the nomination of Dr. Edward Kobuthi, Ms. Irene Njeri Wanyoike, Ms. Celine Orata, Mr. Salah Adan Abdi, CPA David Nyakang'o and, Amb. Wellington Pakia Godo as members of the Privatisation Commission. Having considered the suitability and capacity, the integrity of the nominees and, pursuant to Section 8(2) of the Public Appointments (Parliamentary Approval) Act (No. 33) of 2011, the Committee recommends that the National Assembly approves the nomination and subsequent appointment of the six nominees to the position of the Director of the Board of the Privatisation Commission.

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

[The Deputy Speaker (Hon. Moses Cheboi) resumed the Chair]

In supporting, I wish to invite Hon. Gichuhi to second.

Hon. Deputy Speaker: Hon. Gichuhi.

Hon. James Gichuhi (Tetu, JP): Thank you, Hon. Deputy Speaker.

I wish to associate myself with the Report on the nominees to the Privatisation Commission. I wish to state they are all qualified. The issues of gender and regional balance was observed and complied with.

I therefore second.

Hon. Deputy Speaker: We seem to be moving very well, Members.

(Question proposed)

Let us start with Hon. Fatuma Gedi.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Thank you, Hon. Deputy Speaker. I will be brief. I take this opportunity to thank the Committee for a job well done. Looking at the Report and having listened to the Mover and the Seconder, all the nominees before us are qualified. Regional and gender balance have been considered. I must say this...

Hon. Abdullswamad Nassir (Mvita, ODM): *(Spoke off-record)*

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Abdullswamad, you are saying something that is not good. Even Somalis have a right. I know you love Somalis. They are your voters and you have helped them in Mvita Constituency. I am a witness that you support the nominees. Thank you.

Mr. Salah Adan Abdi comes from Wajir County. I take this opportunity to thank His Excellency the President and the Cabinet Secretary for the National Treasury and Planning for giving this young man the opportunity to serve in the Privatisation Commission. Looking at his educational background, he has a master's degree and a Bachelor of Human Resource Management Degree from Kenyatta University. He is from a marginalised community in Wajir, North Eastern. It is a great honour. Getting people from those areas who have such wonderful experience and qualifications is rare. He has served as a County Executive Committee (CEC) Member in the last County Government of Wajir.

Hon. Member: *(Spoke off-record)*

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): They have but they are also very rare, my former leader.

Hon. Deputy Speaker: Please, let us not have exchanges on the Floor of the House. Let us give Hon. Gedi time to summarise whatever she is sharing. If anybody has a different opinion, I will give them an opportunity to say so.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Deputy Speaker, the point I was driving home is that he served as the CEC of Finance in Wajir County. During his tenure, Wajir County was transformed. Wajir was on the map as number one. I know he will deliver. He is passionate about the responsibility he has been given.

I also know Mr. David Nyakang'o. He will take this responsibility seriously and serve with passion and diligence.

With those few remarks, I urge the House to support the nominees since they are all qualified. Looking at their qualifications, there is regional and gender balance. As a woman, I am happy. I congratulate Celine Orata for the nomination.

Hon. Deputy Speaker: Thank you. Let us have the Member for Mukurweini. Is that microphone working?

Hon. Anthony Kiai (Mukurweini, JP): It is. Thank you, Hon. Deputy Speaker. I stand to support the Report.

The appointment of these persons to the Privatisation Commission is timely given that it has been operating without the required number of members. Looking at the Report tabled by the Departmental Committee on Finance and National Planning, I have no doubt that the Commission is competent enough to do its work. Having not received any adverse report on any of the appointees, it means that they are ready to work for our country. They are competent and they are the right persons to fill the positions.

Looking at the list, it represents the face of Kenya. They have been appointed by the Cabinet Secretary by virtue of their expertise. The nominees to the Commission are competent in their areas of specialisation.

I am interested in Madam Irene Njeri Wanyoike who comes from Mukurweini. I have known her for many years. She has served this country quite well and with diligence. She has impeccable qualifications having served before on the National Cohesion and Integration Commission (NCIC). I have no doubt that she will bring her wealth of experience to the Commission. She has served in other high profile jobs. She has all along been a public servant. I believe that Madam Irene will serve diligently on the Commission. It is good for me to point out

that when she served in the NCIC, she left an indelible mark and very high standards. With her wealth of experience, she will diligently serve in this Commission. More particularly, as the Member of Parliament for Mukurweini, I congratulate her for securing this slot as a daughter of Mukurweini.

I support the Motion.

Hon. Deputy Speaker: Let us have the Member for Luanda.

Hon. Christopher Omulele (Luanda, ODM): Thank you, Hon. Deputy Speaker. I support the Report of the Departmental Committee on Finance and National Planning.

I want to bring to the attention of the House that the nominees who are being approved today will serve on a part-time basis. My concern is that when you look at the work that the Commission is supposed to do and considering that we are weighed down with a huge debt load as a country, we need to privatize. We have many State assets that need to be privatized. There is a whole process that needs to be undertaken for that to come to fruition. These nominees will serve on a part-time basis. Maybe the House should, with time, consider reviewing the parent statute so that the nominees to this Commission are able to serve on a permanent basis.

On the same point, it is a matter of concern that the term of the Chair of this Commission will be ending at the end of this month or within the next 30 days. We will end up hamstrung again. It is incumbent upon the appointing authority to move with speed so that this Commission is enabled. It has not functioned for a long time.

I have interacted with the Report. The nominees are competent. Let us give them this work.

Hon. Deputy Speaker: Let us have Hon. Nassir.

Hon. Abdullswamad Nassir (Mvita, ODM): Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Sankok, do not worry. You will be next. Prepare your thoughts.

Hon. Abdullswamad Nassir (Mvita, ODM): Thank you, Hon. Deputy Speaker. I am looking at the names that are here and I want to particularly point out the name of Mr. Salah Adan Abdi. I want this to be something that every single Kenyan out there should take note of. It does not matter where you are from. With hard work, you can be something in this country. The Privatization Commission is a no mean commission. It is about privatizing State corporations and entities. Mr. Salah Adan Abdi, who originates from Wajir and was the CEC for Finance at the Wajir County Government, is the right person to do this job. I congratulate him and the others on their nomination. I am sure that they will definitely make us proud.

My sister was asking about Somalis in my constituency. Yes, Mvita has quite a number. The constituency is very cosmopolitan. Every person who resides anywhere in Kenya, in one way or another, finds their roots in Mvita and Mombasa County. I am proud to represent a very cosmopolitan society.

Hon. Deputy Speaker: Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Deputy Speaker. For the sake of the pastoralists who appear in this list, I support the Motion, but I want to request the House to consider something. There is a trend that is developing in which we no longer consider persons with disabilities (PWDs) in appointments. I have seen lists coming to this House. I was even more interested in contributing to the next Motion, but I want to contribute to this one because there is the trend of not including PWDs, as required by Article 54 of the Constitution, in the appointments that have been made in the recent past. I urge this House to reject any other

appointment that does not include PWDs because that is a constitutional requirement. I am interested in the next Motion.

Hon. Deputy Speaker: Hon. Mwangi Mburu, Member for Lari.

Hon. Jonah Mwangi (Lari, JP): Hon. Deputy Speaker, I beg to support the nominations. The Committee did a good job. They considered all diversities and tribal and regional balance. I am sure these nominees will deliver in this Commission. Although it is a part time job, I am sure they will deliver on their mandate.

With those few remarks, I support the work of the Committee. Thank you.

Hon. Deputy Speaker: Hon. Odoyo.

Hon. Jared Okelo (Nyando, ODM): Hon. Deputy Speaker, thank you very much. At the outset, I join my colleagues in hailing the composition of this Commission that reflects regional balance. That is reflective of the dictates of our Constitution. It is something that we have to praise the Committee and the appointing authority for.

However, I am perturbed that when it comes to this matter, people are happy that, at least, there is regional balance. Some of our political persuasions in this House have been given an opportunity in the recent past and they quickly retreat to their ethnic cocoons and get people from their ethnic inclinations to take up jobs in the Government and yet, no one has raised a finger over this imbalance. If this is the trend that we are going to develop as a House, then regional balance must form an integral part of any suitability for Government jobs.

I come from the sugar belt. When this Privatisation Commission was birthed, the main idea was to have sugar companies together with other non-performing Government entities privatised so that we do not continue seeing wastage, pilferage and financial impropriety that have permeated the systems for way too long. When this Commission came into being more than three years ago, we from the sugar belt region had a lot of hope that, for once, our sugar matters would be addressed. It is long since sugar companies such as Muhoroni, Chemelil, Nzoia, SONY and other Government sugar millers made any profit. Yet, private companies continue to rake in lots of revenues, with expanded revenue streams including generation of power, which was hitherto done by Mumias Sugar Company. If these commissioners will take office in a few days to come, I would suggest that those sugar companies that have been the livelihoods of so many people would then be quickly privatised so that they can reclaim their lost glory. It is more disturbing that private entities do better than Government agencies. Is it because we appropriate funds for them even when they do not make any profit? Or do we need to inject new impetus in terms of personnel? These are the areas that we quickly need to consider as the Commission takes shape in a few days to come.

With that, I thank you very much, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is it, Hon. Shamalla?

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): Hon. Deputy Speaker, I rise under Standing Order 95 and move that the Mover be called upon to reply. I think this issue has been sufficiently debated.

Hon. Deputy Speaker: Well, it is very difficult for me to gauge the mood of the House in any other way other than putting a Question to that.

(Question, that the Mover be called upon to reply, put and agreed to)

The Mover, please reply. Order Members. I hear the two Members up there. You will be considered in the next Motion.

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Hon. Isaac Ndirangu (Roysambu, JP): Thank you, Hon. Deputy Speaker. I thank Members for supporting this Motion and for applauding the observation by the Committee that many regions have been considered in the nominations. Gender has also been considered. I also want to assure them that this Committee has recommended that the Act be amended to increase the term of directors to six years and to make the board full-time.

With those few remarks, Hon. Deputy Speaker, I beg to reply.

Hon. Deputy Speaker: Very well. We are not going to put the Question on this as well until the next Sitting.

(Putting of the Question deferred)

Next Order!

CONSIDERATION OF NOMINEES FOR APPOINTMENT
TO THE COMPETITION AUTHORITY OF KENYA

Hon. Deputy Speaker: That is also by the Chairperson of the Departmental Committee on Finance and National Planning. Let us keep the spirit please.

Hon. Isaac Ndirangu (Roysambu, JP): Thank you, Hon. Deputy Speaker. I beg to move the following Special Motion:

THAT, taking into consideration the findings of the Departmental Committee on Finance and National Planning in its Report on its consideration of nominees for appointment as members of the Competition Authority of Kenya, laid on the Table of the House on Tuesday, 9th November 2021, and pursuant to the provisions of section 10(2) of the Competition Act, 2010 and sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, 2011, this House approves the appointment of the following persons as members of the Competition Authority of Kenya:

1. Ms. Lena Munuve - Member;
2. Ms. Alome K. Achayo - Member;
3. Dr. David Wanyonyi Wanyama – Member; and
4. Mr. Abdi A. Mohamed – Member.

Hon. Deputy Speaker, I wish to inform the House that pursuant to the provisions of Standing Order No.42, the Speaker of the National Assembly on 7th October communicated to the House a Message from the CS, National Treasury regarding nominees for appointment for positions of directors of the Board of Competition Authority of Kenya in accordance with Standing Order No. 42(3)(c). Names of the nominees together with their curriculum vitae were referred to the Departmental Committee on Finance and National Planning to conduct approval hearings.

[The Deputy Speaker (Hon. Moses Cheboi) left the Chair]

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

In compliance with Section 6(9) of the Public Appointments (Parliamentary Approvals) Act, 2011, the Clerk of the National Assembly placed an advert on the print media on Saturday, 9th October 2021 and invited Members of the public to submit memoranda by written statements under oath on the suitability of the nominees in conformity with Section 6(9) of the Public

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Appointments (Parliamentary Approval) Act, 2011. By close of submission deadline, the Committee had not received any memorandum contesting the suitability of the nominees. So, four posts of the Director of the Board of Competition Authority of Kenya fell vacant and after their expiry and pursuant to Section 10(1)(f) of the Competition Act, 2010, the CS, National Treasury and Planning submitted the four names to us for vetting and approval.

The nominees appeared before us on Friday, 22nd October for the approval hearings where the Committee examined their suitability based on criteria set out in the Public Appointments (Parliamentary Approval) Act, 2011. The nominees were interviewed and their academic credentials with relevant experience and knowledge of sector issues, and leadership and integrity verified. Based on their performance during the vetting exercise, this Committee made the following general observations:

There was regional balance in the nomination. All the four nominees came from different counties. They are from Nyeri, Nairobi, Bungoma and Mandera. There was gender balance in the nominations because two of them are male and two are female.

The nominating authority submitted the report of the interviewing panel that conducted the interviews for the nominees and hence the Committee was able to ascertain that the interview process was competitive. All the nominees have been cleared by Kenya Revenue Authority on tax compliance, Higher Education Loans Board, Ethics and Anti-Corruption Commission, Directorate of Criminal Investigation and the Office of the Registrar of Political Parties on membership to political parties. The Competition Authority Act, No.12 of 2010, did not provide the process for appointment, the minimum academic qualifications, and years of experience required to appoint one as a Director of the Competition Authority of Kenya. Hence this Committee is asking that we legislate further to provide for the process of appointment.

The Committee has vetted the individuals and found them fit. Having considered their suitability capacity and integrity, and pursuant to Section 8(2) of the Public Appointments (Parliamentary Approval) Act, the Committee recommends that the National Assembly approves the nomination and subsequent appointment of the four nominees to the position of Directors of the Board of Competition Authority of Kenya.

This Committee also recommends that the Competition Act, 2010 be amended to outline the process of appointing members to the board; specific minimum academic and professional qualifications; and, the minimum number of years of experience thereof. The Committee also recommends that the Act be amended to increase the term of service for Directors of the Competition Authority of Kenya to six years and to make the board full time.

With those few remarks, I beg to move and request the Member for Tetu to second.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Member for Tetu.

Hon. James Gichuhi (Tetu, JP): Thank you, Hon. Temporary Deputy Speaker.

I rise to second this Motion that seeks to approve the nominees for appointment as Directors of the Board of the Competition Authority of Kenya. I wish to associate fully with the Report as submitted by the Chair.

I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Hon. Christopher Omulele): The first slot will go to Hon. Nguna Ngusya, Member for Mwingi West.

Hon. Charles Nguna (Mwingi West, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for the opportunity given to me. Let me appreciate the work of the Committee and without hesitation, congratulate the nominees to this Authority and particularly Ms. Lena Munuve who comes from my constituency, Mwingi West. I know her as a very competent person who has worked in the private sector many times and has exemplary performance in all the institutions she has worked in. This Authority must ensure there is enough protection for consumers so that their rights are not abused by unscrupulous traders and people who offer services and products.

The other issue the Authority has to address is that of mergers and acquisitions. Let them be fair. I do not have much to say since the appointment have been based on gender balance and other regional issues.

I support the appointment of these nominees.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Abullaih Sheikh, Member for Mandera North.

Hon. Major(Rtd) Bashir S. Abdullaih (Mandera North, JP): First and foremost, I want to thank the Committee for doing a very good job in producing a very good Report on the vetting and subsequent appointment of these four Kenyans to fill the positions of Board Directors in the Competition Authority.

These four positions are as a result of the expiry of tenure of other directors who have quit. I am sure there could be a number of authorities or commissions that have people quitting at the same time. I will still urge the Government to ensure that for those who leave, other Kenyans should be absorbed in the same commissions or authorities so that work can continue.

One of the nominees is Mr. Abdi Ali Mohamed. He is from my constituency. I can confirm or rather vouch that he is a very hardworking gentleman who is equal to the task to serve as a board member of the Competition Authority together with other nominees. I assure you that together with his team, once this House approves - I plead with them to ensure that the nominees are approved - they will help the Competition Authority to ensure that Kenyans are not cheated and not taken for a ride. It is a very critical Authority in ensuring that the interests of Kenyans are taken care of. So, I urge the House... When I look at the entire Report, the issue of gender balance is well taken care of. The issue of regional representation is also well taken care of and I can confirm that. So, I urge the entire House, and plead with them to approve these four nominees taking cognizant of the fact that one of the nominees, Mr. Abdi Ali Mohamed, comes my constituency. I, again, vouch that he is a hard worker and a go getter.

Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Hon. Mboko Khamisi, Member for Likoni.

Hon. (Ms.) Mishi Mboko (Likoni, ODM): Asante sana, Mhe. Naibu Spika wa Muda. Nami naunga mkono uteuzi wa Wakenya wanne, ikiwemo akina mama wawili na akina baba wawili. Namshukuru Mhe. Rais na kusema huu ndio mtindo wa kwamba tuwe na asilimia 50 kwa 50 ya akina mama kwa akina baba katika uteuzi. Mamlaka haya ni muhimu sana kwa sababu yatalinda wale wanunuzi ama kwa Kiingereza *consumers*. Pia itaangalia njia ya usawa katika mambo ya biashara na soko. Kwa sababu, wakati mwingine tunaona kuweco kwa mvutano katika mambo ya biashara ama soko. Haswa hapa Kenya tumeona ushindani wa Airtel na Safaricom. Kwa hivyo, mamlaka haya ni muhimu sana na yataweza kusawazisha na kuleta ushindani mzuri wa kuendeleza biashara na masoko kwa njia ya usawa.

Mwenzangu mmoja amezungumzia swala la ndugu zetu walemavu. Nami pia nataka kutia mkazo ya kwamba, wakati tunafanya uteuzi Mhe. Rais awafikirie sana hawa ndugu zetu

walemavu. Jambo lingine nataka kusema ni kwamba, ni wakati mwafaka Mhe. Rais apige darubini na kuangalie jamii ambazo zimekuwa chache katika uteuzi wa sekta zetu za umma ama za kiserikali ndiyo zipewe kipau mbele. Akifanya hivyo, tutaweza kuwa na usawa tunaongumzia katika Katiba yetu wa akina mama, kijamii na wa sehemu zote za taifa la Kenya.

Nasema hivyo kwa sababu najua mpaka sasa kuna jamii ambazo uwakilishi wao katika sekta za kiserikali, nafasi za kuweka maamuzi katika serikali na uwakilishaji wao bado ni mchache. Hivyo basi, tuweze kuwapatia kipau mbele jamii kama Waturkana, Wadorobo, Wamijikenda, Wabajuni, na zile zinazotoka kule kaskazini na kusini; Wamaasai na Wasamburu. Tuweze kuangalia jamii hizi ambazo bado ni chache katika sehemu za kufanya maamuzi ama katika sekta za umma na zipewe kipau mbele. Hili litawezekana iwapo tutakuwa na takrimu mahususi za ukweli za kuonyesha tunafanya ama kutekeleza vipi Katiba yetu ambayo tuliipigia upato. Ili kuhakikisha ya kwamba kutakuwa na uwakilishaji ambao utachukua sura ya Kenya na kusawazisha historia za nyuma ambako kulikuwa na jamii zilizotengwa ama ni chache.

Nataka kumshukuru Mhe. Rais pia kwa ile Tume ya Ubinafisishaji lakini niwaambie wale Makamishna tafadhali Bandari ya Mombasa isifanyiwe Ubinafisishaji. Kwa hivyo, naunga mkono Mswada huu na kuseme kuwa wakati huu akina mama nafikiri tumepata mavuno katika uteuzi. Mhe. Rais, mtindo ubaki huo huo na akina mama tuwe mbele katika nyanja za uongozi sawia na akina baba na sambamba katika maamuzi na ujenzi wa taifa la Kenya.

Naunga mkono Mswada huu kwa sababu walioteuliwa wote katika tajiriba ya kielimu na ya uzoefu wa kazi wamefuzu. Pia, katika Sura ya Sita ya Katiba, hawana jinai wala makosa ya uhalifu. Hatukuona memorandamu yoyote ambayo imewapatia kashifa ama imesema hawa walioteuliwa wana makosa fulani. Kwa hivyo, mimi naunga mkono, mia asilimia.

Asante, Mhe. Naibu Spika wa Muda.

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Hon. Noor Sophia, Member for Ijara.

Hon. (Ms.) Sophia Noor (Ijara, PDR): Thank you, Hon. Temporary Deputy Speaker for giving me this chance. I want to equally congratulate the Committee for their wonderful Report on nomination of the four members. They did a very wonderful job. Personally, I do not know any of the nominees, but I want to congratulate them. What I have heard and understood from the Report presented to this House, is that they are people of integrity and have done a lot of good work for this country. Therefore, it is for us to stand up and support them at this time. This is because once you do a good job for this country, you will continue doing so. We are supporting the Report because of what we have been told, that these are people who have worked and done a marvelous job in different capacities in this country. Another reason I stand to support is because of gender balance and regional face of this country.

Hon. Temporary Deputy Speaker, I beg to support the Report of the Committee. Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Hon. Dr. Ombaka, Member for Siaya.

Hon. (Dr.) Christine Ombaka (Siaya CWR, ODM): Thank you, Hon. Temporary Deputy Speaker for this opportunity. I am a Member of this Committee and we vetted these nominees very well. First of all, they were all very good and it was very difficult to know whom to consider. All of them were really up to date, well educated, highly experienced and very eloquent. It was very difficult to decide who really takes position here. I support because we did our best and the nominees are the best we can get in this country.

Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Hon. Obo Mohamed, Member for Lamu.

Hon. (Ms.) Ruweida Obo (Lamu CWR, JP): Asante sana, Mhe. Naibu Spika wa Muda. Nami naunga mkono waliochaguliwa. Naona kuna sura ya Kenya na pia namshukuru Mhe. Rais kwa sababu komishina mmoja ametoka Pwani ana muungano wetu wa Upya. Lakini naomba wakati mwingine nafasi mpya ikitokea Pwani safari hii iwe ni mtu kutoka Lamu.

Asante, Mhe. Naibu Spika wa Muda.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Ong'era.

Hon. (Ms.) Janet Ong'era (Kisii CWR, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this Motion. I rise to support it and from the outset, let me thank the Committee for coming up with a very balanced list. In terms of what my colleagues have said, I also support regional balancing and gender considerations.

In addition, I want to say we have the Competition Act which repealed the Restrictive Trade Practices Act. I am very glad we now have an authority in place. So, they can set the practice of ensuring that competition in trade and businesses does not kill this country. Also, there will be balance between the merchants; the so called very rich and very poor. I hope that once these Commissioners set themselves in office, they will look at trade practice issues.

I have in mind the airports, for example, after having been an executive director of the airports for some time, I know there is a lot that requires streamlining. This is particularly, bad practices where you find duty free shops allocated to one-person *en-masse* who comes under other small trading names, but in reality, it is one person running those businesses. This practice is terrible because so many merchants who would have wanted to participate in selling duty free commodities in this country are not given a chance and is a monopoly of the very rich.

I also have in mind other trade practices which are very repulsive particularly, the question of Airtel and Safaricom as somebody has mentioned here where they have been in stiff competition and perhaps remedy can be found.

Hon. Temporary Deputy Speaker, there are other cases such as the Keroche Industries which are being muzzled and yet these are local businesses. We know that Kenya Breweries is spending much money fighting businesses that are homegrown and even run by women. So, I hope this authority will look at such things. I am very happy that there are two ladies and two men who have been nominated. This kind of balance of 50 per cent is what we need.

With this I beg to support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well spoken Hon. Ong'era. You have spoken to a provision in the Act where it provides that some of these businesses can be declared as dominant and might mutate in different formats so that they present themselves as a multiplicity of businesses, yet they are the same.

Let us have the Hon. Duale.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Temporary Deputy Speaker. I do not want to lay much blame on the nominees. Every nominee that is brought to this House must comply with Article 10 of the Constitution and Article 232 (1) and (2).

However, the elephant in the room is that the men and women we are appointing to the Competition Authority have a single function based on the Competition Act of 2010. That they must investigate, control and evaluate restrictive business practices, abuse of dominant positions and deal with merges of big companies in order to achieve equity and efficiency. The Competition Authority of Kenya in line with the Act and powers given to it must promote, protect and create an effective competition within the market structure in our country.

They must deal with restrictive trade practices, control of dominance, acquisitions and consultations of economic power in the hands of very few. It is high time companies such as Safaricom enjoyed dominant monopolistic tendencies. Why do I say so? There is a Bill here in this House which is not moving. This Bill was brought by the Hon. Member for Gem. I want to challenge the House Business Committee (HBC) about the two Bills that are not moving: One by the Member for Gem in amending the Kenya Information and Communications (KICA) Act. The other is a Bill by the Member for Nambale, Hon. Bunyasi in creating a debt committee of this House and a debt department within the National Treasury. Those Bills have been here for the last two years. Let me pick the one for the Hon. Member for Gem. Safaricom cannot enjoy to run M-Pesa for example, that in terms of deposits and withdrawal, it is equivalent to the third-tier banks in our country.

They are not running the M-Pesa within the ambit of the Central Bank of Kenya (CKB) Act. They cannot use the telecommunication licence given to them by the Communications Authority of Kenya (CAK) to run a banking and financial institution function. They cannot have their cake and eat it. Safaricom is known just like Vodafone and Airtel. Their function is a telecommunication provider, be it voice or data. This House must rise to the occasion and ensure the services they provide is so important and a milestone. M-Pesa is something Kenya as a country is proud of. However, we cannot have M-Pesa regulated under the Telecommunications Act. It must fall within the CBK Act; the M-Pesa of Safaricom must be under the Financial Reporting Centre. They must fall within the Proceeds of Crime and Anti-Money Laundering Act that formed the Financial Reporting Centre.

(Applause)

However, just because in all successive Governments, those who were in the house at the hill have a shareholding and they transfer that shareholding, from the late President Moi to President Kibaki, to President Uhuru and maybe to President Ruto or Raila...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Duale, I think you are now going to dangerous tangent. Withdraw that one unless we have a substantive Motion on those names that you have named. Just withdraw that. You are making a very good point.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, in accordance with the Standing Order, you should have asked me whether I have evidence to table, not to withdraw.

Hon. Temporary Deputy Speaker, for now I comply with your direction that I withdraw that. However, my point was that companies that enjoy dominant and monopolistic tendencies contrary to the Competition Authority Act such as Safaricom cannot use their telecommunication licence to run a bank. M-Pesa is a bank and must comply with the CBK Act, the Proceeds of Crime and Anti-Money Laundering Act.

M-Pesa must be subjected...

Hon. Major (Rtd.) Bashir S. Abdullahi (Mandera North, JP): On a point of order.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Duale, just hold on. Hon. Abdullahi seems to have a point of order.

Hon. Major (Rtd.) Bashir S. Abdullahi (Mandera North, JP): Hon. Temporary Deputy Speaker, Hon. Duale is not in order to castigate a legitimate business. We are not discussing Safaricom or Airtel. Trying to victimise a legitimate business without discussing it within the

context of a substantive Bill here is not fair. Members can discuss if there is a Bill in the offing, but using the opportunity to castigate a legitimate business in bad light is improper.

The Temporary Deputy Speaker (Hon. Christopher Omulele): I entirely agree with you. Hon. Duale, you are contributing to the Competition Authority membership and you were trying to point them in a direction and inquiries they should have. The matters that you seem to be elucidating are matters that would ordinarily make a case that has been placed before that tribunal, once we have it. So, you are prosecuting matters that would ordinarily be prosecuted before that tribunal, if such a case was presented before them. So, Hon. Abdullaih is absolutely right.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, I can say without fear of any contradiction that there is no tribunal called Competition Authority. The functions of this authority and I have stated it earlier, are to deal with restrictive business practices, dominance and mergers. I picked on a number of companies that in my opinion, these nominees must deal with. I am not holding brief. If you are holding brief for Safaricom, that is your issue. I am holding brief for the people of Garissa Township and Kenya in line with the Competition Act.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Duale, I will not allow you to denigrate.

Hon. Aden Duale (Garissa Township, JP): I am just saying they are to protect consumers.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Duale, I have already directed that you are not going to denigrate a company that is trading in this country. You have not brought a substantive Motion to deal with it. Let us be fair. If I came here and started talking negative things about you, you would rise up. So, Safaricom is a person that is known to the Law of Kenya. If you have an issue with it and you wish to bring it before the House, you have the liberty. You know how to do it. Members, let us pass this and if there is an issue that needs to go before that authority, you can take it there. However, you have gone off tangent in what is before this House today and what we are debating, Hon. Duale. Kindly, limit yourself to what is before the House. Let us have the Whip of the Majority Party. What is out of order?

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. In addition to the guidance you have given, is the Hon. Member for Garissa Township in order to debate the Bill which is substantively before the House elsewhere and not the one which we are debating? This is because what he is mentioning are actually the clauses in the Bill which is before the House by Hon. Elisha of Gem. Is he in order, Hon. Temporary Deputy Speaker?

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Whip of the Majority Party, you are absolutely right. Hon. Duale, just limit yourself to what is before the House and we make progress.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, I will follow your guidance because you have to do it but I do not know how you draw a line between discussing the nominees and not the Act, the functions and the investigative powers of the Competition Authority. I have been around for some time but if that is the direction you will take I have made my comments. I stand by them today and tomorrow. I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Shamalla.

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. I rise under Standing Order No. 95 on closure of debate, but before I state that, I did hear Hon. Duale say that there is no Competition Tribunal in Kenya. There is Competition Tribunal. It is established under the Competition Act No. 12 of 2010.

With those few remarks, I beg that the Mover be called upon to reply.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Shamalla, you started well but the moment you made your contribution, the earlier one under Standing Order No. 95 cannot be allowed. So, I will now then move on to Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Temporary Deputy Speaker. Thank you so much because Hon. Shamalla was almost closing me out, but being a mono, she knocked herself out of technicalities. I thank God for having a mono trying to close the debate.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Sankok, there are no monos in the House. There are all honourable Members of equal standing.

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Speaker, I withdraw. I am the chairman of all new comers and all the nominated Members of Parliament. She also understands. I do support the nominees to the Competition Authority of Kenya.

First of all, there is gender balance. There are two ladies and two gentlemen. So, there is balance in terms of gender, but I had raised a very important and pertinent issue of a trend that is happening in this House. We have forgotten completely Article 54 of our Constitution that we also need to have persons with disability included in some of these appointments because they also do business.

We have a very important Authority like this one that deals with competition. There is a lot of unfair competition against persons with disabilities because some of these persons with disability with business are deaf and they cannot really compete favourably with the rest. This is a very important Authority that should have had persons with disability. When some of us are taking our merchandise to the market, it will be very difficult because we cannot carry it. We have to employ so many people along the chain. So, the competition ground is not very favourable for the persons with disability. This Competition Authority of Kenya could have been very important and instrumental, if it had a person with disability because according to the United Nations Convention on the Rights of Persons with Disability, there is nothing about us without us. Business is also about us as persons with disability and so we needed to be there.

I support hoping in future the House will show the Executive that Article 54 of our Constitution exists and that when a list is brought and persons with disability are not there, we shoot it down just as a signal to the Executive that persons with disability exist and there is an article that protects their inclusion in the socio-economic development of our country, especially in appointive and nominative positions.

Hon. Temporary Deputy Speaker, I know most of the nominees in person. Ms. Lena Munuve is a very good lady who is very competitive. Even David Wanyonyi Wanyama is a very good person. I am sure he is very competitive to take up this position. Mr. Abdi Mohamed is a contractor. I am not sure of his capacity. I am sure even during the vetting, because I had to go through the vetting notes, he did not perform as well as the rest, but he comes from the constituency of Hon. (Maj.) Bashir. Hon. (Maj.) Bashir having supported him, I am very sure that he will guide him and give him enough tutorials so that he can also catch up with the rest. The Competition Authority of Kenya will be up to speed and will do what we intend them to do.

Hon. Duale was trying to say that their work deals with business competition. Sometimes when we have monopolistic companies – I cannot mention names – prices go up. Sometimes when they monopolise the market they see as if it is their right and they can set their prices at a very high cost to the detriment of the common citizen. Look at Kenya Power at the moment. I am sure if we bring competition in Kenya Power and given that there are other private players producing hydroelectric power, solar power or whatever power they can produce, you will see our electricity bills going down. I have in mind when Safaricom was the only one in the field, it was charging

almost Ksh76 per minute. I bought a SIM card from Safaricom at Ksh2,500. However, when it was opened up for competition, you can see now that we can even be given a SIM card free of charge and the airtime now for calling is Ksh1 per minute.

I remember when there was no legal framework on the importation of *boda boda*, we used to buy a motorcycle at Ksh1 million but nowadays because of that competition being opened so that we can import motorcycles, there is now an industry called *boda boda* employing millions of youth. I am sure that can apply even to Kenya Airways. We have created laws to monopolise the market. We are forcing public servants employed by the Government to travel using Kenya Airways in and outside our borders yet they still make losses. We have some small airlines that are not having a customer base like KQ which has a customer base of government officials. They actually get their customers like *matatus* but they still make profits. Examples are Fly540, Silverstone and the rest. When this Competition Authority of Kenya comes into place, it shall actually open up. If government officers want to travel with KQ well and good but if they want to travel with any airline as long as it is a Kenyan airline that is employing Kenyans it will be well and good. You will see their prices coming down and the efficiency in terms of services will be improved.

This is the work that they are supposed to do and I just want to advise them that they have heavy work ahead of them. I also want to urge them to also consider in terms of competition advising the Government on some tax reprieve for businesses owned by persons with disability because they have to overcome certain challenges to be able to do business. For hawkers with disabilities to move from point A to point B, they sometimes need transporters. They sometimes pay triple the fare from one point to another because if you are on a wheelchair, you have to pay for yourself, the wheelchair and somebody who will push and assist you to go and sell merchandize in Gikomba. We should also have a lens on how we can empower persons with disability in terms of businesses. Our motto nowadays is that persons with disabilities seek opportunities and not sympathy. We are no longer beggars: We seek those opportunities and sometimes the competition ground is not level. It is important to have that lens in an endeavor to ensure that there is a good competition and, if possible, there will be some tax reprieve for businesses owned by persons with disability. It will really assist.

Hon. Temporary Deputy Speaker, it should actually make sure that our Kenyan owned businesses are protected. As we welcome investors who will create employment for us and who will pay taxes in this country, we also protect our own homegrown businesses so that they can also grow. Large economies have protected their own homegrown businesses from international competition. They have a huge task ahead and I wish them all the best. I hope the House will pass this Motion and approve their nomination.

Thank you, Hon. Temporary Deputy Speaker.

I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Member for Wajir South, what is out of order?

Hon. Mohamed Mohamud (Wajir South, JP): Thank you, Hon. Temporary Deputy Speaker. I stand on Standing Order No. 95 and considering the mood of the House, I wish to request that the Mover be called upon to reply.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Is it the mood of the House that the Mover be called upon to reply?

Hon. Members: Yes.

(Question, that the Mover be now called upon to reply, put and agreed to)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Mover.

Hon. Isaac Ndirangu (Roysambu, JP): Thank you, Hon. Temporary Deputy Speaker. I wish to thank all Members who have contributed for their diverse and informed views and contributions. The House should rest assured that if we appoint the four, they will carry out and implement the mandate of the Competition Authority of Kenya to protect consumers and ensure a fair playing and competitive field for all businesses and corporations.

I beg to reply.

The Temporary Deputy Speaker (Hon. Christopher Omulele): I direct that the next steps on this particular business be undertaken when the matter will be set down again on the Order Paper. I direct that we move to the next Order.

(Putting of the Question deferred)

MOTION

CONSIDERATION OF THE BREAST MILK SUBSTITUTES (REGULATION AND CONTROL) (GENERAL) REGULATIONS, 2021

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Chairperson, Committee on Delegated Legislation.

Hon. Abdi Tepo (Isiolo South, KPP): Thank you, Hon. Temporary Deputy Speaker. I beg to move the following Motion:

THAT this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Breast Milk Substitutes (Regulations and Controls) (General) Regulations, 2021, laid on the Table of the House on Wednesday, 10th November 2021, and pursuant to the provisions of Section 28 (5) of the Breast Milk Substitutes (Regulation and Control) Act, 2012 approves the Breast Milk Substitutes (Regulations and Controls) (General) Regulations, 2021, published as Legal Notice No. 184 of 2021 with amendments to Regulations 1, 2 and 27 (1).

The Breast Milk Substitutes (Regulation and Control) (General) Regulations 2021, have been made by the Cabinet Secretary for Health in exercise of powers conferred by Section 28 of the Breast Milk Substitutes Act, 2012. The regulations were published in the Gazette on 27th August 2021, submitted to the Clerk of the National Assembly on 5th October 2021 and laid in the House on 6th October 2021, being within the requisite statutory timelines under Section 11 (1) of the Statutory Instruments Act.

Hon. Temporary Deputy Speaker, the purpose and the object of the regulation was to: First, give full effect to Breast Milk Substitutes Act, 2012, and more particularly, Regulation 6 to reduce preventable illness and deaths of young children through protection, promotion and support of optimal breastfeeding and complementary feeding.

Secondly, to promote and protect the best interest of an infant and young children and finally, to guide the ethical interaction of manufacturers with health workers on the manner in

which donations are used or received, demonstrations on use, development of informal and educational communication materials and labelling of Breast Milk Substitutes (BMS) Act.

Pursuant to Section 16...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Koropu, just hold on. Hon. T. J. seems to have a point of order.

Hon. T.J. Kajwang' (Ruaraka, ODM): Sorry, Hon. Temporary Deputy Speaker, I have no intention of interrupting the speaker but I am trying to consider the order of business today. I am trying to catch up with him on which order we are in.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Order No. 16.

Hon. T.J. Kajwang' (Ruaraka, ODM): Mine is on the Committee of the whole House. Is he reading the correct Order Paper?

The Temporary Deputy Speaker (Hon. Christopher Omulele): There is a Supplementary Order Paper which has Order No. 16, which he is dealing with.

Hon. T.J. Kajwang' (Ruaraka, ODM): Okay. I see.

The Temporary Deputy Speaker (Hon. Christopher Omulele): It will not take too long. We should be done in the next five to ten minutes.

Hon. Koropu.

Hon. Abdi Tepo (Isiolo South, KPP): Thank you, Hon. Temporary Deputy Speaker. Before the interruption, I was saying that pursuant to Section 16 of the Statutory Instruments Act, the Committee held a pre-publication scrutiny meeting with the Ministry of Health on 5th February 2020 in Mombasa where various issues emerged.

Further to that, the Committee held a further meeting with the Kenya Association of Manufacturers (KAM) taking into consideration the fact that in production of breast milk substitutes, the association needed to be consulted. That meeting was held on 23rd March 2021 where KAM raised issues.

Hon. Temporary Deputy Speaker, the Committee asked the Ministry of Health to take into consideration several matters raised by the KAM. Further, KAM proposed to the Ministry of Health certain amendments majority of which were taken into consideration.

Following the same concerns raised after publication, the Committee further held a joint meeting between the Ministry of Health and the Kenya Association of Manufacturers on Monday, 8th November 2021, in the mini-chamber. In that particular meeting, there were representatives from the United Nations International Children's Emergency Fund (UNICEF) and a professor from the pediatric department of University of Nairobi (UoN), so that matters raised by KAM could be sorted out. After the meeting between the Ministry, KAM and several representatives, specific issues in contention were deliberated upon and a consensus reached.

Therefore, the Committee having scrutinized Legal Notice No. 184 of 2021, in light of its conformity to the Constitution observed that:

1. The regulations were published in the Gazette on 27th August 2021 by Legal Notice No. 184 of 2021 and submitted and presented on time.
2. There was sufficient public participation; and,
3. Regulatory impact assessments were satisfactorily done.

The Committee having examined the Breast Milk Substitutes Regulations against the Constitution, the interpretation and General Provisions Act, 2021, the Statutory Instruments Act, 2013 and Breast Milk Substitutes Control Act, 2012, pursuant to which they are made, recommends that the House approves the Breast Milk Substitutes Regulation vide Legal Notice No. 184 of 2021 with

the exceptions of regulations 1, 2 and 27 (1), which the Committee proposes to be amended pursuant to Section 28(v) of the Breast milk Regulation Act, 2012.

I beg to move. I request Hon. Jennifer Shamalla, a Member of the Committee on Delegated Legislation, to second. Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Hon. Shamalla.

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker.

I wish to state that the Committee on Delegated Legislation perused these Regulations like it has done all other Regulations with the seriousness required. It also took into account the rights of the children of the Republic of Kenya ensuring and understanding that, indeed, breast milk is the preferred choice for any child as it gives the child, as was demonstrated by the representatives of the Ministry of Health, stronger immune systems, less diarrhea, less constipation, fewer colds, fewer respiratory illnesses, less fever, less ear infections, lower rates of infant mortality and a higher IQ.

With those few remarks, Hon. Temporary Deputy Speaker, I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Hon. Shakeel Shabbir, Member for Kisumu East.

Hon. Shakeel Shabbir (Kisumu East, Independent): Thank you, Hon. Temporary Deputy Speaker. I support this Motion.

It is only in the last two years that I have realised how expensive what we call substitute is and how much tax has been added instead of being reduced. The mothers who are unable to breastfeed and I know of many cases are totally unable to meet the Ksh1,000 plus per tin, despite the National Treasury and Ministry promising us in the Departmental Committee on Finance and National Planning that they would reduce the VAT to nil. They lied to us and brought it through the back door. At this moment in time, the simple alternative to breast milk, infant formula, the cheapest is Ksh700 a tin, whereas in Europe the same tin which is imported from Singapore sells at between Ksh250 to Ksh350.

Kenyans are suffering because the National Treasury feels that this is a rich man's product. It is not. It is a poor person's product. The poor person's product is now charged excessively. As such I wish to support any proposal which will regulate and support the production and marketing of infant formula for less and to be taxed less. I can afford it. For my four children it costs me in the region of Ksh70,000 a month. Divided by four it comes to about Ksh15,000 to Ksh18,000 for one child. How can somebody who is unable to produce breast milk afford it? I support six such women who are unable to feed their children. We are told malnutrition affects children between the ages of one month to two years. After that they will have stunted growth and nothing can happen.

I plead that the House passes these Regulations and looks at the issue seriously and the Departmental Committee on Finance and National Planning be asked to re-look at the VAT on this particular item. Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Hon. Odhiambo, Member for Suba North.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. I will be very brief.

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This is an issue that touches on both women and children. For mothers who cannot breastfeed or who decide not to, the infant formula is a healthy alternative. It provides babies with nutrients they need to grow and thrive. I know there is a lot of debate about whether to breastfeed or go the infant formula way, but there are instances where mothers are not able to breastfeed. One of the things that we need to do is not to make motherhood punitive so that in cases of mothers who are unable to breastfeed and the infant formula is the way to go, it is not made expensive for them.

I encourage that and we should go beyond this. We want to see it translate into reduction of prices so that we are not talking about regulations, but we do not see reduction in prices. Sometimes here in Parliament, we pass laws which should actually translate benefits to the public but where the rubber meets the road, we do not see a change.

Hon. Temporary Deputy Speaker, with those remarks, I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Hon. Mwangi Mburu, Member for Lari. He is not in the House. The Hon. Mishi Mboko.

Hon. (Ms.) Mishi Mboko (Likoni, ODM): Asante Mhe. Naibu Spika wa Muda. Sisi wazazi ambao tunajua umuhimu wakunyonyesha tunaunga mkono sana Ripoti hii kwa sababu lazima mtoto mchanga apate maziwa ya mama. Lakini pia kuna wakati kuna changamoto pengine mzazi amezaa mtoto lakini anakumbwa na changamoto za maradhi fulani hivyo basi anaambiwa na daktari asimnyonyeshe mtoto. Ama pia mzazi anazaa lakini maziwa yake ni kidogo, na hayamtoshelezi mtoto. Hivyo basi, lazima kuwe na maziwa mbadala yakumtoshelesha mtoto.

Naunga mkono Ripoti hii ya Kamati kwa sababu lazima kuwe na kanuni haswa za kuangalia kama maziwa mbadala yatasaidia mtoto na yako na madini yanayohusika na yanayohitajika.

Pia sasa hivi tunaona katika soko kumetokea maziwa sampuli tofauti tofauti ambazo wakati tunapatia watoto zinaleta shida haswa shida za maradhi ya tumbo. Kwa hivyo, lazima tuwe na njia ya kuangalia kama hayo maziwa mbadala ambayo yameingia katika soko zetu ni yale ambayo yamemulikwa na kuangaliwa na madaktari - haswa wale wanaosimamia afya ya watoto - ili tuwakinge watoto wetu dhidi ya maradhi yanayotokana na maziwa hayo.

Vile vile, lazima tuangalie bei kwa sababu wakati mwingine unapata mzazi amejifungua watoto watatu ama watano kwa mpigo mmoja. Tumeona mzazi amejifungua watoto saba kwa wakati mmoja ila hizo bei haziangaliwi. Hakuna kanuni za kuangalia bei hizo kuhakikisha kuwa ni rahisi kwa mzazi ambaye ana mtoto mchanga kupata maziwa mbadala ya kumfidia mtoto wake.

Ni kama jambo hili ni ndogo sana lakini ni jambo la msingi. Hii ni kwa sababu ikiwa mtoto hatapata madini fulani akiwa mchanga kupitia maziwa yanayotoka kwa mama, lazima tujue kuwa maziwa mbadala yatakuwa na yale madini yanayohitajika. Maziwa ya mama huwa siku zote yanakinga dhidi ya maradhi na humwezesha mtoto kukua kwa kasi na kwa hali bora zaidi. Hivyo basi, hilo ni swala nyeti ambalo lazima Wizara ya Afya iweke mikakati na kanuni za kuhakikisha kwamba ni muhimu sana.

Vile vile, lazima kina mama wazazi wafunzwe ili waelewe kuwa wakati mzazi amekosa maziwa ama imekuwa shida kwa sababu fulani kupata maziwa ya kutosha, wajue ni sampuli gani za maziwa mbadala ambazo zitasawazisha yale maziwa haswa ya kutoka katika titi la mama. Kwa hivyo, ni lazima mambo kama hayo yafanyike. Ni muhimu kuwa zile *programmes* ambazo zilikuwa zikifanyika zamani za kupitia mashinani na kuzungumzia akina mama katika zahanati za mitaani ama za mashinani ziendelee.

Lazima suala kama hili lipewe kipaumbele ili akina mama wazazi wawe sawa na pia wawe na elimu ya kuwanyonyesha watoto. Mzazi anahitajika kumnyonyesha mtoto kwa takriban miaka

miwili na siyo chini ya hiyo. Lakini iwapo kuna matatizo, basi inafaa watoto wapate maziwa mbadala kwa takriban miaka miwili ama zaidi, lakini si chini ya hiyo. Hii ni kwa sababu mtoto akiwa chini ya umri wa miezi sita, hawezi kula chakula kingine isipokuwa maziwa. Kwa hivyo, lazima tutilie akilini maziwa mbadala na kuweka kanuni kwa sababu iwapo mtoto wa umri wa miezi sita na chini amekosa maziwa ya mama, hataweza kula chakula kingine. Lazima tupate maziwa mbadala ambayo yana madini yanayohitajika.

Lazima tuwe na kanuni za kuangalia masoko yetu kuhusu bei na kuona ni maziwa gani haswa yatakayokubalika kulingana na sheria za kiafya kupitia Wizara ya Afya pamoja na zile taasisi ambazo zinahusika na mambo ya watoto ama ukuzaji wa watoto.

Kwa hayo, naunga mkono sana Ripoti ya Kamati inayozungumzia suala hili.

Ahsante, Mhe. Naibu Spika wa Muda.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Let us have Hon. Duale, Member for Garissa Township. Hon. Duale is not speaking to this one. Next is Hon. Obo Mohamed, Member for Lamu.

Hon. (Ms.) Ruweida Obo (Lamu CWR, JP): Ahsante, Mhe. Naibu Spika wa Muda. Naunga mkono Hoja hii. Nangojea Mswada wa *Waqf*.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well. There being no other Member who wants to contribute to this, I direct that the Mover be called upon to reply.

Hon. Abdi Tepo (Isiolo South, KPP): Thank you, Hon. Temporary Deputy Speaker. I wish to thank Members for their contributions and assure them that the pertinent issues that they have raised have been taken into consideration.

On that basis, I beg to reply.

The Temporary Deputy Speaker (Hon. Christopher Omulele): I direct that the next step on this Motion be undertaken when this particular Order will be set down again on the Order Paper.

(Putting of the Question deferred)

Hon. Members, we shall now move to the next Order, but before we do that, I wish to remind you about the Communication from the substantive Speaker yesterday with regard to that particular business in the Committee of the whole House.

Hon. T.J., what is your intervention about?

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Speaker, I rise to seek further direction as a matter of intervention. I know that the substantive Speaker ruled substantively on the issues that should come before the Committee for deliberation, but I also know that he further directed the several Members who have proposed amendments to the Bill to caucus and come up with issues that they agree on. I speak as the Vice-Chairperson of the Committee that was tasked with that assignment. We are in a rather awkward position as the Committee in that, that meeting by the three Members did not include us. As at now, we do not know which...

Hon. Member: *(Spoke off-record)*

Hon. T.J. Kajwang' (Ruaraka, ODM): Just allow me to finish what I am saying. We do not know the extent or the specific issues that the Members would want to either prosecute or drop according to their caucuses.

I have had a word with the Member for Garissa Township whom I consider to be a ranking Member. I should have also consulted the Member for Suba North because she too is a ranking Member. You can see where we are. We want this Bill to be prosecuted and finalised, but we are asking for direction that the three Members come and speak with us as a Committee, so that we

know the specific areas that they are prosecuting and those which must come to the Floor of the House. We will be very ready to tackle those that come to the Floor of the House. Otherwise, you gave us a task as the plenary, but now we are experiencing some surprise attacks because we do not know exactly what will come before the House. I think that is a reasonable request.

This does not go against the Speaker's order. It just clarifies the Speaker's order so that Committees are seen to be in control of the Bills that are assigned to them for prosecution. Members have the right to propose amendments and prosecute them on the Floor of the House. However, instead of fighting on the Floor of the House so to speak, we would rather harness the amendments in the Committee so that when we come to the Floor of the House, we only have those amendments that must come before the plenary. Those that have been settled should not appear on the Order Paper.

I, therefore, ask for your direction, if that may be necessary.

The Temporary Deputy Speaker (Hon. Christopher Omulele): I will give the three Members a chance to speak. I was here yesterday when the substantive Speaker gave that direction. The three Members who were to caucus were Hon. Duale, the Hon. Member for Mvita and Hon. Millie Odhiambo-Mabona. I will give each one of them probably a minute to just say something to this. What Hon. Kajwang' is saying is reasonable.

Who will have the first shot? Let us have the Member for Mvita.

Hon. Abdullswamad Nassir (Mvita, ODM): Thank you, Hon. Temporary Deputy Speaker. I just want to inform the Chairperson of the Committee that the issue was not the Committee's amendments. There is no fight. As a matter of fact, we had no issues whatsoever with what the Committee had recommended. It was actually declared that the only amendment that the Committee had recommended on the issue of Hajj should not be on the Order Paper. Other than that, we were supposed to harmonise with Hon. Millie, which we did. We actually took time to go through all those amendments. If I am not mistaken, to be able to go through all those amendments, we left Parliament close to seven O'clock last night. Hon. Millie will be in agreement. I am sure Hon. Duale will be in agreement. There are some amendments that I am dropping when we reach there. There are some amendments that Hon. Millie as well is dropping. There are some amendments in which I am enhancing Hon. Millie's amendments. Hon. Duale will also be enhancing Hon. Millie's amendments. So, I plead with the Committee Chair to allow us to get through with this, kindly.

The Temporary Deputy Speaker (Hon. Christopher Omulele): I presume that the Hon. Member for Mvita has spoken for Hon. Millie and Hon. Duale.

*(Hon. Aden Duale and Hon. (Ms.) Odhiambo-Mabona
nodded in the affirmative)*

Hon. Duale is comfortable. Hon. Millie is comfortable. Yes, Hon. T.J. Kajwang'.

Hon. T.J. Kajwang' (Ruaraka, ODM): I am sorry Members. I am not appearing difficult. I am just trying to say that it would be nice, as Committees of the whole House have done before, that views of the Committee are taken into consideration. So, if there are some amendments that are not known to the Committee, when we reach there and the Chair asks, "What does the Committee say about this specific amendment?" we may not be prepared because we have not considered them. Would it be too much if, for example, the Members would divulge "we have dropped these on those specific areas but we will prosecute this one"? That is so that we have a

clean debate. I am just thinking. Well, if we choose to go the full hog, we are also prepared for it. I do not know. That could make it a little dirty.

The Temporary Deputy Speaker (Hon. Christopher Omulele): For us to make progress, Hon. Kajwang', from my first take on it, I think your concern was correct. But, the amendments that we are talking to were amendments by the Members. They were not amendments of the Committee. They were their amendments. If they have found a way to deal with them, I am sure when you reach there and if they appear to have divergent views then, I am sure the Chair will be able to deal with it.

Hon. Duale, do you want to say something?

Hon. Aden Duale (Garissa Township, JP): I think we need to move because we have been waiting for this. One, I think the situation is this way because this Bill is very unique. One, we have no problem with the amendments of the Committee. In fact, we are comfortable with the amendments of the Committee that Hon. Millie has. As we move each stage and section, we will argue why we are dropping and we will also convince why we are doing a further amendment. So, Hon. Nassir will say it when he is dropping his in favour of the Committee or for other reasons. But, I think Committees are really the custodians of the Bills. But when we come to the Committee of the whole House, it is the House to decide. Each and every Member has a right. The Speaker agreed because Hon. Millie had a huge section of amendments. In fact, he said "we should go and sit". We did not invite the Committee because we are very comfortable with the amendments of the Committee. We only wanted to harmonise our three amendments, as three Members. We have done it and we are ready to go. In order to save time because already we have about 30 minutes, we should move so that we see how far we can go today and then ask you, Hon. Temporary Deputy Speaker, to direct that way so that we can finish this Bill tomorrow so that we are then given an opportunity to continue with it.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Let us get into the meat of this. As we do that, the only reminder is that the substantive Speaker ruled that the proposed amendments to Clause 2 proposing to define the word "Hajj" and the paragraph thereunder proposing to expand the conventional role of a *Waqf* Commission beyond the administration of *Waqf* property and pastiche were contrary to the provisions of Article 118 of the Constitution with regard to public participation. So, that will not be considered. I, therefore, now direct that we move to the next business on the Order Paper.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE WAQF BILL

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Order, Hon. Members. We are now in Committee of the whole House to consider the *Waqf* Bill (National Assembly Bill No. 73 of 2019).

(Clause 3 agreed to)

Clause 4

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): We have proposed amendments. Hon. Duale.

Hon. Aden Duale (Garissa Township, JP): I need your guidance. I think there was an amendment by Hon. Millie on Clause 2.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): It is Clause 4.

Hon. Aden Duale (Garissa Township, JP): Yes. Sorry. It is because I had forgotten. I am sorry.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us have Hon. Millie prosecute her amendment on Clause 4.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I beg to move, not exactly as per the Order Paper. I am going to move the amendment but with a further amendment. I will provide a further amendment to my amendment...

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Come again, Hon. Millie. What are you doing?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I beg to move:

THAT, the Bill be amended by deleting Clause 4 and substituting therefor the following new clause—

Validity of a waqf.

4. (1) A *waqf* shall be valid where —
 - (a) the *waaqif* has attained eighteen years;
 - (b) the *waaqif* is of sound mind;
 - (c) it is made in accordance with Islamic law;
 - (d) it is made for religious purposes, save as provided under paragraph (e);
 - (e) it is made for the benefit of the Muslim community and if secular in character, it is reserved for the benefit of the poor;
 - (f) it is permanent in nature;
 - (g) there is no condition attached to the donation of the *waqf* by the *waaqif*; and,
 - (h) the *waaqif* believes in the principles of the Islamic faith.
- (2) A person shall only make a *waqf* in relation to property that the person owns.
- (3) A widow shall not constitute any *waqf* of the property which she holds *in lieu* of her unpaid dower.
- (4) Except for a testamentary *waqf*, a person may dedicate his or her entire property as a *waqf*.
- (5) A person shall not dedicate more than one third of his or her property to a *waqf* in case of a testamentary *waqf*.

(6) A *waqf* shall not be used for purposes prohibited by Islamic law, repairs or maintenance of the *waaqif's* secular property, providing for the rich or for objects which are uncertain.

I am moving that Clause 4 be amended as per the Order Paper, but with further amendments. I am moving further amendments to my amendments in the Order Paper. In other words, I am going to drop, in my proposed amendments. I had indicated in my amendment that we delete the entire Clause 4 and then replace it with what is here. But, now, what I am proposing is that we delete Clause 4(1) and replace it with my Clause 4(1)(a)(b)(c). That (c) becomes (a). That we reorder so that the (c) becomes (a) and we merge (d) and (e) so that it provides that it is made for religious purposes and for the poor and vulnerable within the Muslim community. Then we delete the rest and retain (2), that person shall only make a *waqf* in relation to property that the person owns. The rest provided remains in the Bill. I hope I am not very confusing. That is the effect of our harmonisation. I can actually read what I am doing in effect. Can I read it so that it is clearer?

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Yes, Hon. Millie just read so that we are all on the same page.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): What I am proposing to appear in my amendment is that —

4. (1) A *Waqf* shall be valid where —

- (a) It is made in accordance with Islamic law;
- (b) The *Waaqif* has attained eighteen years;
- (c) The *Waaqif* is of sound mind; and,
- (d) It is made for religious purposes and for the poor and vulnerable within the Muslim community.

(2) A person shall only make a *Waqf* in relation to property the person owns.

Then we will retain the one in the Bill that provided that the absence of any reservation of the ultimate benefit of a *Waqf* for the poor or any other purpose under Islamic law as a purpose of a permanent character shall not invalidate a *Waqf*. Then (2) in the Bill remains.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie the more I listen, I hear you are introducing new amendments rather than what is on record in the Order Paper.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): No, I am not. I am actually doing a further amendment to my amendment. So, I am dropping some and only one...

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): According to the records here, you had an amendment but now you are doing a further amendment to it.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Which I am allowed as the Mover.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, it has to be approved. Rather than doing it that way, you can do a re-committal. Just do what is on record and then we process the further amendment through a re-committal.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, can I say something.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Yes.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): What I have observed in the past is that when you move an amendment as the Mover, you can do a further amendment to it. This is my understanding respectfully, but I stand guided.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. T.J.

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, I have a lot of respect for this substantial Member. I do not know how but today, the House is composed of men and women I differ with. I think because the business at hand is important. I see a lot of sense in what the Member for Suba North is doing, except as you know I am a stickler to procedure. I would wish it is followed so that those of us who are struggling and are in their first years will see the beauty and sweetness of following procedure.

You know I made a suggestion to the House when the Speaker was in the Chair. You see the Committee was not involved in this but it was an interaction among the three Members who had proposed amendments. Had they come before us, we would have quite condensed and the Mover would have come with what she proposes. That way, the Order Paper would have been clean because we would have agreed the manner in which they would propose. However, we will take you round in circles.

My suggestion is that we amend this Bill step by step. For example, we handle clause 4(1)(a). Yes, the Mover has the opportunity to do further amendments, but it needs to be written, approved and in respect to a specific issue. So, when we come to it, we read the text and see what that further amendment is doing to that very text, deliberate and either dismiss it or not. I am worried that all these further amendments are not before the Speaker and have not been approved by him. The procedure demands that amendments are seen and approved by the Speaker other than the fact that we know that the proposer has an opportunity to further amend what she is proposing. Before we even consider the amendment, I would want to ask the Chair that if we go the way Members are suggesting, we will really be muddled. For example, we are being asked to put C before A and to renumber those programmes. I also still have substantive issues to deal with on the amendment to paragraph (4). But before we get to it, let us first of all clean the procedure and agree on the one we are following.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, you will have to agree that we follow the procedure, especially in the interest of Members to follow. It is already a jargon of things that nobody is following. You understand it but the rest of Members do not. You will have to drop the further amendment for now and only deal with the one that is before the House and then if you feel you need to pursue the further amendment, then you can do it procedurally.

Hon. Duale.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I am not challenging your guidance, but I totally disagree with Hon. T.J. Kajwang'. A Member can even move his Motion in an amended form without having it written. The person who is supposed to get the approval of the Speaker, which we have already done, is if another Member wants to move a further amendment to the amendment of the Mover. For example, I have amendments which the Speaker has approved and to which I or Hon. Nassir can move a further amendment to. What Hon. Millie is doing in her amendments is more of renumbering. At the end of the day, when the vellum will be prepared, the most important thing will not even be the Order Paper but how the *Hansard* will capture the amendments.

I want us to listen to Hon. Millie because what we are dealing with is a simple matter. In fact, apart from renumbering, which we can even leave alone and do with the way they are numbered in the Order Paper, in our harmonisation, there is something we have agreed she is going to drop. Let me ask Hon. Millie to leave alone re-arrangement. Just read the way it is. Where you will move a further amendment is on paragraph (d) where you are adding something extra so that we move on. You should say 2 is okay. Then you need to go on record that you have dropped 3,

4, 5 and 6, which are in the Order Paper. I could see Hon. Millie was trying to refer back to the Bill. She should not do that. She should just read her amendment to clause 4(a), which is in the Bill, and replacing it with the way her clause 4(a) reads. I want her to read (a), (b) and (c) without rearranging. Where you are moving a further amendment is only (d). After (d), you should say you are withdrawing (f), (g) and (h) and then you read 2 and then withdraw 3, 4, 5 and 6. If you do that, it will be neater.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, I will let you have a go at it again.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady. I think I will do a variant of what you and Hon. T.J. have suggested so that I do not confuse the House. That is: I will move them one by one. And where I have a further amendment, I will actually write it down.

I beg to move:

THAT, the Bill be amended by deleting clause 4 and substituting therefor the following new clause—

Validity of a *waqf*. 4. (1) A *waqf* shall be valid where —

(a) the waaqif has attained eighteen years;

It basically says the waaqif should have 18 years at the time of making the *waqf*.

(Question of amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Kajwang’.

Hon. T.J. Kajwang’ (Ruaraka, ODM): This is why, sometimes, the House assigns activities to Committees. In the Committee, we sometimes have privilege of experts coming before us and we are blessed by many staff that have looked at this quite a lot. I am not saying Members do not have staff that is able to do research and so on, but this is why sometimes Bills are committed to the Committees.

If you look the amendment to Clause 4, the word “*Waqf*” has been defined in this Bill as “religious, charitable, benevolent, endowment or dedication”. It is a noun that is referring to the property in the *Waqf*. It is not a noun referring to the person conferring that property. Now that is very different because if you consider the amendment, the proposer is of the view and she is mistaken. I would understand that a *Waqf* is the person granting the property. This is why the *Waqf* has attained 18 years. It must be...

(Loud consultations)

Hon. T.J. Kajwang’ (Ruaraka, ODM): I do not know whether my eyes are...

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): You are interchanging the words.

Hon. T.J. Kajwang’ (Ruaraka, ODM): I could be getting older. Just a minute!

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): You are interchanging the words.

Hon. T.J. Kajwang’ (Ruaraka, ODM): This word “*Waqf*”

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): No, it is “*Waaqif*”

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, maybe, I can clarify.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Yes, let Hon. Millie clarify.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Chair, if you look at 4(1)(a), it says “*Waqf*” which is the property which is constituted shall be valid where the person constituting it is a “*Waaqif*”.

In (a), the *Waaqif* has attained 18 years. However, I notice that sometimes in the typing, not for myself but sometimes from the secretariat, it may appear as *Waqf*. However, on the document I am holding, it is *Waaqif* and not a *Waqf*. So, the 4(1) is *Waqf* shall be valid and the (a) where the *Waaqif* who is the person making is 18 years and not the property.

I want to apologise because we met until very late yesterday. We were not three but more. Other Members joined later and because of that, we were not able to clean up the way we ought to do. Most of us were even coming from constituencies yesterday and it is even a wonder that we were able to meet.

I just want to encourage my brother, Hon. T.J. that when he sees me moving amendments, I have actually researched. I did not even give out my research. I researched on the writings of Muslim scholars and decisions from different areas. My brother Hon. Duale was actually challenging me about the different sects and I told him I know that from the decisions. I have read from India, Nigeria and UK on this issue. So, I actually know the difference between *Waqf* and *Waaqif*

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Kajwang', it should be clear now.

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, let me rely on your word. We are dealing with a word and I must confess that I do not come from the Islamic faith but that does not matter because we are now dealing with law. Please read for me what we have because it is a small matter but can be big depending on the verses. What is your reading? This is small print. I am seeing validity of a *waqf*.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Where are you reading from?

Hon. T.J. Kajwang' (Ruaraka, ODM): From the Order Paper.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Are you reading 4 (1)?

Hon. T.J. Kajwang' (Ruaraka, ODM): I am reading from the Order Paper unless there is a Supplementary Order Paper, which is different. Maybe, that is the position.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Kajwang', just read what you have.

Hon. T.J. Kajwang' (Ruaraka, ODM): What I have is a *waqf*.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Yes.

Hon. T.J. Kajwang' (Ruaraka, ODM): It looks like I have a wrong Order Paper. Where is the Supplementary Order Paper?

(Loud consultations)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): No. Hon. Kajwang', just read what you have so that we can clarify.

Hon. T. J. Kajwang' (Ruaraka, ODM): What I have is W-A-Q-F. If that is the point, then my point is valid. What I have is: “W-A-Q-F shall be valid where the W-A-Q-F has attained...”

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Kajwang', (a) reads: "the *waaqif*".

Hon. T.J. Kajwang' (Ruaraka, ODM): Then I have the wrong Order Paper.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Yes.

(Hon. Abdullswamad Nassir stood up in his place)

Hon. Nassir, do you want to clarify?

Hon. T.J. Kajwang' (Ruaraka, ODM): Can I have the amended Order Paper?

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Order, Hon. Kajwang'! Let us hear what Hon. Nassir has to say.

Hon. Abdullswamad Nassir (Mvita, ODM): Thank you, Hon. Temporary Deputy Chairlady. I think Hon. Kajwang' is right based on the document that he is holding. This is because the document that he is holding seems to be a different document. I am saying this with a lot of jurisdiction considering that he was also of the same opinion earlier on that when we were at Committee of the whole House debating Delegated Legislation issues. He has a wrong document.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): That has already been clarified. He was holding the wrong document.

Hon. Abdullswamad Nassir (Mvita, ODM): With 10 minutes to go, I still hope we can make some progress.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Yes, Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): My understanding is that...

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I think I can now proceed to put the Question. Can I proceed to put the Question?

(Hon. T.J. Kajwang' spoke off-record)

Hon. Kajwang', do you now have the right document?

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, I am prepared by my Committee clerk who gave me the Order Paper as it is. As I was speaking, I realised that there is a Supplementary Order Paper which is different. It has "*waaqif*" and that makes a lot of sense and a whole difference.

(Loud consultations)

(Hon. Aden Duale spoke off-record)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Duale, we are not going to move. Hon. Kajwang', are you now okay?

An Hon. Member: So, who is a *waaqif*?

Hon. T.J. Kajwang' (Ruaraka, ODM): A *waaqif* is the person who assigns or makes the *waqf*. The *waqf* is the property but the person doing it is now the *waaqif*.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): You now understand. Yes, Hon. Duale.

Hon. Aden Duale (Garissa Township, JP): As the promoter of this Bill when I was the Leader of the Majority Party, I want to tell my colleagues that this is a very unique Bill. Only a

few people will understand. *Waqf* is an institution while a *waaqif* that Hon. Millie is talking about is the owner of the property. That is why she is saying that one must attain 18 years. It is as simple as that. Let us proceed.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I will proceed to put the Question.

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

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

Clause 4 (1) (b)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie you can now proceed to move (b)

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting clause 4 and substituting therefor the following new clause—

Validity of a *waqf*.

4. (1) A *waqf* shall be valid where —

(b) the *waaqif* is of sound mind;

It provides that the *waaqif* be of a sound mind.

(Question of the amendment proposed)

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

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

Clause 4 (1) (c)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting clause 4 and substituting therefor the following new clause—

Validity of a *waqf*.

4. (1) A *waqf* shall be valid where —

(c) it is made in accordance with Islamic law;

It basically provides that it be made according to the Islamic law.

(Question of the amendment proposed)

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

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

Clause 4(1) (d)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, this is where I am going to propose an amendment which I am going to write. I beg to move:

THAT, the Bill be amended by deleting clause 4 and substituting therefor the following new clause—

Validity of a *waqf*.

4. (1) A *waqf* shall be valid where —

(d) it is made for religious purposes, and for the poor and vulnerable within the Muslim community.

I am going to write it and explain to Hon. Shakeel Shabir who does not understand because he is saying that it is already provided for in (e). In (e), it provides that it is made for the benefit of the Muslim community and, if secular in character, it is reserved for the benefit of the poor.

On this one, we were not in agreement but I decided to refer to the Muslims because my reading was suggesting that there are times when non-Muslims can benefit. However, I was told it is not so. So, because of that, my (e) is deleted. My understanding was that non-Muslims could benefit but I am told they cannot benefit except the poor and the vulnerable in the Muslim community. So, I have provided for that in any event because I support the uplifting of the poor and vulnerable in the society, whether Muslim or Christian.

So, it is made for religious purposes and for the poor and vulnerable within the Muslim community.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): I need to propose the Question.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Let us have Hon. Kajwang'.

Hon. T.J. Kajwang' (Ruaraka, ODM): Now I see why the Committee was not involved here. We were privileged to have discussions with Muslim scholars on this matter. We were privileged to have discussions with a public trustee and with the Supreme Council of Kenya Muslims (SUPKEM). We have information on this. It does not require you to be a Muslim. In fact, Member for Suba North, that was misleading. *Waqf* property, as it was presented to us, is a benefit that can be conferred to anybody. You do not have to be a Muslim. Yes, it can be conferred to anybody. In fact, that was the gist when we had an objection from Member for Suba North. I remember there was another Member for Kiminini who was a little untactical and addressed something which looked like the Constitution. Remember somebody said that there is a

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constitutional issue; that it is discriminative and that it is a practice that will then deny members who are not of Islamic faith.

Let me just say this: It is the person who is granting who must be from the Islamic faith. You may say no because you are reacting from the view of your religious persuasion but, according to what was given to us, the person giving must be from the Islamic faith. The person receiving can be anybody, including a poor and vulnerable child who is a Christian. This is how we heard it. We have now circumvented the Committee because we do not have the knowledge that was given to us. We are in a position that we now have to push things through. In fact, I want to support you in the way in which this thing was originally written.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Order, Hon. Kajwang! Are you done?

Hon. T.J. Kajwang' (Ruaraka, ODM): Yes I am. I have made my contribution. Let us not bring our arguments and persuasions on the Floor of the House. Let us deal with what is...

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Order, Hon. Members! We have three minutes. We have to finish Clause 4(1)(d) and then we report back progress. The Committee of the whole House will still continue.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Duale, you have one minute. We are out of time.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, let me go on record. It is not about SUPKEM. Those of us sitting here are Muslims who profess. There is no way you can use *Waqf* resources or property for people who are not of this faith. What happens if you give somebody that and he goes and opens a bar? This thing has something to do with our faith.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Your point is made. Hon. Millie, you have one minute.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, maybe, I just wanted to indicate that many of the amendments I was doing were actually based on my reading of Islamic scholars and they said exactly what Hon. T.J says; that it can benefit non-Muslims so long as the non-Muslim is not using it for purposes that go against Islamic faith. You cannot, for instance, be given support to go and drink beer or use it to open a bar. That will not be allowed.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, your point is made.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): However, because I did not want to appear like I am going against... I am a Christian. I am not a Muslim. If the Muslims have said that is what their faith says, who am I to refuse?

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I will go on to put the Question.

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I now call upon the Mover, Hon. Millie or is it Hon. Kajwang'?

(Loud consultations)

Hon. Kajwang', you are the Mover.

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, before I move... No! I am here because of Ruaraka. I have a right to speak. Give me time. I am the Chair of this Committee. We are Kenyans. Let this matter go back to the plenary.

Hon. Member: *(Spoke off-record)*

Hon. T.J. Kajwang' (Ruaraka, ODM): You are not the Chair!

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Kajwang', you know that you still have an avenue through the.....

Hon. T.J. Kajwang' (Ruaraka, ODM): I know. I sense that Kenyans are.....

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): If you are dissatisfied, you can still go the re-committal route. Let us report progress and then you can employ the other available avenues.

PROGRESS REPORTED

THE WAQF BILL

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the *Waqf* Bill (National Assembly Bill No. 73 of 2019) up to Clause 4(1)(d) and seek leave to sit again another day.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

The Temporary Deputy Speaker (Hon. Christopher Omulele): Order, Members. Let us have the Chairperson reporting to the House.

Hon. (Ms.) Soipan Tuya (Narok CWR, JP): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the *Waqf* Bill (National Assembly Bill No. 73 of 2019) up to Clause 4(1)(d) and seek leave to sit again.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Let us have the Mover, Hon. T.J. Kajwang'.

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report, subject to re-committal of Clause 4(1)(d). I call upon the Member for Suba North to second.

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The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. T. J., we have not reached the point where you can recommit a clause. When we finish the entire business, you can then recommit. For now, you will just report progress.

Hon. T.J. Kajwang' (Ruaraka, ODM): Okay. Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report and request the Hon. Member for Suba North to second the Motion for agreement with the Report of the Committee of the whole House.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Odhiambo.

Hon. (Ms.) Millie Odhiambo-Mabona (Suba North, ODM): I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Sorry Members, there is a technicality to putting the Question.

(Putting of the Question deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, I want to thank you for staying the course and the work that you have done so far on this particular business. The time being 7.05 p.m., this House stands adjourned until Thursday, 11th November 2021, at 2.30 p.m.

The House rose at 7.05 p.m.