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Tuesday, 7th March 2023

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: We have quorum to transact business.

PETITIONS

ENACTMENT OF LEGISLATION TO CRIMINALIZE AND PRESCRIBE PENALTIES FOR THE CRIME OF ENFORCED DISAPPEARANCE

Hon. Speaker: Hon. Members, I have two Petitions to convey to the House. The first Petition is regarding enactment of legislation to criminalise and prescribe penalties for the crime of enforced disappearance.

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

In this regard, I wish to report to the House that my office has received a Petition from one Dr Annette Mbogo, the Executive Director of Kituo cha Sheria Legal Advice Centre calling for enactment of legislation to criminalise and prescribe penalties for the crime of enforced disappearance.

The petitioner claims that the organisation has worked closely with victims of cases of extra-judicial killings and disappearances in the country since the year 2007 and documented a total of 1,201 killings and 272 enforced disappearances with most of the incidences having occurred in the hands of the police and other security agencies.

The petitioner further claims that in 2021, Kenya reported approximately 43 cases of disappearance of persons who were last seen in police custody or who were abducted by persons believed to be police officers.

The petitioner highlights the northern and coast regions as being hotspots for such incidences, especially because of counter terrorism operations and cites other instances including the retrieving of at least 20 bodies from River Yala.

The petitioner is concerned that there is no effective legal remedy available to hold suspects accountable for forcibly disappearing victims whose whereabouts remain unknown or denied. Efforts to have the matter addressed, through filing of a constitutional petition seeking the Attorney-General to request the President to form a judicial commission of inquiry to look into the rampant cases of enforced disappearances, have not been fruitful.

Hon. Members, the petitioner, therefore, prays that the National Assembly enacts legislative provisions that will expressly criminalise and prescribe penalties for the crime of enforced disappearance.

Having established that the matter raised in the Petition is well within the authority of this House; and further, that the matters raised in this Petition are not pending before any court

of law, constitutional or legal body, I hereby commit the Petition to the Public Petitions Committee for consideration pursuant to Standing Order 208A.

The Committee is required to consider the Petition and report its findings to the House and to the petitioner in accordance with Standing Order 227(2).

(Hon. Members stood at the Bar)

Hon. Members at the Bar, you can take the nearest seat.

(Several Hon. Members walked into the Chamber)

Hon. Members, take the nearest seats! We will now have the second Petition.

THE STATE OF FOOD SECURITY IN THE COUNTRY

Hon. Members, Article 119 of the Constitution gives right to any person to petition Parliament to consider any matter within its authority. Further, Standing Order 225(2) (b) requires the Hon. Speaker to report to the House any petition, other than those presented by a Member. In that regard, Hon. Members, I wish to report to the House that my office has received a petition from one Shadrack Agaki of Identification Card No. 27414999, a citizen with interest in the worrying state of food insecurity in the country.

Hon. Members, the petitioner states that food insecurity continues to affect the lives of many Kenyans contrary to the spirit of Article 43 (1) (c) that obligate the State to ensure that every citizen is free from hunger and has adequate food of acceptable quantity and quality. Hon. Members, the petitioner is concerned that various policies, initiatives and programmes that have been implemented in an attempt to address food insecurity have been unsuccessful. He alludes to the fact that no significant efforts have been made to realise optimum yield in Kenya's different ecological zones.

The petitioner, therefore, prays that the National Assembly amends the Food Security Act with the aim of achieving a clear legal framework and coordination mechanism between the national and county governments in addressing food and nutritional insecurity in the country.

Hon. Members, having established that the matter raised in the Petition is well within the authority of this House; and further, the matters raised in this Petition are not pending before any court of law, constitutional or legal body, I hereby commit the Petition to the Public Petitions Committee for consideration pursuant to Standing Order 208A.

The Committee is required to consider the Petition and report its findings to the House and to the petitioner in accordance with Standing Order 227(2).

I thank you.

Hon. Members, Standing Orders give us an opportunity to comment on such petitions for at least 30 minutes. You have had the two petitions; one on food security and the other one on enforced disappearances. I will give you an opportunity to make your comments. The screen is full as usual. I do not know if it is about these petitions or about other businesses coming. Those who want to comment I suggest you go to the intervention, which is already full as well.

I will start with Hon. James Wandayi, Member for Ugunja Constituency. It is good to mention which petition you are particularly commenting on. The one on food security or disappearances.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Speaker, let me comment on the Petition on enforced disappearances. That is a very serious issue that goes to the heart of our Bill of Rights as a country. That is a timely Petition in my view. I do not even think the manner in

which it is couched will give it the adequate attention that it requires. In my view, this is a matter that requires the establishment of a commission of inquiry. Even as we address future cases of enforced disappearances, we must go to the root of this matter by investigating past incidences and past cases of enforced disappearances. I see the petitioner is referring to police and/or security agents. However, be that as it may, I think this goes beyond the police and security agents. There could be people who are using these agents or agencies to effect these enforced disappearances. Therefore, it is a very timely issue that needs to be addressed with the utmost seriousness that it surely deserves.

Thank you.

Hon. Speaker: Thank you, Hon. Wandayi.

Let us have Hon. Didmus Barasa.

Hon. Didmus Barasa (Kimilili, UDA): Thank you, Hon. Speaker. I also want to comment on this Petition on enforced disappearances.

Hon. Speaker, I am just trying to be cautious. You know, I come from a region where we still have our traditional marriages: a girl can disappear for two weeks, then come back after, maybe, three weeks. I hope this excludes criminalisation of that type of behaviour.

Secondly, I am happy that the Member of Parliament for Ugunja is now supporting the idea that enforced disappearance should be criminalised. You know, we kept condemning this act when Kenyans were disappearing in the previous regime. I am happy that his opposition now adds impetus to what all of us want, that is, to ensure that nobody disappears for whatever reasons and that any disappearance must be meted with the full force of law.

I hope that this Petition will be expedited and the recommendations implemented.

Hon. Speaker, I support.

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

Hon. George Murugara (Tharaka, UDA): Thank you, Hon. Speaker. Enforced disappearance is an act of extra-judicial killing. This is rampant in the country as witnessed by bodies being retrieved from River Yala.

The regimes at independence and immediately after used to tell people: you cross the path of the Government and you find yourself in Ngong' Forest. That appears to have continued up to today. In Tharaka, in 2017, a young man known as Mwenda complained to the International Justice Mission and then his lawyer, driver, and himself were killed. Thank heavens that those killers were recently sentenced to death. It behoves us to move with speed and pass laws that criminalise enforced disappearance so that we can value the right to life in the country.

Regarding food security, it is vitally important that we become self-sustaining in terms of food. It is important that we stop crying. We should not see our people die because of lack of food. This is a basic right. We just need to get it right and we will be away from famines, drought, and food insecurity. Let us amend the relevant Act and make food security a central issue to be addressed. We must ensure that the country has enough food for everyone both in quality and quantity.

Thank you very much.

Hon. Speaker: Let us have Hon. Robert Mbui, Kathiani.

Hon. Robert Mbui (Kathiani, WDM): Thank you, Hon. Speaker for this opportunity. I also want to add my voice to the issue regarding the state of food security in the country. If the situation is not addressed now and the rains do not do as well as the Meteorological Department is warning, we may start losing lives as a result of food insecurity. Remember, recently in a school somewhere, I think in Kajiado, the bell for lunch rang and instead of children queuing for food, it was their parents who rushed into the school to queue for the food. There is a major problem. I urge the current Kenya Kwanza regime to become responsive to the needs of the people. I know that they have talked about food subsidy. However,

extraordinary times call for extraordinary measures. This issue of food security needs to be addressed. The Government needs to put its best foot forward. We must nip this in the bud.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Robert. Hon. Bady Bady, Member for Jomvu.

Hon. Bady Twalib (Jomvu, ODM): Asante sana, Mhe. Spika. Naungana na wenzangu ili nchangie haya maombi mawili. Mwanzo, ni katika ile hali ya kuweza kujikimu kichakula. Leo, watu wote katika nchi hii ya Kenya wanalia juu ya ongezeko la bei ya chakula. Ni lazima kuwe na uongozi mzuri.

(Hon. James K'oyoo and other Members consulted loudly)

Hon. Speaker: Order, Hon. Members at the back who are holding a *Kamukunji* in the Chamber. Order, Hon. K'oyoo! If you want to have a conversation, there are sufficient corridors out there.

Proceed, Hon. Member. *Endelea* Mhe. Bady.

Hon. Bady Twalib (Jomvu, ODM): Kwa hivyo, Mhe. Spika, nikiangalia hali ilivyo, lazima kuwe na uongozi mzuri. Ukiangalia bei ya chakula, utagundua hali ni mbaya sana katika nchi wakati huu. Kule Galana Kulalu, Waisraeli walikuja kutusaidia kukuza mazao. Ajabu ni kwamba walifanyiwa finyange nyingi sana mpaka mwishowe wakaondoka humu nchini. Niko na imani kwamba kuna wawekezaji ama wafanyibiashara humu nchini ambao wamejitolea na wanataka kufanya kazi hiyo ya ukuzaji wa chakula pale Galana Kulalu. Jambo kubwa ambalo naliomba ni kuwa Serikali iwaunge mkono ndiposa waweze kufanya kazi vyema. Tukifanya hivyo, matatizo haya yatatuondokea.

Kuhusu ombi la pili, tukiangalia hasa kule Mombasa ninakotoka, watoto wengi sana walikuwa wanapotea eti kwa sababu walichukuliwa kuwa *Al Shabaab*. Hakuna sababu yoyote iliyotajwa ya kuwatumu hao vijana. Itakuwaje Serikali inashika kijana na baada ya siku mbili ama tatu hapatikani? Kwa hivyo, ni lazima Serikali ilinde watu wake na kuwe na ubinadamu katika kuwashughulikia. Ikiwa kuna jambo lolote, mtu asipotewe bali achukuliwe hatua kulingana na ushahidi uliopo.

Kwa hayo, Mhe. Spika, nashukuru kwa kunipatia nafasi.

Hon. Speaker: Hon. Robert Pukose, Member for Endebess.

Hon. (Dr) Robert Pukose (Endebess, UDA): Thank you, Hon. Speaker. First, I want to congratulate you on the award of the Honorary Doctor of Philosophy (PhD) by Masinde Muliro University of Science and Technology.

(Applause)

Secondly, I want to comment on extra-judicial killings. When the Public Petitions Committee will propose to amend the law, they should not only look at the extra-judicial killings in terms of police-people disappearance but they should also look at the police officers and Kenya Wildlife Service (KWS) and Forest rangers who kill Kenyans without any proper justification. Those are also extra-judicial killings which should be looked into. I have had several cases of KWS *askaris* killing people in Mount Elgon Lodge. These are people who happen to have gone to look for firewood. This is a very important Petition.

As the Committee looks at food security, apart from Galana Kulalu Project, we have other potential areas where we can grow our food. We have many Agricultural Development Corporation (ADC) farms, especially in my constituency, which are lying idle and can be utilised for proper food production. We can also harness water under gravity to make sure that the lands provide enough food to feed the country.

With those few remarks, I support the Petitions.

Hon. Speaker: Hon. Dido Raso, Member for Saku.

Hon. Ali Raso (Saku, UDA): Thank you very much, Hon. Speaker. Extra-judicial killings and disappearances are the strategies of a weak state that is unable to police its citizens adequately. Two of my constituents were abducted almost one year ago and they are nowhere to be seen. Those who were involved are believed to be persons associated with security of the state. Hon. Speaker, unless this matter is criminalised, Kenyans' lives will continue to be wasted with impunity.

On the issue of food security, those of us who are from famine-stricken areas see that Kenya needs to be food-secure so that lives are not lost.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. David Pkosing, Member for Pokot South.

Hon. David Pkosing (Pokot South, KUP): Thank you, Hon. Speaker for giving me this opportunity to comment on the petitions. Let me start with the Petition on forced disappearance, which is fundamental. I hope the petitioner or Committee will invite some Hon. Members so that they can also benefit from their experience. They should not only look at the law, but they should also look at the recommendations of the Commission of Inquiry on Extra-judicial Killings. I come from a community which lives in fear of extra-judicial killings and forced disappearance. You heard that I was on news for bad or good reasons. I was picked from my office two weeks ago. What did I do? Because of that fear of extra-judicial killings, some boys from my community were arrested. We feared that they would be hanged, killed, or made to disappear as it has been the history in my community.

I escorted them. I went to court, sat there and made sure that when they were released, they went home safely. Whatever means they used to get home, it is good that I saved my people. I did not commit any sin. Our community lives in fear of extra-judicial killing every day. I urge this Committee to be very careful, sensitive, and to call some of us so that we can share with them our experiences. First of all, they should look at the recommendations of the Commission of Inquiry on Extra-judicial Killings.

I support the Petition.

Hon. Speaker: Hon. Wangari Martha, Member for Gilgil.

Hon. Martha Wangari (Gilgil, UDA): Asante, Mhe. Spika. Hata mimi natoa maoni kuhusu dua hili lililowasilishwa Bungeni na Mkurugenzi kutoka Kituo cha Sheria kuhusu kutoweka kwa lazima kwa binadamu. Haya maneno ni ya Katiba. Ni haki za binadamu. Nafikiri jamii nyingi zimeumia sana.

Ukiliangalia kijinsia, wale ambao wanatoweka mara nyingi ni wanaume. Watoto wanabaki mayatima na wanawake wanabaki wajane. Tunaomba Kamati hii iangalie mambo haya. Unaweza poteza binadamu lakini afadhali hata upate mwili. Tumefika mahali familia zinaomba zipate tu miili, waizike na wasahau. Mwaka wa 2021, kuna wakili kutoka kijiji kinaitwa Miti Mingi kule Gilgil ambaye alitoweka na hadi leo hatujui yuko wapi. Watoto na wazazi wake wanahangaika. Kwa hivyo, tunatumaini Wanakamati wataleta ripoti hiyo ya mambo haya kwenye Bunge hili ndiyo tuweze kuhakikisha kwamba mambo ya kutoweka ni jinai. Sharti hatua zichukuliwe kama inavyofaa.

Asante, Mhe. Spika.

Hon. Speaker: Hon. Ruweida Obo, Member for Lamu East.

Hon. Ruweida Mohamed (Lamu East, JP): Asante, Mhe. Spika, kwa kunipatia nafasi ya kuchangia ombi lililotumwa kuhusu watu kupotea kiholela. Sisi, katika Lamu Kaunti, tumeathirika sana. Tukitaja watu wetu waliopotea na hatujui wako wapi mpaka sasa, orodha ni ndefu. Tulifikiria ni masuala ya *Al Shabaab* kwa vile tuko mpakani lakini la kusikitisha na kuchanganya watu zaidi ni kuwa hivi karibuni tuliambiwa mauaji ya Lamu Kaunti hayahusiani na *Al Shabaab* bali ni mambo ya mashamba. Watu ninaowasimamia sasa wanatatizika.

Hawajui wanaowaua ni nani? Kwa nini watu wetu wakimbie na wateswe kwa sababu ya *Al Shabaab* na kumbe kuna kiongozi anayejua wanavyouawa?

Nimefurahia hili ombi. Hata mimi itabidi niifanye iwe kauli au dua ili Serikali ituambie ni nani anawaua watu Lamu. Hilo ni jambo ambalo limetatiza watu sana. Siku nyingi tumekuwa tukifikiri ni *Al Shabaab* kumbe siyo wao bali ni mambo ya ardhi.

Aliyoyasema Kiongozi wa Wengi Bungeni, inamaanisha anawajua wanaowaua watu huko Lamu Kaunti. Na itakuwa vizuri kuwataja kwa sababu imetutatiza sana. Kule, tunategemea utalii. Watalii sasa hawakuji maana kuna askari wengi na msafara wa magari mengi. Wakikuja kama watalii na waone wanajeshi wengi, huwa wanashangaa wanaenda wapi. Hiyo, inawaogofya na wananarudia njiani.

Pesa nyingi za Serikali zimekuwa zikitumika katika Operesheni Linda Boni tukijua wanapambana na *Al Shabaab*. Ingawa hivyo, watu wanapotea ovyo ovyo. Na kwa vile sasa tumejua siyo wao bali ni tatizo la ardhi, tunataka Serikali ijitokeze wazi kuchunguza wanaowaua watu ili uchumi uweze kuendelea katika Lamu Kauti.

Asante Bw. Spika.

Hon. Speaker: Mhe. Rindikiri Mugambi, Buuri.

Hon. Mugambi Rindikiri (Buuri, UDA): Thank you, Hon. Speaker. I rise to comment on this issue of extra-judicial killings and unexplained disappearance of Kenyan citizens.

In the history of Government, between the years 2017 and 2022, we witnessed many disappearances of Kenyan citizens. We never got an opportunity to know what exactly happened.

One of my constituents by the name Mr. Mwenda Mbijiwe disappeared in 2021 and up to today, there has not been any official communication from the Government. Incidentally, even the Office of the Directorate of Criminal Investigations (DCI) then, was manned by somebody from my constituency. There were attempts by the family to contact the DCI, the Government prosecutor and the Office of the Inspector-General (IG), but no family member or interested parties were given an opportunity to write a statement and neither were they given a statement explaining the circumstances under which this gentleman disappeared.

A time has come for the security organs in charge of maintaining peace in this country to start valuing the life of Kenyans. There are many bodies that have been discovered in River Yala, Nyanza; Aberdares; Mt. Kenya and many other places. I join my colleagues to say that time has come for the Government to change the laws and take measures whenever a case is reported.

The food security issue has come in handy. Having witnessed what drought has done, I support that we need to amend the Food Security Act so that we start dealing with this case in a more detailed manner for the benefit of the entire country.

Thank you.

Hon. Speaker: Abraham, Kirwa, Mosop Constituency.

Hon. Abraham Kirwa (Mosop, UDA): Thank you, Hon. Speaker for this opportunity to contribute to this Petition on food security.

Kenya has not been able to feed herself for unknown reasons since independence. This is despite the fact that agriculture is the backbone of this country as it contributes 33 per cent of our Global Data Barometer (GDB). If you look at the amount of food that we produce, as somebody mentioned, in the Galana Kulalu farm that we had thought might be of help and Rift Valley which we consider as the bread basket of this country, still, we are not able to produce enough food to feed the citizens of this country. Something, therefore, needs to happen even if it means relooking the seeds that we are using in this country. We need to get advanced seeds that will enable production of more crops. We cannot exist since independence yet we are not able to feed our people. We have experienced the worst drought in many years of our existence.

It is not funny that after many years of independence the country cannot feed itself yet we have Israel, which is a desert country, able to feed its citizens.

In Kenya, we get a lot of rainfall. We have a lot of greenery but at the same time we have not been able to feed our people. As a nation, it is time to sit down and reconsider our farming methods so that we improve the situation. There are people who own large tracts of land but are not using them to produce enough food for our country.

On the issue of people disappearing without knowing where they have gone, I do not believe in aliens. I do not believe aliens can come and take people away. These people disappear because somebody somewhere played a game, killed them or took them away. It is the responsibility of Government to protect its people. These stories of people disappearing without us knowing where they went have to be investigated. It is the responsibility of our Government to make sure that every citizen is guaranteed security. If somebody disappears, it is the Government to investigate and find out the whereabouts of those people.

Thank you again, Hon. Speaker for this opportunity to contribute.

Hon. Speaker: Omondi Caroli. Suba South.

Hon. Caroli Omondi (Suba South, ODM): Thank you very much, Hon. Speaker for giving me the opportunity to talk about these two issues. Let me, first, start with the issue of food security before I come to the forced disappearance.

Food poverty levels in Kenya today are in excess of 50 per cent. Less than 60 per cent of our families have three square meals a day while the majority have one. This is largely not because of the advanced weather and climate change, it is because of the way we have handled our land tenure system. All the large farms that used to be in Kenya 30 or 40 years ago have been sub-divided into small plots because of the way we practise agriculture and the way we live.

I think the Government has not been doing enough to try and help consolidation. Food security is a function of mechanised agriculture. It is not a function of subsistence farming. We can talk about seeds, manure and fertilisers but as long as our farm holdings are of such size that cannot afford to be mechanised, there would never be a time when Kenya will be food-secure. That is where we should start. Either we aggregate our farming areas and try to create cooperatives that can then mechanise farming the way the white people do it or used to do it, or we stare at a permanent food insecurity.

Secondly, we need to make a deliberate effort. The water flows where you can do irrigation in Kenya, that is, from Nakuru to the Lake region and the western parts of Kenya. That is where we should focus on irrigation for purposes of food security. This issue, coupled with shortage of water, will create a lot of conflict amongst communities in future. The State deliberately abducting or imprisoning people directly or through third parties in concert with such parties for political reasons is very common. It is something that we need to tackle seriously together with the other issue of extra-judicial killings. Tied to that, more lives are also being lost in killings where the State is not involved like the deaths that occur due to cattle rustling, farm invasions and other such things. We need to relook at the legal framework of how we deal with those issues.

Thank you very much, Hon. Speaker.

Hon. Speaker: Hon. Owen Baya

Hon. Owen Baya (Kilifi North, UDA): Thank you, Hon. Speaker, Dr Moses Wetang'ula. I thank the Director of Kituo cha Sheria for this Petition. Kituo cha Sheria has done extensive work on forced disappearances. There was a period of time in East Africa where we only associated the disappearance of people to the Ugandan regime when Idi Amin Dada was the President. Many bodies were found in Lake Victoria and in the River Nile. In the past regime, this country witnessed the same things that used to happen in Uganda during the regime of Idi Amin Dada. Many young people at the Coast, and especially in Mombasa, would

disappear in the Tsavo National Park or in rivers, just on the suspicion that they looked different.

It is important that we know the truth as a country. Who was killing those people? Who was behind that? I know that when the current President came into power, he purged the Directorate of Criminal Investigations (DCI). It is not enough to just purge some officials at the DCI. We want to get to the bottom of the issue and know who killed those people whose bodies were found in River Yala. Who were those people? Why were they killed? Why is it that the previous Government tolerated those killings? Those are important issues. Kituo cha Sheria has documented those cases and they have the information. I would like the Select Committee on Public Petitions to delve into the heart of the matter so that Kenyans can know where their loved ones went, why they went there, and who was behind that. That would be important for this country to move forward. We need to know what happened. If we must forgive and move forward, people must know where their loved ones went.

There are very many cases in my constituency where young people disappeared. Young people from the neighbouring town of Malindi disappeared just because they were light-skinned, had different hair, and wore turbans or *kofias*. Just that! Imagine that is what would force a young person to disappear. It is very important that we get to the bottom of the matter. I thank Dr Annette Mbogo for this Petition.

Secondly, food security is a problem right now. With climate change, the second Petition is important for this country. We need to relook at our framework of food production and food security so that we move forward. This country does not only suffer from high prices but also from droughts and loss of animals and crops. Those are important things.

I urge the Select Committee on Public Petitions to closely look at the petitions and give this House a report that we can discuss and move forward as a country.

Hon. Speaker: Hon. Dekow Barrow of Garissa Township. Give him the microphone.

Hon. Dekow Mohamed (Garissa Township, UDA): Thank you very much, Hon. Speaker. I rise to support the Petition on extra-judicial killings and forced disappearances.

I am a victim of those heinous crimes where I suspect security agencies were involved. There are too many security agencies in my constituency and we do not know who is responsible for them. When somebody disappears, we do not know exactly who was responsible and when we ask the leadership of the security agencies in the region, they always point fingers at different units and formations. I support this Petition.

During the last election campaigns, as the leader of the Kenya Kwanza Alliance, the President promised us as people of the region that the issue would be addressed effectively in the next Government which is now in place. We want the Government to take responsibility for this. Mothers have lost their sons. Women have lost their husbands. Children have lost their fathers and the only breadwinners.

I support this timely Petition. It needs to be taken seriously by the Select Committee on Public Petitions. Thank you.

Hon. Speaker: Member for Samburu East. Hon. Jackson.

Hon. Jackson Lekumontare (Samburu East, KANU): Thank you, Hon. Speaker. I would like to comment on forced disappearances.

Kenyans are currently living in a lot of fear because of forced disappearances. When the Kenya Kwanza Government came into power, the President assured Kenyans that there would not be any forced disappearances. However, they are now rampant. Too many people have disappeared and nobody knows where they are. It is high time we dealt with the issue of people disappearing.

We need to deal with the issue of food security as a country. We currently cannot get enough food anywhere. However, we have the power and ability to make Kenya food secure. We only need to do what is required.

I support the petitions. Thank you.

Hon. Speaker: Hon. Tim Wanyonyi.

Hon. Tim Wanyonyi (Westlands, ODM): Thank you, Hon. Speaker. I also want to comment on forced disappearances.

A forced disappearance is not just an isolated act. It is well-designed and orchestrated by people who are paid by some influential people. Sometimes it has happened even in... It borders on terrorism. Many people have disappeared and their bodies have been found in River Yala. The police have never conducted or concluded investigations into those disappearances. We need to criminalise forced disappearances and put legislation in place so that Kenyans are protected. One of the primary roles of the Government is to protect Kenyans. We need to address that area.

On the issue of food security, I recently listened to the speech by the President of Zimbabwe who highlighted how Zimbabwe has managed to secure itself foodwise and the plans they came up with. We have those same plans. If we implement all the pieces of legislation that we have come up with, we can be food-secure as a country.

The Government must be serious about it because Kenyans are suffering. We are using a lot of our foreign exchange to import food when Kenya is capable of producing enough food to feed its people. The Government must also buy food from farmers. Farmers produce food, some of which rots in farms. We then find that the same Government is importing food when farmers are stuck with food in their farms. If we do this, we will be able to feed our people.

Thank you, Hon. Speaker.

(Loud consultations)

Hon. Speaker: Yes, Mpuru Aburi. What is the problem? Can you give Mpuru the microphone?

Hon. Mpuru Aburi (Tigania East, NOPEU): On a point of order, Hon. Speaker. There are many *kamukunjis* here. We cannot hear what he is saying.

Hon. Speaker: Hon. Murugara and your team, you are causing unnecessary mayhem in the House. Let us observe some order. The Member who is standing talking to the Member for Kamukunji, take your seat. Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. I rise to support this Petition by Madam Annette Mbogo who the Deputy Leader of the Majority Party tells me is from Kilifi County and is a very good scholar and lawyer.

In support of this Petition, she avers that she or her organisation has made efforts to have this matter addressed through the filing of a constitutional petition. She is asking the Attorney-General of the Republic of Kenya to request His Excellency the President to form a judicial commission of inquiry to look into the rampant cases of enforced disappearances. The same has not been fruitful. I do not know whether the Chairperson of this Committee is in the House. Probably, this should be among the recommendations that the Committee should come up with—that we institute a commission of inquiry to get to the root cause of why people are forced to disappear. We are calling these things forced disappearances. I do not know what a forced disappearance is. What we are calling forced disappearances are outright killings. There is no way you can disappear into thin air and never be found.

I also have cases in my constituency. A son to *Mzee* Michuki, who is my very good friend, just disappeared into thin air. As the petitioner avers in this Petition, in most of these cases, these are people who are allegedly arrested by people who claim to be policemen. Let us be fair and honest to ourselves. It is not just people who claim to be policemen. Actually, it has been policemen abducting people and killing them in broad daylight in this country. It is sad. When His Excellency the President disbanded what was called the SS, or I do not know

special what - the unit that was a murderous one under the DCI) - there were many people who sought to use that as an opportunity to make politics. I was shocked that there were people saying, "Now you are targeting the people who served in the former regime; you are targeting DCI Kinoti". What is targeting DCI Kinoti and those who were in office when it was official Government policy to force disappearances of Kenyans, kill Kenyans and dump their bodies in River Yala and Tana River? You remember close to 30 bodies were fished out of River Yala. Another close to 20 bodies were fished from River Tana. Therefore, we cannot say that anybody is being targeted. I know some of them have been invited to the DCI today on small matters. When the time comes, I ask DCI Amin not to fear anybody. Those who sanctioned and commissioned the extra-judicial killings of very many innocent Kenyans must answer. We must be a nation where we do not bury our history in the sand. The only reason things keep repeating themselves and get into a vicious cycle of repeating the same mistakes is that we, as a country, never hold anybody to account.

It cannot be that, as this petitioner says, close to 1,200 people have disappeared into thin air and you did not see them rise with the Holy Spirit like Jesus Christ did. They just disappeared. For some, their bodies are found; for others, their bodies are never found. Therefore, we must get to the root of all these. I am glad that, under this regime, none other than His Excellency President William Ruto has asserted that every person who is arrested by a police officer must be presented before a police station, recorded in an Occurrence Book (OB), and charged before a court of law—not killed as was happening before. It is not just cases of terrorism. You know that famous saying that says, we were quiet when they came for journalists because we were not them; when they went for farmers, we were quiet because we were not them until they came for you. That is what happened in this country. We tolerated extra-judicial killings of certain communities in this country on the basis that they were working with terrorists. Eventually, it came to us; it came to our neighbourhoods.

I do not think there is any Member of Parliament who—if not in your constituency, then in your county—does not know someone who has been a subject of these enforced disappearances and extrajudicial killings. As a responsible House and leaders who value the sanctity of life, we must stand up to be counted. I really challenge the Public Petitions Committee to ensure there are legal mechanisms put in place. We should not bury what happened in yesteryears in the sand, that is, whether it was DCI Kinoti in charge of the DCI, Fred Matiang'i as the Cabinet Secretary in charge, or the ultimate authority where the buck stopped—the Office of the President. People who must be held to account for the extra-judicial killings of Kenyans must and should be held to account. This House must rise to the occasion to ensure that that happens by recommending a commission of inquiry.

Hon. Speaker: Order, Leader of the Majority Party. Yes, Hon. TJ Kajwang'. Give Hon. Kajwang' the microphone.

Hon. TJ Kajwang' (Ruaraka, ODM): Hon. Speaker, the Member for Kikuyu was speaking very well. I do not know at what point he changed from being the Member for Kikuyu to being the Leader of the Majority Party. When he became the Leader of the Majority Party, he assumed certain things that should not happen on this Floor. He has been mentioning names. Whereas I do not hold brief for anybody anywhere, our Standing Orders and the Constitution itself are clear that no one would be mentioned adversely without giving him a hearing. Is he in order to mention those people that he has named in person yet they do not have an opportunity to defend themselves?

Hon. Speaker: Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. I thought Hon. TJ is usually rattled if I mention the Ruaraka Land Scandal in Ruaraka Constituency. However, today I did not. I only mentioned people who were in office at the time crimes against humanity were carried out in this country. The person who was in charge of the DCI is the person that I

have named, DCI Kinoti. The person who was in charge of the Ministry of Interior and Coordination of National Government was CS Matiang'i. In poetic justice, he happens to have visited the DCI today. The person where the buck stopped was the President. Just like today, the buck stops with the Office of the President of the Republic of Kenya, William Ruto, if there are any extra-judicial killings.

Hon. Speaker: Yes, Hon. Kajwang'. What is out of order? He has not mentioned anybody adversely. He simply said they were in office and, indeed, they were.

Hon. TJ Kajwang' (Ruaraka, ODM): That is not what he said, Hon. Speaker. Maybe you want to look at the *Hansard* when you retire. What he is saying is even making it worse. I do not want to play politics with this matter. We must never play politics with people who do not have a right to respond. All that the Majority Leader mentioned before he recasted his speech was that these persons should be investigated by some agencies. For them to be investigated, it is an adverse finding. In his opinion, he thinks these people are the suspects somehow. Should he mention it as a matter of order? I am just asking. Is he in order to mention people without giving them an opportunity to be heard? Is that not simple, Hon. Speaker?

Hon. Speaker: Hon. Kajwang', I hear you. We will check the *Hansard* about this. What I heard is that the DCI was headed by Mr. Kinoti; the Ministry of Interior and Coordination of National Government was headed by Mr. Matiang'i; and there was the Head of State. These are facts. If he goes beyond that, I will stop him.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker for that protection. You know I am very careful about what I say here and everywhere else I speak, but let us not run away from the truth. The Committee and all investigative authorities that investigate such matters should not be afraid. If we do not deal with our past and hold people accountable then nothing stops other regimes in the future from carrying out such extra-judicial killings

Hon. Speaker, before the election many of us lived under extreme fear and threat to life. I vividly recall when my good friend Dennis Itumbi was abducted just before Christmas in 2021. Those who abducted him were police officers. It took us not less than six hours to get information from other officers who confirmed that he was in the hands of a murderous squad within the police force specifically an agency that was then under the then DCI, Mr. Kinoti. Therefore, this Committee should do this country a great honour in recommending that we institute a commission of inquiry so that the families of hundreds of Kenyans who disappeared and their bodies not found can know what happened to their children and family members.

Today, the Member for Buuri spoke about Mr. Mbijiwe. I read this story on Sunday in one of the dailies. The manner in which he disappeared leaves a lot of questions. There are pointers as to who would have been responsible for that disappearance. The cases of Mr. Mbijiwe, young Michuki from my constituency and many other Kenyans are similar. Unless we dig and get to the root cause, we will never know. Many of the people who are forcing disappearances are still in some offices today. They still wield the same power and authority they did yesterday. Nothing will stop them from enforcing even the disappearance of Members of Parliament if we keep quiet. We must not be quiet. Whether it is a person from North Eastern, the Coastal Region – as Hon. Owen Baya said – or someone perceived to have been in groups like *Mungiki* or *Chinkororo* in Kisii or someone that you disagree with politically.

Hon. Speaker, when we kept quiet because we assumed that it was a spirited fight against terrorists and only terrorists were disappearing, they came for politicians; they came for political activists; they went after bloggers and literally everyone. You will remember that people were being forced to subscribe to political ideals and ideologies that they did not believe in. Out of fear, there are people who were elected on parties that they never desired to be in because they lived under extreme fear. They were not like Kimani Ichung'wah who had the audacity to challenge them and asked them about the worst they could do. I said this in one of

the interviews in a media house and that media house is biased. I have seen the attack they have levelled against my compatriot Hon. Aron Cheruiyot when he spoke about a biased media and cartels in the media houses because they exist. Nobody is fighting the media; we all want free and objective media. There is absolutely nothing wrong with the media being biased, but they should be kind enough to tell Kenyans where they stand and what political leanings they subscribe to. In America, everyone knew that Fox News supported Republicans and the Former President Donald Trump. Many people knew that CNN was supporting the Democrats. This is important so that Kenyans have the latitude of choice to know that if they watch a certain station they will not be influenced by a media house that pretends to be objective but are subjective and biased.

In one of the interviews in a media station, I said that at one point the Commander-in-Chief called and threatened me. I told him that the worst he could do was to kill me but I would not change my position and political stand because of fear of death. I would never change my position on what I truly believe in. Because that media house was biased, they did not carry the interview and the entire interview was cancelled. Therefore, let us not be fearful; let us stand up for what is right and just. Life is sacred. It is God-given and no man has authority and power, however powerful they think they are, to take away another man's life as it has happened in the last four years. It is sad and we must never see our country degenerate to the level it did under the handshake regime of before 9th August 2022.

Hon. Speaker, forgive me because this is very emotional to me. I want to ask the Chairperson and Members of the Public Petitions Committee not to treat this Petition as any other. Let us take it with the weight it deserves. If we truly believe in God; if we truly believe in the sanctity of life; and that God is the only giver and taker of lives; then no governments or presidents or cabinet secretaries or inspector generals of police or police corporals should have the will and power to give and take away life.

Thank you, Hon. Speaker. I submit.

Hon. Speaker: Thank you, the last one on this Petition is the Member for Kamukunji. Give him the microphone.

Hon. Yusuf Hassan (Kamukunji, JP): Thank you, Hon. Speaker for giving me this opportunity to support the Petition by our sister on extra-judicial killings and disappearances. I also want to echo the feelings expressed by other Members of Parliament.

I speak as a Member of Parliament whose constituency has been seriously affected by this problem. I have had many cases of disappearances of people in my constituency. I remember Mr. Abdul Karuri and Dr. Waititu who suddenly disappeared from Majengo. I remember the killing of Mr. Bashir Mohamed a businessman who had a strong association with my constituency and many others. To be honest, this is not something that should happen in any functioning democracy. It is something that you expect to happen in failed states and where governments do not have the support and the authority of the population they rule.

I fully support the idea of creating a commission of inquiry to look into this issue and go in-depth and bring closure to many families who have lost their loved ones. Many of the people who were killed under these circumstances are people like us. They are fathers, sons, husbands and so on. They leave behind families that are baffled and traumatised because they do not know what has happened to their loved ones. It is our responsibility as Members of Parliament to make sure that, in this young and fragile democracy, no Kenyan life is taken with no reason whatsoever by faceless State organisations.

I agree that many people who have done those deeds are still working in the Government system. You can find them in offices, police stations and many other places. To be honest, this is something that can come back to haunt us. Therefore, it is very important that we bring justice to the families, bring closure to this issue and make sure that this never ever happens again in our country. Many people say that this happens only to some few people, but

that is not the case. It is widespread. As it has been mentioned here, many communities – not only my own in Eastleigh and Majengo – have suffered by losing people through those disappearances that are carried out by known Government agents.

A number of times, I have raised this issue in Parliament, and the Ministry of Interior and National Administration has come to lie to this House saying that they have no idea where those people have gone to, and they do not know who has taken them. The questions I ask every time is: Is it not your responsibility to protect the lives of all Kenyans? If it is not you or your department that has done this thing, do you not have the responsibility to investigate and tell the Kenyan people what has happened? Otherwise, you must take responsibility. I urge the House to work on the creation of a taskforce or a commission of inquiry to thoroughly investigate this matter and bring it to a closure so that the loved ones and the victims' families can know the truth of what happened to their children, sons and daughters.

Thank you, Hon. Speaker. I support the Petition.

MESSAGE

APPOINTMENT OF A MEMBER TO THE PARLIAMENTARY SERVICE COMMISSION

Hon. Speaker: Hon. Members, allow me to go back to Order No. 3 and convey a Message from the Senate on approval of appointment of a Member to the Parliamentary Service Commission.

Pursuant to the provisions of Standing Order No. 41, I wish to report to the House that I have received a Message from the Senate regarding the approval of appointment of a member to the Parliamentary Service Commission under Article 127(2)(d) of the Constitution.

In the Message, the Speaker of the Senate conveys that the Senate, on 28th February 2023, considered the Report of the Standing Committee on Justice, Legal Affairs and Human Rights on the proposed appointment of Hon. Johnson Muthama as a Commissioner of the Parliamentary Service Commission pursuant to Article 127(2)(d) of the Constitution, Section 9(c) of the Parliamentary Service Act, and Standing Order 77(3) and by a resolution, approved the appointment of Hon. Johnson Muthama, as a Commissioner of the Parliamentary Service Commission.

Hon. Members, you may recall that on Wednesday, 15th February 2023, this House approved the appointment of Hon. Johnson Muthama as a Commissioner of the Parliamentary Service Commission, following which I conveyed the fact to the Senate for concurrence. In this regard, the approval by the Senate of the said nominee concludes the bicameral appointment process contemplated under Article 127 of the Constitution. As a matter of fact, Hon. Johnson Muthama has already been sworn in, and is discharging his duties as a commissioner. For the record, I have already said that I have sworn him in and he is already discharging his duties.

I thank you.

Hon. Members although it is little late, there were two schools in the Public Gallery. I am told that they have left, but we should acknowledge Sawagongo High School from Gem, Siaya County, and Nairobi River Primary School from Embakasi West. I am told that they have left, but on your behalf and my own behalf, we welcome them to the House of Parliament and I am sure they are still within the precincts.

Next Order.

PAPERS

Proceed, Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Submission of Nominees to Garissa and Mbeere North Constituencies from the National Government Constituencies Development Fund Board.

Research on the state of Certified Secretaries (CS) profession in Kenya from the Institute of Certified Secretaries.

Performance Audit Report on Provision of Maternal and Neonatal Healthcare by the Ministry of Health from the Office of the Auditor-General.

Annual Performance Report for the period 1st July 2021 to 30th June 2022 from the Ministry of Defence.

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

- (a) Kaimosi Friends University College;
- (b) Siruti Technical and Vocational College Awendo;
- (c) Mathira Technical and Vocational College;
- (d) St. Paul's Kibabii Diploma Teachers' Training College;
- (e) Kongoni Technical and Vocational College;
- (f) Kiminini Technical and Vocational College;
- (g) Bunyala Technical and Vocational College;
- (h) St. Augustine Teachers' Training College - Eregi;
- (i) Nzoia Sugar Company Limited;
- (j) Kenya Wildlife Service; and,
- (k) Warehouse Receipt System Council.

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

- (a) Bondo;
- (b) Lari;
- (c) Hamisi;
- (d) Garissa Township;
- (e) Seme;

I can see I have caught the attention of Hon. Nyikal when I mentioned Seme.

- (f) Endebess;
- (g) Funyula;
- (h) Webuye East;
- (i) Chuka Igambang'ombe;
- (j) Tharaka;
- (k) Kimilili; and,
- (l) Samburu North.

Report of the Auditor-General and Financial Statements of East Africa Skills Transformation and Regional Integration Project (Credit Number 6334-KE) Kenya Coast National Polytechnic for the year ended 30th June, 2022, and the certificates therein.

Thank you.

Hon. Speaker: Thank you. Chairperson, Departmental Committee on Finance and National Planning.

Hon. Kuria Kimani (Molo, UDA): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of Joint Sitting of the National Assembly Departmental Committee on Finance and National Planning and the Senate Standing Committee on Finance and Budget on the approval hearing for Dr. Susan Jemtai Koech, nominee for appointment to the position of Deputy Governor of the Central Bank of Kenya.

Thank you

Hon. Speaker: Thank you. Member of the Kenya Parliament Delegation to IPU, Hon. John Kiarie.

Hon. John Kiarie (Dagoretti South, UDA): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Kenya Delegation to the 144th Assembly of the Inter-Parliamentary Union (IPU) – also known as the parliament of parliaments – and related meetings held in Nusa Dua, Indonesia, from 20th to the 24th March, 2022.

Hon. Speaker: Thank you, Next Order.

NOTICES OF MOTIONS

APPROVAL OF APPOINTMENT OF DEPUTY GOVERNOR OF CBK

Hon. Kuria Kimani (Molo, UDA): Thank you. Hon. Speaker, I beg to give notice of the following Motion:

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

I submit.

Hon. Speaker: Thank you. Hon. John Kiarie.

NOTING OF REPORT OF 144TH ASSEMBLY OF IPU HELD IN INDONESIA

Hon. John Kiarie (Dagoretti South, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House notes the Report of the Kenya Delegation to the 144th Assembly of the Inter-Parliamentary Union (IPU) and related Meetings, held in Nusa Dua, Indonesia from 20th to 24th March 2022, laid on the Table of the House on Tuesday, 7th March 2023.

Thank you very much, Hon. Speaker.

Hon. Speaker: Hon. Members, the House Business Committee also agreed that the Member for Marakwet West gives his Notice of Motion. Are you ready?

Hon. Timothy Kipchumba (Marakwet West, Independent): Thank you, Hon. Speaker. Before I give my Notice of Motion, I want to bring to your attention that there are attacks against the Marakwet Community in Aror Ward by Kamket boys from Tiaty Constituency.

Hon. Speaker: Order, Hon. Member! You are totally out of order. Hon. Kamket is a Member of this House. I know you are a new Member, and you need to acquaint yourself with the Standing Orders. If you want to discuss Hon. Kamket or his boys, I will allow you to bring a Motion and debate him. You do not casually mention a colleague like that because it is not allowed under the Standing Orders. Can you give your Notice of Motion? Start by saying, “I beg to give notice of the following Motion.”

Hon. Timothy Kipchumba (Marakwet West, Independent): Hon. Speaker, with a lot of respect, I am very much aware of the Standing Orders of this House. The issue which is happening along Kerio Valley...

Hon. Speaker: Order, Hon. Member. You are getting out of order. I have given you authority of the House Business Committee to give your Notice of Motion. Everybody is aware of the insecurity challenges that we have. Last week, I allowed the Member for Turkana, the distinguished Hon. Asinyen, an opportunity to move a Motion. She decently prosecuted a Motion on insecurity in Turkana. I have also done so for other Members, and I will do so for you as well. However, I will not allow you to exhibit any unnecessary emotions on the Floor of the House or attack a Member without a Motion.

Proceed and give your Notice of Motion.

ESTABLISHMENT OF NATIONAL CANCER
PREVENTION AND CONTROL FUND

Hon. Timothy Kipchumba (Marakwet West, Independent): Very well, Hon. Speaker. I am well guided.

I beg to give notice of the following Motion:

THAT, aware that Article 43(1)(a) of the Constitution provides for the right of every person to access the highest attainable standard of health, which includes the right to health care services; further aware that cancer is among the leading causes of death in the country; noting that although the budgetary allocation for health care services is progressive, it is inadequate to cater for cancer prevention and care across the country; further noting that cancer control in the country is hampered by inadequate cancer care infrastructure and limited specialized human resource capacity; recognizing that a significant number of cancer patients do not complete the prescribed treatment due to the high cost of cancer management; further recognizing that the Cancer Prevention and Control Act, 2012 seeks to promote access to quality and affordable diagnostic and treatment services for persons with cancer; and to ensure sustainable capacity for the prevention and control of cancer; this House resolves that the Government, through the National Treasury, establishes a national cancer prevention and control fund to promote prevention, control and treatment of cancer in the country.

Hon. Speaker: Thank you, Hon. Member. Hon. Kamket, if you want to comment on what I stopped the Member from talking about, I will as well stop you. Give him the microphone.

(Laughter)

Hon. Kassait Kamket (Tiaty, KANU): Hon. Speaker, I appreciate your protection. You have heard the Member...

Hon. Speaker: There you go; I will stop you. Sit down. Order, Hon. Kamket! There are many forms of cancer, but the “Kamket Cancer” will not be allowed on the Floor of this House.

I now give the Floor to the Member for Nyali, who has also been allowed by the House Business Committee, to give a Notice of Motion.

KUTEKELEZWA KWA SHERIA ZA KUPIGA MARUFUKU
MAHUSIANO YA JINSIA MOJA NCHINI KENYA

Hon. Mohamed Ali (Nyali, UDA): Shukran sana, Mhe. Spika.

Naomba Kutoa arifa ya hoja kuhusu kutekelezwa kwa sheria za kupigwa marufuku mahusiano ya jinsia moja nchini Kenya:

KWAMBA, tukifahamu kuwa familia ndio kiungo cha msingi wa jamii, na kutambua kwamba utamaduni wa Kiafrika unathamini sana asasi ya ndoa ambayo inahakikisha kuendelea kwa binadamu kupitia uzazi; tukizingatia ukweli kwamba Ibara ya 45(2) ya Katiba inaeleza kuwa kila mtu mzima ana haki ya kufunga ndoa na mtu wa jinsia tofauti kwa msingi wa hiari baina ya wahusika; tukitambua pia kwamba Kifungu cha 162 cha Kanuni ya Adhabu kinamtia hatiani yeyote ambaye anashiriki tendo la ngono lisilo la kawaida na mtu yeyote kinyume na utaratibu wa asili; tukizingatia kuwa mahusiano na ndoa za jinsia moja na ngono inayotokana na mahusiano haya ni kinyume na utaratibu wa asili; tukisikitika kwamba kumekuwa na ongezeko la mahusiano ya jinsia moja nchini Kenya kutokana na usambazaji wa vitabu na machapisho yanayokuza upotovu huo; tukitambua kwamba uchapishaji na usambazaji wa nyenzo zinazohusu mahusiano ya jinsia moja katika machapisho na vyombo vya habari una athari kali kwa maadili ya jamii kuhusu mwelekeo wa kijinsia; tukimaizi kwamba kuna haja ya kutekeleza sheria ili kulinda na kuhifadhi maadili ya mahusiano ya jinsia tofauti katika taifa; tukifahamu kwamba hakuna uwezekano wa kuzaa kutokana na mahusiano na ndoa za jinsia moja; tukihofia kwamba kuongezeka kwa mahusiano na ndoa za jinsia moja kunaitia jamii ya wanadamu nchini katika hatari ya kutoweka; Bunge hili, hivyo basi, linaazimia kwamba Serikali ipige marufuku mara moja uzungumziaji, uchapishaji na usambazaji wa taarifa zinazokuza mahusiano ya jinsia moja nchini na kuweka mikakati ya kudhibiti maudhui hayo kwa mujibu wa Ibara ya 45(2) ya Katiba na Kifungu cha 162 cha Sheria ya Adhabu ili kuikinga jamii, hasa watoto na vijana, dhidi ya kufikiwa na mielekeo potovu ya mapenzi na ndoa ya jinsia moja yaani ushoga na usagaji almaarufu kwa lugha ya Kiingereza *gayism and lesbianism*.

Shukran sana, Mhe. Spika.

Hon. Speaker: Thank you, Hon. Mohamed.
Next Order.

QUESTIONS AND STATEMENTS

Hon. Members, we have many Questions. Let me deal with Statements first before going to the Questions.

Leader of the Minority Party.

STATEMENTS

CONSIDERED RULING SOUGHT: PLACEMENT OF MEMBERS IN HOUSE COMMITTEES

Hon. Opiyo Wandayi (Ugunja, ODM): Standing Order 172 provides that the Committee on Selection shall consist of the Leader of Majority Party who is the Chairperson, the Leader of Minority Party, not less than 11 and not more than 19 Members who are nominated by parliamentary parties and approved by this House.

Standing Order 2 defines a parliamentary party as a party or coalition of parties consisting of not less than 5 per cent of the membership of National Assembly. The Azimio Coalition therefore qualifies as a parliamentary party. The same Standing Order 172 recognises the duty of the Minority Party to place its Members in House Committees. This duty extends

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to making changes in the membership of the House Committees, whenever it is deemed necessary.

During the Committee on Selection sitting held on Wednesday 22nd February 2023, the Minority Party leadership proposed changes on Minority Party membership to a number of House Committees. To the consternation of the Minority Party, the said proposed changes met strong opposition from Members of the Majority Party in the Committee on Selection, eventually denying them the requisite approval thereby occasioning the current impasse.

It is against this backdrop that the Minority Party seeks your intervention on this critical matter. We are seeking your guidance on the same and specifically invite you to make determination on the following issues:

1. Whether choices and decisions of a parliamentary party or a coalition of parties on its representation of the House committees are an exclusive mandate and preserve of the respective party or coalition of parties or a function to be shared by other parties or coalitions in the House.
2. Whether Members of the Majority Party in the Committee on Selection can veto, challenge or oppose changes to House Committee membership proposed the Minority Party.
3. Whether it is intended, under Standing Orders 172 and 173, that parliamentary parties would be granted powers to veto or challenge each other's decisions especially on appointment or change in appointment of House committee membership.

It can clearly be gleaned from Standing Order No.173 (1) that nomination of a Member to serve in a select committee simply requires consultation of the Committee on Selection with relevant parliamentary parties. The Standing Order stipulates as follows:

“Unless otherwise provided by any written law or these Standing Orders, the Committee on Selection shall, in consultation with parliamentary parties, nominate Members who shall serve on a Select Committee”.

Hon. Speaker, in our understanding, the consultation provided for here refers to the courtesy of formally informing all Members of the Committee on Selection of a party's or coalition's choices of Members to serve in a House Committee in order that the proposals eventually submitted to the House for approval are regarded as the property of the Committee on Selection in the spirit of bipartisanship in the conduct of parliamentary business.

It would have otherwise been too disorderly for each nominating party or coalition to present to the whole House for approval its own nominees to various House Committees. Given that the resultant Committees are Committees of this House and not of the respective parties or coalitions, it is only logical that parties or coalitions extend courtesy to each other in the Committee on Selection even as they exercise their respective exclusive mandates.

Hon. Speaker You said your statement will take three minutes.

Hon. Opiyo Wandayi (Ugunja, ODM): Just give me one-and-a-half minutes.

Neither Standing Order 172 nor 173 presupposes a situation where either the Majority or Minority side of the Committee can veto, oppose or otherwise challenge the appointment or change thereof of House committee membership by parliamentary parties to various House Committees. Where the Majority or Minority Parties purport to do so, it is tantamount to infringing on the rights and exclusive mandate of the party seeking to make those appointments or effect changes in its appointments. Our reading of Standing Order Nos.172 and 173 does not establish that they were meant to grant either the Majority or Minority side powers to veto or in any way challenge the other side's choice or decisions in this regard.

I want to conclude because I am just paraphrasing now. The stunt taken by the Majority Party membership in the Committee on Selection on this matter not only sets a dangerous precedent, but has the added effect of stifling the practice of true multi-party democracy under

Article 4(2) of the Constitution. It is our submission that there is no provision in the Constitution of Kenya, legislation, Standing Orders nor any precedent in the tradition and practices of the Houses of Parliaments in the Commonwealth that would support the impugned position adopted by the Majority Party membership.

I want to conclude now. We invite you to apply your mind and vast experience to this matter and deliver a considered ruling that will not only unlock the unnecessary stalemate, but also preserve the integrity and credibility of the institution of the National Assembly.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Wandayi. Since you are inviting me to make determination, and you make reference to the conduct in the Committee where both you and your colleague in the Majority sit, let me give him a minute or two to make a comment on the matter.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. Let me thank the Leader of Minority for asking for that statement. Standing Order 87 (2) says:

“It shall be out of order to introduce an argument on any specific question upon which the House has taken a decision during the same Session, except upon a Motion to rescind the decision made with the permission of the Speaker”.

I have read that Standing Order because having keenly listened to the Leader of the Minority Party, I do not know whether he intends to rescind the decision of the House and the Committee because the Committee also sits on behalf of the larger plenary and, therefore, a decision made in Committee, unless there is a Motion to rescind it, I just wonder what the Minority Leader may be inviting you to do.

Further, he has alluded to the fact that the leadership of those in the Majority want to stifle any changes within the Minority. I did state here that it is not our business in the Majority to manage the Minority. We have no such intentions. We just invite the Minority to manage their own affairs within their coalition, just like we do in the Majority, without involving the Majority in how they arrive at their decisions. I did indicate when the Minority Whip raised that issue on the Floor here that, indeed, before the Committee a decision has been made, and that is how the Motion appeared on the Floor of the House in the manner it came without changes in the Minority Party.

Even in Committee, we do indicate – and I want to repeat the same – in the House, the Minority has every right to make whatever changes they want to make and, as the Chairperson of the Selection Committee, I want to assure the Leader of Minority Party that should he indicate the desire to make any changes, we are ready and willing to convene a meeting. In the earlier meeting, we indicated that we will come up with a framework on how Members of Parliament will enjoy uninterrupted service in Committees during a Session of Parliament. Also, whenever need arises to change membership in a Committee or leadership, there is the basis for that so that there is objectivity in how we place and/or displace Members in Committees.

Therefore, I want to invite the Hon. Leader of the Minority Party, if there are any changes that they want to make – and since the Hon. Leader of the Minority side and the Deputy Leader Hon. Robert Mbui, who was not in the meeting, are members of the Committee – we do not want the Committee to be a committee that sits only once in a Session of Parliament. We will occasionally sit to review the performance of Members in Committees on attendance and active participation, so that we encourage our Members to utilise their skills and expertise in committees. If you are a member of a committee and you do not attend the sittings of that committee, it is only fair that you allow another Member who has the time to offer before the committee. That is the kind of framework we want to ensure it takes place.

I indicated that it is only in pursuit of fairness so that tomorrow, I do not remove Hon. Naomi from one committee and take her to another just at the whim of it. We ought to have a

framework so that if Hon. Naomi – forgive me for using her as an example – does not attend sittings of a committee which she is a Member, for instance, and Hon. Kagombe here who is an engineer is ready to offer his skills and expertise in road construction before that committee, then we have a basis to remove Hon. Naomi and replace her with a skilled person. Therefore, it is just to reiterate to the Minority leadership that we are willing, even as soon as tomorrow or the day after, to convene the Committee on Selection even before we work on that framework so that it does not, in any way, feel that the Majority side wants to lord over them. We are a democratic Majority Coalition Party that intends to facilitate the work of the Minority side in offering meaningful oversight. We want to see that even in the oversight committee, they place the best within their team so that there is meaningful oversight so that those who may have stolen from Telkom Kenya and the Kshs34 billion that we have seen from the Auditor-General's report as stolen from the fuel subsidy, does not happen again.

Hon. Speaker, please protect me from Hon. Wanjala. I do not know why he is fond of always shouting in committees, plenary and everywhere.

Let me just assure the Leader of the Minority side that Hon. Speaker, with your indulgence, you allowed that statement. But I was just wondering where it sits in view of Standing Order 87(2) in terms of seeking to reopen something that was already decided. However, should he be seeking guidance on the way forward, I want to assure you, Hon. Speaker and the House that as the Chairperson of the Committee on Selection, we are ready to facilitate the Minority side of the leadership to make whatever changes they want to make. It will be within their right. But, again, we must always remember, as I reminded the Hon. Leader of the Minority Party last time, that Committees act and sit on behalf of the House. Whatever decision and report that comes from the Committee must eventually land in the plenary for the House to make a determination on it so that we entrench our democracy. This is to ensure that we do not infringe on anybody's rights, whether the MPs are within our coalition or not.

With that, I beg to respond in that manner.

Hon. Speaker: Thank you, Hon. Leader of Majority Party and Leader of Minority Party. I do not see any problem from what both of them are saying. I will advise the Hon. Leader of the Minority Party to liaise with the Hon. Leader of the Majority Party, as the Chairperson of the Selection Committee. However, if you wish to call for a sitting of the Committee and prosecute your issues, go ahead and do so.

Next Statement is from Hon. Joshua Kandie.

Hon. Caroli Omondi (Suba South, ODM): On a point of order, Hon. Speaker.

Hon. Speaker: Yes, Hon. Caroli Omondi. What is your point of order? What is out of order?

Hon. Caroli Omondi (Suba South, ODM): Hon. Speaker, I was just wondering whether we could use that to question why a Member is bringing forward a legal argument that is not founded, as provided for under Standing Order 91, because it will not be substantiated. I think the problem is that if you read Standing Order Nos. 171 and 172, there is a hangover that we have from our previous parliamentary system. That is what is explaining the statement by the Hon. Leader of the Minority Party. If you look at what we have now, which is the presidential system, which informs the phrasing of the Standing Order Nos. 171 and 172, the placement of Members in committees is the work of the Selection Committee and not the work of political parties as in a parliamentary system of government. It is the work of the Selection Committee. Why? Because every Member walks into this Chamber with a free mandate under the presidential system of government. In a parliamentary system, you walk into this Chamber with a bound mandate, having sought your election on a political party platform.

So, Hon. Speaker, it is very different. I am wondering whether it is in order for the Hon. Leader of the Minority Party to try and apply the rules of a parliamentary system of government in a presidential system of government.

Thank you, Hon. Speaker.

Hon. Speaker: I hear you, but I do not want to open debate on this. I think I had already given directions.

Let us have Hon. Wandayi. Give him the microphone.

Hon. Opiyo Wandayi (Ugunja, ODM): I think Hon. Caroli Omondi did not listen to me keenly, because he is now reading Standing Order Nos. 171 and 172 in isolation. I went further to read Standing Order 173, which I want to repeat for record purposes. I can also excuse him because he is a new Member and is just learning the ropes.

Standing Order 173 requires that:

“Unless otherwise provided by any written law or these Standing Orders, the Committee on Selection shall, in consultation with parliamentary parties, parties other than parliamentary parties and independents, nominate Members who shall serve on a select committee.”

That is the catchphrase. Thank you.

Hon. Speaker: It is on the *Hansard* record. Let us have Hon. Kandie.

MEASURES TO REVIVE STALLED KIRANDICH WATER SUPPLY PROJECT PHASE II IN BARINGO COUNTY

Hon. Joshua Kandie (Baringo Central, UDA): Thank you, Hon. Speaker. Pursuant to provisions of Standing Order 44 (2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Environment, Forestry and Mining, regarding the stalled Kirandich Water Supply Project Phase II in Baringo County.

Hon. Speaker, can you protect me from Hon. Wanjala?

Hon. Speaker: Hon. Wanjala, Hon. Kandie is seeking the protection of the Chair from you!

Hon. Joshua Kandie (Baringo Central, UDA): Hon. Speaker, Kirandich Dam was constructed between the years 1994 and 2000 under Kirandich Phase I, and was funded by the Government of Kenya with support from the Italian Government. In 2007, the dam system presented challenges, including a lack of a waste water management system in Kabarnet Town, functional failures of the dam instrumentation systems, high operation and maintenance costs among others.

Hon. Speaker, to address the challenges, the Board was prompted to design a Phase II of the project through a loan of 18,856,000 Euros from the Government of Italy. The scope of Phase II of the project included the extension of water supply to Kabartonjo, Kaptorokwo via Kabasis, Kituro and Kapkut; sewerage system for Kabarnet Town, purchase and installation of the Dam's electrical and instrumentation equipment, among other works.

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

*[The Deputy Speaker (Hon.
Gladys Boss) took the Chair]*

The contract for the works was awarded in 2016 to Cospin S.r.L. in joint venture with Nurovi S.r.L. and Idroesse Engineering S.r.L. The Dam was expected to commence in 2016 and be completed in 2018. However, as at May 2018, the completion rate of the named project stood at 3.1 per cent, which was far below the initial agreement.

Hon. Deputy Speaker, for seven years since the inception of the project, the contractor severally requested for extension of the project timelines. But despite the numerous extensions

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that were granted, nothing much has been done except the setting up of the contractor's camp, which is also incomplete.

It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Environment, Forestry and Mining on the following:

1. Could the Chairperson explain the reasons why Phase II of Kirandich Water Dam Project that was commenced in 2016 and expected to be completed in 2018 has stalled for the last seven years?
2. Could the Government consider nullifying the tender awarded to Ms. Cospin S.r.L in joint venture with Nurovi S.r.L and Idroesse Engineering S.r.L for inability to undertake works despite having been granted several extensions in 2016, 2018, 2020 and 2022, and award it to a capable contractor?
3. What measures has the Government put in place to ensure completion of the said project, including construction of a sewerage line for Kabarnet Town, which was part of the scope of works under the contract?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Next is Hon. Emmanuel Wangwe, Member for Navakholo.

CONFERMENT OF HONORARY DOCTOR OF PHILOSOPHY
DEGREE ON HON. SPEAKER

Hon. Emmanuel Wangwe (Navakholo, ODM): Thank you, Hon. Deputy Speaker. I rise under Standing Order No. 43(1) under General Statements.

Education is a very important foundation to any citizenry. We witnessed a situation on Friday last week, where our substantive Speaker got an award of a Doctorate from Kibabii University. I could have raised this when he was on the Chair. It is my wish that I seek your acceptance. I congratulate the substantive Speaker upon his attainment of this honorary degree, which is a prestigious honour especially for a person who is leading a House like ours. He has travelled a journey of academic concern, and he had it all in terms of politics. When you look at his period of existence, he has gone through a journey in terms of the political parties, political leadership and House leadership. Eventually, he has attained the highest level in terms of academics. Therefore, it is important that we acknowledge the Speaker, especially upon his attainment of a Doctor of Philosophy (PhD) from Kibabii University.

Thank you.

Hon. Kangogo Bowen (Marakwet East, UDA): On a point of order, Hon. Deputy Speaker.

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

Hon. Kangogo Bowen (Marakwet East, UDA): Hon. Deputy Speaker, I just want to seek your guidance on the Statement read by the Member for Baringo Central on Kirandich Dam. The statement is supposed to be directed to me, as the Chair of the Departmental Committee on Blue Economy and Irrigation. It is framed as if it is addressed to the Chairperson of the Departmental Committee on Environment, Forestry and Mining. I seek your guidance on that Statement request because it is something which we had discussed in our committee. I do not know if it has been transferred to the Departmental Committee on Environment, Forestry and Mining.

Hon. Deputy Speaker: Hon. Bowen, you are right. Previously, there was no Departmental Committee on Blue Economy and Irrigation. For *Hansard* purposes, the Statement is referred to the Departmental Committee on Blue Economy and Irrigation.

ORDINARY QUESTIONS

Hon. Deputy Speaker: We will now go to Questions. Member for Lamu East, Hon. Ruweida Obo.

Question No.12/2023

EXCLUSION OF LAMU EAST FROM MOBILE TELEPHONE NETWORK

Hon. Ruweida Mohamed (Lamu East, JP): Ahsante, Mhe. Naibu Spika. Swali hili limengojewa sana, mpaka wenyewe wamekuja hapa. Dadangu ambaye ni rafiki yangu, Thweba, amekuja kuona vile nitauliza Swali hili kwa sababu wao wanaathiriwa sana.

Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Information, Communication and the Digital Economy the following Question:

- (a) Could the Cabinet Secretary explain why the people of Siu, Shanga and Mkokoni in Lamu East Constituency are suffering from digital exclusion by not being connected to the mobile phone network?
- (b) Could the Cabinet Secretary further explain why the entire Lamu East Constituency is still served by 2G Network when the rest of the country is on 4G Network and is soon transitioning to 5G Network?
- (c) What plans does the Ministry have to ensure that Siu, Shanga and Mkokoni areas are connected to the mobile phone network and that the network coverage in Lamu East Constituency is upgraded from the current 2G to 4G?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Next Question is by Member for Embakasi Central, Hon. Benjamin Gathiru.

The Question by Hon. Ruweida, the Member for Lamu East, is referred to the Departmental Committee on Communication, Information and Innovation.

You may proceed. Let him have the microphone.

Question No.13/2023

STATUS OF INUA JAMII PROGRAMME

Hon. Mejjadonk Gathiru (Embakasi Central, UDA): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Labour and Social Protection the following Question:

- (a) Could the Cabinet Secretary provide the status of the Inua Jamii Programme, detailing the number of current beneficiaries and those who have exited the programme?
- (b) Could the Cabinet Secretary explain why there are delays in the disbursement of cash transfers to beneficiaries under the Inua Jamii Programme and state what plans the Ministry has put in place to ensure timely disbursement of the funds?
- (c) What mechanisms is the Ministry instituting to ensure timely replacement of beneficiaries of the Inua Jamii Programme who exit the fund through death, as well as orphans and vulnerable children (OVC) who attain the age of 23 years, which is set as the exit age; and when does the Ministry intend to carry out mass registration of fresh beneficiaries noting that many Kenyans have attained the eligibility age of 70 years, and others have become orphans while some are now living with disabilities?

Hon. Deputy Speaker: The Question is referred to the Departmental Committee on Social Protection.

Yes, Hon. Brighton?

Question No.14/2023

REHABILITATION OF CHANGOI-KIMULOT-KAPTENGECHA
ROAD IN KONOIN CONSTITUENCY

Hon. Brighton Yegon (Konoin, UDA): Hon. Deputy Speaker, I would like to ask the Cabinet Secretary for Roads and Transport:

- (a) What plans has the Ministry put in place to recarpet the busy Changoi-Kimulot-Kaptengecha Road in Konoin Constituency, which has been in a deplorable state for several years?
- (b) When does the Ministry intend to restore the said road to motorable condition in order to reduce the number of road accidents and enhance movement of people, goods and services within the region that is served by that road?

Thank you.

Hon. Deputy Speaker: The Question is referred to the Departmental Committee on Transport and Infrastructure. Next is Member for Kirinyaga Central, Hon. Joseph Gitari.

Question No.15/2023

MEASURES INSTITUTED TO ENSURE
SAFETY OF STUDENTS PLACED IN FORM ONE

Hon. Joseph Gitari (Kirinyaga Central, UDA): Hon. Deputy Speaker, could the Cabinet Secretary for Education:

- (a) State whether the criteria used for placement of students in Form One, particularly in day schools, takes into consideration the proximity of learners to schools?
- (b) What measures has the Ministry put in place to ensure that day scholars who walk for distances of over 10 Kilometres to school in the wee hours of the morning and evening are guaranteed security from potential dangers such as attacks by criminal gangs, abductions and vulnerability to incidences of rape?

Thank you.

Hon. Deputy Speaker: The Question is referred to the Departmental Committee on Education. Next is the Hon. Member for Westlands, Hon. Timothy Wanyonyi.

Question No.16/2023

DETAILS OF THE APPROVED DESIGN OF WAIYAKI WAY

Hon. Timothy Wanyonyi (Westlands, ODM): Hon. Deputy Speaker, could the Cabinet Secretary for Roads and Transport:

- (a) Provide details of the approved design of Waiyaki Way, including the road profiles, all road signages, road lighting, service lanes and pedestrian walkways and crossings; and clarify whether the ongoing construction works on the named road are being carried out in accordance with the approved design?
- (b) State the timeline for completion of the Kangemi and Ndumboini overpasses, and restoration of access roads destroyed during construction?

- (c) Explain why there are no footbridges, pedestrian walkways and road markings on the said road, and further explain why the provided pedestrian crossings are kilometres apart from each other, thereby escalating road accidents on the said road and disadvantaging school going children, the elderly, persons with disabilities (PwDs) and emergency response teams?
- (d) Explain why the Ministry approved the construction of the Westlands Roundabout Footbridge without incorporating a ramp for persons with disabilities and state whether there are any plans to have one installed?

Thank you.

Hon. Deputy Speaker: The Question is referred to the Departmental Committee on Transport and Infrastructure. Next Question is by Hon. Member for Nakuru Town, Hon. David Gikaria. He is not here.

(Hon. Deputy Speaker consulted the Clerk-at-the-Table)

The next Question is by the Hon. Member for Machakos County, Hon. Joyce Kamene. She has sent an apology. It would therefore, be deferred to the next Order Paper.

Question No.18/2023

CONSTRUCTION OF FOOTBRIDGES ALONG MOMBASA ROAD

(Question deferred)

Next is the Question by Member for Nyatike, Hon. Tom Odege.

Question No.19/2023

DELAYED CONSTRUCTION OF MASARA-MUHURU BAY ROAD

Hon. Tom Odege (Nyatike, ODM): Hon. Deputy Speaker, could the Cabinet Secretary for Roads and Transport:

- (a) Provide details of persons or firms who participated in the tenders KeNHA/2579/2022 and KeNHA/2580/2022 for the construction of Masara-Muhuru Bay Road advertised by the Kenya National Highways Authority (KeNHA)?
- (b) Provide details of the contractor awarded the tender for the named project, including the contract sum and clarify whether the due process prescribed in law was followed in awarding the tender?
- (c) State the reasons why works on the said road have not commenced, the expected time of commencing the works and the measures put in place to expedite completion of the named road within the contract period?

Thank you.

Hon. Deputy Speaker: The Question is referred to the Departmental Committee on Transport and Infrastructure. Next Question is by the Member for Embakasi, Hon. Mark Mwenje.

Question No.20/2023

PROCESSING OF NEW APPLICATIONS AND RENEWAL OF
EXPIRED LICENSES BY BETTING CONTROL AND LICENSING BOARD

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Hon. Mark Mwenje (Embakasi West, JP): Hon. Deputy Speaker, could the Cabinet Secretary for Interior and National Administration:

- (a) Explain why the Betting Control and Licensing Board is no longer processing new applications for licences given that their service level agreement indicates that the application and issuance of licence process takes six months?
- (b) State when the Board will resume the processing of new and pending applications, including licences that the Board had cleared for renewal for the Year 2022/2023?
- (c) Explain measures instituted to ensure that where the Board had ceased to process and issue licences with an expiration date of 30th June 2023, any dealers applying for renewal of licences in the next financial year would not be required to submit current licences as proof of compliance?

Thank you.

Hon. Deputy Speaker: The Question is referred to the Departmental Committee on Administration and Internal Affairs.

Hon. G.G. Kagombe (Gatundu South, UDA): On a point of order, Hon. Temporary Speaker.

Hon. Deputy Speaker: What is out of order, Hon. Kagombe?

Hon. G.G. Kagombe (Gatundu South, UDA): Hon. Deputy Speaker, I rise under Standing Order 42A (3), which recognises that where the Speaker approves a Question and determines the Cabinet Secretary responsible for the matters to which it relates, the Clerk shall, at an appropriate time, publish the Question in the Order Paper.

Cognisant of the Executive Order No.1 of 2023, the Betting Control and Licensing Board (BCLB) has since been moved from the Ministry of Interior and National Coordination to the Executive Office of the President. I am, therefore, asking for your guidance to see whether the Minister for Interior and National Coordination is able to answer that Question that has since been put under the Office of the Head of Public Service Commission (PSC).

Thank you.

Hon. Deputy Speaker: The Clerks-at-the-Table will do some research and then advise us accordingly. I will make the announcement before I leave the Chair. Thank you for that intervention.

The next Question is by the Member for Alego Usonga, Hon. Samuel Atandi.

Question No.21/2023

ALLEGED INTERFERENCE IN RECRUITMENT OF MCK BOARD MEMBERS

Hon. Samuel Atandi (Alego Usonga, ODM): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Information, Communication and the Digital Economy the following question:

Could the Cabinet Secretary -

- (a) Shed light on the allegations of interference by the Ministry and conflict of interest by the Selection Panel with regard to the ongoing recruitment of members of the Board of the Media Council of Kenya and provide details of the measures that have been put in place to guarantee integrity of the recruitment process?

- (b) Provide details of the Report of the State Corporations Advisory Committee (SCAC) on the assessment of the outgoing Board members and indicate if any of the members qualified for renewal of their term.
- (c) State whether a legal advisory has been provided by the Attorney-General on independence of the Council and whether the advisory has been taken into account in the ongoing recruitment?
- (d) Explain the measures the Ministry has taken to address loopholes in the recruitment process of the Board of the Media Council of Kenya which previously led to court cases in 2013, 2014 and 2019, including the three current cases in 2023?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you. It will be replied to before the Departmental Committee on Communication, Information and Innovation.

We are now done with Questions. Next Order.

MOTION

GENERAL DEBATE ON PROPOSALS TO AMEND THE CONSTITUTION AND STANDING ORDERS

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

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

(Resumption of debate interrupted on 28.2.2023)

Hon. Deputy Speaker: Member for Baringo North, Hon. Joseph Makilap. Is he not there? Member for Bureti, Hon. Kibet Komingoi. Hon. Mugambi of Buuri Constituency. Member for Marsabit County, Hon. Naomi Waqo. She had spoken on it. Member for Masinga, Hon. Joshua Mwalyo. Have people left their cards? Oh, you are there!

Hon. Joshua Mwalyo (Masinga, Independent): Hon. Deputy Speaker, I had spoken on this.

Hon. Deputy Speaker: Oh, okay. You had already spoken. Hon. Emmanuel Wangwe.

Hon. Emmanuel Wangwe (Navakholo, ODM): Thank you, Hon. Deputy Speaker. I rise to support this Motion on the general debate on the proposal to amend the Constitution and Standing Orders.

The Memorandum by His Excellency the President to this House mentioned two issues. First, that we look into the matter of amending the Constitution to allow for the formation of the Office of the Leader of Official Opposition. Secondly, that we look into amending the Standing Orders and the Constitution to include several affirmative action funds into the Constitution of Kenya.

I would first like to talk about the creation of the Office of the Leader of Official Opposition. A short while ago, we had an issue where the Leader of the Minority Party was looking into the issue of the Committee on Selection. If the leader of official opposition was in the House, the Minority side would align itself with him. That position may have been held by His Excellency the Right Hon. Raila Amollo Odinga. Similarly, on the Government side, Cabinet Secretaries would come into the House, unlike today where we refer Questions to chairpersons of various committees. It is a better and direct approach to issues whereby we can face the people who hold the offices and hold them accountable rather than taking a longer route which the Constitution of Kenya, 2010 did not envisage.

We must appreciate the milestone of moving from the old Constitution to the new one. We are now trying to make it better. Therefore, the proposal to have the Office of the Leader of Official Opposition is good. We were in the last Parliament where we had the issue of the BBI. Had we gone that route, we would not be where we are. Now that it did not work, we have an opportunity to anchor the Office of the Leader of Official Opposition into the Constitution of Kenya, so that we can move forward to deal with current issues.

The second part of the memorandum looks into anchoring various funds into the Constitution and the Standing Orders. One of these is the NG-CDF. As we are all aware, disbursement of the NG-CDF has always been a tall order each year, especially each first year of a new parliamentary term. There are always challenges. The Executive wants to shift goalposts. They do not want to disburse the NG-CDF on time. Members of Parliament have to pester or beg the Executive to release those funds. Despite the fact that we vote for those funds, disbursement is solely in the hands of the Executive. Therefore, it is their prerogative on when to disburse the funds. However, the moment we anchor such affirmative action funds into the Constitution and the Standing Orders, it will be mandatory and obvious. No one will challenge it.

There have been very many litigation cases on the NG-CDF since its inception in 2003. You find that anyone who wants to hammer away at Members of Parliament or throw stones at Parliament always focuses on the issue of the NG-CDF. Anchoring the fund into the Constitution will be a better move so that it is fully recognised by the Constitution of Kenya and we can all enjoy it. The amendment is not in terms of the NG-CDF alone. We will also look into the NGAAF which goes to our sisters who represent various counties. Therefore, all of us will have a “cake” to share in terms of representation.

Any oversight we undertake will be backed up by resources. Once you have power, it must be supported by resources. If you have power without authority and resources, it is an empty *debe*. It is important that those funds are anchored into the Constitution. We could have

been talking about a good sum that has gone into our various funds. We are happy that the Government has disbursed funds for bursaries, but we have not received funds for development. We are just a stone's throw away from the Executive. What will we do with the various projects we have proposed?

As you are aware, Hon. Deputy Speaker, procurement processes must be followed to the letter. We must follow procurement processes. When will we procure items? We amended the Public Procurement and Disposal Act in 2015. You cannot procure until you get funds. If various constituencies have not received funds, I foresee a situation where they will begin the procurement process less than a month after they get funds. We are now in March. That means that by 30th June or the end of the financial year, most of the projects will not have been procured. We will push forward to the next year. It is simply going to be a burden. Once we put this into the Constitution, it will be easier and faster for us to proceed.

This memorandum from the President is good. It can open a round table discussion. We might not end up looking at anchoring the Office of the Leader of Official Opposition into the Constitution. Opening up could be a forum to ease the tension that could be there. Once we discuss the Office of the Leader of Official Opposition, we could also discuss what is going on in the country today. Where are we as a country? When can we see our leaders talking to each other? When can we see the party leaders talking to each other? Is this not the opportunity that men who sit and talk at each other are better than men who sit and talk against each other? It is a good opportunity to open up a discussion that can see all of us in the country sitting on a round table and discussing.

Looking at this issue of discussion, it could not only just be a discussion on leadership alone. We should also be looking at the discussion over what is happening in the country today. Our exchange rate is coming down. We see a scenario where very unfriendly discussions from within or without are coming like lesbianism, homosexuality and education at large. Where are we as a country? It is important. This is a window. A good discussion should not necessarily begin from the door. It can as well begin from the window so that you signal and get your signatures right. This window can open a round table discussion of the political class and all leaders in this country.

Thank you, Hon. Deputy Speaker. I beg to support.

Hon. Deputy Speaker: I now call upon Hon. Nzengu, Member for Mwingi North.

Hon. (Eng.) Paul Nzengu (Mwingi North, WDM): Thank you for this opportunity to contribute to this Motion of amending the Constitution to entrench the NG-CDF, the NGAAF, to create the Office of the Leader of Official Opposition, among other changes proposed by the President.

From the outset, I support the thinking or the mind that informed this kind of thinking to the extent that we can amend the Constitution to create the NG-CDF as a constitutional fund. You notice that in the past almost eight years, there have been many court cases trying to quash or kill the NG-CDF. It is by some people that think that the NG-CDF funds are there to help Members. They think the fund is for the Members to enrich themselves, not knowing that the NG-CDF funds are to support poor students from poor families. In areas like where I come from, many children have gone to school because of these funds. It is everything that the community has. I support the fact that this fund must be entrenched in the Constitution so that we avoid some busy bodies and street lawyers who just want to feel like they want be known and seen by frustrating something so crucial to the country. Some of us have benefitted from funds similar to the NG-CDF. Had the community not educated us, we would not be here in this House. I support the entrenchment of the NGAAF into the Constitution so that we can avoid the same kind of court cases that the NG-CDF has suffered.

On the matter of the Office of the Leader of Official Opposition, I differ with the thinking. Our country does not have a provision for that. I think it will bring confusion. We

have a presidential system and not a parliamentary system. I differ and say that it may bring confusion. How to create the office and operationalise it may become a challenge.

On the matter of Cabinet Secretaries coming to Parliament and answering Questions directly, I also differ. It is a scheme to kill the committee approach of Parliament. The system has been working well so that committees have work to do. When we bring Cabinet Secretaries to Parliament, we will kill the committee system. The people who created the Constitution had borrowed from other countries where it works. I partially support the proposed amendment. There should be an amendment to bring in whatever is acceptable to most Members. Whatever is not acceptable should be dropped. I submit. Thank you.

[The Deputy Speaker (Hon. Gladys Boss) left the Chair]

[The Temporary Speaker (Hon. Peter Kaluma) took the Chair]

The Temporary Speaker (Hon. Peter Kaluma): Has Hon. Gonzi Rai spoken to this Motion? If you have not spoken to the Motion, as a ranking Member and on account of seniority, proceed and make your contributions.

Hon. Gonzi Rai (Kinangop, PAA): Mheshimiwa Spika wa Muda, ninaomba niunge Hoja hii mia-fil-mia. Asante sana kwa sababu ya hiyo.

Nashukuru sana kupata nafasi hii kwa sababu Hoja hii inajaribu kuleta tiba kati ya maswala mengi ambayo yamekuwa mazito sana katika nchi hii. Tukiangalia tangu mambo ya ugatuzi yalipoingia, maswala ya Kiongozi ya Wachache Bungeni yamekuwa ofisi ambayo haijakuwa na mwakilishi vilivyo; mwakilishi ambaye anahakikisha kwamba maswala yote yanayofanyika kuhusiana na kazi ya Serikali yana mtu anayejaribu kuangazia na kuhakikisha kwamba kazi njema inafanyika katika Serikali hii. Kama Hoja hii itakubalika, ni matumaini yangu kuwa italetwa usawa mwingi na kuhakikisha kwamba kazi nyingi zinafanyika Bungeni. Itahakikisha kwamba tunajua tunaelekea wapi wakati Kiongozi wa Wengi na wa Upinzani wanakutana hapa.

Pili, ninafikiri maswala ya NG-CDF kujumuishwa katika Katiba kwa kutaka kuikarabati yanatakikana kupewa kipaumbele. Ndio maana Rais wa jamhuri akatoa taarifa ama maombi yake katika Bunge hili, kwamba Wabunge walijadili. Kutoka kubuniwa kwake, swala la NG-CDF limewapa watu wachache kazi, hasa mahakama na watu wengine tofauti tofauti kukimbia kortini na kuona lengo la kutaka kusambaratisha mradi huu wa NG-CDF. Ninafikiri mahakama ina kazi nyingi muhimu za kufanya. Hata juzi, twashangaa mahakama ilikuwa inazungumzia maswala ya mashoga na wasagaji. Hapa, maswala ya NG-CDF ambayo yangekuwa ya maana sana yanapewa hali tusiyoolewa tunaelekea wapi. Mahakama ina kazi yake huku inafanya ukarabati ambao ungefanywa Bungeni. Kazi hii imeanza kutengenezwa mahakamani. Ndio maana tunasema kwamba pengine ni muhimu sisi wenye kujumuika na maswala kama haya, tujaribu kupata tатуzi ya kuhakikisha kwamba Katiba imefanyiwa ukarabati ili tuhakikishe kwamba sheria hizi zimerekebishwa na kuhakikisha kwamba NG-CDF itakuwa ni kitengo ambacho kinatoa huduma zilizo njema. Tukiangalia jamii zetu kule nyuma, ikifika wakati wa kufunguliwa kwa shule, *bursary* inapokosekana inakuwa vigumu kwa Mjumbe kwa sababu yeye ndiye anakuwa *ATM* na hawezi kuyatosheleza maswala haya.

Kwa hivyo, ninaomba kwamba kwa wale ambao pengine wangekuwa na roho mbili mbili kuhusu swala hili, wafikirie mara mbili. Hazina ya NG-CDF ni msaada kwa wananchi walio wengi na ni msaada kwa taifa nzima. Kwa sababu katika sehemu mbalimbali miundomsingi inayotengenezwa kwenye shule zetu nyingi inatokana na NG-CDF. Nilipoanza kazi Bungeni mwaka wa 1992 nilikuwa na shule za upili sita peke yake. Kufikia hivi sasa, niko na shule 27

na ninashukuru kwamba hizi shule zote ziliweza kupatikana kwa sababu ya hazina ya NG-CDF.

Mhe. Spika wa Muda, maswala haya ya jinsia pia yamekuwa ya utata sana kwa zaidi ya karibu vipindi vitatu vya Bunge. Iko haja ya kuhakikisha kwamba jinsia zina uwakilishaji sawa katika Jumba hili. Tumekuwa kila tukijaribu kupiga hesabu zetu mambo hayaendi vile yanavyotakikana na upinzani unakuwa kati yetu sisi wenyewe kwa wenyewe. Upande wa wanaume na upande wa akina mama tunabishana na mara nyingi hatupati suluhisho kiwango kwamba ilifika mahali Jaji Mkuu alitoa ilani kwamba Bunge linaweza likakatizwa kutokana na kucheleweshwa kwa kubuniwa kwa sheria hii. Nina imani kwamba Katiba itakapokuwa imefanyiwa ukarabati na mambo haya yote kujaribu kuangaziwa, hili swala litakuwa historia kwa sababu kila jinsia itajipata ina uwakilishaji tosha ili kuhakikisha kwamba watu wote wanapata uwakilishi vilivyo.

Swala la Mawaziri kuingia katika hili Bunge litakuwa la manufaa sana kwetu kwa sababu wakati mwingine inatajikana tuangalie sheria vile ilivyo. Sheria ilitengenezwa na mwanadamu na inaweza kukarabatiwa na mwanadamu na mahali ambapo tunaweza tukatumika ili kuhakikisha kwamba ukarabati umefanywa, ninaona ni bora tuhakikishe kwamba sheria hii inafanyiwa ukarabati ili Mawaziri wapate kuja Bungeni.

Tumewahi kuwa na visa vingi ambavyo vinahitaji Mawaziri kufika katika Bunge hili ili kueleza kinagaubaga kinachoendelea katika wizara zao. Lakini wakati mwingi tunapotegemea kamati huwa nazo pia zinategemea kupata majibu kutoka kwa wizara, na wakati mwingine wanashindwa kutupa majibu. Mara nyingi watu wameleta *petition* hapa na kuuliza *statement* lakini majibu wanayoyapata kutoka kwa kamati wakati mwingine yanashida kuchambuliwa vilivyo kwa sababu majibu hayako sahihi na hayawezi kutusaidia. Sasa inakuwa ni kama ambao tunauliza *petitions* zile, maswala yale lakini hakuna mtu ambaye yuko tayari kusema ule ukweli jinsi ulivyo. Nina imani kwamba hawa Mawaziri watakapoanza kutumika hapa, maswala mengi ambayo yamekumba nchi hii, kama yale tulikuwa tukizungumzia mchana wa leo kuhusiana na usalama wa nchi hii, mengi yatapata kuwa na mwisho.

Ninakumbuka wakati fulani mwaka jana watu wangu wa Mwembeni walivamiwa na watu arobaini walio na silaha katika boma na kituo cha polisi ni kama kilomita tano. Lakini kwa sababu inaonekana kwamba watu wa usalama walikuwa wamehusika kuhakikisha kwamba watu wale watatekeleza ujangili ule, hawakuweza kujihusisha vilivyo. Hata baada ya kituo cha polisi cha mbali kilipofika, magari yaliyonaswa na watu fulani kushikwa, kilicho tushangaza ni kwamba baada ya watu hawa kupelekwa mahakamani, wakili wa Serikali alikuja mahakamani akasema kwamba anaisitisha kesi pasipokuwa na sababu. Ushahidi umepatikana. Ushahidi ulikuwa, magari na watu wameshikwa, lakini wakili wa Serikali akasitisha kesi. Ni jambo la kusikitisha kwamba kutokea wakati huo mpaka sasa, hatujakuwa na suluhisho ya kujua watu ambao nyumba zao zilichomwa na wakapigwa, haswa akina mama na watu wazima hatima yao imebaki wapi. Kama ilikuwa pengine ni njia ya kuwahamisha, utaratibu haukufuatwa na sheria ilivunjwa. Kwa nini mpaka sasa hakujachukuliwa hatua yoyote ya kuhakikisha kwamba usalama umepatikana? Tukiuliza *statement*, tunapata majibu ambayo hayaeleweki na Mawaziri hawapatikani kwa sababu sheria inawakataza kufika Bungeni.

Kwa hivyo, Mhe. Spika wa Muda, ninakubali na kuiunga mkono Hoja hili, nikiamini kwamba kiongozi wa nchi aliona kwamba ni vyema Bunge likapate kujumuika vilivyo kwa sababu ni kati ya majukumu yetu kuhakikisha kwamba ukarabati umefanywa na mambo haya yameingizwa kwenye Katiba ili tupate huduma zilizo bora.

Ninashukuru kwamba kufikia wakati huu tumeanza kupata pesa kidogo za NG-CDF lakini vile zinavyokuja, hata wakati mwingine inabidi kamati ya NG-CDF, mwenyekiti ama Kiongozi wa Chama cha Walio Wengi, kulazimika kutoa majibu ambayo hayaeleweki kwa sababu Waziri wa Fedha hajafika.

Kwa hayo mengi, asante sana kwa kunipa nafasi na kuhakikisha kwamba nimechangia katika Hoja hii.

The Temporary Speaker (Hon. Peter Kaluma): Asante sana ndugu, Mhe. Gonzi Rai. Let us have Hon. Joseph Kahangara Mburu, the Member of Parliament for Lari Constituency.

Hon. Kahangara Mburu (Lari, UDA): Thank you, Hon. Temporary Speaker for giving me this opportunity to also contribute and support the memorandum that was brought to this House by His Excellency the President where he made several proposals.

First of all, is the two-thirds gender principle. We are all aware that the courts have already pronounced themselves on the issue of the two-thirds gender principle. Having not been implemented by the House, the Supreme Court ruled that Parliament should be disbanded.

The President has brought proposals so that we can bring this matter to a rest. Of course, the President himself has already pronounced himself that he is going to obey court orders. It is high time we came up with a formula to implement the principle or to amend the Constitution and look for a different way of how we are going to ensure that we achieve that as per our Constitution.

The other proposal is amendment to the Standing Orders so that we can bring Cabinet Secretaries to Parliament to answer Questions. We are aware that in the current system where Questions are asked through committees, we have seen situations where Questions have been asked, answers have been given, sometimes not satisfactory and Members who have asked the Questions do not have an opportunity either to ask supplementary questions or a remedy in case the Questions are not properly answered. Previously, when we had Cabinet Secretaries coming from Parliament, people were able to engage and Members would be satisfied or the Cabinet Secretaries would be made to ensure that they give proper and correct answers to Members because most of the Questions that we ask are asked on behalf of the people who have put us in this House. I support that we have Cabinet Secretaries here so that we get satisfactory answers and if we have issues that we want added onto the answers, we are able to get them.

The other one is on the issue of entrenching funds like the NG-CDF and the NGAAF into the Constitution. As you are aware, severally, some people that I call busybodies, have been going to courts every other time claiming that the NG-CDF is unconstitutional. We are aware that in this country, the NG-CDF is the first formula that was put to test on the issue of devolution. It is the only fund that *wananchi* have felt. Today, we have money that goes to county governments. If you go to the constituencies and have a look at the projects that have been implemented using the NG-CDF and those that have been done by the county governments, the NG-CDF projects are more pronounced across the board. We have money that is meant for bursaries for bright needy students in the constituencies. If anybody wants to kick out the NG-CDF, he will “kill” Kenyans because they depend on the NG-CDF for bursaries and various projects that are done within constituencies. I believe it will be important if we cut off this jigsaw that has been going on every other time. Nobody should go to the courts because we will have ensured that we have entrenched it in the Constitution. We will serve our constituents without any disturbance.

On the NGAAF, we have our County Women Representatives who run the counties. They are politicians and there are a lot of expectations from the electorate. When you go to constituents when they have an issue and you do not have this kind of fund, it means that you will not serve your people properly. We want the NGAAF to be entrenched in the Constitution so that we can serve our people well.

We also have a proposal to have an oversight fund for both the National Assembly and the Senate. I believe that Senators and ourselves should not depend on salaries to move around. We are not in charge of the NG-CDF. It is managed by the NG-CDF committees. Without funding to move around for us to oversee the national Government and for the Senators to

oversee the county governments, our work will be hampered, especially the Members of Parliament with vast counties and constituencies. I support these funds being entrenched in the Constitution so that we can offer services that we were elected to offer to Kenyans.

I support and thank you.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Eric Kahugu, Member of Parliament for the great people of Mathira Constituency.

Hon. Eric Kahugu (Mathira, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity. I rise to support the proposals brought forth by His Excellency the President to amend the Constitution. First, I support the anchoring of the NG-CDF in the Constitution. If you go around the constituencies, the projects that are most visible are projects done by the NG-CDF. The reason is that most of the funds that are available for the NG-CDF are used for development and very little is used for recurrent expenditure. I support it be anchored in the Constitution. We will avoid the issue of people waking up in the morning to go to court to derail us and saying that the NG-CDF is not constitutional. We will avoid delays such as the one we are experiencing today.

Second, I support the issue of Cabinet Secretaries coming to the Floor of the House to answer Questions. For example, a Member may ask a Question that I have an interest in and if the Cabinet Secretary appears before the relevant committee, I will not have the opportunity to listen to him answering that Question. So, I support that proposal so that if it is a Question that I am interested in, I will listen to the answer that will be given by the Cabinet Secretary.

Third, I support the issue of creating the Office of the Leader of Official Opposition. The noise we are experiencing in this town... If the leader of the opposition had an office, he would use that office to address the media and make all the noise that he wants to make as opposed to what we are seeing him do. He is making noise in town and disturbing the peace experienced by Kenyans. So, I support that we create the Office of the Leader of Official Opposition so that the leader and the likes of Jeremiah Kioni can carry all the *sufurias* they want and beat them in that office.

Lastly, as I support these proposals, I want to add another proposal. Because we are speaking of amending the Constitution, I propose that we bring in one-man, one-vote, one-shilling formula for revenue sharing. It cannot be that a person who is representing 120,000 voters is receiving the same resources as a person representing 5,000 voters. Now that we are in the mood of amending the Constitution, let us do it wholesale rather than doing it in parts. My proposal of amending the Constitution to have one-man, one-vote, one-shilling formula for revenue sharing must come together with the proposals of the President. There are people who are being treated unfairly. You are representing 200,000 people or are elected by 100,000 voters but the resources you are receiving through the NG-CDF are equal to the resources a person who is elected by 5,000 voters is receiving. That is not fair and it is not equality. Now that we are in the mood of discussing how to amend the Constitution, I will be bringing forth that proposal. Let us include the one-man, one-vote, one-shilling formula for revenue sharing in the proposals so that we do not come back to amend the Constitution to include it.

If we are proposing to amend the Constitution to have the Office of the Leader of Official Opposition, the NG-CDF and the NGAFF in the Constitution, and to allow Cabinet Secretaries to come on the Floor of this House to answer Questions, let us also include the proposal of one-man, one-vote, one-shilling formula for revenue sharing so that Kenyans can feel they are well represented. It cannot be that a Member of Parliament representing 150,000 voters is receiving the same resources as a Member of Parliament representing 5,000 voters.

I support, thank you.

The Temporary Speaker (Hon. Peter Kaluma): Thank you. Do we have Hon. Harrison Kombe, the Member of Parliament for Magarini in the House? You may proceed.

Hon. Harrison Kombe (Magarini, ODM): Ahsante Mhe. Spika wa Muda kwa kunipatia nafasi hii niweze kuchangia Hoja hii inaelekeza kurekebisha Katiba. Kwanza, ubunifu wa ofisi ya mkuu wa upinzani katika Katiba itatupunguzia maswala ya vurugu katika nchi mara kwa mara baada ya uchaguzi. Vile vile, tunapofikiria ofisi za Wawakilishi wa Kike wa Kaunti zipate mgao ili kina mama waweze kusaidia makundi yao, tunaendelea vizuri.

Katika swala la pesa za NG-CDF, msemaji mwenzangu ameongea vizuri lakini nataka nimufahamishe ya kwamba sio wapigaji kura tu ambao wako katika eneo Bunge. Kwa mfano, wapigaji kura wanaweza kuwa elfu mbili lakini eneo Bunge lina zaidi ya watu laki tatu au tano. Inategemea namna ambayo watu watajitokeza kupiga kura. Wanaweza wasijitokeze kwa wingi na isichukuliwe kwamba wale watu elfu tatu waliojitokeza kupiga kura ndio wanawakilisha watu laki tano. Isikuwe ni lazima nafasi zipewe kwa hao watu tu na je, wale wengine watafanyaje? Wao pia ni Wakenya na wanastahili pia kupata hela za kuwasaidia.

Spika wa muda, ni muhimu tupate Mawaziri ndani ya Bunge ili ukiuliza swali linapo kosa kujibiwa vizuri, basi kuna nafasi ya kuuliza maswali ya ziada. Vile vile, swali likiulizwa huwa halijalenga eneo Bunge moja bali maeneo Bunge kadhaa. Hivyo basi, wahusika wa maeneo Bunge mengine pia watapata nafasi ya kuuliza maswali ya ziada ikiwa Waziri atakuwa hapa ndani. Ninaona kuwa tutakuwa na mwelekeo mzuri hivyo basi ninaunga mkono urekebishaji wa Katiba ili mambo haya mengine yote yaweze kuzingatiwa.

Mhe. Spika wa Muda, ninakushukuru kwa kunipa nafasi hii.

The Temporary Speaker (Hon. Peter Kaluma): Thank you very much, Hon. Harrison Kombe, for those wise and well thought contributions.

Do we have Hon. GG Kagombe? Is Gatundu South the Constituency of the Fourth President of the country?

Hon. GG Kagombe (Gatundu South, UDA): I confirm, Hon. Temporary Speaker. It is the constituency of the former President and the Chairman of the Azimio Coalition.

The Temporary Speaker (Hon. Peter Kaluma): You are a great Member of Parliament and representing great people. Make your contribution.

Hon. GG Kagombe (Gatundu South, UDA): Hon. Temporary Speaker, I rise to support this Motion on the amendment of the Constitution to allow Kenyans access services that...

The Temporary Speaker (Hon. Peter Kaluma): Just a minute, Hon. GG Kagombe.

Hon. Ferdinand Wanyonyi, I really wanted to give you the chance to make your contribution, but the systems of Parliament confirm that you had contributed to this Motion on Wednesday, 15th February. I do not know whether you could cross check. The systems indicate that you made your contribution for the entire time allocated, in fact, 10 minutes. You are so senior and I do not want to keep you around.

Proceed, Hon. GG Kagombe.

Hon. GG Kagombe (Gatundu South, UDA): Hon. Temporary Speaker, I support the Motion especially on the two-thirds gender rule. The spirit of the Constitution under Article 27(6) and (8) provides that representation of all Kenyans is very imperative and critical for us to achieve parity.

On representation, we keep saying that there is nothing for us without us. To have a Parliament that does not have enough women means that women are not being represented properly in their constituencies. It is also the same case when we have fewer men and youth in Parliament. I support the two-thirds gender rule as proposed by the President. This Parliament, under Articles 255, 256, and 257, has the right and the powers to amend the Constitution to allow such changes.

Hon. Temporary Speaker, the importance of the NG-CDF cannot be overemphasised. When you walk around town and the villages, you will find projects that have been done and funded by the NG-CDF. The way NG-CDF is constituted is representative. It touches on the lowest of people within constituencies and they are able to put their contributions on what

matters to them. When we start fighting such a fund, then you deny the lowest people in the society access to have their ideas listened to and implemented by the fund that comes from the taxes that they pay.

Hon. Temporary Speaker, other ministries should have probably done their work. We just got the bursary funds and the Ministry of Education should have identified a way of addressing issues of disparities between people who can pay and those who cannot. As it is, we have the law as it ought to be. As it stands, in as much as we would want the Ministry to do that, it is unable to. It is unable to provide for children who are not going to school. However, a Member of Parliament with the NG-CDF Committee is able to find the lowest people of society and accord them bursaries.

As it stands, we have children who have not accessed Form One because they have no school fees. We have children who are out of school because we have not disbursed their bursaries. The situation on the ground is such that we have disparities and a lot of trouble with finances. I support the implementation and anchoring the NG-CDF and the NGAAF and other affirmative action funds into the Constitution.

Hon. Temporary Speaker, we have been treated to a lot of drama in the recent past. When I see the leader of the opposition waking up in the morning and telling people to go to Jeevanjee Gardens, I realise that we do not have a properly anchored position of the leader of official opposition. We normally say that exercising power without responsibility is the prerogative of the harlot. We must stop the opposition from just disrupting economies of other people and the economic activities of Kenyans.

How do we do that? We need accountability and an opposition that is structured. It is very important to have an effective opposition that is able to put the Government in check. We cannot do that when the leader of the opposition is somewhere sitting under a tree. We need the Office of the Leader of Official Opposition structured within the law such that when they are putting the Government in check, they exercise their authority and power. That is the only way we are going to avoid these issues of addressing people on the streets and rooftops of cars. We need a proper office that can address the Executive and can be brought to Parliament so that we can consider what has been recommended by the official opposition. That is the only way to put the Government in check.

Even as I sit on this side of the Government, I know that people left to their elements are capable and have proximity and affinity to be selfish and make very selfish decisions. We need a proper working opposition. That is why I support the President when he says that this Parliament finds it fit to anchor the Office of the Leader of Official Opposition here in Parliament. Structure it in a Bill and in an Act that can be dealt with and that is capable of coming and standing here in Parliament and be considered so that the recommendations of the opposition are heard in Parliament and considered within the law.

Finally...

The Temporary Speaker (Hon. Peter Kaluma): Hon. GG Kagombe, the President has dispatched these thoughts to Parliament and as Members, we can only enrich those thoughts and act if we are to deal. And not just to support because we still do not have a Bill.

I will add you time. While you are on your feet, I have heard Members contribute on that point on which you are giving very thoughtful considerations. How do you have the leader of official opposition in a system like ours which has no opposition? We can help the President solve that. I have heard everybody contributing and agreeing that we need that position structured. Are you suggesting that we move from the current presidential system that has no opposition to a parliamentary system with an opposition? In this case, are you suggesting that the leader can be the official opposition in the House formally giving his views on how the nation should be run in the structured way?

Hon. GG Kagombe (Gatundu South, UDA): Hon. Temporary Speaker, I stand advised. I know that in this House we have the representative of the opposition, who is the Leader of the Minority Party. I agree with our system of Parliament right now. I know it may be beyond Parliament to change the system of governance as it is stipulated in the Constitution. However, we know where the opposition takes its instructions from. Most of the times, even the Leader of the Minority Party is at pains explaining instructions that are being given to him from outside this House.

My suggestion would be that we form an office of that person who vied in the presidential election and became second and give him an office where he can articulate his issues within the Constitution. That does not call for the change of the system of governance that we have to go into a parliamentary one, but it allows the first runners up in a presidential election to have an office. This is because he has a lot of support and many at times, we find that this person had about 49 per cent of the people. In as much as we say that in a democracy the majority will have their way and the minority will have their say, the second runners up in an election has a lot of support and the people who supported him also need to feel that they are represented in Government.

So, we shall sit in this House and the committee that shall be in charge of this will formulate a way of having the Office of the Leader of Official Opposition inside Parliament. This will enable him to bring Bills in Parliament. Even if the leader of the official opposition is going to be appointed by the party that has the minority, and he will not necessarily be the one who had vied for presidency, then it will be so. That office shall be created and they shall have recommendations that will be listened to and considered by this House.

Hon. Temporary Speaker, my final issue was that of Cabinet Secretaries. We have had a lot of Questions today. Although under the Standing Orders the person who asks the Questions can go to the committee that will be listening to the Cabinet Secretary, it is not properly anchored in law and we lack the benefit of enjoying and listening to answers that are given to the House by the Cabinet Secretaries because of them answering Questions in the committees and not in the House. We have a lot of things that are going wrong because Cabinet Secretaries are not in touch with this House, unlike in the previous system of governance where they used to sit in this House and would understand our issues. We have Cabinet Secretaries that have never been to the ground and have not interacted with *wananchi*, and they may need to hear the input of Members of this House who are elected by people from the villages, so that every time they come here, they can listen to what the *wananchi*, the Wanjiku and Atienos are saying.

At times, we have disparities and you wonder why certain Cabinet Secretaries are not working the way you would expect them to work, but this is because at times they have not interacted with the people properly. I keep saying that we represent the lowest of our people in society. We talk to them and listen to their issues. These issues cannot be addressed separately in a committee room somewhere. We need them to come and sit here when the House is full, listen to us and address the issues. I, therefore, support that we amend the Standing Orders and allow Cabinet Secretaries to sit in the House and answer Questions when we are all here listening.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Thank you very much. Hon. Gabriel Kagombe, you had risen on a point of order to ask why Question No.20/2023 by Hon. Mark Mwenje, Member for Embakasi West, was being directed to the Ministry in charge of Interior and National Administration. We have looked at the Executive Order No.1/2023 which was issued on January 2023 on the organisation of Government of the Republic of Kenya, and confirmed that under that Executive Order, Betting Control and Licensing Board is under the Interior Department of that Ministry. So, the Question in so far as the records we have are

concerned, was properly directed. It is so ordered for now and it will remain so until we get a contrary position in terms of the reorganisation of Government.

Thank you very much. Hon. Doctor Joyce Atieno Bensouda, the Member of Parliament for the great people of Homa Bay County. Have you contributed to this Motion?

Hon. Atieno Bensouda (Homa Bay County, ODM): I have not, and that is why I have put my card to contribute on it.

The Temporary Speaker (Hon. Peter Kaluma): If so, take all your time.

Hon. Atieno Bensouda (Homa Bay County, ODM): Thank you so much, Hon. Temporary Speaker for giving me this opportunity to contribute to this noble Motion. For those who do not know me, I am Hon. Doctor Joyce Atieno Sogo Bensouda, Woman Representative for Homa Bay County. Homa Bay is here full house with eight constituencies. I thank you, Hon. Temporary Speaker because I am your Woman Representative and sitting beside me is the Karachuonyo Member of Parliament who is also one of the people from the same county with me. I really appreciate when I hear, "I want to be very brief today", because the issues to be supported in the Motion are quite clear and precise and do not even require more debate, they require implementation. Where a nod is required, I will give. Where further consultation and intensive public participation is required, it must go to the people.

Therefore, I appreciate the current Government which has brought four items for this Parliament to legislate. Top cream is the two-thirds gender rule. I remember during my campaigns, one of the things that I promised the women was that I was going into that Parliament to push for implementation of the two-thirds gender rule once and for all. I congratulate all the women in this Parliament, the senior ones who are not with us here, but are in other levels of Government. I appreciate those who have earned their positions be it in the private sector, parastatals or others. I want to inform and categorically go on record that the two-thirds gender rule in this Parliament does not require further debate, but implementation. It is long overdue. I think we are moving towards taking sideshows when we are still wondering whether it should be implemented or not. I urge all the sitting male Members of Parliament that this is something that we want to see them on the forefront. It is the women who are leading this country right from the villages and houses where we come from. When a woman is in front, everything is perfect. The two-thirds gender rule should be concluded. Let us not debate over this issue until Jesus comes back and finds us still pretending over the two-thirds gender rule.

The second issue is on enshrining the NG-CDF and the NGAAF into the Constitution of Kenya. In Kenya, we are 47 Women Representatives. I am very happy that we have shifted as a Parliament that when we mention the NG-CDF, a sixth sense comes into the minds of the Members who are representing constituencies and they mention the NGAAF. Bensouda is saying the NGAAF is first. We have seen the fruits of the NG-CDF - very conspicuous and very objective. In my constituency, I see classrooms which can be models. I thank you Temporary Speaker, Hon. Kaluma for what you have done on classrooms in Homa Bay Town Constituency. I see what Hon. Adipo Okuome does in the constituency where I cook *ugali*. There is no debate about the NG-CDF. If anything, we are calling for an increased percentage, not a reduction and not a debate over it.

Hon. Temporary Speaker, when we came to Parliament, in my maiden speech, I categorically said that I did not resign from my job to become a flower girl. I am above being a flower girl in Parliament. I am here to represent. I cannot defend words and statements. I represent work which goes hand in hand with financial mobilisation. Therefore, I echo the Government for bringing that part of the NG-CDF and the NGAAF to be enshrined in the Constitution. I remember very well when we had a sitting during the time when the current Government visited Homa Bay, I rose on behalf of the 47 Women Representatives and Dr. William Ruto said: 'Bensouda, I have already signed that, *kazi ni kwenyu huko Bungeni*'. Is

there anybody still doubting the NGAAF? What we get is good enough, but what we are saying is that when considerations are being done for increment, we want Women Representatives to represent effectively and efficiently. I, therefore, support.

When I come to the issues, there are four. First, is the issue of the Senate Oversight Fund. I want to urge and support from the perspective of a project plan. There is no monitoring and evaluation which can be done without resources or without mapping out the framework of the project to be monitored. I believe the Senate is doing that. Can there be a realistic budget demanded? When county governments and the national Government are being put in check, then we are doing it from a realistic perspective. Of course, the reports must be submitted in a timely manner to ascertain whether we are implementing it in the right direction as per the plan or whether we are achieving our goals or not and what can be done. This requires movement. You cannot move on a motorcycle because it requires fuel, human resource and ICT and all these require resources. Therefore, can we have a realistic budget for the Senate?

The last issue which I found my colleague talking about is whether we have the official opposition or not. Personally, I feel that as Kenyans, we must be honest. The opposition has always been in this House and that means they are not opposing what is happening; They are providing for checks and effective balances. That is the direction we want to go. This does not stop those who are providing for checks and balances from giving information to the common *mwananchi*. Not all of them have televisions. There are issues which I personally need to be properly updated on their effects. We are a legislature. Take us on. There is no rush. We want this thing to be done in a more concurrent way. We are not rushing to have an opposition office now. After all, the checks are being questioned here. So, what is the rush? That is my question.

I thank you, Hon. Temporary Speaker. I submit

The Temporary Speaker (Hon. Peter Kaluma): Hon. (Dr.) Joyce Atieno Osogo Bensouda, you have not told the people of Kenya how Homa Bay County, which you represent, has dealt with the issue of affirmative action. I have also not heard you appreciate the fact that the people of Homa Bay have always complied with the requirement in terms of electing ladies. Can you take a minute or two to do so, also confirm to us that case which a judgment was being delivered in Homa Bay today? Homa Bay County, which you are honoured to represent, is also the first county west of Kenya to elect a female governor.

Hon. Atieno Bensouda (Homa Bay County, ODM): Thank you, Hon. Temporary Speaker. I was avoiding going over my time limit that is why I was fast, but thank you for giving me the honour.

First and foremost, I would like to appreciate Homa Bay County as a whole. They are very bright people. They do not just elect, but choose leaders who can represent them well. You do not go campaigning for them to elect you. They make their critical analysis and give you the votes that you are worthy of. I want to confirm to this House that the Members of Parliament who were elected in Homa Bay County are strong personalities. They are competent and in most cases, are chosen when selecting the representation of Kenyan delegations to other nations. Presently, I just came back from Zambia. Why did I go to Zambia? Hon. Millie Odhiambo is representing another conference which is being championed tomorrow. That tells you how much Homa Bay County Members of Parliament are competent.

I want to appreciate that Homa Bay County elected the first female governor, in Nyanza Region. Since being in office for the last six months, we are seeing changes taking place. I have not been keen to watch, but when I kneel down and pray, I know everything is good in the sight of God. Whatever judgment is there, I know that through the Spirit, we are moving on. There is no turning back. In terms of health facilities, Homa Bay County is becoming clean. As a matter of fact, the last time I visited Kisumu and Homa Bay counties, I foresee that Homa Bay County will be in the lead on matters environmental cleanliness in about two months. The Members of Parliament who are there are effectively doing their work. As their County Woman

Representative, I am very competent and within the short period, I want to tell this House that with the little that I was given, I launched Mama County Back to School Programme. My predecessor founded Mama County Say, but I am running the Mama County Back to School Programme with five components, namely, gender-based violence, sexual reproductive health, bursary allocation, academic mentorship, health and sanitation. I am quite bright and competent.

Hon. Temporary Speaker, I also want to say that I work together with the Members of Parliament in the county to unite and review. That is the way forward that we have championed this time. The County Integrated Development Plan (CIDP) was invited to give input on how we want to run and prioritise the projects we are doing in our constituencies. I am very proud of Homa Bay County. We have Her Excellency the Governor Hon. Gladys Atieno Nyasuna Wanga, and all the eight Members of Parliament, particularly the five female leaders who are Lillian Gogo, Eve Obara, Millie Odhiambo and myself. If other counties are not careful, Homa Bay County is going to take first place out of the 47 counties.

I thank you, Hon. Temporary Speaker

The Temporary Speaker (Hon. Peter Kaluma): Thank you very much. Let us have Hon. Dr. Wilberforce Oundo, had you contributed to this Motion?

Hon. (Dr.) Ojiambo Oundo (Funyula, ODM): Yes, Hon. Temporary Speaker. I had already contributed on this Motion. I am just intrigued by the passion from the Woman Representative for Homa Bay County. The passion is immense and I think she could share the same passion with other counties so that we do not waste time talking about the two-thirds gender rule that we are moving to have in law.

I thank you, Hon. Temporary Speaker

The Temporary Speaker (Hon. Peter Kaluma): Hon. Dr. Oundo, as you are aware, those great gentle ladies that she has mentioned hold the top-level academic qualifications. She forgot to add the title Doctor when referring to Dr. Lillian Gogo, Dr. Eve Obara, Senior Counsel, Human Rights Advocate Millie Odhiambo Mabona. What she says is true. These are very learned and competent people making very valuable contributions in national debates.

Hon. Members, on 14th August 1990, this country lost a very great Kenyan in the name of Bishop Alexander Muge. Some of you are aware, but many of you do not know that we have the granddaughter of Bishop Alexander Muge, the Hon. Cynthia Muge, in the House. I want to recognise her and give her a chance to say something on this important Motion if she had not already spoken to it. We thank you for being here to say those things we only used to hear from your grandfather. I remember when your father passed on, I was in Standard Eight, preparing for exams. I had not met him in person, but my tears rolled down my cheeks very freely. I therefore, give you a chance to make your contributions if you had not already.

Hon. Cynthia Muge (Nandi County, UDA): Thank you, Hon. Temporary Speaker for the opportunity to speak to this particular Motion on the Floor of the House today. Like I said, my name is Cynthia Muge and I come from Bishop Muge's place. Of course, he is grandfather and father to all of us in our county and most importantly, to me. Just like you, of course, I did not see him, but I went back to history to trace the kind of things he did. I want to note with great pleasure that it is important to do good things in this world when you are still alive. I think it was on 4th and the Member for Kirinyaga County had a function. There is this gentleman who used to work for the defunct Voice of Kenya (VoK) several years ago. He could not hold his horses when he heard that my name was Ms. Muge. He was not sure whether it was related to the late Bishop Muge or not but he really wanted to shake my hand and say a few things.

He said the last time he saw the Bishop was when he went to Kirinyaga because there was something that was of national importance that needed to be said, and he was the guy on the microphone. He would always interview him. He said he ended up in jail after the Bishop

had said whatever he said on a very topical issue that was happening in the country at that time. Of course, I felt great not just to be associated with Bishop Muge but also to be a neighbour to him. Every time I am at home, I tell people that it is important that they ensure they have a beautiful and well-built name. It might not be beneficial to you but it will be beneficial to the generations that will come after you.

Bishop Muge was a great man. We should all endeavour to emulate what he used to do and what he stood for until death. He was a great man in all spheres. My wish is that we have reincarnations of him in the generations that we currently have. He comes from Mosop Constituency, Nandi County, where I come from.

Thank you, Hon. Speaker for giving me the opportunity to contribute to this Motion that has been brought to the House by the Leader of the Majority Party.

We have had many issues and discussions regarding the matter that has been raised through this Motion. One of them is the outstanding issue of the two-thirds gender rule. As Hon. Bensuda has said, this is not a matter that we should be speaking to but rather we should be asking how far its implementation has reached. We have spoken for so many years, especially after the promulgation of the current Constitution that recognises the deficiency in the female gender representation in public office, and specifically in leadership positions or decision-making tables. This observation necessitated that we institute affirmative action to give women, or whichever gender it may be in the future, an opportunity to participate in decision making. When we talk about gender issues, it is mostly construed to women issues but it is not.

I looked at the statistics today morning in light of the International Women's Day that is supposed to happen tomorrow 8th March 2023. I looked at the statistics that the Kenya National Bureau of Statistics (KNBS) had compiled on the number of female teachers in primary schools versus the number of male teachers. The number of female teachers in primary schools is more than the number of male teachers.

That should show that gender parity is not exclusively a females' issue. Either gender can fall on either side.

I appreciate the President for going out of his way to pursue this matter. Everyone thought that he was merely making a political statement during the electioneering period when he promised that he would look into the gender parity issue keenly and ensure that his Cabinet is gender-sensitive. We have not met all the promises that we made but there is still time for that.

On this specific issue, the National Assembly is a legislative House. The President has been intentional to the extent that he has put together a team to recommend on how we are going to achieve the two-thirds gender rule. It takes willingness and political goodwill for one to do that. The fact that he saw it wise to bring it to this House shows that he is committed to this issue. If you look at the wording of this particular Motion, it actually asks Members to make general comments and observations in regard to the proposals that have been brought to the House, which is a rare opportunity.

Most of the time, things would be done and decided on and then they would be brought to the House with clear recommendations. However, in regard to this matter, this particular Motion has been brought to the House so that we are able to make comments and put our thoughts together so that we can make it better and easily achievable.

We want to ensure that we provide an enabling environment for ease of implementation so that as we gear towards settling on a particular formula for the two-thirds gender rule, we are also clear on the implementation framework so that we fast-track the same.

I appreciate what the Woman Representative for Homa Bay County has said. She has not just been speaking about it but has ensured that she is doing something about it. That is something all of us should be doing.

I am not badly off as of now since I come from a county where out of six Members, at least, one is female. It is a step in the right direction. It has been long since we had one from Nandi County. We can now see light at the end of the tunnel. I want to tell the people of Kenya that this is not an endeavour in vain. It is going to bear beautiful fruits in this House. A good number of women will be sitting at the decision-making tables in this country.

I support the proposal by the President that we should look at the two-thirds gender rule issue objectively so that the formula and suggestions that we may come up with can be implementable, and can be financially sensitive to the people of Kenya so that we do not give them additional financial burden in the name of addressing this matter.

There is the other issue of the National Government Affirmative Action Fund (NGAAF), the National Government Constituencies Development Fund (NG-CDF) and the Senate Oversight Fund. These are important things in this country. I appreciate that the President has been a legislator in this House. He knows where the shoe pinches because he has worn it before. This is, therefore, not something that we should be discussing so much since it is all inclusive. There are percentages of the national revenue that are allocated to these funds so that they are able to address the issues affecting Kenyans out there. The NGAAF, for example, is supposed to help undo the oppression that the people who fall in that particular category have gone through or have been subjected to over the years. The discussion we should be having, as an hon. Member said, should be on enhancement of the percentages to be allocated to these funds.

Everyone outside this House is talking about how good the NGAAF and the NG-CDF have been. People appreciate the great things that these funds have done for Kenyans from poor backgrounds. They talk about them effortlessly and passionately, which actually tells us that we are chasing a win. All that remains is just ratification of the same. Therefore, I totally agree with the President's suggestions in this regard. I believe that the team that is going to sit to produce a final paper on the same is going to do a thorough job.

The issue of allowing Cabinet Secretaries to sit in the House to answer Members' Questions, leaves me with 50:50 feeling. I am 50 per cent agreeable that they should be given an opportunity to come to the House, and I am 50 per cent disagreeable that they should come. If we allow Cabinet Secretaries to come to the House, we will be reducing the number of activities that the Committees will be undertaking. The link between the National Assembly and the Executive should be Departmental Committees that have been assigned the responsibility of overseeing the various State Departments directly. Eventually, the Committees furnish this House with reports that contain recommendations.

I think there is more that needs to be done and looking at the...

The Temporary Speaker (Hon. Peter Kaluma): Hon. Muge, do you need more time?

Hon. Cynthia Muge (Nandi County, UDA): Yes.

The Temporary Speaker (Hon. Peter Kaluma): How many more minutes?

Hon. Cynthia Muge (Nandi County, UDA): Three.

The Temporary Speaker (Hon. Peter Kaluma): You have it.

Hon. Cynthia Muge (Nandi County, UDA): Thank you. I have not seen a gracious Speaker before. Thank you for giving me those additional three minutes.

The issue of allowing Cabinet Secretaries to come to the House needs further thoughts. We should look at it in terms of the kind of governance system that we have and the responsibilities of Member of Parliament – legislation, oversight and representation – to avoid a situation where Cabinet Secretaries and Members clash. We should provide an environment where everyone is able to do their duty without members of the other arm of government interfering. Those are my thoughts on that issue. However, as I said, I am not an expert on constitutional or legal issues. I am a physical planner. If you were to give me a road to draw or a house to design, I would do it. On this particular matter, I would seek the indulgence of those

who can interpret the law and compare statutory legislations in this country so that we keep our system of governance and deliver services to the people who entrusted us with the opportunity to be here.

Lastly, on the issue of creating the Office of the Leader of Official Opposition that is also a matter that needs wide consultations, so that we do not do something that will taint our names in future. The existence of an office of official opposition does not need to be put in black and white. If you are an opposition leader, you do not need to have a green card from anyone for you to do your job. You can as well just execute your responsibilities as an official opposition leader.

I thank the Leader of the Majority Party for giving this House an opportunity to consider the suggestions that have been brought to the House, through the Speaker, in order for us to make general comments on the same.

Thank you, Hon. Temporary Speaker, for the opportunity. Those are my submissions.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Cynthia Muge, for those submissions and contributions.

Member for Mumias East, have you contributed to this Motion? You do very well outside. We want to hear you speak to it.

(Laughter)

Hon. Peter Salasya (Mumias East, DAP-K): Thank you very much, Hon. Temporary Speaker.

The Memorandum by the President seeking to allow Cabinet Secretaries to come to the House is a good idea. However, it will only be an opportunity for the Leader of the Majority Party and those who call themselves “veterans” to showcase themselves. The best thing is for the President to give Parliamentary Committees powers to summon Cabinet Secretaries and Principal Secretaries. As Committees, we can then table our reports in this House. That might be better. Allowing Cabinet Secretaries to come to the House will be a show for the Leader of the Majority Party and the Leader of the Minority Party. In that case, I do not support the idea. I support that the various Committees be allowed to summon Cabinet Secretaries to respond to Questions, so that we table the reports in the House.

I support the idea of creating the Office of the Leader of Official Opposition because it was in the Building Bridges Initiative (BBI). I still support it 100 per cent.

The NG-CDF has been of great importance. We do not have issues of ballooning wage bills in terms of NG-CDF. The people who work in the respective NG-CDF committees only rely on allowances. The NG-CDF has been felt in *mashinani* areas. Enshrining the NG-CDF and the NGAAF in the Constitution is the best course of action for us to take. Kenyans should be made aware of the NGAAF so that they know the responsibilities of Women Representatives. Some people do not know what their roles are. Even when a Woman Representative decides to misuse the funds, people in *mashinani* areas cannot know.

Those are my comments. I have done so well today because I am also performing so well out there. I am doing so well in the House, as you have heard.

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Peter Salasya, the great Member of Parliament for Mumias East.

Does Hon. David Kiplagat want to contribute to this Motion?

Hon. David Kiplagat (Soy, UDA): Thank you very much, Hon. Temporary Speaker, for giving me this chance to contribute to the proposal from the President. It is on amendment of various Articles of our Constitution, and amendment of our Standing Orders, to allow Cabinet Secretaries to come to the House to answer Members’ Questions.

I think it is a good idea to allow Cabinet Secretaries to sit in this House to personally answer Questions from Members. First, it will energise the House. In fact, I think the attendance will be felt. Everyone will want their Questions answered by the person who is supposed to answer it. The current scenario is that Chairpersons of Committees take Questions to Cabinet Secretaries and then answers are transmitted to this House through the Chairpersons. Something can happen in between. Members of the Committee, who are just Members of this House, have minimal interaction with Cabinet Secretaries. Only Chairpersons interact with the Cabinet Secretaries. For purposes of accountability and transparency, and in order for Members to be felt, it is important that we allow Cabinet Secretaries to come to this House just by amending the Standing Orders. I do not think we need to look at the Constitution for that to happen. Even without amending the Standing Orders, I believe we can as well convert this House into a Committee of the whole House so that Cabinet Secretaries can attend and answer Members' Questions. That one is a bit easier.

Hon. Temporary Speaker, I have a different view on the issue of representation of women in Parliament. I will give my personal thoughts, and not the thoughts of the party I belong to. I believe in letting Kenyan voters choose their leaders without bias on gender or other discrimination. We know very well that the wage bill is currently very big. It is bad to add more Members to this House in order to comply with the one-third gender rule. I know that it is a constitutional requirement. Even though the Constitution requires that we should not have more than two-thirds representation from one gender, it is important that we look at the overall representation in this House. Elected Members represent people. I do not believe that adding more women to meet the gender parity requirement will add any value to this House. Even when it comes to sharing out of seats that may be reserved for women in order to meet the gender balance threshold, I do not think there will be equity or whether the Wanjiku out there will be nominated to come to this House. It is only women who know their way within Nairobi, and those who can pull strings within the powers that be, who will be nominated to this House. For that reason, I have a different view. I hold the view that people should decide on who their leaders should be. I know that my party leader, who is the President, has another view. In my case, as the representative of the people of Soy, we hold the view that everybody should campaign and get elected. Whether you are a man or a woman, you have equal opportunity to be elected by the people.

The Temporary Speaker (Hon. Peter Kaluma): Hon. David Kiplagat, you are a very informed leader. Let me pick your thoughts on some matters as you give your views on this matter. You know the much talked about recent decision by the Supreme Court. The Supreme Court has amended Article 27 (4) of the Constitution to say that there is not just the male or female genders but there is also sexual orientation. Therefore, you have intersex, transgender, gay, lesbians, pansexual and all those other genders. How would you advise that we rationalise the numbers in light of what the President is proposing we do?

Hon. David Kiplagat (Soy, UDA): Hon. Temporary Speaker, we are now chartering uncharted waters. Our courts should not legislate while interpreting the law.

On the issue of LGBTQIA+, the decision by the majority of the Judges of the Supreme Court was in bad light. It did not respect our religions, African tradition and culture. For that reason, we oppose that ruling. That ruling needs a judicial review. I believe that the Constitution can be amended directly by this House or through a referendum. For Articles that do not require a referendum, an amendment proposal must garner two-thirds support of all the Members of this House. We really need to look at this issue. In that case, this House should come up with an amendment to make it as clear as daylight that we do not support the issue of LGBTQIA+ in our laws. We need to revisit this matter and come out clearly.

Over the weekend, when we were addressing a church congregation, we made it clear that, as Parliament, we shall stand firm as we look at all options. We can even go to the extent

of bringing an impeachment Motion against the Judges who ruled in favour of registering the LGBTQIA+ association in Kenya. This is unheard of. If it is being forced on Kenya because we are poor and some people feel like they need to fund us, let those people know that the only thing that we need in life is air to breathe and food. We can provide the two commodities for ourselves. We do not need any aid from abroad. They can go with their aid, their culture, their lesbianism and their gay practice to wherever it came from. We do not need them and we shall take stern action on that issue.

On the issue of the NG-CDF, we have stated our views very clearly. Before we went on recess, there was a joint committee that was put in place between the National Assembly and the Senate. The Chepkonga-led Committee should tell us what they are doing. We believe that amendment should have been passed like yesterday. I urge this House not to join all the amendments together. Some of the amendments are a bit emotive but for the one on the NG-CDF, which we are all in agreement with, ought to have been passed by this House. We do not need to combine it with the amendments on representation and on creation of Office of the Leader of Official Opposition.

Hon. Temporary Speaker, give me one minute to wind up on the issue of creating Office of the Leader of Official Opposition. On this issue, we need to bring sanity to that office. Currently, the opposition leaders are running around the country trying to arm-twist the Government through demonstrations, disrupting businesses and unity in our country. The only way to solve this issue is to give them room to air their views. The best way to do so is to create the Office of the Leader of the Official Opposition. I do not know whether that office will be domiciled in this House. I was reading the Constitution and it appears like such an initiative might require a referendum. I believe such an office should not be under this House but we should come up with an office where he can officially complain by writing to the relevant executive offices.

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. David Kiplagat. I will let your last statements go because you have responded very well and in a very informative way to the initial question. You see, demonstration is a constitutional right, and it cannot be disruptive. On the right to protest and demonstrate, the leader of official opposition can sit here and while outside also demonstrate and there is very little we can do about it.

Hon. Peter Masara, the Member for Suna West, have you contributed to this Motion? If you have not, then you are recognised. Take your time and make your contribution to the Memorandum by the President to Parliament

Hon. Peter Masara (Suna West, ODM): Thank you, Hon. Temporary Speaker, for giving this opportunity. I want to add my voice to what other Members have contributed. We have very burning issues. On the issue of the Constitution, let it be known to each and every Member here that the Constitution of Kenya is a property of the people of Kenya. It is not a property of the National Assembly. The people of Kenya, in their wisdom, spoke well and overwhelmingly supported the Constitution of Kenya, 2010 to an extent that there are things they rejected and accepted others.

Based on the memorandum of Dr William Ruto to the National Assembly, the people decided on the kind of Government they wanted. They did not want Cabinet Secretaries to come to the National Assembly. That is why they decided that Cabinet Secretaries be technocrats and people outside this building. Therefore, if somebody wants to bring these changes, let us go back to the people and ask them. It is the right time now because the Constitution has been in existence now for over 12 years. So, when the people currently sitting in the Executive feel that Cabinet Secretaries are supposed to come here, my suggestion— and I believe it is the suggestion and the minds of many Kenyans— is that we go to a referendum and ask the people what they want. We cannot be thinking on their behalf and try to amend the

Constitution in this National Assembly as it is now. People are conflicted. Some people are visiting State House and we do not know what they are doing there or what they are being told. So, when you bring that important decision in this House, some people may decide when their stomachs are speaking for them. Therefore, we may not end up getting the right decision.

On the issue of the Supreme Court of Kenya, I have been thinking and doing research. The drafters of the Constitution missed something. Should the Supreme Court pronounce themselves in a manner that is not prescribed in the Constitution, what is the remedy? Hon. Temporary Speaker, I know you are a lawyer and one of the many good brains we have in this country but there was no express article or section where the Supreme Court could be corrected. I have read some articles from constitutions of different countries. Since the Constitution belongs to the people and the Supreme Court acts on behalf of the people of Kenya, they have delegated powers. Therefore, this is the right time for the majority of Kenyans or leaders to go back to the people and tell them that there is a problem with the Supreme Court that we have currently.

I thank God that during my lifetime in this Parliament, when the Petition on the 2022 General Election was taken to the Supreme Court, they talked of “hot air.” It is true that the Supreme Court is hot air. How can a Christian woman who is married with children tell men to engage in gay associations? When we register their association, what will they be discussing? Will it be about how a man can get pregnant?

I will next week start collecting signatures from Kenyans to have the Supreme Court reconstituted.

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

The Temporary Speaker (Hon. Peter Kaluma): Who is on a point of order? Did I hear somebody claiming to be on a point of order?

Hon. Adagala Beatrice (Vihiga County, ANC): Thank you, Hon. Temporary Speaker. How dare a Member refer to the Chief Justice of this country as a mere woman? He should have respect for women and apologise.

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Did you call any judge of the country “a mere woman?”

Hon. Peter Masara (Suna West, ODM): Thank you, Hon. Temporary Speaker. I know Hon. Adagala to be very protective of women affairs. I am a son of a woman. I am married to a woman, and I am a father to a daughter. I respect women. However, whether you are president or speaker, you will remain to be man or woman. The title I used is the “Judges of the Supreme Court.” We must call a spade a spade.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Masara, I am asking about the point that was raised. Did you refer to any judge, whether in the Supreme Court or in any of the superior court, as “a mere woman?”

Hon. Peter Masara (Suna West, ODM): No, I did not. Anyone who can give birth, in whichever dictionary, is a woman. I talked of a woman.

The Temporary Speaker (Hon. Peter Kaluma): So, you did not refer to any judge of our country as a mere woman?

Hon. Peter Masara (Suna West, ODM): No, I did not. The secretariat can replay what I said later on. I was trying to explain my point.

The Temporary Speaker (Hon. Peter Kaluma): Proceed. We will confirm if you did.

Hon. Peter Masara (Suna West, ODM): We need to agree that our Supreme Court erred. Nobody from both sides of the political divide should challenge that fact. What is the remedy? This is because the decision pronounced by the Supreme Court will be referred to by

other judges in subsequent court rulings. We need to look for a remedy before this gets out of hand. We are Christians.

Hon. GG Kagombe (Gatundu South, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Just a minute, Hon. Masara. Member for Gatundu South, what is your point of order?

Hon. GG Kagombe (Gatundu South, UDA): Hon. Temporary Speaker, the last time I checked, we were on a Motion on the General Debate on the Proposal to Parliament to consider amending the Constitution and the Standing Orders. Is the Member in order to discuss issues that do not pertain to this debate?

If we were to debate the LGBTQIA+ issue and question the ruling of the Supreme Court, then we need to bring a Motion to this House and discuss it accordingly. It is out of order for him to discuss that issue when we have confined ourselves to the Motion before the House this afternoon. The Motion he is discussing has not been laid on the Table of the House.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Masara, were you discussing the matter of woman in the context of affirmative action or what you feel about the Supreme Court's determination?

Hon. Peter Masara (Suna West, ODM): The memorandum has several issues, including gender, the NG-CDF and Cabinet Secretaries appearing in the House. What I was discussing is in the public domain. I doubt if there is a Standing Order that bars me from mentioning something that every church is talking about. I am a Christian. I cannot talk about gender without mentioning that matter. We want to mainstream gender issues but when they are messing up, then we should not increase them in that manner. We need to empower women to be elected like Hon. Adagala, who is serving her second term in an elective position. If women are empowered, then many of them will be elected.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Masara, give me a minute. I will add you time. Do not worry. Our Standing Order 87 forbids discussing the conduct of a judge and those other State Officers set therein, unless there is a substantive Motion. So, to the extent that you did, if that will be confirmed by our system, I order everything you said in that regard be expunged from the *Hansard* and records of Parliament.

You may proceed. Do not worry about the light.

Hon. Peter Masara (Suna West, ODM): Okay.

The Temporary Speaker (Peter Kaluma): You have your right to contribute without undue haste on the matters, taking into account also the interruptions we have had against you. Did you say that his time is nearly up?

Proceed, Hon. Peter Masara.

Hon. Peter Masara (Suna West, ODM): I request you compensate me for the time lost during Hon. Adagala's engagement.

The Temporary Speaker (Peter Kaluma): Hon. Peter Masara, I know that Hon. Adagala has really engaged you.

Hon. Peter Masara (Suna West, ODM): We are friends and she is my in-law. I am married from her area.

The Temporary Speaker (Peter Kaluma): Before you veer off from the subject, how many more points do you have to make, and how many minutes are you requesting for?

Hon. Peter Masara (Suna West, ODM): If you give me three minutes, I will be done.

The Temporary Speaker (Peter Kaluma): Be done within three minutes.

Hon. Peter Masara (Suna West, ODM): Hon. Temporary Speaker, I want to add my voice on the issue of NG-CDF, which is a very important fund in this country. If you survey today, people in all constituencies will talk about its benefits.

So many students in day secondary schools are now there, courtesy of NG-CDF. So many old men and women go to hospital, courtesy of NG-CDF. There are so many classrooms, police stations and chiefs' offices. The building where the Office of the Deputy County Commissioner is domiciled in my constituency was constructed by NG-CDF. You went there sometime, when we were in the Departmental Committee on Administration and Internal Affairs. All police stations were constructed using NG-CDF. All laboratories in 24 secondary schools were constructed using NG-CDF. I managed to construct 19 schools using NG-CDF in a span of five years.

I am in this Parliament again, courtesy of NG-CDF. How I utilised the NG-CDF enabled me to persuade the people of Suna West that electing a good leader can cause good service delivery to them. Therefore, I urge that we move with speed to ensure that the NG-CDF is part and parcel of this Constitution. If possible, we can suggest to increase even the figures, so that many people can benefit and many projects can be done.

Finally, as Kenyans, let us come out when Hon. Raila Amolo Odinga calls for mass action. Let each and every one come out because through it, the Government sitting in executive offices feels the heat of the public. People are really suffering out there. This is the first time many hustlers are saying how they wish they knew, they would have elected Hon. Raila so that they can get Ksh6,000 per month, and free education and healthcare. This is the right time for Kenyans to compensate for the lost time. Let everybody come, including Members of Parliament and Hon. Speaker, so that we can bring the lost glory of Kenya where Kenyans can say they are very happy to be members of....

(Laughter)

The Temporary Speaker (Hon. Peter Kaluma): Hon. Masara, at some point in time, I could not remember the Motion you were contributing to towards the end. So long as you are able to connect it to the memorandum from the President, there is no objection from other Members in the House. I will let it go but we must always keep to the rule of relevance.

Hon. Beatrice Adagala, Member of Parliament for the great people of Vihiga County.

Hon. Beatrice Adagala (Vihiga County, ANC): Thank you, Hon. Temporary Speaker for giving me this chance. Hon. Masara has said that he is my in-law. He has contributed on the general debate on the proposal to Parliament to consider amending the Constitution and the Standing Orders. I concur with him on the issue of the NG-CDF. It should be anchored in the Constitution because the NG-CDF and the NGAAF have achieved a lot. I was happy to see most women parliamentarians, including new Members who are yet to receive this year's NGAAF allocation, contributing to the Motion. I support the proposal to fully anchor it in our supreme law. Some people would say that they support it with all their body organs. I support it with my legs, hands and head. If it was something to carry, I would carry it on my head saying that it should have come as soon as yesterday. I support it 100 per cent.

On the issue of Cabinet Secretaries coming to the House, in previous regimes, some rogue Ministers who ignored summons to appear in this House to respond to Questions set a bad example. That is why with the promulgation of the new Constitution, Cabinet Secretaries no longer come to the House. I support the proposal for Cabinet Secretaries to come and answer Members' Questions in this House so that if there is an urgent issue bothering Kenyans across the country, it can be deliberated on in this House and a solution provided urgently, unlike a situation whereby Cabinet Secretaries fail to appear before Committees to answer Questions but instead send their Principal Secretaries. I strongly support the idea.

The new Constitution came into existence in 2010 and a review is overdue. It is now 10 years since it was promulgated.

On the issue of gender, I heard Hon. Masara talking about women's issues. I would like to remind him that he is a son of a woman who carried him in her womb for nine months. He probably also has a sister, wife and an aunt. Knowing where he comes from, most Luo families, especially in his Kanyamkago Village, usually have around 10 wives. He must have 50 daughters or so. He has to take good care of those women. He usually calls me "in-law" or *shemeji*. He knows I will not allow him to marry many wives because where I come from, ladies are very strict and they do not tolerate that. He is in for a rude shock. I ask the Member to respect women. He should know that the third arm of the Government is led by a lady, the Hon. Chief Justice Martha Koome. She stated the phrase "hot air" at the right time. It is now part of the vocabulary all over. I would like to tell Hon. Masara that what he said concerning gender is "hot air". Gender issues do not just refer to women. There is a lady from the Amani National Congress (ANC) in his constituency whom I am empowering to take over from him. I saw him fighting with another Member and I am very sure he knows *hiyo kiti imeenda*. That seat will be won by an ANC Party candidate. He should note that the whole of Migori County....

The Temporary Speaker (Hon. Peter Kaluma): What is out of order, Hon. Masara?

Hon. Peter Masara (Suna West, ODM): Is it in order for Hon. Adagala to use unparliamentary language? She said, "*Hiyo imeenda*." I doubt if that language is parliamentary. In my constituency, 99.9 per cent of the people are in Orange Democratic Movement (ODM) and so, I am wondering where the issue of ANC is coming from. I am not even from Uriri Constituency but from Suna West Constituency. She needs to know that I am from Suna West and not Uriri and in my constituency, everybody is actually in ODM. When she is talking about ANC, she might have forgotten that she is in a small village party with a few Members who cannot even form a quorum.

Hon. Adagala, it is important to note that when you are talking about a party and you know that ODM Members are there, you better not mention ANC because it is a village party.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Adagala, the Standing Orders require that when you begin speaking in either English or Kiswahili, you continue that way up to the end.

Hon. Adagala Beatrice (Vihiga County, ANC): Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): What were you saying *imeenda*?

Hon. Adagala Beatrice (Vihiga County, ANC): Hon. Temporary Speaker, I apologise. I understand that he is threatened. The other day, he fought at a funeral. He is afraid that ANC is taking his seat and even the Uriri one. You must know that ANC...

The Temporary Speaker (Hon. Peter Kaluma): Hon. Beatrice Adagala, did you just say that Hon. Peter Masara fought at some funeral?

Hon. Adagala Beatrice (Vihiga County, ANC): Yes. I saw a video clip making rounds on social media showing him fighting. I know it is partly because of the insecurity he has about his seat going. I want to assure this House...

The Temporary Speaker (Hon. Peter Kaluma): Hon. Adagala, you are required by the Standing Orders to substantiate some of these things. I know you are a very good friend of Hon. Masara but do not risk. If you are not very sure, please, withdraw and then we will accord you time to continue with your useful contribution.

Hon. Adagala Beatrice (Vihiga County, ANC): Thank you. It was on a lighter note. He is my brother-in-law. I think I can withdraw but he should note that ANC is one of the biggest parties in this country.

The Temporary Speaker (Hon. Peter Kaluma): No, Hon. Adagala. You know how it is done. You are a very old and competent Member of the House. You know that when you

withdraw, you do so unequivocally. You cannot say that you may withdraw. Could you withdraw that part so that we can continue with the substance of the Motion?

Hon. Adagala Beatrice (Vihiga County, ANC): Thank you. I withdraw and apologise to Hon. Masara

The Temporary Speaker (Hon. Peter Kaluma): Thank you. Proceed.

Hon. Adagala Beatrice (Vihiga County, ANC): Hon. Masara should stop talking about ANC. He should know that ANC is a very big party that is part of the Kenya Kwanza Government. We are the Government.

I now want to go back to the Motion. He actually brought in a lot of disorder. I want to tell him that when it comes to gender issues, he should stop assuming that it only involves women. I have heard people contributing and they think that when we talk about gender, the agenda is all about women. I was telling Hon. Masara that I am trying to groom somebody who will take over from him in his constituency because men are thinking that issues of gender are just about women.

In 2027, most of the constituencies, senatorial and gubernatorial seats will be occupied by women. Therefore, males are the ones who will be at a disadvantage. I, therefore, want to ask Members in this House, including Hon. Masara to pass the two-thirds gender Bill. This is a serious issue which has to be looked into. I want to ask the House to ensure that the two-thirds gender Bill is passed.

On creation of Office of the Leader of Official Opposition, I want to tell the Members who are opposing that this office is not meant for one person. We can even have Mr. Wajackoyah as the leader of opposition. Let us not look at it as if it is being formed because of our retired...

The Temporary Speaker (Hon. Peter Kaluma): Hon. Adagala, I will add you two minutes but I want to warn you from going against Standing Order No. 87. You have contradicted Standing Order 87, which prohibits you from discussing any leader without a substantive Motion.

Hon. Adagala Beatrice (Vihiga County, ANC): Thank you, Hon. Temporary Speaker for giving me an extra minute.

Actually, on the office being established, it is not spelt out to whom it belongs. It will be a constitutional office which will be held by an opposition leader. The Government also needs to be checked. If all of us are in Government, who will check the Government? That is why I feel very good to see Hon. Masara there. He has to check this Government to see to it that food is available. He should check the health sector and see to it that everything is working. Let us not think that we can all be in one party.

I support the establishment of the Office of the Leader of Official Opposition.

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Thank you very much, Hon. Beatrice Adagala. Hon. Rindikiri, you had contributed to this Motion. Am I right? On the memorandum by the President, I thought you did. If Hon. Rindikiri had not contributed, it would be in order to recognise and give him time to contribute.

Hon. Mugambi Rindikiri (Buuri, UDA): I thank you, Hon. Temporary Speaker for giving me this opportunity to contribute to the memorandum by the President on various constitutional amendments touching on the NG-CDF, the NGAAF and the Senate Oversight Fund; amendment to Standing Order 42 to enable Cabinet Secretaries to appear before Parliament to answer Questions, the gender law and creation of Office of the Leader of Official Opposition.

On the issue of NGAAF, together with the NG-CDF, these are two important funds that have been seen to contribute quite a lot to communities. Our women rely quite a lot on support from the NGAAF in terms of starting small businesses, and bursaries for disadvantaged boy

and girl children. The fund has brought a lot of women together in environmental conservation programmes. The NG-CDF is known for education, security and bursaries. We need to support these programmes because they are the only visible projects in our areas of representation. We need more money in NG-CDF and NGAAF. The time has come for us to increase the amount from the current allocation of 2.5 per cent of national revenue for NGCDF to at least 15 per cent. The amendments should include restructuring of the NG-CDF Act so that we are allowed to perform duties other than education and security.

The two-thirds gender rule is a serious matter in this country. When it comes to elective positions, my view is that everybody should be allowed to go to the field and ask for votes. Let the best person win. As far as I am concerned, the two-thirds gender rule on positions to Parliament should be free for the best person to win.

Hon. Temporary Speaker, all nominations done in the Executive by the President or the governor should go to the disadvantaged gender. Similarly, nominations in the county assemblies, the Senate and the National Assembly should be reserved for the weaker gender. The problem we have right now is that a majority of us think that women are more disadvantaged. Actually, in many cases, the male person is being threatened by the strength of the woman in this country. I would like to see a case study done in the world that proves that this two-thirds gender law is practically possible. I have not come across any. I do not think Kenya will be forced to adopt a two-thirds gender rule just to please either gender. I am sensitive about women and men but we are looking at how this rule will be implemented for it to make sense in our society.

Hon. Temporary Speaker, on Standing Order 42, we have a presidential system of governance...

The Temporary Speaker (Hon. Peter Kaluma): Hon. Rindikiri, the House always benefits from your thoughtful contributions. I wanted to pick your mind on the new definition of “gender” coming from the Supreme Court. I know some Members have not looked at it but you always do – I know you have looked at it. According to the Supreme Court, Article 27 which we are debating affirmative action on, redefines gender. Gender now includes male, female and intersex, which has been recognised in Kenya; queer or those questioning their gender, and those others. In your view, would you rather we meet the affirmative action requirement in the context of all those new gender parameters?

Hon. Mugambi Rindikiri (Buuri, UDA): Thank you, Hon. Temporary Speaker, for refreshing my memory on this new definition of gender. It has gone into the history of Kenya that there is another dictionary from the Supreme Court that has defined gender to include lesbian, gay, queer behaviour, *et cetera*. This complicates the aspect of who we define as “gender.” As it is, the issue of sexual orientation has been brought out practically where both men are involved in sexual intercourse without respect of the human nature the way it was defined. This will require another definition of “gender” in my view. Therefore, we would like to bring in an amendment of the word “gender” to include gays. The problem is, “Where are they going to be represented?” Are they the majority or the minority? So, the competition is now between the gender woman and the gender male who are practising sexual orientation. We need to be very careful here on what we are calling the “gender.” The first thing we are going to do is to redefine again the word “gender” to include male so that we see the numbers they have. Thereafter, we will agree whether they are the majority or the minority. As it is, according to the Supreme Court’s definition, we are in danger of carrying this Motion forward in the context of the new development in definition. That is my view.

The Temporary Speaker (Hon. Peter Kaluma): Thank you for your wise contribution, Hon. Rindikiri. Member Kieni, do you want to contribute or have you already contributed to this Motion? Let me confirm. If you want to contribute, the microphone is already asking you

to speak. Member for Kieni, forget about the card. Your microphone is on. Do you want to contribute? Had you contributed?

Hon. Antony Wainaina (Kieni, UDA): Okay. I will. I have not contributed.

The Temporary Speaker (Hon. Peter Kaluma): Proceed.

Hon. Antony Wainaina (Kieni, UDA): Thank you so much, Hon. Temporary Speaker. I may not have had an opportunity to go through what was being debated very well, but I am a fast learner. I am not a scientist. I am a historian. I learn very fast on matters that are before me.

First and foremost is on matters of the NG-CDF, the proposed allocation to our Senators and how it has been structured. How I wish all government spending is structured like the NG-CDF. Only 6 per cent of the NG-CDF goes to Recurrent Expenditure. Therefore, over 90 per cent of the allocation to the NG-CDF goes directly to Development Expenditure, unlike with the National Government and county governments where far below 30 per cent or even much less goes to development. Recurrent Expenditure takes a lot of money. How I wish the Government borrowed the foundation of the NG-CDF so that much of the allocations going to county governments go towards development. I suggest it would be good if the allocation to the NG-CDF is not only doubled but also made tenfold. The money that the public of Kenya feels is that which has been contributed through the NG-CDF. It is a community fund. It goes a long way to assist the communities in their development agenda. Were it not for the NG-CDF, I wonder what would have been the education status for this year. When the NG-CDF was just about to become extinct early this country, you remember the hue and cry we had across the country. It is only through the NG-CDF that a majority of our students have gone through the education system up to university.

I cannot forget to comment on the NGAAF of the Women Representatives. They are wonderful. They have done wonders in their communities using the very little funds that go to them. It is for that purpose that we say both the NG-CDF and the NGAAF are the most important funds going to the public. For that purpose, I wish this House could have these funds entrenched in the Constitution quickly and have more resources allocated to them.

On matters before us about the two-thirds gender rule and everything that has been debated, I invite this House to the real condition in Kieni. Out of every 100 students going to university, 70.7 per cent are girls. Therefore, only 29.3 per cent are boys. When we debate this gender rule now, it is something that is for posterity. In 10 or 15 years, the boy-child is the one who will need this law passed well. They shall be the biggest beneficiaries of what we may pass now. The gender rule is not for women. It has a lot of bearing on men as well, particularly in days ahead. With the current problem of illicit brews, and drugs and substance abuse, the male child is an endangered species. Therefore, this rule is what will make males to be represented in the House in the future. Otherwise, they will be extinct in the House. It is also very progressive that the women in this House increase after every election. Therefore, progressively, this is something that will be achievable. We may achieve it but at the same time, the male-child will be extinct in this House. So, it is good we pass a Bill that will protect the endangered gender.

There is also the other issue of the new definition of gender by the Supreme Court, which is not understood well. I do not understand it. We need the court to expound it further and give us a proper meaning because at the moment we have female and male genders.

Hon. Temporary Speaker, you are the champion of what lay ahead of us. We have to defend our culture. Therefore, we may not have real meaning of some of these things.

I support the Motion and rest my case.

The Temporary Speaker (Hon. Peter Kaluma): Thank you very much. Hon. Jessica Mbalu.

Hon. Jessica Mbalu (Kibwezi East, WDM): Thank you, Hon. Temporary Speaker. I must say that you are very keen because the last time I said something on this Motion, I was on a point of order. Congratulations on being keen while on the Speaker's Chair.

I want to be on record in supporting the Motion on General Debate on the Proposal to Parliament to Consider Amending the Constitution and the Standing Orders. The memorandum was submitted to Parliament by His Excellency the President to initiate some amendments in the Constitution. I realise that the contents of some of the Bills debated here during the 11th and 12th Parliaments are part of the proposals that have been brought to Parliament for us to actualise.

I will pick the Bill on the two-thirds gender rule. These are proposals for amending Articles 97 and 98 of our Constitution, which we have been unable to implement. We really face a constitutional crisis. Every other time we have meetings, we are being told to see how we can implement this Bill. This is the House that will implement it. I welcome the proposal on the two-thirds gender rule. I am so happy because when we talk about it, we do not mean women only. We may have more women than men in this Parliament and in other offices very soon. So, we are working on the same.

There is also the issue of the NG-CDF. We are all aware of what it does for our constituencies and counties. This has been a debate. I appreciate the proposal to amend the same and anchor it in the Constitution. The NG-CDF has brought a lot of development in our country. Students have been going to school. We have done a lot in the environment. As you are aware, we are facing climate change challenges. So, I support it.

There is also the NGAAF. We have 47 women Members of Parliament from the counties. We have seen the social impact of their contribution in the communities and residents of our respective areas. It is only a fool who cannot support anchoring of the same funds in the Constitution. Pursuant to the provisions of Articles 1 (2) and 95 (2) of the Constitution, I support that the House notes and considers the general comments on the proposals. I know it has taken a long time for us to debate this Motion but this is the only House that can debate, pass and implement. We acknowledge that this was brought by a notification on the 9th of December. Matters were raised and they were referred to us. I am on record as supporting the memorandum of amending the Constitution and our Standing Orders, especially on the three items I have mentioned.

I support.

The Temporary Speaker (Hon. Peter Kaluma): Are you done with your contribution?

Hon. Jessica Mbalu (Kibwezi East, WDM): I thought we were advised to conclude because of time. I was not done with my contribution.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Jessica Mbalu, you will have six minutes to continue with your contribution on this Motion when the House sits next time.

ADJOURNMENT

The Temporary Speaker (Hon. Peter Kaluma): Hon. Members, the time being 7.01 p.m., the House stands adjourned until tomorrow, Wednesday, 8th March 2023, at 9.30 a.m.

The House rose at 7.01 p.m.

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