



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – FOURTH SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

THURSDAY, MARCH 5, 2020

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Hon. Speaker
4. **COMMUNICATION FROM THE CHAIR**

The Speaker conveyed the following Communications –

(a) **Maintenance of Security in the Precincts of Parliament**

Honourable Members, I wish to draw the attention of the House to concerns that have been raised by the House Leadership and Members with regard to the security and safety of Members in the precincts of Parliament. Standing Orders 99, 100 and 101 are explicit on maintenance of security in the House. The provisions of these Standing Orders are also replicated in the Speaker's Rules.

Honourable Members, the concerns raised include the increased human traffic whereby there has been an alarming number of visitors hanging around the corridors and in the restaurants in Parliament. Indeed, it is a major concern that at times, there have been more visitors in the restaurants than Members. In addition, it is a common occurrence to find visitors, staff of the Commission and staff of the Members walking in the corridors without displaying their identification badges. Further, it is very alarming that visitors in Parliament are being allowed into the buildings with bags and other luggage. There have also been cases of visitors accessing the galleries without going through security screening. There are also reports of visitors and former Members holding parliaments' vehicle passes.

You will agree with me that the above concerns present major security concerns, and the situation needs to be urgently addressed.

Honourable Members, in view of the above, I wish to reiterate my communication to the House made on October 11, 2017 where I called upon all Members to accord the necessary cooperation and support to the officers who are responsible for enforcement of the rules relating to security in the precincts of Parliament. These officers are also mandated to conduct stringent screening of Members'

vehicles before allowing them access into the precincts of Parliament. The officers are instructed to ensure security in the precincts of Parliament without fail.

Honourable Members, the Speaker's rules are categorical on the number of visitors that a Member can bring to any part of the buildings or precincts of Parliament; that number is two visitors per Member at a given time. In view of the limited space in the Parliament Buildings particularly the restaurants which have a total sitting capacity of 340, against a Membership of 418 in the two Houses, there is need therefore to further limit the number of visitors accessing the restaurants.

In view of the foregoing, the following measures should be strictly adhered to henceforth –

- (i) All persons must go through security screening before entering the precincts of Parliament;
- (ii) Upon going through security screening, all visitors must be given physical passes signed by the Speaker or the Clerk bearing that day's date and thereafter directed to the relevant offices;
- (iii) All passes issued whose permit is to access Parliaments Buildings for a day shall be surrendered to the security at the gates at the time of exiting the buildings;
- (iv) All visitors, staff of the Commission and staff of Members of Parliament should at all times display their identification badges;
- (v) No visitor is to be allowed into the Parliament Buildings with bags or other luggage. All such bags and luggage must be left at the luggage holding area to be set up near the Ministers' gate. The officers responsible for safety and security are hereby directed to put in place administrative measures for the management of left-luggage;
- (vi) Security officers and orderlies should be discouraged from accompanying visitors and witnesses attending Committee sittings as they end up hanging and idling around the corridors of Parliament Buildings in large numbers. They should instead wait at the parking bays or in the vehicles;
- (vii) No person shall be allowed to access the Galleries without going through security screening;
- (viii) Officers responsible for safety and security must ensure that the vetting process for Members and Staff for purposes of issuance of vehicle passes is henceforth enhanced, and such passes ought not be issued to visitors or former Members;
- (ix) There should be adequate manning of the Parliament Buildings and random security patrols carried out in all the buildings, and parking bays including the basement parking;
- (x) No vehicles should be left at the basement parking for unreasonably long periods of time; and
- (xi) Whereas the "*two visitors rule per Member*" for admission into the restaurant remains, going forward, the restaurant in the Main Parliament Buildings will only admit a maximum of 45 visitors at a time. This number

represents about fifteen percent of the total sitting capacity of the said restaurant.

Members are therefore encouraged to refrain from having repeat visitors in order to give as many other persons as possible the opportunity to access the restaurant.

Honourable Members, given these new challenges, the Speaker's Rules, 2017 will be reviewed in order to reflect the current modern safety and security standards. In the meantime, as the Chairperson of the Parliamentary Service Commission, I will, in the course of the coming week, issue a circular to actualize this Communication with respect to admission and conduct of visitors within the precincts of Parliament.

The House is accordingly guided.

I thank you."

(b) **Resolutions of County Assemblies on the Draft 'Punguza Mzigo' (Constitution Amendment) Bill 2019**

"Honourable Members, you will recall that on 5th December, 2019 I made a Communication to the House regarding the status of delivery of decisions on the *Draft Punguza Mizigo (Constitution Amendment) Bill, 2019* by the County Assemblies to the Speakers of the two Houses of Parliament.

In the Communication, I also informed the House that the Speaker of the Senate and I had jointly developed and published ***Standard Guidelines for Delivery by the County Assemblies to the Speakers of the two Houses of Parliament of a Draft Bill for the amendment of the Constitution by Popular Initiative*** to inform the process. The *Guidelines* were published in the *Kenya Gazette as Legal Notice No. 175 of 22nd November, 2019*.

Honourable Members, Paragraphs (5) and (6) of the *Guidelines* provide as follows, and I quote—

(5) Upon the expiry of the period specified under Article 257(5) of the Constitution for the consideration of a draft Bill by a County Assembly, the Speakers of the two Houses of Parliament shall—

(a) report to their respective House of Parliament—

- (i) the County Assemblies that have submitted the draft Bill and the certificate approving the Bill;*
- (ii) the County Assemblies that have submitted the draft Bill and the certificate rejecting the Bill;*
- (iii) the County Assemblies that did not submit the draft Bill and the certificate;*
- (iv) whether or not the threshold required under Article 257(7) of the Constitution has been met; and*
- (v) such other information as the Speakers of the two Houses of Parliament may consider necessary; and*

(b) submit to the Independent Electoral and Boundaries Commission and publish, by notice in the Gazette, the information specified under subparagraph (a).

(6) The Speakers of the Houses of Parliament shall not receive any draft Bill and certificate where the Bill was considered by the County Assembly after the expiry of the period specified under Article 257(6) of the Constitution.

Honourable Members, in furtherance to requirements of paragraph 5 of the said Guidelines in respect of the *Draft Punguza Mizigo (Constitution Amendment) Bill, 2019*, I reported to the House the statistics of the submissions which had been formally delivered by the respective Speakers of the County Assemblies as at December 5, 2019. In that Communication, I did inform the House that-

- (a) **Twenty-six (26)** County Assemblies had delivered the draft Bill with a certificate indicating their respective decisions on the Bill;
- (b) Out of the twenty-six, three **(3)** County Assemblies, that is, Machakos, Turkana and Uasin Gishu had approved the Bill;
- (c) Out of the same number, **twenty-three (23)** County Assemblies had rejected the draft Bill. These were: Kwale, Kilifi, Tana River, Wajir, Mandera, Marsabit, Isiolo, Meru, Tharaka-Nithi, Kitui, Makueni, Nyeri, Murang'a, Samburu, Trans Nzoia, Nandi, Laikipia, Narok, Kajiado, Kericho, Bomet, Bungoma and Busia;
- (d) **Twenty-one (21)** other County Assemblies were yet to deliver decisions on the draft Bill to the Speakers of the Houses of Parliament with a certificate indicating either their approval or rejection of the Bill.

These were the County Assemblies of Mombasa, Lamu, Taita/Taveta, Garissa, Embu, Nyandarua, Kirinyaga, Kiambu, West Pokot, Elgeyo/Marakwet, Baringo, Nakuru, Kakamega, **Vihiga**, Siaya, Kisumu, Homa Bay, Migori, Kisii, Nyamira and Nairobi City.

The Speaker of the Senate and I did publish this information in the *Kenya Gazette as Gazette Notice No. 11013 dated 22nd November, 2019* for the information of the public.

Honourable Members, the County Assembly of Machakos initially submitted their certificate on October 24, 2019. Whereas the certificate indicated the County Assembly had rejected the draft Bill, the forwarding letter indicated the opposite. We have since received clarification to the effect that the County Assembly of **Machakos DID NOT** actually approve the *Punguza Mizigo (Constitution Amendment) Bill, 2019*. In addition, we have also received a certificate indicating the rejection of the said Bill by the County Assembly of **Vihiga**. This was one of the twenty-one County Assemblies which had not submitted their certificates to the two Speakers of Parliament. Given the fact that there is no timeline within which a County Assembly has to submit its feedback to Parliament after having considered

the draft Bill under Article 257 of the Constitution within the stipulated ninety (90) days, the Speaker of the Senate and myself found it difficult to disallow the submission by the said County Assembly, even though it was submitted more than two months after the County Assembly had considered and made its decision on the draft Bill. Indeed, this lacuna is one of the several gaps that have been identified with respect to the process of amending the Constitution through popular initiative under Article 257 of our Constitution, which in our view may require to be addressed in law, or through other legislative instruments. As Speakers of the two Houses of Parliament, the experience of the *Punguza Mizigo (Constitution Amendment) Bill, 2019* has caused us to reflect on a number of questions. For instance, since the Constitution obligates **ONLY** the County Assemblies which have approved such a Bill to send their certificates to the Speakers of the Houses of Parliament, **are we to assume that those County Assemblies whose certificates have not been received, considered and rejected the Bill?**

Further, since the three months timelines under Article 257(5) and (6) of the constitution relates to the period of consideration of the Bill by County Assemblies, and **NO** timeline is prescribed for the conveyance of the certificates to Parliament, for **how long should the Speakers of the Houses of Parliament wait for the Speakers of County Assemblies to submit the approval certificates before pronouncing the fate of particular Bill?** It is clearly evident that there are gaps in the Constitution that ought to be addressed.

Nevertheless, **Honourable Members**, the new decisions now bring the total number of County Assemblies that rejected the draft Bill to **twenty-five (25)** and those that approved the Bill within the 90 days period to **two (2)**. Article 257(7) provides that if a draft Bill to amend the Constitution by popular initiative has been approved by a majority of County Assemblies, it shall be introduced in Parliament without delay. The statistics I have just read confirm that the ***Punguza Mizigo (Constitution Amendment) Bill, 2019 did not meet the threshold to be introduced in Parliament, and hence stands lost.***

In this regard, I hereby direct the Clerk to submit this information to the Independent Electoral and Boundaries Commission and also publish the same in the *Gazette* as required under paragraph (5)(b) of the *Guidelines* published 22nd November, 2019.

The House is accordingly informed.

I thank you.”

5. PETITIONS

The following Petitions were presented to the House –

- (a) Petition by the Member for Uasin Gishu County (Hon. Gladys Shollei) on behalf representatives of the Biodiversity and Biosafety Association of Kenya (BIBA-K), the Kenya Organic Agriculture Network (KOAN), Resources Oriented Development Initiative (RODI KENYA) and Route to Food Initiative (RTFI)

regarding withdrawal of harmful chemical pesticides from the Kenyan market; and

- (b) Petition by the Member for Bumula Constituency (Hon. Mwambu Mabonga) on behalf of concerned residents of Bumula Constituency regarding incessant incidences of insecurity in Bumula Constituency.

Petitions referred to the relevant Departmental Committees pursuant to Standing Order 227.

6. **PAPERS LAID**

The following Papers were laid on the Table of the House –

- (a) List of nominees to Eighty (80) National Government Constituencies Development Fund Committees from the National Government Constituencies Development Fund Board for the following Constituencies –

1. Ainabkoi	28. Kibra	55. Mwea
2. Aldai	29. Kibwezi West	56. Nandi Hills
3. Awendo	30. Kieni	57. Narok South
4. Baringo Central	31. Kinangop	58. Navakholo
5. Borabu	32. Kirinyaga Central	59. Njoro
6. Budalangi	33. Kisauni	60. North Imenti
7. Butere	34. Kisumu East	61. Nyaribari
8. Central Imenti	35. Kitui Central	Masaba
9. Chesumei	36. Kitui Rural	62. Oljoro Orok
10. Embakasi West	37. Kitui South	63. Othaya
11. Gatundu South	38. Konoin	64. Rabai
12. Gatundu North	39. Langata	65. Rangwe
13. Gilgil	40. Laikipia West	66. Rongo
14. Githunguri	41. Likoni	67. Samburu West
15. Igembe North	42. Likuyani	68. South Mugirango
16. Igembe South	43. Luanda	69. Soy
17. Juja	44. Manyatta	70. Suba North
18. Kabete	45. Maragua	71. Taveta
19. Kamukunji	46. Mathioya	72. Tetu
20. Kangundo	47. Mathira	73. Tiaty
21. Kajiado South	48. Matungu	74. Tigania East
22. Kajiado West	49. Mbeere South	75. Turkana Central
23. Karachuonyo	50. Molo	76. Turkana East
24. Kasipul	51. Mwingi West	77. Turkana North
25. Kathiani	52. Msambweni	78. Turkana South
26. Kesses	53. Mukurwe-Ini	79. Ugunja
27. Khwisero	54. Mumias East	80. Yatta

(The Leader of the Majority Party)

- (b) Reports of the of Departmental Committee on Labour and Social Welfare on its consideration of the –

- (i) The Labour Relations (Amendment) Bill (National Assembly Bill No. 18 of 2019); and

- (ii) The Care and Protection of Older Members of the Society Bill (Senate Bill No. 17 of 2018).

(Vice-Chairperson, Departmental Committee on Labour and Social Welfare)

- (c) Departmental Committee on Defence and Foreign Relations' Report of the Delegation to the Oversight Inspection Visit to Kenya Missions in Muscat, Sultanate of Oman and Abu Dhabi, United Arab Emirates (UAE) from 10th to 17th November, 2019.

(Hon. Caleb Amisi-Member of the Delegation)

- (d) Departmental Committee on Defence and Foreign Relations' Report of the Delegation to the Oversight Inspection Visit to Kenya Diplomatic Missions in Zambia and Republic of South Africa from 1st to 8th September, 2019.

(Hon. Charles Kilonzo-Member of the Delegation)

- (e) Report of the Committee on Implementation on a Study Visit to Lusaka, Zambia from 3rd to 9th March 2019.

(Chairperson, Committee on Implementation)

7. **QUESTIONS**

- (a) The following Questions were asked –

- (i) Question No.029/2020 by Nominated Member (Hon. Nasri Sahal) regarding stalled construction of *Modogashe- Samatar* Road in Wajir County despite the project having received funding.

(To be replied to by the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works before the Departmental Committee on Transport, Public Works and Housing)

- (ii) Question No.038/2020 by the Member for Kabete (Hon. Githua Wamacukuru) regarding the reasons why patients under the National Hospital Insurance Fund (NHIF) programme are mostly instructed to purchase prescribed medicine from outside the facility and measures put in place to address the matter;

(To be replied to by the Cabinet Secretary for Health before the Departmental Committee on Health)

- (iii) Question No.039/2020 by the Member for Marsabit County (Hon. Safia Sheikh Adan) regarding when the Independent Electoral and Boundaries Commission (IEBC) will demarcate boundaries of all the constituencies in Marsabit County to address uncertainties regarding physical features that guide limits of the said boundaries.

(To be replied in writing by the Independent Electoral and Boundaries Commission)

- (iv) Question No.040/2020 by the Member for Laikipia County (Hon. Catherine Waruguru) regarding progress report by the Ministry of Lands on issuance of title deeds to public schools in Laikipia County in line with a government directive?

(To be replied to by the Cabinet Secretary for Lands before the Departmental Committee on Lands)

- (b) The following Question was deferred –
- Question No. 041/2020 by the Member for Sigowet-Soin (Hon. Kipsengeret Koros) regarding status of construction of *Kapsoit – Sondu* Road in Sigowet-Soin Constituency.

8. **STATEMENTS PURSUANT TO STANDING ORDER 44**

(a) The following Statements were requested –

- i) The Member for Kisumu Town West (Hon. Olago Aluoch) requested a Statement from the Chairperson, Departmental Committee on Lands regarding illegal acquisition and re-allocation of parcel of land LR. No. 332/182 belonging to National Police Service (Administration Police) in Maseno Township, Kisumu County.

(Statement referred to the Departmental Committee on Lands)

- ii) The Member for Embakasi Central (Hon. Benjamin Gathiru Mwangi) requested a Statement from the Chairperson, Departmental Committee on Transport, Public works and Housing regarding viability of the Mombasa-Nairobi Standard Gauge Railway (SGR) Project.

(Statement referred to the Departmental Committee on Transport, Public Works and Housing)

(b) The Chairperson of the Departmental Committee on Education and Research made a Statement in response to a request from the Member for Wajir West Constituency (Hon. Ahmed Kolosh) regarding withdrawal of teachers by the Teachers Service Commission from the North eastern region.

(c) Pursuant to the provisions of Standing Order 44(2)(c), the Leader of the Majority Party issued a Statement regarding the Business of the House for the week commencing Tuesday, March 3, 2020.

(Statements laid on the Table of the House)

9. **MOTION - REPORT ON THE BUDGET POLICY STATEMENT, 2020**

Motion made and Question proposed;

THAT, this House **adopts** the Report of the Budget and Appropriations Committee on the Budget Policy Statement 2020 and the Medium Debt Management Strategy for the Financial year 2020/2021, *laid on the Table of the House on Wednesday, March 04, 2020* and-

- (a) **approves** the Budget Policy Statement 2020 and the Medium Debt Management Strategy for the financial year 2020/2021;
- (b) **resolves** that the Budget Policy Statement so approved forms the basis for the introduction of the Division of Revenue Bill, 2020; and,
- (c) further makes the **policy resolutions** contained in the First Schedule to the Order Paper.

(The Chairperson, Budget and Appropriations Committee – 04.03.2020)

Debate interrupted on Wednesday, March 4, 2020 (Afternoon Sitting) resumed;

Rising in his place on a Point of Order pursuant to Standing Order 95, the Member for Endeless (Hon. (Dr.) Robert Pukose) claimed to move “that the Mover be now called upon to reply”;

And the Speaker having acceded to the claim;

Question put and agreed to;

Thereupon, Mover replied;

Question put and agreed to.

10. **THE BUSINESS LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 80 OF 2019)**

Order for Second Reading read;

Motion made and Question proposed –

THAT, the Business Laws (Amendment) Bill (National Assembly Bill No. 80 of 2018) be now read a Second Time

(The Leader of the Majority Party)

Debate arising;

(Change of Chair from the Hon. Speaker to the Fourth Chairperson)

(Change of Chair from the Fourth Chairperson to the First Chairperson)

Mover replied;

Putting of the Question deferred to another day.

And the time being Seven O'clock, the First Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

11. **HOUSE ROSE** - at Seven O'clock.

MEMORANDUM

The Speaker will take the Chair on
Tuesday, March 11, 2020 at 2.30 p.m.

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