

# PARLIAMENT OF KENYA

## THE NATIONAL ASSEMBLY

### THE HANSARD

Wednesday, 29<sup>th</sup> April 2020

The House met at 2.30 p.m.

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

### PRAYERS

**Hon. Speaker:** Given the circumstances we are operating in, I can see some of the Members who have been listed as having seats in the Chamber this afternoon still making their way in. Obviously, you know there are others who think that the House starts at 4.00 p.m., so they are still making their way in. For purposes of what we are supposed to do, I declare that we quorate for purposes of the preliminary business to be transacted.

### MESSAGE

#### APPROVAL OF MEDIATED VERSIONS OF TWO BILLS BY THE SENATE

**Hon. Speaker:** Hon. Members, as you are aware, Standing Order 41(4) of the National Assembly Standing Orders requires the Speaker to report to the House any Message received from the Senate. In this regard, I wish to report that I have received a Message from the Senate regarding its approval of the following two Bills:

- (a) Mediated Version of the County Governments (Amendment) (No.2) Bill (Senate Bill No.7 of 2017; and,
- (b) Mediated Version County Governments (Amendment) Bill (Senate Bill No.11 of 2017).

Hon. Members, in summary, the Message conveyed that the Senate, by a Resolution made on 21<sup>st</sup> April 2020, approved the mediated versions of two Bills. You will also recall that the two Bills were referred to a Mediation Committee after the Senate initially disagreed with the amendments made by the National Assembly.

The Mediation Committee was led by the Member for Kipipiri (Hon. Amos Kimunya, EGH, MP) on the side of the National Assembly. The reports of the Mediation Committees containing the mediated versions of said Bills were laid on the Table of the House, and Notice of Motion on the same given on Wednesday, 22<sup>nd</sup> April 2020 in accordance with the provisions of Standing Order 150(1). As you may have noticed from the Order Paper of today afternoon, the House Business Committee has since scheduled the two Bills to be considered by the House on Wednesday, 6<sup>th</sup> May 2020, thereby concluding the bicameral processes on the two Bills. The House is thus accordingly informed.

I thank you.

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Next Order!

### STATEMENTS

First is a Statement by the Member for Kinangop, Hon. Zachary Thuku.

#### DEMISE OF HON. KIMANI WANYOIKE

**Hon. Zachary Thuku** (Kinangop, JP): Thank you, Hon. Speaker, for this opportunity to issue a Statement of condolence on the demise of the late Hon. Kimani Wanyoike, former Member of Parliament for Kinangop and Kipipiri - the defunct Nyandarua South Constituency.

Hon. Speaker, I wish to make a Statement regarding the demise of a veteran politician and former Member for Nyandarua South - current Kinangop and Kipipiri constituencies. The late Hon. Kimani Wanyoike passed on while undergoing treatment in Nairobi.

The late Hon. Kimani Wanyoike had an illustrious career as a vocal trade unionist and a politician. It will be remembered that Hon. Wanyoike ran for Presidency in 1997 on the Forum for the Restoration of Democracy-People (FORD-People) ticket. The late Hon. Wanyoike was a charismatic, patriotic and dedicated numeral of his years, to the service of Nyandarua South Constituency and the nation at large. Kenyans will also remember him as one of the heroes who selflessly fought for multi-partyism, ushering the country into unprecedented spheres of democracy. He served for nine years as a Member of Parliament for Nyandarua South Constituency, later to be named Kinangop and Kipipiri constituencies in Nyandarua District.

On behalf of the National Assembly, the people of Kinangop Constituency and, indeed, on my own behalf, I convey our sincere condolences to his family, friends and the people of the larger Nyandarua County for this great loss. May his soul rest in eternal peace.

**Hon. Speaker:** Very well. Next Statement is by Hon. Caleb Kositany, the Member for Soi. Serjeant-at-Arms, can you inform the Member for Soi. He better be informed that he stands a chance of losing. The Member for Murang'a, Hon. Sabina Chege, are you requesting a Statement or you are providing some statements?

*(Hon. (Ms.) Sabina Chege spoke off record)*

Proceed to request the Statement then later, when we finish with the request, you can give the Statement. You do not have a card? What is it? Can you tell the ICT people that I do not want to hear these things about Member's cards not working; certainly, not at this time?

### REQUESTS FOR STATEMENTS

#### STATUS OF END OF TERM AND SEMESTER EXAMINATION FOR LEARNERS

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Speaker.

Pursuant to Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Education and Research regarding digital e-learning and the status of end of term and semester examination for learners in primary and secondary schools, colleges, universities and other institutions in this country.

Hon. Speaker, it is on the account of these ongoing challenges occasioned by the Coronavirus (COVID-19) pandemic in the country on schools' and colleges' learning programs, that I seek a Statement from the Chairperson of the Departmental Committee on Education and Research on the following:

- (i) What measures has the Ministry of Education put in place to address the learning and examination programmes for schools, colleges, universities and other institutions in the country, without compromising the education calendar and subsequent years for the learners including graduations and other ceremonies? This includes the Kenya Certificate of Primary Education (KCPE) and the Kenya Certificate of Secondary Education (KCSE) examinations.
- (ii) What measures is the Ministry putting in place to address the gap that e-learning is not equitable to all learners due to limited or no access at all to the internet, equipment gadgets such as radio and television, and other infrastructure such as power and electricity in their areas and homes?
- (iii) If the digital e-learning and use of other devices will, indeed, be enrolled, what measures has the Government put in place to ensure effective teaching dissemination and learning to all pupils and students in schools, colleges, universities and other institutions throughout the country, in holistic, cheaper - if not free - equitable, standardised and qualitative manner?
- (iv) Explain how the said digital learning away from classes will be accessible to those children from extremely disadvantaged families, whose parents have neither a laptop, smart television sets and smartphones or even electricity and other power sources.

I thank you, Hon. Speaker.

**Hon. Speaker:** Very well. Is the Chairperson of the Departmental Committee on Education and Research in the Chamber? I saw him in the morning. If he is not in the afternoon sitting, then the request will be channeled through the Leader of the Majority's Office.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, Wednesday, next week. I will ask Hon. (Ms.) Sabina Chege to give me a copy.

**Hon. Speaker:** Very well. The next request is by Hon. Martin Owino, Member for Ndihiwa.

#### STATUS OF PREPAREDNESS AND PRECAUTIONARY MEASURES IN SCHOOLS AHEAD OF KCPE AND KCSE EXAMINATIONS

**Hon. Martin Owino** (Ndihiwa, ODM): Thank you, Hon. Speaker.

Hon. Speaker, pursuant to Standing Order 44(2)(c), I wish to request a Statement from the Chairperson of the Departmental Committee on Education and Research, regarding preparations and precautionary measures during the end of year examinations for Class 8 and Form Four in the country during the COVID-19 pandemic.

Hon. Speaker, considering that the Government will open schools to allow students to take their end of year examinations for Class Eight and Form Four learners, while adhering to the measures put in place to contain and bring to end the spread of the Coronavirus, it has been observed notably, that many primary and secondary schools are still facing infrastructure challenges. For example, shortage of desks, overpopulated classrooms and dormitories, lack of modern technology, lack of access to water, soap and sanitisers, and the fact that some schools will be used as isolation and quarantine centres, if necessary.

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

- (i) What preparations and precautionary measures has the Ministry undertaken to ensure that Government policies and directives on hygiene and social distancing by learners are observed and adhered to, to the later when they re-open?
- (ii) What steps has the Ministry taken to ensure that essential commodities are available and will be distributed to all schools?
- (iii) What measures have the Ministry put in place to ensure that fumigation and sanitation of schools that were identified and used as quarantine centres are done?
- (iv) Could the Government consider waiving payment of tuition and exam fees to the needy students who cannot afford it considering that the income of many Kenyans has been diminished by COVID-19?
- (v) Does the Ministry have a plan to engage counsellors to promote guidance and emotional support systems considering the fact that COVID-19 is shrouded by fear and stigma?

**Hon. Speaker:** Once again, that is directed to the Chairman of the Departmental Committee on Education and Research. I am wondering why the Chairperson is not in the House because he is supposed to respond once we finish with these requests. The Chair of the Departmental Committee on Education and Research cannot be without a seat.

**Hon. Julius Melly** (Tinderet, JP): Thank you, Hon. Speaker. I also agree that Chairs of Committees should have seats so that they can respond to Statements and Questions. I pray that I will bring these Statements back to the House on Wednesday, next week. I also have a Statement.

**Hon. Speaker:** Serjeant-at-Arms, can you allocate one of these empty seats to the Chair of the Departmental Committee on Education and Research? We have decided that after 3.00 p.m., the seats of all those who had indicated that they are coming and are not here will be taken by those who desire to be present in the Chamber, but are in the tents and other holding areas.

The next request is by the Member for Thika Town, Hon. Patrick Wainaina Jungle. Is he in the House? Is he the one in a green tie? It looks like a snake.

Hon. Jungle, please, make your request.

#### STATUS OF APPLICATION FOR RENEWAL OF LAND LEASE FOR DEL MONTE COMPANY

**Hon. Wainaina Jungle** (Thika Town, Independent): Thank you, Hon. Speaker. I request for a Statement pursuant to Standing Order No.44(2)(c) regarding the status of the application for renewal of land lease for Del Monte Company.

Pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Lands regarding the status of the application for renewal of the land lease for Del Monte Kenya Limited.

Del Monte Kenya Limited is Kenya's largest producer and exporter of pineapple produce and other fruit beverages, moving an average of 4,000 containers per annum and earning the country over US\$90 million in foreign exchange annually. The company, which has been in existence in Kenya for more than 50 years, has established world class plantations and industrial operations providing employment for more than 6,500 Kenyans. As one of the largest single employer, the company injects about Kshs2.7 billion in annual payroll. In addition, the company pays over Kshs5 billion annually to more than 320 small-scale and medium-scale local suppliers

of various materials and services, as well as support industries and packaging materials. This further creates employment for almost 28,000 other Kenyans.

The land lease for Del Monte Company land expires in 2022 and Del Monte commenced a process of applying for renewal of the land lease in 2012. Regrettably to date, no decision has been made on the same. The delay is negatively affecting the company's operations, employees, suppliers and other dependents, as well as the livelihoods of thousands of families and hundreds of businesses that rely on the company's production.

It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Lands. In her Statement, the Chairperson should inform the House on the following:

- (1) What is the status of application for renewal of the land lease for Del Monte Kenya Limited?
- (2) Aware that a company of this magnitude requires a minimum of five years to plan its operations and considering the land lease expires in 2022, what is the Government doing to expedite the renewal process?
- (3) Are there plans to conduct a land survey of the Del Monte Company Limited with the view of establishing the actual size of the land leased to the company?
- (4) Are there plans to carry out a forensic audit of all the land leased to Del Monte Kenya Limited with a view of establishing the status of used land, unused land and public land?
- (5) When will the timelines for renewal of the Del Monte land lease be determined in order to enable the company to plan its operations?

I know the Committee has received many such requests, but this is the zero-hour for Del Monte.

Let me take this opportunity to condole with those affected by COVID-19. *Pamoja tukomeshe* Coronavirus.

**Hon. Speaker:** There is a Motion where you will be able to handle what you have said. Serjeant-at-Arms, I can see the Chair of the Departmental Committee on Lands to whom this request for a Statement is directed is standing at the door. Can she be afforded a seat? There are very many seats. After two minutes, Serjeant-at-Arms, do not bother about people claiming that they were supposed to be in the Chamber in the afternoon. Just fill all the other seats with those who are keen to participate in parliamentary business. Can you allow the Chair of the Departmental Committee on Lands to come in? Chair of Departmental Committee on Lands, that request is directed to you.

*(Hon. (Ms.) Rachael Nyamai walked into the Chamber)*

**Hon. (Ms.) Rachael Nyamai (Kitui South, JP):** Hon. Speaker, I was in the Members' Lounge and was able to listen to Hon. Jungle. We will respond to him in one week, that is Wednesday next week.

**Hon. Speaker:** Very well. You can take a seat. Do not bother going to sit out there. There are very many empty ones. Even the Member for Thika Town should be given a seat. There are very many empty ones. We will not wait for those who have not come. The House sits from 2.30 p.m. At 3.00 p.m., you cannot be saying that you had been listed to come.

For the second time, let us have the Member for Soy, Hon. Kositany Caleb.

## UTILISATION OF CORONAVIRUS DISEASE FUNDS

**Hon. Caleb Kositany** (Soy, JP): Thank you, Hon. Speaker.

*(Hon. Aden Duale consulted loudly)*

Protect me from the Leader of the Majority Party.

I rise to seek a Statement regarding the utilisation of over Kshs40 billion during the prevention and management and spread of the Coronavirus disease (COVID-19) in this country.

Pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Finance and National Planning regarding the utilisation of Kshs40 billion during the prevention and management of the spread of the Coronavirus disease in the country.

Hon. Speaker, it has been alleged and observed that the Government has so far spent Kshs40 billion on various initiatives. It is against this background that I seek a Statement from the Chairperson, Departmental Committee on Finance and National Planning to address the following:

- (i) To explain how the utilisation of over Kshs40 billion has been spent during prevention and management of the spread of COVID-19 in this country?
- (ii) Which health responses have been undertaken and how much has been collected from citizens who are paying for quarantine costs?
- (iii) Which and how much tax refunds have been made by the Kenya Revenue Authority (KRA) officials who made it clear that they would not implement the President's directive until it is approved by Parliament?
- (iv) How many elderly persons have been paid, how much per person and what criterion was used to identify the beneficiaries?
- (v) How much has been spent by the National Intelligence Service (NIS) during the period and why NIS need extra funding to undertake what it was established to do?
- (vi) How much has been paid to Small and Medium-sized Enterprises (SMEs) to cushion their businesses during this pandemic and what criterion was used to identify the beneficiaries?
- (vii) How many health medics, workers and operators have been recruited and what are they being paid as salaries and allowances, including provision of personal protection equipment (PPE)?

Thank you, Hon. Speaker.

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

**Hon. Speaker:** Is the Statement directed to the Chair, Departmental Committee on Finance and National Planning? Leader of the Majority Party, what is your point of order?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, the Member has alleged that Kshs40 billion has been used by the Government in the war against COVID-19. He should provide evidence to the House. This is a House of rules. If it is from the social media, from where I sit, the Supplementary Appropriation Bill, which we will consider this afternoon, is the one that will give money for COVID-19. Evidence should be provided that shows that the Government has used Kshs40 billion. I saw it. People are saying that the Government uses Kshs1 billion everyday. Unless evidence is provided, where will the Chair of the Departmental Committee on Finance and National Planning find it? What are we doing this afternoon? You can guide the House on this matter.

If the Member is already aware that Kshs40 billion has been spent, then the Committee can find out. Where is this Kshs40 billion? This is the House that appropriates money. The only appropriation that we will do is through the Supplementary Appropriation Bill. Hon. Speaker, you need to guide the House.

**Hon. Speaker:** Even an answer to say that nothing has been spent is an answer.

**Hon. Caleb Kositany (Soy, JP):** Thank you, Hon. Speaker.

**Hon. Speaker:** In fairness, Hon. Members, remember that we are in exceptional circumstances. I am sure Hon. Caleb Kositany is an active Member of the night shift which raises that issue. That is where it has been picked from. I see it. The Chair of the Departmental Committee on Finance and National Planning will respond to the Member of the night shift.

The Chair of the Departmental Committee on Education and Research was to respond to a request for a Statement by Hon. Esther Passaris. Hon. Melly! Where is the Member for Nairobi? Is she supposed to be seated in the Chamber or the other place? Proceed, Hon. Melly.

## STATEMENTS

### DISTRIBUTION OF SANITARY TOWELS TO LEARNERS DURING COVID-19 PNDEMIC

**Hon. Julius Melly (Tinderet, JP):** Thank you, Hon. Speaker. On Wednesday, last week the Member for Nairobi, Hon. Esther Passaris, sought a Statement from the Chair of the Departmental Committee on Education and Research regarding the distribution of sanitary towels to students while schools are temporarily closed during this period of COVID-19 pandemic.

Hon. Passaris asked the Cabinet Secretary to among other things, answer the following questions:

- (i) How many girls are still benefitting from sanitary towels while schools are closed?
- (ii) What measures are put in place to ensure that the sanitary towels programme continues to cater for girls who are registered in public schools by the Ministry of Education to access the pads?
- (iii) What mechanisms are being employed in the distribution of sanitary towels to all girls at their places of residence and the measures put in place to curb the spread of COVID-19?

We got a written response or Statement from the Cabinet Secretary and he said that sanitary towels are expected to benefit a total of 1,698,763 girls who are enrolled in classes six to eight in selected public and all special primary schools in the 47 counties in the country that were captured in the programme when the distribution is complete. The delivery of sanitary towels to the sub counties directors of education offices was completed by 31<sup>st</sup> March 2020 for the current 2019/2020 Financial Year at a cost of Kshs375 million before schools closed. The Cabinet Secretary attached a table to this Statement, which I will table, which lists all the counties and the number of girls who have benefitted from Baringo County to County No.47, which is West Pokot County.

Question two asks the measures which are put in place to ensure that the sanitary towels programme continues to cater for girls who are registered in public schools by the Ministry of Education to access the pads. The programme is aimed at providing sanitary towels once to girls in public primary and special schools across the country for use throughout the school calendar. It mainly targets girls in class six to eight which is the age at which maturity sets in. Other girls who join school at an older age and are in lower primary are also included in the programme.

The package which is issued to each of the targeted girls is expected to last them throughout the calendar year.

Question three asks the mechanisms which are being employed in the distribution of sanitary towels to all girls at their places of residence and the measures put in place to curb the spread of COVID-19. The response from the Cabinet Secretary is that the sanitary towels are delivered directly to the sub counties directors of education offices by the manufacturers. The headteachers of schools in these specific sub counties pick them based on the number of beneficiaries from the institutions. The sub counties that received their supplies before the closure of schools issued the sanitary towels to the headteachers who distributed them to the targeted girls. The other sub county offices where delivery was done after the schools closed will issue them to the headteachers when schools open due to the complications in logistics involved in reaching the students in their respective homes, given the current partial lockdown and dusk to dawn curfew.

The Cabinet Secretary further confirmed that his Ministry is strictly implementing measures to curb the spread of COVID-19 as spearheaded by the Government. However, he did not indicate the measures which he has taken to curb the spread of COVID-19.

That is the response to the Statement by Hon. Esther Passaris. I, therefore, table the Statement and the list of the counties and the number of girls who have benefitted from the programme. Hon. Speaker, if you direct, the Members will get the list of sthe various counties. Thank you.

*(Hon. Julius Melly laid the Document on the Table)*

**Hon. Speaker:** Very well. Is the Member for Nairobi in the Chamber or in any other holding grounds? Hon. Sabina Chege, do you want to say something because it is about sanitary towels? Proceed.

*(Laughter)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Speaker. I am a mother and a woman.

**Hon. Speaker:** Absolutely.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): So, I wish to comment about what the Chair of the Departmental Committee on Education and Research has answered. I am a bit worried when he gives the process the Ministry uses. There was a time the County Woman Representatives were part and parcel of the distribution of sanitary towels. We left it to the suppliers to deposit them at the sub county director of education offices. By the time the sanitary towels were taken back to the Ministry, some sub counties had not received them. I want to know what happened because money had been allocated and people had been given contracts. However, the girls did not get the sanitary towels. We do not know how long the COVID-19 pandemic will stay.

The girls need sanitary towels. That time of the month does not wait because there is COVID-19 pandemic. The girls are experiencing their menses every month. So, I would request the Departmental Committee on Education and Research to further become innovative and see how sanitary towels get to the girls. Mainly, the girls are pupils of between Standard Six and Eight from schools within their reach.

I know even with the help of assistant chiefs, through the provincial administration, sanitary towels can be availed in primary or secondary schools nearby and the girls can be told when to pick them. Some girls have no other sources of sanitary towels. So, as we wait for the pandemic to wane and schools to reopen, I would wish the Ministry would be more proactive and innovative to make sure that girls receive sanitary towels even if they are not in school.

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. I see some intervention. The Member for Mvita, do you also want to say something about sanitary towels?

**Hon. Abdullswamad Nassir** (Mvita, ODM): No, Hon. Speaker. I actually wanted to speak on what the Member had requested on the issue of finance. Accept my apologies on that.

**Hon. Speaker:** Hon. (Dr.) Chebet Tecla Tum, the Member for Nandi County, you have the Floor.

**Hon. (Dr.) Tecla Tum** (Nandi CWR, JP): Hon. Speaker, I just feel that our children should not wait for the COVID-19 pandemic to end before they receive sanitary pads. We send money through M-pesa to the elderly. We can also design such a plan to send money through M-pesa to parents of girls so that they can access sanitary pads. The money is budgeted for and we cannot say that they wait for the pandemic to end.

Thank you.

**Hon. Speaker:** Let us hear Hon. David Ochieng'.

**Hon. David Ochieng'** (Ugenya, MDG): Thank you very much, Hon. Speaker. This is not a small matter. We, from rural constituencies know what happens in those places. There are situations where sanitary towels are provided, but the girls cannot even access panties. So, the idea would be to ask the Committee to ensure that this intervention is wholesome so that children are able to get what they need wholly. I mean, you cannot give sanitary towels yet the person who is supposed to use them does not have what is going to hold the towels. We have seen what is happening in this period. If this country can afford to give everybody face masks, why not give our young girls panties to go along with the sanitary towels?

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Julius Melly, do you want to respond to some of those comments? The information I have is that Hon. Esther Passaris is said to be on the way. That is not parliamentary practice. We do not know about somebody being on the way.

**Hon. Julius Melly** (Tinderet, JP): Hon. Speaker, the issue of sanitary towels is a weighty matter because our daughters require them. However, I want to also agree, to some extent, with the Cabinet Secretary that whereas they can have the sanitary towels distributed in schools, if they do a house-to-house distribution across the expansive country, it is going to be a hectic task. However, it does not give the Ministry an excuse not to distribute them on time and ensure that our girls have them.

Secondly, I heard what Hon. David Ochieng' has just said, that it has to have some accompaniments. Sanitary towels are sanitary towels. What else do you need for the girl child? Do you want the Ministry to supply underwears and everything else? Maybe that is what Hon. David Ochieng' has just said.

**Hon. Speaker:** It is not that he did. I can now see the Member for Murang'a wants to say that she wants to inform you.

**Hon. Julius Melly** (Tinderet, JP): Hon. Speaker, the Cabinet Secretary is going to execute this very well because he will be appearing before our Committee next week on Tuesday. Hon.

Members who are concerned can come to the Committee, so that he can answer and elaborate most of these issues.

Thank you.

**Hon. Speaker:** Hon. Member, do not make it like an agenda issue. Let us hear Hon. (Ms.) Janet Ong'era.

**Hon. (Ms.) Janet Ong'era** (Kisii CWR, ODM): Thank you, Hon. Speaker, for allowing me to also make a comment. While I appreciate what the Chairperson of the Departmental Committee on Education and Research has said, there is really an elephant in the room on the issue of sanitary towels. The manner in which they are distributed is extremely haphazard. Our girls are not getting them in time and they have even politicised it.

When we distributed sanitary towels in 2018, when the County Woman Representatives were given a chance to patron the girls, we did it in a very orderly manner. The record is there for everybody to see in terms of numbers. Even teachers appreciated the manner in which it was done. As I speak, Kisii County, which I represent, has not received sanitary towels. In fact, I am being hit every other day as they think that perhaps it is me who has eaten the money for the sanitary towels. Hon. Speaker, you know I am clean on such issues. My history speaks for me.

Hon. Speaker, it does not matter which Ministry is in charge of sanitary towels, whether it is the Ministry of Public Service, Youth and Gender Affairs or the Ministry of Education, Science and Technology. The patrons of the girl child, who are the 47 County Woman Representatives should be given a chance, so that they can also have their say on how sanitary pads are distributed. We have an interest to see that they actually reach the ultimate users.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, it is important to appreciate what the Chairperson of the Committee has just said, that the Cabinet Secretary will be appearing before the Committee next Tuesday. Some of the issues you have raised here about the manner of distribution and the point raised by Hon. David Ochieng' about accompaniments and other issues, maybe, the Cabinet Secretary will be in a better position to respond to them while still dealing with the other issues that the Chairperson of the Committee has just stated. It would be much better if you can go to the Committee sitting and converse the matter further.

Hon. (Ms.) Rachael Nyamai, what is your intervention about?

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Speaker, I would like to thank you very much for inviting me into the Chamber from outside, so that I can listen and take the Statement request that was made.

Hon. Speaker, you also ordered that I come and sit in the Chamber. You said that I sit on this direction and you used your hand to point on the said direction. The Leader of the Majority Party also said that I sit here. A few minutes later, the Chairperson of the Budget and Appropriations Committee came in and this seat is clearly marked: "The Chair, Budget and Appropriations." I have a lot of respect for him, but he told me; "Third Reading ikianza, toka." I do not take this lightly because he is very bulldozing. After that, one of the good-looking Serjeants-at-Arms has been signalling me to catch my eye.

*(Hon. (Ms.) Rachael Nyamai demonstrated how the Serjeant-at-Arms has signalled her)*

*(Laughter)*

When I looked at him, he directed me to go out. I would like to say that I am on the list of those who are to sit in the Chamber in the Afternoon Sitting and I would like to participate in the Small Claims Court (Amendment) Bill (National Assembly Bill No.4 of 2020), which is being moved by Hon. Aden Duale. I also want to participate in the Supplementary Appropriation Bill (National Assembly Bill No.9 of 2020). So, I am not ready to get out. He has been calling me very nicely, asking me to follow him. So, Hon. Speaker, I would like you to request them to give me a place to sit.

Thank you, Hon. Speaker.

**Hon. Speaker:** You know, there is nothing out of order. You want to pretend that because of the COVID-19 pandemic, we are not going to follow the Standing Orders. We will follow them. So, Hon. (Ms.) Rachael Nyamai, stay put. We will show you what will happen when the Third Reading comes.

*(Hon. Yusuf Hassan stood in his place)*

Member for Kamukunji, you are raising your hand. What is the issue? Insert your card and make a request.

*(Hon. Yusuf Hassan spoke off record)*

There is an intervention section. Is that microphone working?

*(Loud consultations)*

**Hon. Yusuf Hassan** (Kamukunji, JP): Thank you, Hon. Speaker. I rise on an issue of concern. I was allocated Seat No.255, but it does not exist.

**Hon. Speaker:** Hon. Yusuf, but you are seated somewhere. Do you just want to be seen to be speaking? Is that really an issue? Just go back and sit where you were seated.

**Hon. Yusuf Hassan** (Kamukunji, JP): No. I want to raise an issue... I am an elected representative of the people of Kamukunji.

**Hon. Speaker:** I know that. I know you are elected.

**Hon. Yusuf Hassan** (Kamukunji, JP): I understand the circumstances that we are going through, but there should be some consideration for Members of Parliament who had already been allocated seats.

I was seated in another person's seat, but I have been told to vacate it. I want to be assured that we are all equal and there are no lesser Members of Parliament.

**Hon. Speaker:** Please, go back.

**Hon. Yusuf Hassan** (Kamukunji, JP): Thank you.

**Hon. Speaker:** That is such a frivolous point that should earn you suspension for the balance of the day. You are seated. Who does not know you are the elected Member of Parliament for Kamukunji? Unless you want to tell people in the diaspora, who may not have known. You are comfortably seated inside the Chamber and you even appear to be happy. Do not worry because we had agreed that if those who had been allocated seats are not here by 3.00 p.m., they forfeit that chance. We must allow those Members who are willing to be in the Chamber to be here. You do not indicate that you are coming for the afternoon sitting and you are not here by 3.00 p.m. You better go and do other things in the village. We cannot have empty seats.

Hon. Yusuf, stay put. You have every right to be in the Chamber just like any other Member. It is only that we are living in the circumstances that we are, but you are not a lesser Member.

Chairman, Departmental Committee on Labour and Social Welfare, Hon. Ali Wario, you have the Floor.

#### STATUS OF CASH TRANSFER INUA JAMII PROGRAMME

#### FURING THE COVID-19 PANDEMIC

**Hon. Ali Wario** (Bura, JP): Thank you, Hon. Speaker. On Wednesday, 22<sup>nd</sup> April 2020, the Member for Wundanyi, Hon Dan Mwashako, sought a Statement pursuant to Standing Order No.44(2c) from the Chairperson, Departmental Committee on Labour and Social Welfare, regarding implementation of the National Safety Net Program (NSNP) administered by the State Department for Social Protection. In particular, the Member sought information regarding the following:

The measures the Ministry is putting in place to ensure all vulnerable persons particularly the elderly above the age of 70 years are included in the programme.

Mechanisms being employed to ensure social distancing rules are observed during the current payment cycle to protect the elderly from contracting COVID-19 and other contagious diseases.

The number of eligible beneficiaries who have been in the programme since 2017, but are currently omitted due to aforementioned technicalities, and when the affected persons will be reinstated in the programme.

Hon. Speaker, I confirm that the Ministry received an Exchequer of Kshs8.7 billion for 1,094,239 regular beneficiaries of Inua Jamii for the period January-April 2020. These are the beneficiaries that the Ministry has successfully migrated from the card to account based mode of payment. They are distributed as follows: 766,254 older persons to receive Kshs6,132,680,000, 293,967 orphans and vulnerable persons to receive Kshs2,351,968,000 and 34,017 severely disabled persons to receive Kshs272,228,000.

Hon. Speaker, with your permission, I will table an electronic list of the names. There are too many names.

**Hon. Speaker:** That is okay, Hon. Wario.

*(Hon. Ali Wario laid the Document on the Table)*

Hon. Speaker, I wish to further confirm that the Ministry is in the process of preparing the payments for the months of May and June, 2020 to these beneficiaries. My Committee will follow up to ensure any gaps identified by Members are corrected in the subsequent payment cycles.

Hon. Mwashako also sought information regarding measures taken by the Ministry to ensure all vulnerable persons particularly the elderly above the age of 70 years are included in the programme. I wish to confirm that according to the records from the Kenya National Bureau of Statistics, Population Census 2019, there are 1,239,410 citizens aged 70 years and above. In the Ministry's current database, there are 833,129 covered by Inua Jamii and, therefore, leaving out 406,281. This number will include those who are economically endowed and those in the various

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pension schemes. From various projections, there are about 250,000 people who are poor and vulnerable and require to be brought into the Inua Jamii Programme. This will require an additional funding of Kshs6 billion annually as direct transfers to the additional 250,000 persons above the age of 70 years. The current budget has a deficit of Kshs3.9 billion.

The Ministry will, therefore, require an additional Kshs9.9 billion to bring on board all the eligible persons above the age of 70 years. My Committee will be lobbying the House to allocate additional funding to the State Department for Social Protection to allow all our elderly persons above the age of 70 years to be in this programme.

The second concern by Hon. Mwashako was on the mechanisms being employed to ensure social distancing rules are observed during the current payment cycle to protect the elderly from contracting COVID-19 and other contagious diseases. I wish to note that before the funds were released for payment on 20<sup>th</sup> April 2020, the Ministry made the following arrangements with the payment service providers (banks) on payment modalities and the hygiene protocols that included, among others, staggering payments as a way of minimising crowds, allowing elderly persons access pay points as a first priority before other beneficiaries, and providing for spacing through a sitting arrangement that ensures social distance is maintained. The list is long.

The third concern was on the number of eligible beneficiaries who have been in the programme since 2017, but are currently omitted due to aforementioned technicalities. As at 2017, the Ministry had 833,129 Older Persons Cash Transfer beneficiaries in the programme. From November 2018, when a migration exercise from the card-based to account-based mode of payment was carried out, the Ministry successfully migrated 766,254 citizens who are in the current payroll. This means that 66,875 citizens have not been migrated into the new payment model. These citizens have various Integrated Population Registration Service (IPRS) related issues such as wrong identification number, name mismatch, duplication within and across the programme, sharing caregivers and wrong caregiver details, among others. Others in this category may have passed on while others may have failed to collect their tokens for account opening. Others may have opened accounts, but for some reasons, the respective PSP bank has not managed to submit the account to the programme.

On consolidated cash transfer programme management information system, the last concern was raised by *Mheshimiwa* Mwashako. This was on when the affected persons will be reinstated. The Ministry is planning to undertake Phase III migration, but this has been hampered by inadequate funding to the programme. For the entire 2019/2020 Financial Year, as indicated above, they have had a budgetary deficit of Kshs3.9 billion as direct transfer across the Inua Jamii Programme. If this amount can be provided in the Financial Year 2020/2021, the Ministry shall be in position to reinstate all elderly persons above the age of 70 years, so that they start receiving their stipend from the July/August 2020 payment circle. This is a critical segment of the programme given that they were previously receiving cash transfer stipend and they are out now. They are not receiving.

In conclusion, allow me to brief and update the House on a matter that is closely related to the issue raised by Hon. Mwashako, particularly touching on the additional Kshs10 billion already allocated to the Ministry and to be regularised by the House through the Second Supplementary Estimates 2019/2020, which is currently before the House. This is a laudable move by the Government, but must be implemented with caution to ensure that Kenyans get value for their taxes. The Kshs10 billion has been allocated as one of the measures to mitigate the impact of COVID-19 on the most vulnerable and is to be executed through a multi-agency approach

involving the Ministry of Labour and Social Protection, the Ministry of Health and the Ministry of Interior and Coordination of National Government. However, after a meeting between the Committee and the State Department of Social Protection, the Cabinet Secretary undertook to address and report back to the Committee within a week.

Consequently, I commit to get back to the House on this aspect by Wednesday, 6<sup>th</sup> next week to address the House on the same. In the meantime, it was agreed that for the State Department, no payment will be made from that allocation until the grey areas are addressed. For the information of the House, the gaps identified by the Committee are, first, the criteria used to identify 108 beneficiaries in informal settlements in Mombasa, Nairobi, Kilifi and Kwale and the need to involve area leaders and to use the existing structures such as the constituency social assistance committees. The second one is the amount allocated to the pilot stage of the programme and thirdly, the timeframe for the pilot stage given this is an emergency time. The last issue is the list of the beneficiaries and the amount to be paid to each, the way forward on the rollout of the counties, and the role of each agency in the multi-agency approach among others.

Thank you, Hon. Speaker.

**Hon. Speaker:** Is Hon. Mwashako in the Chamber? Hon. Dan Mwashako, I am sure you have been following the response by the Chair.

**Hon. Danson Mwashako** (Wundanyi, WDM-K): Thank you, Hon. Speaker. Yes, I was following, but I lost the Chair at some point. I can comment on what I have followed through.

First and foremost, I thank the Chair. He was not present last week, but through the Leader of the Majority Party, he has been able to respond. I think he has done a good job. However, there are grey areas.

What is happening in the rural areas and, of course, the entire country, is that when the elderly persons who are not registered heard that their colleagues and relatives were being paid, they all flocked into the paying centres. In my place, some old people were being carried by their sons and grandsons to the stations yet their names were not appearing in the list. They were among the 66,000 he mentioned. I have photos of old people, as old as 100 years old, who are not in the system and are not being paid. When they appear and are told that their names are missing, they fall down because most of them are already with hypertension and other diseases. Some of them fall sick and are taken to hospital. They imagine that the Government has ignored them or they are not part of this country.

He has promised to bring another Statement next Wednesday. I ask him to implore more because I do not think the State Department for Social Protection is serious with this programme. Members of Parliament are supposed to be the patrons of the programmes in their constituencies. However, many Members are not being involved in the programme yet every single complaint comes to us.

*(Applause)*

They believe that we are the custodians who understand their challenges. Because the Chair will bring a Statement next Wednesday, we need the State Department to appear before the Committee to address the many concerns the Members have.

Thank you.

**Hon. Speaker:** Is it possible that Hon. Ali Wario could schedule a meeting with the Cabinet Secretary and whoever else, so that we can have these issues addressed? I can see there is a number of Members who have been raising these issues just like it had been captured by the

request by Hon. Mwashako. I have also been seeing the deliberations. I told you I follow the deliberations online. Of course, I can see Hon. Janet Ong'era and Hon. Beatrice Nkatha. Hon. Halima Mucheke there is beginning to laugh because she belongs to the late night group.

*(Laughter)*

The other day I was surprised when Hon. Nyamai posted something at 3.15 a.m.

*(Laughter)*

I can see it. Hon. Members work a lot. Like Hon. Mwashako has said, obviously, you represent these elderly people. So, it is true what Hon. Mwashako is saying. When they appear at the paying centres and they are told their names are not in the system, obviously, it is a shock to some of them. It can even lead to death.

So, Hon. Ali Wario, maybe it might be useful if you could schedule a meeting and then invite Members, so that they can come and share some of those experiences with the Cabinet Secretary. I am sure they are varied. I can see there are some Members who want to say something.

Is this Hon. Nyikal? You appear different.

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

This is an extremely important programme. Actually, it has many problems. When this programme started in 2008/2009, we patterned it on what was happening in Brazil under President Lula. The idea was to support old people and, eventually, get a situation where all vulnerable people are gradually increased. However, it is now beset with so many programmes. There are three programmes running together. There is the orphans and vulnerable children programme which does not have as much problem as this one and then the old people programme, which has now somehow merged with severely disabled people in the area of care givers. Many old people do not get paid for various reasons, starting from the fact that there is late migration. They have had two migrations, which have left some people out.

The other problem with the old people is that in one month, you can have their fingerprints responding and then in a different month, they are not responding. There are also care givers for the old people with severe disabilities. This has been mixed up. Because of that, many people go to banks and do not get money. It is not clear where this money is and whether it is the Ministry and the banks that are the intermediaries or the banks and the officers that give it on the ground. I have sat in many meetings and it does not seem that clarity is happening.

On the issue of the large numbers of old people over 70 years, the idea was simple. When they started with 65-year-old people, there were many people. What was supposed to happen was to go up in age until they get a cut off where they will have enough money, so that they do not have to make a choice. I do not see why after they went up from 65 to 70 years, they are still making a choice. Old people of over 70 years should be included in that. There was supposed to be a single number - there was a unit to do that number - so that these people can be traced. They were supposed to escalate it so that all vulnerable people, particularly in urban areas, also have that number. That is something they could have used today to give the 10 million that they will give in a one-off using the means testing. The Member has to bring this to the attention of the Minister on the day he appears. I will make an attempt to be there. Three programmes must be clearly delineated, particularly on the elderly persons and people with severe disabilities. The institutions that are intermediaries must also be clearly delineated. There is no reason why their

ID numbers and card numbers should be mixed up. This is something dear to me. It is a programme that I support to the elderly people. I will be there to raise this issue.

Thank you.

**Hon. Speaker:** Well, maybe we can hear from the Chair. I can see that all of you want to say something, but you will be talking to yourselves. Let us hear whether there is a meeting planned where you can go and share these things and even correct what the Ministry is doing instead of just saying it here. If it is possible, Hon. Wario, have a meeting in the course of this coming week, perhaps that could solve some of these concerns being raised

**Hon. Ali Wario (Bura, JP):** Thank you, Hon. Speaker. I agree that this programme has gaps and challenges. However, coming from the card-based payment system to account-based payment system, there is improvement. As you have rightly put, I will organise for a meeting with the Members and invite the Cabinet Secretary to come and hear from the Members what he can improve on.

Hon. Speaker, I promised to come and share with you on 6<sup>th</sup> May about the Kshs10 billion, a one-time pay off for the impact of COVID-19 on the elderly. The other programme is running well. It has only a deficit of Kshs3.9 billion. If we get the Kshs3.9 billion, I want to assure the House that the 66,000, people who were left out in the process of migration, will be brought on board.

Finally, I will invite the Minister next week on Tuesday and then communicate to the Members, so that we can have a meeting and sort this problem once and for all.

Thank you.

**Hon. Speaker:** Who is that Member raising his hand? Is it the Member for Lari? Is that so? Very well.

**Hon. Jonah Mwangi (Lari, JP):** Thank you, Hon. Speaker. I am also concerned about that programme. Last time I requested the Chair to call the current Cabinet Secretary for the National Treasury, Ukur Yattani, who was then the Cabinet Secretary for Labour and Social Protection. The same people who are over 70 years are supposed to have money for medicare with the National Hospital Insurance Fund (NHIF) paid through a certain amount of the same money. When the Minister was called, I did not receive a clear answer on why the old people go to hospitals and they are told their cards have not been paid for yet they are supposed to get joint money of Kshs2500, from which Kshs500 goes to the NHIF and Ksh2,000 goes to the stipend. That is a problem. For every old person going to hospital, we have to do a Harambee. Their cards are not working. When you go to pay for the NHIF card, you are told they are in the old people programme. Therefore, Hon. Wario is supposed to call for a meeting with the Cabinet Secretary. As the Chair of the Departmental Committee on Labour and Social Welfare, he should know who else he should call, so that we can know where the NHIF cards are paid. It is a big concern and I think it should be a joint committee.

Thank you.

**Hon. Speaker:** Ghosh! It looks like this pandemic has made you forget the Standing Orders. This is not debate time. If Hon. Wario is going to, as he has indicated, invite the Cabinet Secretary on Tuesday, these concerns which you want to say for the sake of it will be best addressed there.

*(Hon. (Ms.) Sabina Chege spoke off record)*

Hon. Sabina, please, that is not the issue. Hon. Wario has given an undertaking that he will invite the Cabinet Secretary on Tuesday, next week. All those who have issues can be present. Hon. Nyikal said everybody who is over 70 years. I am wondering about those in Parliament now.

*(Laughter)*

Those who are Members of Parliament, should they also be included? These concerns will be best addressed when the Cabinet Secretary is present. Is that the Member for Gem, Hon. Elisha?

**Hon. David Ochieng'** (Ugenya, MDG): Hon. Speaker, now that I have the microphone, please, allow me. It is on something different.

**Hon. Speaker:** Proceed, I have allowed you.

**Hon. David Ochieng'** (Ugenya, MDG): Hon. Speaker, the Chair of this Committee is someone I respect. I want to request you - he had a good Statement and he does good Kiswahili - that, using your powers, the Report be converted to Kiswahili so that next time he gives a report, next Wednesday, he does it in Kiswahili. This is something that is touchy and he is good in the language. That is what I wanted to ask.

**Hon. Speaker:** I even followed. Hon. Elisha.

**Hon. Elisha Odhiambo** (Gem, ODM): Thank you, Hon. Speaker, for this opportunity. What I want to raise is that I went to the Departmental Committee on Labour and Social Welfare and raised issues that concerned Gem Constituency. I was given an assurance by the then Minister that pragmatic steps would be taken, so that members of my constituency who are above 70 years are put in that bracket. To date, nothing has been done. When I reflected on it, I thought that probably that was a public relations exercise. I hope when the Minister comes, it will not be another public relations exercise like what I was taken through. They need to come up with pragmatic steps to help the aged members of our society. As you have rightfully put it, our brothers who are here like Hon. Jimmy Angwenyi can also benefit.

Thank you.

**Hon. Speaker:** Hon. Sabina, you appear to be burning to say something. What is it?

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Speaker, I want to appreciate that this is an important matter. As a Chair of a Committee, I have the experience of the limitation of Members who can attend a specific committee meeting. I would like to call upon the Clerk, maybe you and the management of this House, to ensure that Members are able to follow meetings online. Yesterday, the Committee I chair held a meeting using Zoom. The Members were at home and wanted to interact with the Cabinet Secretary participated. That is my request. Even if the Chair says Tuesday, not all of us will be able to access the meeting room. Today, when we were meeting as chairpersons, there was limitation because of the COVID-19. I would urge this House to fast-track the issue of virtual meetings, so that as many Members of this House would participate. With that, we will be able to give our views.

On the NHIF, there are people within Government who want these things to fail. We have enough money. The Chair has asked for Kshs3.5 billion. We are allocating money for the elderly on the NHIF. Once we streamline this money, we will be able to save a lot. We may not need to look for the Kshs3 billion that he has asked for. The money is there. We just need to reorganise how we are doing our things.

There is still money for the vulnerable people, where some of the elderly are still included. So, once we formalise these proposals, we can get the Kshs3 billion Hon. Wario was asking for.

I thank you, Hon. Speaker.

*(Hon. Moses Kuria spoke off record)*

**Hon. Speaker:** Hon. Moses Kuria, do not shout point of order and you just want to contribute to this issue. Just rise in your place now and make your contribution.

**Hon. Moses Kuria** (Gatundu South, JP): Chair, I think this is a very fundamental issue.

**Hon. Speaker:** Which Chair?

**Hon. Moses Kuria** (Gatundu South, JP): Hon. Speaker, I will stick to my point. This is a very weighty matter. As you can see from the mood of the House, it is of concern to many Members. It is my request to the Chair of the relevant committee, who wants to invite the Cabinet Secretary, that the session should take place in this Chamber so that as many Members can attend. Further, I am aware that there is a draft Social Protection Bill that was prepared by the former Cabinet Secretary. If possible, the Cabinet Secretary can even come with the Bill on that day, so that we can look at ways of fast-tracking the same. Hon. Janet Ong'era has talked about a very important issue. Why not entrust our woman representatives with issues like distribution of sanitary towels? Why can we not entrench ourselves to manage this programme and we are the ones who make the law?

Thank you, Hon. Speaker.

**Hon. Speaker:** Again, it is a mistake to think that there is a debate. As much as you complain, it is your responsibility to make and unmake laws. So, please, address the law. Look at areas of deficiencies and make appropriate amendments.

On the point about meeting in this Chamber, remember there is a protocol that after every use of the Chamber, like today, this place has to be disinfected, in fact, twice, before it is ready for use on Wednesday next week. These carpets are prone to harbour droppings of the virus. It is not known where you go to. Some of the places you may visit could be quite risky. So, it might not be possible, Hon. Moses Kuria, for the meeting to happen here. If the meeting is on Tuesday and the Chamber will be due for use on Wednesday, then it may make it difficult, even for the public health officers. But, of course, the Mini Chamber at County Hall is available. I am sure it can take slightly more people than the normal committee rooms. Hon. Wario, I think that should be satisfying.

Hon. Washiali, you have the Floor.

## REQUEST FOR STATEMENT

### INTRODUCTION OF VIRTUAL LEARNING IN KENYA

**Hon. Benjamin Washiali** (Mumias East, JP): I sincerely thank you, Hon. Speaker. I rise to request for a Statement regarding virtual learning. Pursuant to provisions of Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Education and Research regarding the introduction of virtual learning.

We are all aware that COVID-19 is a serious international pandemic that has led to the closure of our schools since 15<sup>th</sup> March 2020. However, despite the Government having established virtual learning for home-based schooling for learners across the country, not all pupils and students have equal access to television and mobile telephone gadgets with internet access due to socio-economic difficulties. Further, many parents and guardians lack the necessary academic capacity and background to assist their children to benefit from home schooling through e-

learning. In view of these concerns, I seek a Statement from the Chairperson of the Departmental Committee on Education and Research on the following:

1. What measures has the Ministry of Education put in place to ensure equal access to virtual learning by all learners, especially those living in informal settlements and rural areas?
2. Could the Ministry confirm that the physical infrastructure, such as electricity and internet connectivity, is available to all learners?
3. What plans has the Ministry put in place to ensure that the e-learning platform is efficient for preparation of candidates who are due to sit for national exams at the end of this year?
4. Could the Chairperson confirm whether the Ministry has deployed quality assurance teams to assess the coverage and impact of e-learning on learners across the country and, if so, could the Chairperson table a report on the same?
5. Could the Government consider postponing the national examinations scheduled for October-November 2020 to preferably next year, on the ground that learners will not have adequately prepared to sit for the national exams this year?

I thank you, Hon. Speaker. I want to repeat that I sincerely thank you because the session for request of Statements had expired. Thank you, Hon. Speaker.

**Hon. Speaker:** Chair, Education and Research, Hon. Melly. Or, has he already concluded his afternoon sitting?

**Hon. Julius Melly** (Tinderet, JP): Thank you, Hon. Speaker. When the Statement was being sought, I was not in, but I will ask the CS to respond to it, so that I can bring the Statement on Wednesday, next week.

Thank you.

**Hon. Speaker:** Indeed, when you have a meeting with him next Tuesday, you should also address that issue of virtual learning.

**Hon. Julius Melly** (Tinderet, JP): Thank you. I will do so.

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

#### REQUEST FOR RULING ON EXTENT OF MEMBERS' LEGISLATIVE MANDATE

**Hon. Anthony Oluoch** (Mathare, ODM): I thank you, Hon. Speaker. I am rising on a totally different issue. First of all, allow me to thank you, the House leadership and all the people who have been working round the clock to ensure that, despite very difficult circumstances, the House is able to operate and transact business and to ensure that we are able to carry out our mandate under Articles 94 and 95 of the Constitution.

I wish to make a request to you for a ruling, which I have captured in a letter, in relation to the extent to which Members may be able to carry out their legislative mandate that is contemplated under the Constitution and the Standing Orders. I am talking about the interaction and the delicate balance that needs to be struck between House business and the prioritisation of Government business that comes to the House and business that is generated by ordinary Members.

Hon. Speaker, about 80 per cent of the businesses we are engaged in, as a House, is Government business. However, Articles 94 and 95 of the Constitution and the Standing Orders, contemplate that all Members, in their corporate and individual capacities, are able to participate in legislation. As a practitioner in the legislative corridors, in trying to do this, I have found out

that there is need for this House to be enriched by a ruling of the Speaker on how we interact with the Departmental Committees, in terms of Private Members' Bills that we generate. To what extent do they end up stalling or dying along the way, after Members spend so much time in terms of research? To what extent do the House Business Committee and Departmental Committees enhance the legislative role of Members? I am saying this after taking into account Article 1 of the Constitution. The people of Kenya have donated to us the power to legislate. The legislative power and authority belongs to the House corporately. We have equally delegated that power to the Departmental Committees, not so that they are an end in themselves, but so that they facilitate Members to carry out their business. These include the House Business Committee and the Departmental Committees.

Hon. Speaker, I have elaborated this matter in a request I have forward to you. With your kind permission, I would like to ask if the House can benefit from a ruling in this regard.

Thank you.

*(Applause)*

**Hon. Speaker:** The work of the House Business Committee is not, in any way, to skive off the legislative efforts by any Member. However, as you desire, if the House needs a ruling, sincerely speaking, it would really be a matter of restating what is in the Standing Orders and the Constitution. Obviously, as a House, we must have a mechanism through which we process our business. The legislative initiatives by individual Members notwithstanding, that legislative authority, as you rightly pointed out, at the national level, rests with Parliament. However, we shall address the matter in a more detailed form.

Hon. Sabina Chege, do you also have something?

**Hon. (Ms.) Sabina Chege** (Muranga CWR, JP): Hon. Speaker, I have a Statement.

**Hon. Speaker:** You have the Floor. Please, make it brief.

**Hon. (Ms.) Sabina Chege** (Muranga CWR, JP): Thank you, Hon. Speaker for the opportunity. I have a Statement on various issues related to the Covid-19 pandemic from the Departmental Committee on Health.

The House is aware that on 28<sup>th</sup> February 2020, His Excellency the President, Uhuru Kenyatta, issued an Executive Order establishing the National Emergency Response Committee to coordinate the country's preparedness response to Coronavirus. On 15<sup>th</sup> March 2020, travel restrictions were issued in some areas that are hard-hit by COVID-19.

As at 28<sup>th</sup> April 2020, we had a total of 374 persons who had been confirmed to having contracted the COVID-19 disease. So far, 124 persons have fully recovered and the country, unfortunately, lost 14 persons. We send our condolences to the families of the deceased. It is encouraging, however, to note that no fatalities have been reported in the last two weeks. The 374 persons confirmed are of ages between two and 89 years. Majority of the 234 are between the ages of 25 and 50 years. This then creates the myth that this virus only affects the aged.

I will not go through the number of cases per county, but as I table the Report, Members are free to have a look at it. We want to thank the Government, through the Ministry of Health, for moving fast in instituting the necessary protocols to guide on the fight against this pandemic, guided by various legislations approved by this House. In a special way, I want to sincerely appreciate our warriors – the front line medics working tirelessly and in difficult circumstances to save lives during this pandemic.

Hon. Speaker, as opposed to media reports on having received Kshs40 billion to fight the COVID-19 pandemic, the Ministry of Health has only received Kshs300 million – which has been shared amongst the Government institutions as follows:

Ministry of Foreign Affairs, Kshs10 million to facilitate Kenyan students in Wuhan China;

Ministry of Defence, Kshs75 million for Defence team preparedness and readiness to response;

National Youth Service, Kshs10 million to provide security at the isolation and quarantine facilities in addition to providing buses and personnel;

Kenyatta National Hospital, Kshs150 million to provide additional bed capacity at Mbagathi Hospital Isolation Centre;

State Department of Broadcasting and Telecommunication, Kshs5 million to facilitate community outreach and media tours across regions;

State Department of Public Works, Kshs1.5 million to facilitate completion of construction works (fencing and provision of access roads) to isolation centres at Mbagathi Hospital; and

Ministry of Health, Kshs48,500,000 for medical response and logistics at isolation/quarantine centres.

Additionally, the Ministry of Health, under the Supplementary Budget II, has been allocated Kshs5.42 billion to fight the pandemic. However, it is yet to receive any of these funds because we just allocated them.

Hon. Speaker, it is good to let the House know how the sum of Kshs5.42 billion has been planned by the Government. A sum of Kshs1 billion has been earmarked for increasing healthcare workers to be utilised by June, 2020. I will also be tabling a Report on how many healthcare workers per county the Government is planning to employ, in conjunction with the county governments.

The World Bank has provided Kshs1 billion or USD10 million, which was negotiated under the Transforming Health System for universal health covering projects that have been earmarked for emergency response, including procurement of Personal Protective Equipment (PPEs), medicines, setting up of isolation facilities and operation centres.

An additional sum of USD50 million has been negotiated to support the Covid-19 response. Already, Kshs2.66 billion is being processed to be accessed through the IFMIS. An additional sum of Kshs2.3 billion will be confirmed upon finalisation of Supplementary Budget II for the Financial Year 2019/2020.

A sum of Kshs493,154,000 for Covid-19 response has also been provided within the Global Fund Regulations, and is awaiting finalisation of preparation of the Budget for approval by the Global Fund for 960,000 tests to be done.

The Mahatma Gandhi Foundation has given Kshs184,165,900, and the funds will be channelled towards addressing gap areas within the Mahatma Gandhi regulations. Budget reallocation is on-going. The COVID-19 Fund Board has not given any amount to the Government. There was a request to fund PPEs laboratory testing and communication. That is the breakdown of the Kshs5.426 billion that is yet to be received for the fight against COVID-19.

Hon. Speaker, human resource in the Ministry of Health is very critical. It is responsible for mitigating the threat caused by the COVID-19 as witnessed in other countries struggling with this pandemic. To this end, the Ministry of Health is working with the national and county governments as well as with the private health sub-sector service providers to map out health workers of different cadres available to join the fight against the COVID-19 pandemic.

Additionally, the Government of Kenya has provided funds for recruitment of medical staff as follows:

For, Kenyatta University Teaching and Referral Hospital, there will be an addition of 568 staff members. For Mbagathi COVID-19 Centre, 288; for Moi Teaching and Referral Hospital, 94; Human resource for some counties and the receipts are also attached, 1059 members of staff and human resource for national level – 60. The total amount that will be spent on this is Ksh936, 742,782 on salaries.

Hon. Speaker and Members, regarding isolation centers, the Cabinet Secretary (CS) of Health has set up functional units in Kenyatta National Hospital, Mbagathi Hospital and Kenyatta University Hospital which has now been dedicated to be the hospital to handle the COVID-19 case load in the country. That means the hospital will not carry out any other operation.

Kenyatta University Hospital, which has a bed capacity of 600 had only operationalized 300 beds and through the Supplementary Estimates II before the House, the Committee proposed an additional Ksh500million towards facilitating Kenyatta University Hospital to fully operationalise the remainder 300 bed capacity to allow it to deal with the surge in COVID19 numbers. However, in case of a surge in confirmed cases, the Government has set up other cumulative isolation capacities in the country of 1,893 beds. The projected needs for isolation beds is at 3,116, 2,280 county isolation beds and 836 national isolation beds. To standardise the isolation centres across the counties, the Ministry of Health has developed guidelines for isolation centres which have been shared with all the counties.

The guidelines provide that each county sets aside two isolation facilities with standardized equipment and human resource requirements. Further, a standardized layout of the isolation facilities with similar infection prevention control, provisions have been developed for reference by the counties. Moreover, the guidelines provide for capacity building of competent teams to work in these isolation facilities and rationalization of the available critical care facilities such as ICU ventilators to assure equitable access across the country. Counties have identified other small health facilities to be used in the case of the numbers becoming overwhelming.

Hon. Speaker and Members, it is important to note that about 80 per cent of confirmed COVID-19 patients are asymptomatic and should not congest health facilities where critical care is availed for those in need. As such, selected boarding schools, colleges, and stadia with appropriate infrastructure have been identified for admission of positive asymptomatic patients. They are aimed at protecting the communities and health workers offering critical care. Just to clear what asymptomatic patients are, majority of the positive cases in Kenya do not show any signs of COVID-19. So, you find people who are normal, they have no high temperatures, they are not coughing and they look normal, but they have the virus and are positive. These are the most dangerous ones because they go on with normal businesses as usual without knowing that they have the virus and they can spread it especially when they interact with people who have low immunity. If they interact with people with low immunity, they will spread this virus hence the need for them to be isolated though they do not actually need to be in a medical facility because they are actually not sick or they do not show any sign of being sick.

Regarding the procurement of test kits, lab reagents and other Personal Protective Equipment (PPEs) for frontline workers; as expected the global supply chain had ceased to function in its usual form with the spread of COVID-19 all over the globe. Producing countries of PPEs, medicine equipment and medical devices have restricted exports. As a result, the Government of Kenya engaged multilateral agencies and bilateral relations on the procurement of commodities. Government expenditure has now also focused on available resources from within

with priority being given to procurement of emergency consumables to facilitate protection of health workers, sample collection, and test for COVID-19.

Emergency procurement valued at Ksh849,258,681 were initiated through Kenya Medical Supplies Authority (KEMSA) with a focus on essential commodities and services, in addition to Government to Government engagement. There is an attachment entitled "Statement in the Distribution List to the County Governments", by KEMSA. The Government has also engaged the following local firms to produce facemasks and make them affordable to the common mwananchi whose list is also attached. The President issued a three-month moratorium for counties to source critical medical commodities and equipment outside the KEMSA procurement framework. Hon. Members, this will allow counties to source for these items in a faster way in the market.

Regarding the equipment and Intensive Care Unit (ICU) bed capacities, evidence indicates that access to ICU services is the most critical factor in determining survival among COVID-19 patients with severe illness. The Ministry of Health has taken stock of ICU capacity country wide and is rationalizing to ensure equitable distribution across the counties. The current ICU bed capacity for general patients in Kenya is at 518 in 79 health facilities; 31 public and 48 private facilities.

Additionally, there are 297 functional ventilators comprising of 90 functional ventilators in public facilities and 154 in private facilities in the country. Each site has a total of 10 ventilators with 6 ICU beds. These are the sites for isolation. The Government of Kenya will receive a donation of 105 ventilators from friendly nations, organizations and individuals. Further, the Ministry of Health has procured 30 ventilators of which eight have already been delivered. The received ventilators will be distributed to the counties based on the identified gaps.

Additionally, the World Bank has already procured 200 ventilators for the Ministry of Health through their procurement procedure as a contingency measure to curb the global shortage. Therefore, this one is done directly by the World Bank and not by the Government.

Hon. Members as you are aware, the Government has also received several donations from the Jack Ma Foundation based in China to address the demand of COVID-19 pandemic and for this we wish to send our gratitude to the Jack Ma Foundation for this noble gesture.

Hon. Speaker and Members, regarding testing and rollout of mass testing, the country has established 10 functional testing laboratories across the country which shall have a testing capacity of 37,000 tests per day including the National Influenza Center, KEMRI Influenza Lab, KEMRI Kilifi, KEMRI Busia, KEMRI Kisumu, Kenyatta National Hospital, HIV Lab at National Public Health Lab, KEMRI HIV Lab, Aga Khan University Hospital, Lancet Laboratory and Moi Teaching and Referral Hospital, which started testing on Monday, 20<sup>th</sup> April 2020.

Hon. Speaker, in addition to the above mentioned test centres, each county has GeneXpert equipment capable of at least testing 20 tests per day for each machine. Some counties have three GeneXperts and others have four depending on the number of county and sub-county hospitals. The GeneXpert cartridges have been procured so that counties will be able to conduct at least 3,000 tests each day without relying on reference laboratories.

Fifty six out of 187 facilities with GeneXpert machines are already identified for on-boarding as testing sites once the cartridges are available. This will bring the testing capacity in the country to 37,000 daily.

The proposed approach to target testing Phase I, 50,000 tests will be as follows:

The suspected cases countrywide - 1,400,

Contacts of confirmed cases - 3,000,

Frontline Health workers - 3,000,

Quarantine facilities and hotels - 5,000; and,  
Port Health and Truck Drivers - 14,000

For five counties with confirmed local transmission targeting supermarket workers, Public Service Vehicles (PSV) workers, market vendors and people who come into contact and interact with high number of persons per day, 5,000 in Nairobi, 2,000 in Mombasa, 1,000 in Mandera, 1,000 Kilifi and 1,000 in Kwale... We have also been investigating geographical hotspots at 5,000, Severe Acute Respiratory Infection (SARI) and International Livestock Research Institute (ILRI) health facilities at 2,000.

Hon. Members, in terms of Human Resource (HR) capacity, the Ministry of Health is facing the challenge of inadequate numbers particularly laboratory technologists who are trained to handle the COVID-19 tests. However, it has been noted that the test kits machines are easy to use and the clinical officers and nurses can be utilised to assist in sample collection so that the limited laboratory technologists run the tests.

Regarding KEMRI's capability to do testing and develop the much needed vaccine, the Committee wishes to bring to the attention of this House that the majority of staff deployed in KEMRI labs are not Government of Kenya employees and mostly are volunteers - we have 41 of them - and the rest are project employees. Therefore, there is need for the Government to review the staff establishment in KEMRI with a view of hiring more staff for the institution and we as a Committee will be having a meeting early next week with KEMRI officials.

Further, the Ministry of Health is in serious challenge of an acute shortage of laboratory reagents, testing kits including PCR kits which is a worldwide problem and so the Ministry has started the process of procuring reagents for automated machines; that is, Roche, Abbott and GeneXperts to be able to do 432,000 tests. However, 130 kits to do 26,000 tests, automated reagents from USA Roche reagents arrived the day before yesterday.

Finally, the treatment of COVID-19 and forced quarantine has been the cause for alarm to the Committee as well as members of the public. The Ministry has put in place a system which will help with psychosocial team to assess the ability to pay by the COVID-19 patients with a view to waive the bills on a case-by-case basis. However, funds are required to reimburse the facilities so that they can sustain themselves.

I thank you, Hon. Speaker.

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

**Hon. Speaker:** What is your point of order?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I thank the Chair. In my theoretical opinion, she has done a very good presentation. However, I doubt - and I need that document - whether those things exist. I doubt whether every county has capacity to test. Let us be very honest. I do not think all that Hon. Sabina Chege has said exists. Hon. Speaker, I am fasting. I will check. She has said that every county has a machine that can test.

I can confirm that counties do not have them. There is serious problem in testing. The other day you saw how Kenyans' bill was about not to be paid. Hon. Speaker, because we do not have time we need this document read by Hon. Sabina as this is the oversight role of Parliament. She has talked about the usage of Kshs5 billion. We need to be told whether that money is from donors or Government and how it has been used. There is nothing going on in the counties. Nobody is testing. The numbers in Mombasa and all over the country are rising.

Hon. Sabina was saying that there are a number of testings going on. This statement needs to be interrogated. Whatever we bring to the House needs to be factual and real. If what Hon. Sabina Chege has reported is true, by now we should have been part of those countries that

are getting back to business. However, the way things are going we only hear of numbers. The only thing we wait for is the Press conference. I hope something will change after we pass the Budget and Appropriations Bill. However, this Statement is just a good statement but we need to get it one by one.

Hon. Speaker, I think you need to give direction that every Member is given a copy. This is because we have enough time between today and next Wednesday. Some of us do not stay late at night and so would read during the day when we are fasting. I can talk to my county and verify if it is true so that next week, everything that is done in this House is based on facts, so that next week I can give an account of the things that have been done for a fact.

**Hon. Speaker:** Let us have Hon. Mbadi.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. I also thank the Chair of the Departmental Committee on Health for that statement. This morning, I raised the issue of accountability which is very important. That is a very significant responsibility of this House. I am happy that the Committee is trying to address this. My concern is: currently, there is no problem in this country and the whole world that is bigger than this issue of COVID. It is my request that we can make it a tradition going forward... It is unfortunate that we will adjourn soon. We can get even 30 minutes every week and have the Chair address single areas in particular so that these Members can interrogate the issues well.

I am sure you listened to the Chair. She talked about the capacity to test 37,000 Kenyans per day. This is the same thing we have been hearing from the Cabinet Secretary. When you see the figures that he reads every day of testing about 600 people, there is a total disconnect between what we are being told that we are capable of doing and what is actually happening. Most of us are not professionals in health matters but we would like to know what it is that we can test at 37,000 but manage to test only 500 people.

On the issue of accountability, it is not the mistake of Kenyans to speculate about the Ksh40 billion. It is the communication from the Ministry. If the Ministry comes out and speaks something that the Government has spent Ksh 40 billion, if Kenyans tomorrow start tweeting and putting figures in social media, they are not to blame. Much as we have praised the Ministry for doing an excellent job in trying to help in the fight against this virus... Hon. Members, we must agree that the Ministry of Health has tried under the circumstances.

However, they now need to step it up and start communicating properly other matters that are of concern to the people. Hon. Speaker, I want to confine myself to the Statement so that I do not digress to Hon. Duale's Motion which is coming shortly thereafter, and just ask that if possible we allocate time to the Chair of Health every sitting day. We would ask the Chair to focus on a particular area of concern to Members and address it. If today we talked about testing and the fight, the following sitting we can talk about the expenditure, and another time we can address the preparedness of the counties.

Hon. Speaker, I think God loves us. I would tell you, if this COVID-19 left Nairobi and Mombasa properly and landed on some of our counties such as mine, I am not sure whether my people would survive. So, this is something that we should not take lightly because it may just be a matter of time.

I thank you, Hon. Speaker.

**Hon. Speaker:** Just a minute. You have all pressed interventions. So, let me just follow the list as it is. At some point, I will determine when we should stop. However, we would request Hon. (Ms.) Sabina Chege and some of your ranking Members of your committee such as Hon. (Dr.) Nyikal to take note of what the Members are saying.

I want to agree with what Hon. John Mbadi has said. This matter is serious and is the reason why we are sitting the way we are. So, we must have something every day. We must get the Committee reporting to the House and also being available to respond to the various concerns that Members will raise. So, Hon. (Ms.) Sabina Chege, please take note of what is going to be said.

Please do not take more than two minutes. Let us now have Hon. Sherriff

**Hon. Abdullswamad Sheriff** (Mvita, ODM): Hon. Speaker, I heard Hon. Sabina, who started by saying that the President had formed the Special Committee. It is this very House that gave life to that Committee. However, through various other media sources, the Committee has been indicating that they are going to be audited by Deloitte and Touché which is not as per the rules and regulations governing any particular institute or organisation that is being given money by public coffers. So, I just want us to be very clear on that. Also, I have amendments on Hon. Duale's Motion that is coming up.

I want to confirm that Mombasa is among the counties where mass testing is starting from tomorrow and this will be conducted in Mvita Constituency. Bearing in mind what we will be discussing next regarding quarantine and other matters, it would be vital for us to move forward. I want to confirm that the testing will be done by Mombasa County Government.

Thank you, Hon. Speaker.

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

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Speaker. I must commend the Chair of the Departmental Committee on Health and the Ministry of Health for the splendid job they are doing of managing the national anxiety resulting from the the Coronavirus pandemic. She has given a good flowing Statement which in many cases would probably be called a theoretical framework. But the reality on the ground is completely different.

I speak for Busia County and I can tell her categorically that, as of today morning, any test related to Coronavirus is being conduct in KEMRI, Kisumu. The so called KEMRI in Busia is just an empty shell probably even not worth the name. We have a medical system that cannot even test malaria. I wonder why they would mislead the Committee that they have the ability to test. Most of the selected isolation centres in Busia are schools which are in very bad and deplorable state. I really wonder how well prepared the country and counties are in respect to managing the pandemic.

As I conclude, in respect of this matter, I want to speak on the issue of forced quarantine. Hon. Speaker and the Chair, I can assure you that we will stigmatise people. The purpose of mass testing will be defeated because all the people who would go for mass testing will hide and decline to be tested. This will be on the ground of the consequences that follow, the so-called international protocol which has stigmatised the process. This is to the extent that you are plucked from your family and taken to live in very deplorable conditions. Your many family members are also stigmatised. So, the first thing which you should do and I request you to pass this over to the Cabinet Secretary, is that he needs to start...

**Hon. Speaker:** Let us now have the Member for Saku. I gave you two minutes.

**Hon. Ali Rasso** (Saku, JP): Thank you, very much, Hon. Speaker. I want to thank Hon. Chege for her Statement. I come from Marsabit County and not a single mask has arrived and that is the reality.

**Hon. Speaker:** Mask?

**Hon. Ali Rasso** (Saku, JP): Hon. Speaker, this pandemic is international and apparently it is like every country is on its own - English is not my first language.

On ventilators, when one watches international media, they are saying countries like Senegal are coming up with ventilators which are as cheap as Kshs6,000 as opposed to what Americans are producing at \$16,000. We also need to look far and wide for this pandemic to be managed well in our country.

Finally, on personnel, unless we move quickly and employ as many health personnel as possible, I think the issue of prevention maybe our solution as a country.

Thank you, Hon. Speaker.

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

**Hon. Ibrahim Ahmed** (Wajir North, ODM): Thank you, Hon. Speaker. I have just returned from my constituency today. I can confirm to you that the only ongoing Coronavirus intervention is curfew during night hours and cessation of movement by police officers. Indeed, I can assure you there is no awareness being done by the county government, despite the fact that this is a devolved function.

If there is any Coronavirus prevention material available is one donated by the area MP probably signed courtesy of Hon. so and so. I can assure you that some of the messages we are getting are in written form. It is high time this House woke up to the reality that we do not want very long lectures but action.

Probably Mombasa County Government happens to be among the counties that are doing very well with regards to Coronavirus interventions. God forbid, my fear is in the event that Coronavirus goes on. In some of the counties in Northern Kenya, I can assure you people will have sleepless nights because there will be high mortality levels.

My request is that if the National Government wishes to support constituencies, it must increase the level of awareness with regards to Coronavirus. As we speak even the social distancing we are talking about, many people at the constituency level are not aware of it. They are wondering why the curfew is being imposed during night hours...

**Hon. Speaker:** Let us hear the Member for Kimilili.

**Hon. Didmus Barasa** (Kimilili, JP): Thank you, Hon. Speaker. I want to appreciate the Chair for the information she has provided. I want to urge this House that we have a responsibility to give Kenyans accurate information. As a House, we cannot accept to be misinformed by other Government agencies. We have a responsibility to validate, interrogate and investigate every information we get from the CS, Health before we process it and tell Kenyans.

In my county, Bungoma, the only intervention we have seen so far is provision of a 20 litre jerrican of sanitiser worth Kshs10,000 and checking body temperatures of people. I want the Committee to validate every information they get from the Government so, as to give Kenyans accurate information. This is not the time to continue with that kind of relationship with the Executive where they bring Statements to the House and we read them out to Kenyans. We have a responsibility to go further and verify the information, data and figures they give to this House to see if they are accurate. Otherwise, we have every right to ask them to go back and re-evaluate the figures they have given to this House so that we can give Kenyans accurate information.

Thank you, Hon. Speaker.

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

**Hon. Ngunjiri Wambugu** (Nyeri Town, JP): Thank you, Hon. Speaker. I stand to raise a much more fundamental issue. Members come here every Session and request for Statements. The Chairmen of various Committees commit to get those Statements for them and read to us.

I would be very concerned if it became clear that the Statements given to this House are not based on facts. Normally, I assume what we are told is the reality on the ground. If it is proven

we get Statements that are not factual, then, as a House we need to censure anyone who has given us Statements not based on facts. This is because the Statements we get are what we act or make decisions on.

Should any Statement we have received from any ministry be found not be factual, as a House, we need to make a decision and censure that. Otherwise, we will be working on information that is not factual and we will not do our work of oversight, legislation and representation.

Thank you, Hon. Speaker.

**Hon. Speaker:** Let us now have the Member for Rarieda.

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): Thank you, Hon. Speaker. Mine is slightly different. I will not speak to the substance because I am aware there are two Motions that will be coming by Hon. Duale and Hon. Ngunjiri discussing the same matter. I noticed the very good Statements made by the Chair, Hon. Sabina Chege, and other Chairs which were very lengthy. We have taken about two hours receiving them. Alive to the fact that at any one time only 25 per cent of Members are physically present, I wanted to invite your consideration and with possible direction that such statements be published in advance. Members can access them so that when the very good chairs come here, they do not have to read the entire statement. This is because it takes a long time. Then you can only entertain some slight interventions. They take a very long time and we only meet once a week.

Secondly, I also wanted to invite your consideration alive to the business that we still have. It is true that COVID-19 is the single most important issue right now. Last week, we did not get there. Today, there is the motion by the Leader of the Majority Party on the same issue on which there will be a motion by the Member for Nyeri Town. I wanted to invite your consideration of the possibility of merging these considerations so that as many Members can speak as possible but speak in a consolidated manner.

Thank you, Hon. Speaker.

**Hon. Speaker:** So that you can deal with the issue of COVID-19 most substantively, do we not need to make progress then? We need to make progress. I am not dealing with the issue of gender now; it is not about gender. We will proceed. It is immaterial that you want to raise a point of order.

I direct we move to the next Order. Leader of the Majority Party, go back to Order No...

*(Hon. (Dr.) Chris Wamalwa spoke off record)*

**Hon. Speaker:** Hon. Wamalwa, from there you cannot be calling Hon. Sabina this way. That is out of order. You cannot tell me the reason for it. It is actually bad manners to be shouting across the aisle to the other Member. I quite agree with Hon. Otiende Amollo. I encourage chairs of committees to make sure that they get as many copies as possible of the statements that they are going to present to the House. That which has been laid, you are at liberty to access it from the Table Office. That is the way it is.

Leader of the Majority Party, go to Order No. 5.

## PAPERS LAID

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Submission of Judicial Service Commission's Budget Estimates for Financial Year 2020/21 and related documents. These are the Sub-Sector Report; the Programme-Based Budget for the Medium-Term Expenditure Framework period for 2010 to 2021; and Recurrent Budget Estimates for Medium-Term Expenditure Framework period 2020 to 2021 and 2022 to 2023.

Submission of Judiciary's Budget Estimates for Financial Year 2020/2021 and related documents

I thank the Judiciary for complying with the law in submitting their Budget Estimates.

Secondly, I thank the National Treasury for complying with the law that they must submit by 30<sup>th</sup> April the following documents:

The Programme-Based Budget of the national Government for the year ending 30<sup>th</sup> June 2021;

The Estimates of Development Expenditure for the national Government for the Financial Year ending 30<sup>th</sup> June 2021;

The Estimates of the current expenditure for the national Government for the year ending 30<sup>th</sup> June 2021; and,

The list of projects of the national Government for the Financial Year ending 30<sup>th</sup> June 2021.

Just before I sit, with your permission, I request you to allow me to ask all Members to stand and at least clap for our members who are in the frontline. You can see members sitting here who make sure that the Chamber is clean. With your permission, Hon. Speaker, can we all stand up and clap for our Clerk and everybody for a job wonderfully done.

*(Hon. Members stood up in their places and applauded the Clerk and all the parliamentary officers)*

Thank you, Hon. Speaker.

**Hon. Speaker:** On the same note, while appreciating that Kenya is a multi-religious country, as a House, we will need to send our warm greetings and best wishes to our Muslim brothers and sisters during this holy month of Ramadhan and tell them Ramadhan Kareem. Thank you very much.

Next Order!

## BILL

### *Second Reading*

#### THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL

**Hon. Speaker:** Let us have the Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, based on the time and also because I am not intending to extend the Sitting this afternoon because I am fasting too, I will ask you that the Second Reading of the Public Finance Management (Amendment) Bill is not that urgent. I can do it next week on Wednesday so that we can go straight to the Committee of the whole House. This is because the Supplementary Appropriation Bill and the Small Claims Court (Amendment) Bill are very important. It is actually the President who wants - if the House agrees - to sign them into law plus, the warrant so that the Cabinet Secretary for the National Treasury can have an opportunity to draw money from the Consolidated Fund latest by Monday.

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**Hon. Speaker:** Then we take out business appearing as Order No. 8, which is the Public Finance Management (Amendment) Bill (National Assembly Bill No. 2 of 2020. Those of you who have looked at it can see that, indeed, it is a small Bill. I am sure you can clear it even on the morning Sitting on Wednesday next week.

That, in effect, also takes out the business appearing as (iii) on Order No. 9, which was supposed to be consideration of the same Bill in the Committee of the whole House if it was concluded. Therefore, (iii) is taken out of the Order Paper as well.

*(Business listed as Order Nos. 8 Bill and 9 (iii)  
(The Public Finance Management (Amendment) Bill deferred)*

Next Order!

### COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

### IN THE COMMITTEE

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

### THE SUPPLEMENTARY APPROPRIATION BILL

**Hon. Chairman:** Order, Hon. Members

*(Clauses 3 and 4 agreed to)*

*First Schedule*

**Hon. Chairman:** Mover.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Chairman, I beg to move:

THAT, the First Schedule be amended —

- (a) in Vote 1011 (the Presidency), by deleting the expression “Ksh. 356,244,134” appearing under Programme 0734000 (Deputy President Services) in respect of recurrent estimates and substituting therefor the expression “Ksh. 216,244,134”;
- (b) in Vote 1092 (State Department for Transport), by deleting the expression “KSh. 1,600,000,000” appearing under Programme 0203000 (Rail Transport) in respect of recurrent estimates;
- (c) in respect of Vote 1122 (State Department for Information, Communication and Technology), by—
  - (i) deleting the expression “KSh. 34,474,281” appearing under Programme 0217000 (E-Government Services) in respect of recurrent estimates and substituting therefor the expression “Ksh. 4,474,281”;

- (ii) deleting the expression “KSh. (34,474,281)” appearing under Programme 0217000 (E-Government Services) in respect of recurrent estimates and substituting therefor the expression “Ksh. (4,474,281)”;
- (d) in respect of Vote 1123 (State Department for Broadcasting and Telecommunications), by deleting the expression “KSh. (785,672,328)” appearing under Programme 0208000 (Information and Communication Services) in respect of recurrent estimates and substituting therefor the expression “Ksh. (649,672,328)”;
- (e) in respect of Vote 1281 (National Security Intelligence), by deleting the expression “Ksh. 3,500,000,000” appearing under Programme 0804000 (National Security Intelligence) in respect of recurrent estimates and substituting therefor the expression “Ksh. 4,000,000,000”;
- (f) in respect of Vote 1168 (State Department for Agriculture Research), by inserting the expression “Ksh. 2,499,600” under Programme 0120000 (Agriculture Research & Development) in respect of development estimates;
- (g) in respect of Vote 1281 (National Security Intelligence), by deleting the expression “Ksh. 3,500,000,000” appearing under Programme 0804000 (National Security Intelligence) in respect of recurrent estimates and substituting therefor the expression “Ksh. 4,000,000,000”

The First Schedule on Vote 1011 (the Presidency) is a reduction of Kshs140 million from the Office of the Deputy President Services under the Presidency. That is just a further rationalization of their budget.

Vote 1092 on State Department for Transport is a re-alignment of a figure that was under rail transport of Kshs1.6 billion. That is under (b).

On vote 1122 on the State Department for Information, Communication and Technology, the Order Paper has two amendments. I beg that we delete one because it is a duplication of the other. So, the amendment relates to a figure of Kshs34 million that is being deleted and substituted with a figure of Kshs4 million. That relates to Kshs30 million that had been reallocated by the Departmental Committee on a pending bill for purchase of furniture at their head office, at the Ministry Headquarters. The Committee had reallocated but the money had already been spent. So, that is being reversed.

**Hon. Chairman:** You have to be clear. Which one did you say that you are proposing to delete?

**Hon. Kimani Ichung’wah** (Kikuyu, JP): On (c), Hon. Chairman, there are parts (i) and (ii). As you realise, it is a repetition of the same thing. So, we just need to delete one of them and I was explaining the rationale of that amendment.

*(Part (ii) deleted)*

On Vote 1123 on the State Department of Broadcasting and Telecommunications, as spelt out on the Order Paper, that again is in relation to realignments which is a deletion of Kshs785,672,238 under the Information and Communication Services Programme 0208000 and substituting thereof with the figure of Kshs649,672,328.

Vote 1281 on National Security Intelligence, we are deleting the figure of Kshs3.5 billion appearing under Programme 0804000 in respect of the recurrent estimates and substituting therefor with a figure of Kshs4 billion. Hon. Chairman, that is an increment of Kshs500 million towards

COVID-19 expenses on the Multi-Agency Command Centre on security and tracing of contacts and related issues on COVID-19. This is additional expenditure to the National Intelligence Service.

In respect of Vote 1168 on State Department for Agriculture Research, it is inserting a figure of Kshs2,499,600 under Programme 00120000...

**Hon. Chairman:** I thought you would be stopping somewhere around Vote 1281.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Yes, Hon. Chairman, have I moved on? No, I am moving to that as the last one.

**Hon. Chairman:** What is it, I am now using voice recognition. That must be Hon. David Gikaria. What is your point of order? I am struggling to give you a microphone. You probably need to come to this one. In the meantime, as he does that, Hon. Chairperson, you need to indicate whether Vote 1281 is a repetition because I can see it is coming twice. There is a probability that there is a repetition there. So, once you go through this National Intelligence... Actually, I do not need to ask you.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Yes, Hon. Chairman. I was coming to that. It is also a repetition of the one on (e). Actually, if you look at it, it is word for word. It is the same thing. It is just a similar mistake on the Order Paper, just like in (c).

**Hon. Chairman:** Okay. Hon. David Gikaria, what is it?

**Hon. David Gikaria** (Nakuru Town East, JP): Hon. Chairman, I want to admit that I am a little bit lost. I am trying to follow what the Chairperson of the Departmental Committee on Budget and Appropriations is trying to do. I do not know whether it is on our...

**Hon. Chairman:** Okay, it is an honest confession. Hon. Chairperson of the Departmental Committee on Budget and Appropriations, find Hon. David Gikaria somehow!

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Chairman, if the Member for Nakuru Town East is lost, we will find him when we get to the State Department for Energy. I know where to find him. We are yet to get there.

**Hon. Chairman:** Actually, what Hon. David Gikaria is probably saying is that he is not following what you have been indicating. Of course, you are doing the First Schedule, is it not?

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Yes, Hon. Chairman.

**Hon. Chairman:** So, Hon. David Gikaria, we are on the First Schedule.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): We will come to the Second Schedule where the issues he may want to follow... Maybe, on the Order Paper, Hon. Chairman...

**Hon. Chairman:** Vote 1152 is the place I think you want to...

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Yes, Vote 1152 is where Hon. David Gikaria will be found, Hon. Chairman. That is on page 274.

**Hon. Chairman:** Okay, we will see how it goes. If it is not clear, Hon. David Gikaria, we will still give you an opportunity. So, are you through with it, Hon. Chairperson?

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Yes, Hon. Chairman, I am through with the amendments in relation to the First Schedule.

*(Question of amendment proposed)*

**Hon. Chairman:** The first shot goes to Hon. (Dr.) James Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Hon. Chairman, in Vote 1281, there is actually an increase. What the Chairperson of the Departmental Committee on Budget and Appropriations has said is that this money is going to COVID-19 and is related to contact tracing. One would have

thought that it should come under health. So, we may need to know a little more - I think I am where Hon. David Gikaria was but, at least, I know where the figures are - on what exactly that money is going to do. Even the one on agriculture was not clear on what the changes are. It is only in the first one where he said that, that money has already been spent and therefore we accepted it. So, under (e), let us get it clearly what is being done with that money?

**Hon. Chairman:** Okay. Yes, I see you, but I do not recognize you. That must be Hon. (Dr.) Wilberforce Oundo. Well, it is nobody's mistake. So, let us hear Hon. Wilberforce Oundo. I could give four Members on this and then we finish it, because we have already finished it.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Hon. Chairman, I concur with Hon. (Dr.) James Nyikal. The fear most of us have currently is that the fight against COVID-19 is being militarised. It is turning into a police state and he needs to come out very clear. I thought contact tracing should be the reserve of the public health because they can tell and conduct tests on the spot to see whether it is worthy quarantining or not.

Probably, he needs to come out very clearly so that he puts those issues to rest.

**Hon. Chairman:** It is a bit difficult to identify Members. Let us go to that Member.

**Hon. Martin Owino** (Ndhiwa, ODM): Thank you, Hon. Chairman. I have the microphone. I agree with all the Members who have said that COVID-19 is a public health case. It is not a police case. Contact tracing should fall under the Ministry of Health and not where it is right now.

**Hon. Chairman:** Who are you for purposes of record? That is Hon. Owino. I am having a problem giving you the microphone. You might have to use this one. It is a bit of a complication.

**Hon. Ibrahim Ahmed** (Wajir North, ODM): Hon. Chairman, I support this allocation. I support it because I strongly believe that there is some increase of activity in this department as well. There should be a lot of information gathered where there is an influx of Coronavirus infections. In regard to cessation of movement, there is a lot that is happening. There will definitely be an increase in personnel, costs, movement and logistics.

I definitely support this amendment.

**Hon. Chairman:** Lastly, let us have the gracious lady with a "windscreen". That must be the Member for Ijara.

**Hon. (Ms.) Sophia Noor** (Ijara, PDR): Thank you, Hon. Chairman for giving me this opportunity. At this challenging time, this is a collective responsibility. I support this particular line item because when we trace people, it is not only the health personnel who go out there. We need the chiefs, elders, security personnel and the police. It is important that when we work out issues pertaining to COVID-19, it is the nation's collective responsibility. Everybody has a responsibility in one way or another.

I support the amendment.

**Hon. Chairman:** Let us get your decision.

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

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

*(First Schedule as amended agreed to)*

*Second Schedule*

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Chairman, I beg to move:

THAT, the Second Schedule be amended—

(a) in respect of Vote 1021 (State Department for Interior), by deleting the expression “Kshs1,357,359,200” appearing under Programme 0601000 (Policing Services) in respect of recurrent estimates and substituting therefor the expression “Kshs1,557,359,200”;

(b) in respect of Vote 1065 (State Department for University Education), by deleting the expression “Kshs2,498,256,737” appearing under Programme 0504000 (University Education) in respect of development estimates, and substituting therefor the expression “Kshs2,265,443,892”;

(c) in respect of Vote 1081 (Ministry of Health), under Programme 0405000 (Health Policy, Standards and Regulations) in respect of Development Estimates, by—

(i) deleting the expression “Kshs9,289,016,268” and substituting therefor the expression “Kshs8,949,016,268”;

(ii) deleting the expression “Kshs1,546,000,000” and substituting therefor the expression “Kshs3,546,000,000”.

(d) in respect of Vote 1092 (State Department for Transport), by—

(i) deleting the expression “Kshs1,809,000,000” appearing under Programme 0203000 (Rail Transport) in respect of Development Estimates, and substituting therefor the expression “Kshs1,533,200,000”;

(ii) deleting the expression “Kshs275,800,000” appearing under Programme 0204000 (Marine Transport) in respect of Development Estimates, and substituting therefor the expression “Kshs1,600,000,000”;

(e) in respect of Vote 1152 (State Department for Energy), by—

(i) deleting the expression “Kshs141,000,000” appearing under Programme 0212000 (Power Generation) in respect of Recurrent Estimates, and substituting therefor the expression Kshs145,000,000; and,

(ii) deleting the expression “Kshs186,602,227” appearing under Programme 0212000 (Power Generation) in respect of Development Estimates, and substituting therefor the expression “Kshs90,397,773”;

(f) in respect of Vote 1166 (State Department for Fisheries, Aquaculture & the Blue Economy), by deleting the expression “Kshs1,815,696,000” appearing under Programme 0118000 (Development and Coordination of the Blue Economy) in respect of Development Estimates, and substituting therefor the expression “Kshs1,195,696,000”;

(g) in respect of Vote 1193 (State Department for Petroleum), by deleting the expression “Kshs(1,310,200,000)” appearing under Programme 0215000 (Exploration and Distribution of Oil and Gas) in respect of Development Estimates, and substituting therefor the expression Kshs(1,596,200,000);

(h) in respect of Vote 1122 (State Department for Information, Communication and Technology) in respect of Programme 0217000 (E-Government Services), by deleting the expression “Kshs2,332,852,895” in respect

of Development Estimates, and substituting therefor the expression Kshs2,582,852,895.

The first amendment on Vote 1021...

**Hon. Chairman:** What is it, Leader of the Majority Party?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, before the Chair of the Budget and Appropriations Committee moves an amendment, in line with the procedures of the House, he can only move amendments from the National Treasury. For that to happen, he must give you a copy of the letter from the National Treasury confirming to us that these amendments belong to the Government. Before he moves the amendment, can he confirm to the House that, that document has been sent to the Clerk and is in order?

Otherwise, this House passed the Supplementary Budget Report. The only way we can alter it is if it comes from the Budget and Appropriations Committee through a letter from the National Treasury. We need to be clear. The Chair has no leeway. Anything he moves must be within the procedures of the House. Can he first confirm? Sorry, I was away the first time he was moving. I had to go and pray. I watched him moving and not tabling anything. Can he first confirm that he has a letter from the National Treasury?

**Hon. Chairman:** Let us hear from the Alliance alumni. What do you have to say? Or, maybe, we can hear from his colleague, the Kabarak alumni.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Chairman, I can confirm. The Leader of the Majority Party is perfectly in order. I can confirm that the amendments I am moving are contained in a letter Reference No.ES1/07/02B (36) dated 24<sup>th</sup> April 2020 signed by the Cabinet Secretary, Ukur Yattani.

In relation to this, the Kshs200 million is rationalisation of the additional budgetary provisions of Kshs200 million granted to the State Department for the Interior. That is the Kshs200 million that had been granted to the Directorate of Criminal Investigations (DCI) as a reallocation from the Departmental Committee on Administration and National Security.

However, under the famous Kshs40 billion, there was an additional Kshs200 million that had also been provided for policing services. Therefore, there is no need to double-allocate to the tune of Kshs400 million.

Also, in relation to the Multi-Agency Command Centre - the Kshs500 million that Members raised issues with going to the National Intelligence Service (NIS) - a lot of the work in relation to COVID-19 is with regard to contact tracing. I am sure the Chair of the Departmental Committee on Health can confirm this. Doctors, nurses and clinicians do not have the capacity to trace contacts. I do not know if it is trace contacts or contact tracing. The National Intelligence Service has the capability to work together with telecommunication companies.

**Hon. Chairman:** I understand that being an Alliance alumnus, you like speaking. There is no difference between contact tracing and tracing contacts. It is the same thing. Whatever it is...

**Hon. Kimani Ichung'wah** (Kikuyu, JP): There might be a difference. But for you and my Vice-Chair who attended a school named after somebody, namely, Moi High School Kabarak, there might be a difference in how you arrange words. For those of us who went to Alliance High School, there is a big difference.

**Hon. Chairman:** Are you talking to the Chair or to your Vice-Chair? That is because the consequences are different. Proceed, anyway.

*(Laughter)*

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Chairman, it only happens that my Vice-Chair attended the same school as the Chair. In this relation, I am speaking to my Vice-Chair and not the Chair for obvious reasons.

As I have explained, Vote 1021 is a Kshs200 million reduction.

Under Vote 1065, State Department for University Education, we are deleting Kshs2,498,256,737 appearing under Programme 0504000 (University Education) in respect of development estimates, and substituting with Kshs2,265,443,892. Again, that is from the National Treasury as contained in the letter that I have mentioned; being a realignment of development expenditure under the State Department for University Education.

There is also Vote 1081, Ministry of Health under Programme 0405000 (Health Policy, Standards and Regulations), in respect of development estimates. This relates to additional resources that had been left out, namely, donor funds. The Chair of the Departmental Committee on Health explained at length about some of the donor funds that have come in. You will appreciate that by the time the National Treasury tabled the Supplementary Estimates, some of those funds had not come in and we had not factored them into this budget. Therefore, this came as an additional amount of donor funds.

In respect to Vote 1092, State Department for Transport, there is marine transport under Programme 0204000 and rail transport under Programme 0203000. Again, those are just realignments within the State Department for Transport.

Hon. Chairman, (e) is in respect of Vote 1152 which is the State Department for Energy. I am sure that the Chair of the Departmental Committee on Energy has been found. This is in relation to reallocations that the Departmental Committee on Energy had done to Appropriations-in-Aid (A-in-A) expenditure from Geothermal Development Company (GDC). There is the same consequential one under (e)(ii). We are proposing to amend the Second Schedule by deleting the expression Ksh186,602,227 under Programme 0212000 which is Power Generation in respect of development estimates, and substituting therefor Ksh90,397,773. I am sure the Chair understands what that is related to because they had reallocated monies within the Departmental Committee on Energy that were A-in-A. Therefore, there were no monies that were available for reallocation. That is what is being corrected.

In respect of Vote 1166 which is State Department for Fisheries, Aquaculture and the Blue Economy, this is counterpart funding. Ksh620 million had been left out, which is additional counterpart funding from the Government of Kenya to supplement donor funding to this very important Fisheries, Aquaculture and Blue Economy. We appreciate that with the challenges that we have with COVID-19 pandemic, aquaculture and blue economy will be key drivers of our economy because people can work in the lakes and ocean with social distancing with small boats and fish and supplement our food production by fishing.

In respect of Vote 1193 which is the State Department for Petroleum, we are proposing to amend the Second Schedule by deleting Ksh1,310,200,000) which appears under Programme 0215000 which is Exploration and Distribution of Oil and Gas in respect of Development Estimates, and substitute it therefor with Ksh1,596,200,000). As the Chair is aware, that is in relation to the Ksh286 million that the Committee had reallocated.

Vote 1122 is State Department for Information, Communication and Technology. In respect of Programme 0217000 which is on E-Government services, we are proposing to amend the Second Schedule by deleting Ksh2,332,852,895 in respect of development estimates, and substituting therefor with the expression Ksh2,582,852,895. This is in relation to the reallocations that were done by the Departmental Committee on Communication, Information and Innovation.

I am sure that the Chair of the Committee is here. They had taken this money that had already been expended through Article 223 of the Constitution. Therefore, it was not possible to reallocate it.

Hon. Chairman, that is it in relation to the Second Schedule.

*(Question of the amendment proposed)*

**Hon. Chairman:** That particular Member.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Chairman.

**Hon. Chairman:** That must be Hon. Makali Mulu.

**Hon. Makali Mulu** (Kitui Central, WDM-K): This is Hon. Makali Mulu, Member for Kitui Central. Hon. Chairman, I want to support these amendments but make some observations. When you look at the amendment relating to the blue economy, last week in this House, we approved the removal of that money from the Supplementary Budget and then the money has been brought again. The explanation we are getting is that it is counterpart funding of a donor funded project.

The National Treasury needs to get a bit serious. They came last week and told us to remove certain amount of money and then they have told us to get the money back this week. This is a reflection of lack of consultation with the State Departments. It is important for the National Treasury to consult with the State Departments before they bring these figures to Parliament.

I support the amendments, Hon. Chairman.

**Hon. Chairman:** Is that Hon. Maanzo? I can give the opportunity to this Member and then I give to Hon. Maanzo. I am unfair to him.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Thank you, Hon. Chairman. I want to support this amendment. Donor funded projects are funded directly, although the National Treasury is familiar with the ongoing projects.

When it comes to fighting COVID-19, almost every State Department is involved in one way or another. So, those arrangements support the total war against COVID-19.

I thank you, Hon. Chairman.

**Hon. Chairman:** I see interest to contribute to this particular amendment again. Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Chair. I want to go into the footsteps of Hon. Makali where he said that the funds on blue economy were removed. I am a Member of the Departmental Committee on Agriculture and Livestock. This was our concern in the Supplementary Budget. However, the Ministry is bringing the money back which we feel that it is appropriate. We support the Chair of the Budget and Appropriations Committee. This will have a very big effect in food nutrition for the COVID-19 disease patients.

Therefore, we support the amendments, Hon. Chairman.

**Hon. Chairman:** I will give the opportunity to that Member at the very end and that will be it.

**Hon. Mark Nyamita** (Uriri, ODM): Thank you, Hon. Chairman. I am a Member of both the Departmental Committee on Communication, Information and Innovation and the Budget and Appropriations Committee. I want to seek clarification from the Chair of the Budget and Appropriations Budget on (h) which is the State Department for Information, Communication and Technology on what the increment of Ksh200 million relates to. It is confused with an earlier reallocation. There could be a mistake in the Order Paper. I need him to clarify. The

reallocation of Ksh200 million was not under development estimates but recurrent estimates to the Media Council of Kenya (MCK) and Kenya Broadcasting Corporation (KBC). It is being reversed here in the Order Paper. The Chair needs to confirm that before we make a decision.

**Hon. Chairman:** Hon. Chairman, look at that. What is it, Chair of the Departmental Committee on Health? I do think that you are interested to contribute anymore. I will give this opportunity to the Chair of the Departmental Committee on Health and then the Chair of the Departmental Committee on Communication, Information and Innovation. Let us be brief and then we end the discussion. The rest of the Members can contribute to the next amendment.

We have a problem with the microphone of the Chair of the Departmental Committee on Health. You have been having this problem since morning. The Chair of the Departmental Committee on Communication, Information and Innovation can have the Floor. I cannot get your microphone, unless you come this way.

**Hon. William Kisang** (Marakwet West, JP): Thank you, Hon. Chairman. I seek the same clarification that Hon. Nyamita asked the Chair of the Budget and Appropriations Committee. Vote 1122 is increasing Ksh200 million that had been reallocated as recurrent estimates to go to what the Member for Wajir North said. He said that people on the ground do not know anything about what is happening in the country. So, we reallocated Ksh200 million to KBC and MCK for local television and radio stations. I do not know where the Chairman of the Budget and Appropriations Committee got Ksh200 million to take to Vote 1122. We had removed it from E-Government to recurrent estimates. I want to find out where he is getting that particular money because it will negate what we did in the First Schedule.

**Hon. Chairman:** Are you supporting Hon. Nyamita?

**Hon. William Kisang** (Marakwet West, JP): Yes. We cleared that issue yesterday with the Budget and Appropriations Committee.

**Hon. Chairman:** I hope that the Chair is listening. Chair of the Departmental Committee on Health, please have the Floor.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Chairman. I stand to support the Chair. It is good for Members of this House to be keen, especially on allocation of money.

A lot of things that are coming out, Hon. Chairman, is that there is some money that was already given by donors but it was indicated like it is the money that has already been spent. So, it is important that the Hon. Members be keen and listen to the allocations. We are the ones who allocate money in this House. As we make progress, it is important that we note down what we are allocating especially on donor and health.

Thank you, Hon. Chairman.

**Hon. Chairman:** Now, Chairperson, Budget and Appropriations Committee, you can respond particularly to that one of the Departmental Committee on Communication, Information and Innovation.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Chairman, let me first confirm to the Member of the Departmental Committee on Communication, Information and Innovation, Hon. Mark Nyamita, that the Kshs200 million that relates to an allocation of Kshs150 million to MCK and Kshs50 million to KBC are intact. If you take the difference of Kshs2,332,852,895 and Kshs2,582,852,895, that is the Kshs250 million that had been reallocated share from the Kshs650 million which is not available. So, it is only that and not the Kshs200 million.

**Hon. Chairman:** Okay. Therefore, make your decision.

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

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

*(Second Schedule as amended agreed to)*

**Hon. Chairman:** What is your point of order, Hon. David Gikaria? What is the number of your card?

**Hon. David Gikaria** (Nakuru Town East, JP): It is 184.

**Hon. Chairman:** Okay, proceed.

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Chairman. When we talk about budgets... Hon. Chairman, you will agree with us that we are in very unusual times. The time that you had given us at the Committee level to be able to do some things is not the usual timeline. So, it has been a little bit unusual. This is why I am begging for your indulgence that you may give me the way forward.

There is one payment that I did not hear the Chairperson, Budget and Appropriations Committee mention and that is, the money that was meant for Loiyangalani-Suswa High Voltage Power Line. The information that we had requested from the Ministry came in very late giving an explanation as to that figure and why we should be paying it. We want to believe and because I did not hear...

**Hon. Chairman:** Unfortunately, that is gone.

**Hon. David Gikaria** (Nakuru Town East, JP): Hon. Chairman, that is why sometimes when we raise a point of order, at least... I have sat here since...

**Hon. Chairman:** But not that it will change anything. Do you have anything in that direction, Hon. Chairperson, Budget and Appropriations Committee?

**Hon. David Gikaria** (Nakuru Town East, JP): Hon. Chairman, if I could explain...

**Hon. Chairman:** Let us have the Chairperson, Budget and Appropriations Committee, respond to that.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): I understand where the Chairperson, Departmental Committee on Energy is lost. When the Leader of the Majority Party stood on a point of order, he said that everything that we do in the Appropriation Bills must be as a result of the Report that was tabled, debated and adopted by the House.

The issue that Hon. David Gikaria is speaking about relates to Loiyangalani-Suswa High Voltage Power Line, that is, an amount of Kshs 1.16 billion which the Departmental Committee on Energy in their own wisdom, last year, advised that we do not approve until an audit report is tabled before the House. That was adopted through a resolution of this House and when the Chairperson, Departmental Committee on Energy, appeared before that Committee during the processing of this Supplementary Budget he reiterated that, that is still their position.

However, this morning he approached me with letters from the Ministry of Energy that purport to be explaining the whole issue. Unfortunately, my hands are tied. I am unable to reverse the decision of the Committee and the resolution of the House until and unless... The other challenge that I am confronted with is that the documents that I got are just from the Ministry of Energy.

The Budget and Appropriations Committee and its Chairperson do not have any interaction with Ministries, Departments and Agencies (MDAs). They interact with Departmental Committees. When they interact with the Ministry of Energy and they are satisfied that the audit has been done and they are okay with the payment...

Hon. Chairman, since the Annual Estimates have just been tabled, there is a similar issue relating to a payment of Kshs1,000,000,081 under the Ministry of Information, Communication and Technology (ICT). The most logical thing is to process these things with the Annual Estimates and have them approved together.

**Hon. Chairman:** That is clear. New Clause 6 has been called. So, I want to call the mover to move the Second Reading of the New Clause.

*(Hon. Aden Duale spoke off record)*

You will have your time, the Leader of the Majority Party. I will give you your time. Now we are at New Clause 6. That is water under the bridge. What is it, the Leader of the Majority Party? Sometimes we take a lot of time on something that is already gone. So, what is it the Leader of the Majority Party?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, we need to make our brother, the Chairperson, Departmental Committee on Energy, have comfort. The problem is what I had said earlier. We cannot deviate from the Budget and Appropriations Report on the Supplementary Appropriation II. We abide by that. You cannot change. However, because that was not captured, the Departmental Committee on Energy itself gave a different version.

Again, I wish we had a letter from the National Treasury on the matter. We do not have it. So, I really want to tell the Chairperson, Departmental Committee on Energy, that we will revisit this when the Budget and Appropriations Committee is dealing with Annual Estimates for the Financial Year 2020/2021. We assure you that.

*(Hon. Ali Rasso stood in his place)*

**Hon. Chairman:** Is that Hon. Ali Rasso? This thing is gone. What is the number of your card?

**Hon. Ali Rasso** (Saku, JP): It is 317.

**Hon. Chairman:** I cannot see it here.

**Hon. Ali Rasso** (Saku, JP): Thank you, Hon. Chairman. Mine is a quick one. Looking at Vote 1081, that is, Health, it is actually reducing. Can the Chairperson confirm that?

**Hon. Chairman:** No, no! We will not go towards that direction, Hon. Ali Rasso, because that is a matter that has been finalised.

**Hon. Ali Rasso** (Saku, JP): Hon. Chairman, it is really important.

**Hon. Chairman:** But we cannot reopen this.

**Hon. Ali Rasso** (Saku, JP): Can he also confirm that there are allocations to the counties in terms of national Government support?

Thank you, Hon. Chairman.

**Hon. Chairman:** She is not in. Since we had finished the matter, probably, that is a question we will ask in a different forum because she is not there herself and I do not think anybody can answer on her behalf. Yours is a valid question.

*(Loud consultations)*

I really do not want us to reopen that manner. We will go the wrong way. So, let us go to New Clause 6. So, Mover, please move the second reading.

*New Clause 6*

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Chairman, I beg to move:

THAT, the following new clause be inserted immediately after clause 5—

Ring-fencing  
appropriations.

6. The monies appropriated in the Second Schedule in respect of Vote R1081 (Ministry of Health), under Programme 0405000 (Health Policy, Standards and Regulations), shall be earmarked for COVID-19 pandemic interventions, and shall be ring-fenced as follows—

- (a) Kenyatta National Hospital and Mbagathi Hospital – Kshs.600,000,000;
- (b) Kenyatta University Teaching and Referral Hospital – Kshs.500,000,000;
- (c) Jaramogi Oginga Odinga Teaching and Referral Hospital – Kshs.400,000,000;
- (d) Moi Teaching and Referral Hospital – Kshs.400,000,000;
- (e) Kitui Hospital – Kshs.300,000,000;
- (f) Mandera Hospital – Kshs.300,000,000; and
- (g) Coast General Hospital – Kshs.500,000,000.

This relates to the ring-fencing of appropriations that the great people of this country should note that are sacrifices from Hon. Members of Parliament from both the National Assembly and the Senate. The bigger chunk, as I said in the morning, of almost Kshs2.3 billion is coming from the National Assembly that we have sacrificed from our own budget to go towards the fight against COVID-19 pandemic.

As we said in our report, we wanted this money ring-fenced to ensure that it goes specifically to cater for some of the issues that you heard the Chairperson of the Departmental Committee on Health spoke about in terms of ensuring that there are enough Personal Protective Equipment (PPE) for our frontline health workers in the hospitals that are dealing with COVID-19 related matters.

Hon. Chairman, the monies appropriated in the Second Schedule in respect of Vote R1081 (Ministry of Health), under Programme 0405000 (Health Policy, Standards and Regulations), shall be earmarked for COVID-19 pandemic interventions, and shall be ring-fenced as follows:

- (a) Kenyatta National Hospital and Mbagathi Hospital - Kshs600,000,000.

These are some of the first hospitals that were designated as isolation and treatment centres for COVID-19 patients. We want to ensure they have adequate testing kits and PPEs for our frontline health workers.

- (b) Kenyatta University Teaching and Referral Hospital will receive Kshs500,000,000.

Hon. Chairman, you will appreciate that Nairobi has been the epicenter of COVID-19 and, therefore, we have a total of two facilities that are receiving the allocation from the Members of Parliament.

In Western Kenya, we have Jaramogi Oginga Odinga Teaching and Referral Hospital in Kisumu County that is receiving Kshs400,000,000 from Members of Parliament.

Hon. Chepkut has been very vocal about Moi Teaching and Referral Hospital (MTRH). I want to assure him that in the Annual Estimates that have been tabled, we will consider the issue of Kshs900 million that is a deficit of salaries and wages at MTRH. MTRH will receive

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Kshs400,000 being a sacrifice from Members of North Rift and Members of Parliament. Kitui Hospital...

**Hon. Chairman:** I wonder whether Hon. Chepkut is keen. You have talked about Kshs400,000.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Sorry, I meant Kshs400 million. That was an oversight.

You will remember that there was a reported case of COVID-19 and a number of contacts. They are doing a splendid job through the Kitui County Textile Centre (KICOTEC) by producing masks for members of public. Members of Parliament have allocated them Kshs300 million.

Mandera Hospital which has also been an epicentre of COVID-19 in Northern Kenya will receive Kshs300 million from Members of Parliament.

The Coast General Hospital, where the Member for Mvita comes from and is a host to that hospital, will also receive some funds. I must commend the Governor for Mombasa and the Members of Parliament for Mvita and Nyalı. They are doing a good job.

*(Hon. (Ms.) Peris Tobiko stood close to Hon. Daniel Maanzo)*

**Hon. Chairman:** Just a minute. There is a Member here who is not observing social distancing. Please proceed and take your seat.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): It is the Member for Kajiado East.

**Hon. Chairman:** Member for Kajiado East, take your seat.

**Hon. (Ms.) Peris Tobiko** (Kajiado East, JP): I do not have a seat.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): She is hanging onto the Member for Machakos Town.

**Hon. Chairman:** You cannot negotiate for a seat with a Member who is sitting down. The seat is only sufficient for one Member and you can understand.

*(Laughter)*

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Chairman, I hope you are not insinuating that the Member...

**Hon. Chairman:** Proceed, Hon. Ichung'wah. You do not have to read the mind of the Chairman.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): The Coast General Hospital will receive Kshs500 million. That is a total of Kshs3 billion that has come from the budget of Members of Parliament.

I want to take this opportunity to commend Members of Parliament and the Parliamentary Service Commission.

*(Applause)*

The Senators only sacrificed Kshs274 million from their budget.

**Hon. Chairman:** Can you clarify the figures again?

**Hon. Kimani Ichung'wah** (Kikuyu, JP): You know, I am an accountant and I must give you the figures as they are. The Senate contributed Kshs274 million. You can work out the maths from Kshs3 billion and you will get the amount that every Member of Parliament contributed from their budget.

I want to request that you order consequential amendments to be effected in the Schedule.

**Hon. Chairman:** We are not yet there. We are still proceeding with the New Clause. I want to...

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Has it been seconded?

**Hon. Chairman:** Sorry, please second.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): I want to request the Vice-Chairman to second.

**Hon. Chairman:** Behind every successful Chairman, there must be a very strong Vice-Chair.

*(Loud consultations)*

Hon. Lessonet, what is your seat number?

**Hon. Moses Lessonet** (Eldama Ravine, JP): Number 162, Hon. Chairman.

As I second, I hope the monies contributed by Parliament will go towards testing for COVID-19. The reason why we declared 10 positive cases today – 1 in Nairobi and 9 in Mombasa - is an indication of insufficient testing.

*(Applause)*

We hope these monies will help in securing highways, specifically the highway touching Eldama Ravine. Between Makutano and Timboroa, there are many trucks that make stops on a daily basis. We need serious surveillance along that route. We hope the MTRH, which has received some allocation, will secure that particular corridor.

With those remarks, I second.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

**Hon. Chairman:** Leader of the Majority Party. Let us be brief.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, you have been referring to people who went to Alliance High School and Moi High School – Kabarak. Let me also say that I went to school with Anne Waiguru – not very far from here. We went to Moi Forces Academy. She was my junior. She, however, did not learn a lot from me. I wish she did.

I want to support this and show that the budget-making process as per the Public Finance Management Act and the Constitution is the sole function of the National Assembly. That is why the Kshs3 billion that we slashed, we can reallocate it to Jaramogi Oginga Odinga Teaching and Referral Hospital, Mandera Hospital, Coast General Hospital, MTRH, Kenyatta University Teaching and Referral Hospital and Kenyatta National Hospital.

I want the Chairman of the Budget and Appropriations to tell us where the Kshs260 million from the Senate has been appropriated to. They should give it to the COVID-19 Fund. There are guys who are collecting money at Kenyatta International Convention Centre (KICC). This is the way to go about it.

I want to ask a moral question. As the Budget and Appropriations Committee, if you based the reallocation on the areas where COVID-19 was found, what happens to other counties? What happens to Kakamega, Nyeri, Garissa and Embu general hospitals?

**An Hon. Member:** Bungoma General Hospital.

**Hon. Aden Duale** (Garissa Township, JP): Bungoma has its own problems from the wheelbarrows saga and the jerricans that they are now buying. Last night, I saw that there were more than 10 people in one bed in a hospital. The Governor of Bungoma and his leadership must put their house in order. It is very shameful to have more than five people on one bed in a hospital where we need to practise social distancing.

I support.

**Hon. Chairman:** The Leader of the Minority Party. Hon. Members, I know this is an interesting one but we should be winding up. We will still have another opportunity. What is the number of your seat?

**Hon. John Mbadi** (Suba South, ODM): Hon. Chairman, we did not want to allocate this cut from the PSC budget just anyhow. We wanted to specifically give it to targeted areas. There will always be issues when it comes to resource allocation. In my opinion, we were very fair.

It is not in doubt that Coast is a hotspot as we speak. It is not in doubt that Nairobi is a hotspot. It is not in doubt that Mandera, for the northern region, is a hotspot. It is not in doubt also that Kitui could cover the region. However, let us also remember that Eldoret has the MTRH, a major hospital in the Rift Valley Region.

Finally, the reason we picked on Kisumu is that we had issues. Siaya has reported cases. Homa Bay and Kakamega have reported cases. We felt that we needed a central area to manage Homa Bay, Siaya and Kakamega. Of course, Kisumu stands out. So, we could not again split this money into smaller amounts.

**Hon. Chairman:** There will be another opportunity in the next minute on that one and I will give chance to a few Members. So, let us finish the first bit.

So, I will at this point give chance to two Members only. Let us have that Member there. I am looking at Members who have not spoken this afternoon. What is your number?

**Hon. Omboko Milemba** (Emuhaya, ANC): It is number 304.

**Hon. Chairman:** You are there.

**Hon. Omboko Milemba** (Emuhaya, ANC): Very well. Thank you, Hon. Chairman for recognising me and giving me this opportunity.

One, let me thank the Budget and Appropriations Committee and the House for this contribution and actually ring-fencing the money for a particular cause. That is so that it is very accountable. This is very good because, for quite some time, people have been asking what our contribution is. Our contribution is now great and it can be seen.

I wanted to say that the split is good. I also thank the Budget and Appropriations Committee for having done that through their Chair. But then, we should have seen an allocation for areas like the western region where we have Kakamega and Vihiga.

**Hon. Chairman:** Do not debate so that another Member can have an opportunity.

**Hon. Omboko Milemba** (Emuhaya, ANC): I am finishing so that they can also benefit from this.

**Hon. Chairman:** Okay. Let us have Hon. Kabinga.

**Hon. Josphat Wachira** (Mwea, JP): Thank you, Hon. Chairman.

The intent of ring-fencing these funds was very good. However, allocating money because a certain area reported a COVID-19 case is not right. We cannot deal with the cure. We should

also deal with prevention. For that matter, this money should have been distributed fairly to all the general hospitals in the counties, Kerugoya in Kirinyaga County included.

*(Loud consultations)*

**Hon. Chairman:** I hear you. I hear many complaints from Busia. Let us have the Woman Representative of Busia. I am sure Busia is now taken care of.

**Hon. (Ms.) Florence Mutua** (Busia CWR, ODM): Thank you, Hon. Chairman.

I just wanted to add on what Hon. Mbadi has said. He should remember that Busia has two borders and we have many trucks that are piling up there. So, Busia should also be in that consideration.

**Hon. Chairman:** Okay. Maybe then we will lastly have the Kisii County, Hon. Janet.

*(Loud consultations)*

I see a lot of interest. Okay, I will give chance to two more Members from this direction if you are brief.

**Hon. (Ms.) Janet Ong'era** (Kisii CWR, ODM): Thank you, Hon. Chairman. I will be very brief.

First, I am very concerned that Kisii County was not considered. The allocation is extremely skewed. I propose that this money be equitably distributed because it is by all MPs from the 47 counties. It does not matter whether there is a county that has been affected or not. I think that prevention is much better than even cure.

Thank you.

*(Question, that the new clause be read a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be added to the Bill, put and agreed to)*

**Hon. Chairman:** Next clauses.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Chairman, with your indulgence....

**Hon. Chairman:** You have hit the road before you are given permission. Allow it to be called out.

*(Clauses 5 and 2 agreed to)*

Before I have the other clauses called out, the Committee of the whole House has made several amendments to the First Schedule and to the Second Schedule of the Supplementary Appropriation Bill, 2020. These amendments have the effect on the sub-total and on the total figures under the two schedules and Clause 2 of the Bill.

Pursuant to the provisions of Standing Order No. 152(3), I hereby order that consequential adjustments be made to the sub-total and to the total figures to reflect the changes made by the Committee of the whole House under the respective votes. So, we will go to the next one.

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**Hon. Kimani Ichung'wah** (Kikuyu, JP): On a point of order. I am glad that you have taken note. Do I have to read these things you have already directed on, that they be captured?

**Hon. Chairman:** You do not need to. I have directed.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Just one quick note. On the Order Paper, just for clarity, on Second Schedule (b), the figure that was there on the Order Paper read 2,498,256,737.

**Hon. Chairman:** Actually, you are slowing down the process, Hon. Chairman. Why do you not allow the figures as I have ordered?

**Hon. Kimani Ichung'wah** (Kikuyu, JP): The figure to be deleted should read Kshs2,452,677,733. It is just for clarity because there was a typo on the Order Paper, on the Second Schedule. There was also....

**Hon. Chairman:** Allow us to check with the Parliamentary Budget Office. If that is the position, that will be effected.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): The Parliamentary Budget Office is busy....

*(The Hon. Chairman consulted the Clerks-at-the-Table)*

**Hon. Chairman:** Okay. Let us proceed, anyway. That is an oversight and it is reflected. So, proceed.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): I was saying that the figure that is deleted under Second Schedule (b)....

**Hon. Chairman:** I thought you had finished it. Did you not read it earlier?

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Well, I had corrected that, Hon. Chairman. Also, on the same schedule, most of those figures should be in brackets to denote that they are being decreased, not being increased. It is because they have positives. It is just for the record.

**Hon. Chairman:** Okay. That makes sense. So, next clause.

*(Title agreed to)*

*(Clause 1 agreed to)*

Now, let us have the Mover of the Bill to move reporting.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Chairman, I beg to move that the Committee doth report to the House its consideration of the Supplementary Appropriation Bill (National Assembly Bill No. 9 of 2020) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

**Hon. Chairman:** We will now move to the next one and I can assure you, Hon. Members, that we will be very fast on this one. So, be very keen and careful. This is the Small Claims Court (Amendment) Bill (National Assembly Bill No. 4 of 2020). We will finish it very quickly. I will not entertain more than two brief contributions.

## THE SMALL CLAIMS COURT (AMENDMENT) BILL

*Clause 2*

**Hon. William Cheptumo** (Baringo North, JP): Thank you, Hon. Chairman. I beg to move: THAT, Clause 2 of the Bill be amended by deleting the words “one million shillings” appearing at the end of the Clause and substituting therefor the words “five hundred thousand shillings”.

*(Question of the amendment proposed)*

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

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

*(Clause 2 as amended agreed to)*

*Clause 3*

**Hon. Chairman:** The Hon. Leader of the Majority Party. There must be a problem. I am pressing it from here and I cannot ---

**Hon. Aden Duale** (Garissa Township, JP): Okay. Chair, I want to drop my amendment in favour of the amendment of the Chair of the Committee on Justice and Legal Affairs.

**Hon. Chairman:** No, I do not think you are right there because the one which you are going to be dropping, maybe, is Clause 4. That is because you are the only one who is having this one. So, if you want us to drop it, then we drop it.

**Hon. Aden Duale** (Garissa Township, JP): Is it?

**Hon. Chairman:** That is Clause 3. The one which you have two---

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, I agree with you. I beg to move:

THAT, Clause 3 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (b)-

(c) by inserting the following new sub-section immediately after sub-section (3)-

(4) The remuneration of an advocate who appears before the Court shall not be more than three quarters or less than half the amount prescribed under the Advocates Remuneration Order, 2014.

The justification for this is that the amendment seeks to provide for the remuneration of the advocates who appear before the Small Claims Court, and it is in accordance with the provisions of the Advocates Remuneration Order made under the Advocates Act Chapter 16 of the Laws of Kenya. All that I am doing is that all the advocates who will appear before the Small Claims Court will abide by this remuneration which is found in the Act.

*(Question of the amendment proposed)*

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

*(Clause 3 as amended agreed to)*

**Hon. Chairman:** Hon. Majority Leader, you said, if I am not wrong, that you want to drop this one in favour of that one by the Justice and Legal Affairs Committee? That is because under normal circumstances, yours should have come first.

**Hon. Aden Duale** (Garissa Township, JP) Yes, we have consulted with the Chair and I want to drop my amendment in favour of the one by the Chair.

*(The proposed amendment to Clause 4 by Hon. Duale dropped)*

*Clause 4*

**Hon. Chairman:** Okay. Chair, Justice and Legal Affairs, in brief.

**Hon. William Cheptumo** (Baringo North, JP): Thank you, Hon. Chairman, I beg to move:

THAT, Clause 4 of the Bill be amended by deleting the proposed new sub-section (3) and substituting therefor the following proposed new sub-sections-

(3) The Court may only adjourn the hearing of any matter under exceptional and unforeseen circumstances which shall be recorded and be limited to a maximum of three adjournments.

(4) When considering whether to allow an adjournment on the grounds of exceptional and unforeseen circumstances referred to in sub-section (3), the court may in particular take into consideration where appropriate any of the following exceptional and unforeseen circumstances —

(a) the absence of the parties concerned or their advocate or other participants to the proceedings required to appear in court for justified personal reasons which may include sickness, death, accident or other calamities; or

(b) an application by a party for the adjudicator to withdraw from hearing the matter;

(c) a request by parties to settle the matter out of court;

(d) an appeal filed in the matter where orders of stay of proceedings have been granted;

(e) an application by a party to summon new witnesses to court, collect new evidence, new inspection or evaluation or supplementary investigation on the subject matter of the case; and

(f) any other exceptional and unforeseen circumstances which in the opinion of the court justifies or warrants an adjournment.”

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,*

*put and agreed to)*

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

*(Clause 4 as amended agreed to)*

*New Clause 1A*

**Hon. Chairman:** We will move in the normal manner. Let me call the Mover to move the Second Reading.

**Hon. William Cheptumo** (Baringo North, JP): Hon. Chairman, I beg to move: THAT, the Bill be amended by inserting the following new Clause immediately before Clause 2-

THAT, the Bill be amended by inserting the following new Clause immediately before Clause 2-

Amendment of section 2 of No.2 of 2016 1A. Section 2 of the Small Claims Court Act, 2016, hereinafter referred to as the “Principal Act”, is amended-

(a) by inserting the following new definition in proper alphabetical sequence-

“duly authorised representative” means the next of kin or a close relative of a party to the proceedings appointed in writing and approved by the Adjudicator to represent that party in court proceedings;

(b) in the definition of the expression “prescribed limit” by deleting the words “one hundred thousand shillings” and substituting therefor the words “five hundred thousand shillings”.

I wish to request hon. Wahome my Vice Chair – I think she is around – to second.

**Hon. Chairman:** Well, you can pick on any other Member from your Committee if she is not in. Oh! She is there.

**Hon. (Ms.) Alice Wahome** (Kandara, JP): I was not with him. As I second, there were three issues that were sticky; that is what the amendment is speaking to - like the question of advocates not being able to practise. The jurisdiction of the court was a major issue. These issues have been addressed by the proposed amendments. There was a lot of conversation by advocates. Their concerns have been addressed by this amendment. I second.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be  
read a Second Time, proposed)*

**Hon. Chairman:** Is that Hon. Oundo?

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Hon. Chairman, I am seeking clarification from the Chair of the respective Committee because in the published Bill, the prescribed limit had been set at one million which seems to be very reasonable in view of the circumstances at the moment. He needs to give us the justification they used to reduce it to Kshs500,000, which in essence beats the purpose of ADR as proposed in the Constitution of Kenya, 2010. We need that clarification. I will still go for the one million that was in the original Bill.

Thank you.

**Hon. Chairman:** Yes, the Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, for the comfort of Prof. ---

**Hon. Chairman:** Do we have Members who want to contribute on this one?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, for the purpose of Dr. Oundo, the Chairman needs to come out clearly. We have agreed we leave it at one million as it is in the Bill. So, he needs to come out clearly.

**Hon. Chairman:** Are we talking about what we are discussing now? What is it that Hon. Cheptumo wants? We are progressing. Is there anything you want to amend? After this, I will put the Question. Actually, I am putting the Question unless there is any issue. Hon. Members, we are still on New Clause 1A.

*(Question, that the new clause be read  
a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be added to  
the Bill, put and agreed to)*

**Hon. Chairman:** Hon. Cheptumo, let us hear what you have to say. New Clause 3A.

*New Clause 3A*

**Hon. William Cheptumo** (Baringo North, JP): Hon. Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new Clauses immediately after Clause 3—

3A. The principal Act is amended by inserting the following new section immediately after section 20—

Remuneration  
of advocates  
No.21 of 2014

20A. The Chief Justice shall, in consultation with the Council of the Law Society of Kenya established under the Law Society of Kenya Act, make orders prescribing and regulating the remuneration of advocates who appear before the Court.

**Hon. Chairman:** I believe this is the one which has an issue. Hon. Cheptumo, let us hear what you have to say.

**Hon. William Cheptumo** (Baringo North, JP): Hon. Chairman, let me not say it is confusion. What we have done in the New Clause 3A is to empower the Chief Justice to, from time to time, make orders prescribing and regulating remuneration of advocates who appear in this Court. Before the amendment which has been brought now, lawyers were not supposed to practise in the Small Claims Court. Now that we have allowed lawyers to those courts, it is important that we empower the Chief Justice to prescribe payment of advocates' fees. That is all we are saying in this amendment. But there is a problem. The Leader of the Majority Party moved an amendment to Clause 3 which the House has already passed. I think that is the only problem I have.

**Hon. Chairman:** That is what I am asking. So, do you really wish to proceed with the amendment?

**Hon. William Cheptumo** (Baringo North, JP): What we had agreed was that my amendment would stand, because it is the Chief Justice...

**Hon. Chairman:** The Leader of the Majority Party had indicated that, that is what his interest was. Can you consult? I will give you some 30 seconds to consult. Let me clarify to the House. What we passed is that the remuneration of an advocate who appears before a court shall not be more than three-quarters or less than half the amount prescribed under the Advocates Remuneration Order, 2014. In the present amendment, the Chair is proposing to allow the Chief Justice to prescribe the rates. We cannot have both provisions. What is it that you want us to do?

**Hon. William Cheptumo** (Baringo North, JP): I have consulted with the Leader of the Majority Party and we have agreed that we proceed with my amendment because that is the best procedure in this particular situation.

**Hon. Chairman:** It is good that both the Chair and the Vice-Chair are lawyers. We have already passed the amendment by the Leader of the Majority Party. If we pass this amendment, it will basically be providing two different situations in one Bill.

**Hon. William Cheptumo** (Baringo North, JP): Can we recommit the one by the Leader of the Majority Party?

**Hon. Chairman:** Let us hear the Leader of the Majority Party and Hon. Mbadi, then we make a decision. I hope you have consulted.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, first, I think this is not a Bill for lawyers. Let me make it very clear, because lawyers have an interest in the Bill, with a lot of respect to lawyers. All I am saying is this: My amendment has passed, but the amendment by the Chair looks better. So, let us allow the Chair's amendment to pass, then I will move for recommitment of my amendment.

**Hon. John Mbadi** (Suba South, ODM): Hon. Chairman, it would be a really interesting procedure. Procedurally, I have never come across a situation where we pass amendments with contradicting proposals in the belief or trust that we will recommit one. If we have to do things procedurally, I think the proposal by Hon. Cheptumo cannot be debated.

**Hon. Chairman:** Stop there, Leader of the Minority Party, because you have actually said what I am going to rule. If we are going to recommit the previous amendment, we cannot proceed with the New Clause 3A at this point. We will have to have that other amendment recommitted. At the point of recommitment, we will place this amendment before the Committee of the whole House. That will be a neater way of doing it. Is that not okay? I think that is a neater way to handle this matter. There will be a recommitment. And because it seems the Leader of the Majority Party and Hon. Cheptumo, the Chair of Departmental Committee on Justice and Legal Affairs, seem to agree that Hon. Cheptumo's amendment is a better one, we will delete Hon. Duale's amendment at recommitment and then have Hon. Cheptumo proceed with his amendment. So, you will withdraw

the New Clause 3A for now, in trust of course that the matter will be recommitted. On hindsight, I think the Leader of the Majority Party had mentioned something. It is only that at that point we had not anticipated the next amendment. So, withdraw the amendment, Chair.

**Hon. William Cheptumo** (Baringo North, JP): Thank you, Hon. Chairman. I trust the Leader of the Majority Party, so I want to agree with you. I, therefore, withdraw the amendment of new Clause 3A.

*(Proposed New Clause 3A withdrawn)*

**Hon. Chairman:** That is okay, so we proceed.

*New Clause 3B*

**Hon. William Cheptumo** (Baringo North, JP): Hon. Chairman, I beg to move:

THAT, Section 33 of the Principal Act is amended in sub-section (1) by deleting the words “where it is satisfied that the claim to which such costs relate is vexatious, frivolous or an abuse of the due process of the Court” appearing after the word “proceedings”.

**Hon. Chairman:** Let me call on the Mover to move Second Reading.

**Hon. William Cheptumo** (Baringo North, JP): Is it not Clause 2, Hon. Chairman? We have not dealt with Clause 2. That is the one I want to withdraw.

**Hon. Chairman:** I remember we cleared with that amendment. It was the first one because it involves definition. You moved the amendment.

**Hon. William Cheptumo** (Baringo North, JP): Hon. Chairman, this is the amendment that I proposed to withdraw. We have since consulted with the Judiciary and we have agreed that Ksh1 million is the pecuniary jurisdiction of this Court.

**Hon. Chairman:** The correct position is, and you can check the *Hansard*, I can remember you said that we deal with the amendment as per the Order Paper. That is exactly what you said. And really, Hon. Cheptumo, your interest should be for your amendment to pass. And it did, unless you want to change your mind on it. This particular amendment passed.

**Hon. William Cheptumo** (Baringo North, JP): Then, Hon. Chairman, I propose that we recommit it.

**Hon. Chairman:** Okay. I think we should finalise with New Clause 3B. Since there will be a recommitment, let us leave that clause at that point. Let us proceed with New Clause 3B. We have already called it out.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

Hon. Members, I said we must be keen. I see no interest in this particular amendment, so I will proceed to put the Question.

*(Question, that the new clause be read a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be added to the Bill, put and agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**Hon. Chairman:** Let us have the Mover of the Bill. Okay. Move reporting, please.

**Hon. Aden Duale** (Garissa Township, JP): This is serious! Hon. Chairman, I beg to move that the Motion for agreement with the Report of the Committee of the whole House be amended by inserting the words “subject to recommittal of Clauses 2, 3 and New Clause 3A”. I also request Hon. Cheptumo to second the Motion.

**Hon. Chairman:** Did you say... Specify again.

**Hon. Aden Duale** (Garissa Township, JP): I said “subject to recommittal of Clauses 2, 3 and New Clause 3A”.

**Hon. William Cheptumo** (Baringo North, JP): I second.

**Hon. Chairman:** There is one clause which was not canvased at all. So, I was wondering why we were recommitting it in the first place when it did not take off. But, anyway, it is okay because you are on record. So, that will be resolved.

**Hon. Aden Duale** (Garissa Township, JP): No! Clause 3 was mine, which I want to substitute it with New Clause 3A of Hon. Cheptumo. That is why we all recommitting.

**Hon. Chairman:** Okay. So, let me put the Question.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

## REPORT AND THIRD READING

### THE SUPPLEMENTARY APPROPRIATION BILL

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, we shall start with the Supplementary Appropriation Bill, (National Assembly Bill No.9 of 2020). Chairperson.

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**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Supplementary Appropriation Bill, (National Assembly Bill, No.9 of 2020), and approved the same with amendments.

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

**Hon. Kiman Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

I also request Hon. Lessonet to second the Motion for agreement with the Report of the Committee of the whole House.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Lessonet. Give him the mic.

**Hon. Moses Lessonet** (Eldama Ravine, JP): Hon. Temporary Deputy Speaker, I thank you. I second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Is it the mood of the House that I put the Question?

**Hon. Members:** Yes.

*(Question put and agreed to)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Mover. For Third Reading.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Speaker, I beg to move that the Supplementary Appropriation Bill (National Assembly Bill No.9 of 2020), be now read a Third Time. I also request Hon. Mbadi to second.

**Hon. John Mbadi** (Suba South, ODM): I second, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well.

*(Question proposed)*

*(Question put and agreed to)*

Hon. Members, we will now move on to the next stage.

*(The Bill was accordingly read the Third Time and passed)*

Very well. I direct that we move on to the next business.

#### THE SMALL CLAIMS COURT (AMENDMENT) BILL

**Hon. Moses Cheboi** (Kuresoi North, JP): Thank you, Hon. Temporary Deputy Speaker. I beg to report that the Committee of the whole House has considered the Small Claims Court (Amendment) Bill, National Assembly Bill No.4 of 2020, and approved the same with amendments and, subject to recommittal of Clauses 2 and 3.

Hon. Temporary Deputy Speaker, it has to be clear because the new clause had not been canvassed. So, there would be no need to recommit. So, that is the position. So, it is Clauses 2 and 3. And the rest, every other thing will be captured.

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

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): What is out of order, Hon. Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, I tend to agree, but I heard the Chair withdrawing New Clause 3A. So, if he has withdrawn, what happens? Okay, fine. It is okay. So, we will recommit Causes 2 and 3.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Yes, if the clause has been withdrawn, then it will be of no consequence really. I now call upon the Mover.

**Hon. Aden Duale** (Garissa Township, JP): I do not have anything! What do I move here? This is out of the COVID-19 challenges.

Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report, and I also request Hon. Cheptumo to second the Motion for agreement with the Report of the Committee of the whole House.

**Hon. William Cheptumo** (Baringo North, JP): Thank you, Hon. Temporary Deputy Speaker. I second.

*(Question proposed)*

*(Question put and agreed to)*

## COMMITTEE OF THE WHOLE HOUSE

*(Order for the Committee read)*

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

### IN THE COMMITTEE

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

THE SMALL CLAIMS COURT (AMENDMENT) BILL

*Re-committal of Clauses 2, 3 and New Clause 3A*

**Hon. Chairman:** Hon. Members, take your seats. Let us all be keen, Hon. Members. Now, Hon. Members, we are back to the *status quo*. So, let us be clear so that we are at the *status quo*. So, we will call out clause 2. We will do Clause 3 and then go to New Clause 3A. It was not moved in the first place. Okay, proceed.

*Clause 2*

**Hon. William Cheptumo** (Baringo North, JP): Hon. Chairman, I beg to move:

THAT, Clause 2 of the Bill be amended by deleting the words “one million shillings” appearing at the end of the Clause and substituting therefor the words “five hundred thousand shillings.”

Hon. Chairman, this initially was our position as a Committee, that we have the court jurisdiction for Kshs500,000. After further consultations, Hon. Chairman, we have been able to agree that, that figure should now be enhanced to Kshs1 million. Therefore, I withdraw my proposed amendment under Clause 2.

**Hon. Chairman:** Okay. Fine. That one is withdrawn. Is that okay, Hon. Members?

**Hon. Members:** Yes.

*(Proposed amendments to Clause 2 withdrawn)*

**Hon. Chairman:** Okay. Let us proceed to the next one. That one has been withdrawn. If it is withdrawn, it is out of the Bill now. So, we go to the next.

*Clause 3*

**Hon. William Cheptumo** (Baringo North, JP): Hon. Chairman, I beg to move...

**Hon. Chairman:** Your amendment, Hon. Cheptumo, is on the next one. It is 3A.

**Hon. William Cheptumo** (Baringo North, JP) On Clause 3A, I seek to amend...

**Hon. Chairman:** No! We are not on 3A. We are on 3. So, please, let us be keen so that we do not miss the steps again.

**Hon. William Cheptumo** (Baringo North, JP) Hon. Chairman, I beg to move:

THAT, the Bill be amended...

**Hon. Chairman:** No! No! Hold on, Hon. Cheptumo! Let me check on this properly.

**Hon. William Cheptumo** (Baringo North, JP) Hon. Chairman, I beg to move:

THAT, Clause 3 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (b)-

(c) by inserting the following new sub-section immediately after sub-section (3)-

(4) The remuneration of an advocate who appears before the Court shall not be more than three quarters or less than half the amount prescribed under the Advocates Remuneration Order, 2014.

*(Question of the amendment proposed)*

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

*(Clause 3 as amended agreed to)*

**Hon. Chairman:** We move to the next one. This is where we have the amendment by Hon. Cheptumo.

*New Clause 3A*

**Hon. William Cheptumo** (Baringo North, JP) Hon. Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new Clauses immediately after Clause 3-

3A. The principal Act is amended by inserting the following new section immediately after section 20-

Remuneration of  
advocates  
No. 21 of 2014

20A. The Chief Justice shall, in consultation with the Council of the Law Society of Kenya established under the Law Society of Kenya Act, make orders prescribing and regulating the remuneration of advocates who appear before the Court.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause  
be read a Second Time, proposed)*

*(Question, that the new clause be read  
a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause  
be added to the Bill, put and agreed to)*

**Hon. Chairman:** Okay. Mover, please.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, I beg to move that the Committee doth report to the House its consideration of the Small Claims Court (Amendment) Bill, National Assembly Bill No.4 of 2020, and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

**REPORT AND THIRD READING**

## THE SMALL CLAIMS COURT (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Member, we shall hear from the Chairperson.

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Small Claims Court (Amendment) Bill, National Assembly Bill No.4 of 2020, and approved the same with amendments.

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

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I request Hon. Cheptumo to second the Motion for agreement with the Report of the Committee of the whole House.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Cheptumo.

**Hon. William Cheptumo** (Baringo North, JP): Thank you, Hon. Temporary Deputy Speaker. I second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, is it the mood of the House that I put the Question?

**Hon. Members:** Yes.

*(Question put and agreed to)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): We shall move to Third Reading.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, I beg to move that the Small Claims Court (Amendment) Bill, National Assembly Bill No.4 of 2020, be now read a Third Time. I also request Hon. Cheptumo, the Chair of JLAC to second.

**Hon. William Cheptumo** (Baringo North, JP): Thank you, Hon. Temporary Deputy Speaker. I second.

*(Question proposed)*

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

**SPECIAL MOTION**

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well, let us have the Chairperson, Select Committee on National Government Constituencies Development Fund (NG-CDF). Hon. Wangwe, proceed.

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CONSIDERATION OF NOMINEE FOR APPOINTMENT AS  
CHIEF EXECUTIVE OFFICER OF NG-CDF BOARD

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. I have leave of the Chair to present the Committee Report on the Floor of the House.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Look at Order No.10 and read it as it is.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Hon. Temporary Deputy Speaker, I beg to move the following Special Motion:

THAT, taking into consideration the findings of the Select Committee on the National Government Constituencies Development Fund in its Report on the Vetting of a Nominee for Appointment as the Chief Executive Officer of the National Government Constituencies Development Fund Board, laid on the Table of the House on Wednesday, 29<sup>th</sup> April 2020, and pursuant to section 20(1) of the National Government Constituencies Development Fund Act, 2015 and Sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, 2011, this House approves the appointment of Mr. Yusuf Mbuno as the Chief Executive Officer of the National Government Constituencies Development Fund Board.

Hon. Temporary Deputy Speaker on 24<sup>th</sup> March 2020, the Cabinet Secretary (CS) for National Treasury and Planning forwarded to the National Assembly for consideration and approval the notification of nomination of Mr. Yusuf Mbuno as Chief Executive Officer, NG-CDF Board. This was in accordance with the provisions of Section 20 (1) of the NG-CDF Act and Section 5 of the Public Appointments (Parliamentary Approval) Act, 2011.

Hon. Temporary Speaker, pursuant to Standing Order No.45(1) the name and curriculum vitae of the nominee was referred to the Select Committee, National Government Constituencies Development Fund on 26<sup>th</sup> March 2020 for vetting and report to the House within 14 days.

On 15<sup>th</sup> April 2020, the Clerk of the National Assembly wrote to the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), the Higher Education Loans Board (HELB), and the Registrar of Political Parties (RPP) requesting for reports with regard to the Nominee on the following:

1. Matters touching on integrity;
2. Tax compliance;
3. Political affiliation; and
4. Loan repayments.

We received clearance from the EACC, KRA DCI and HELB and the RPP. The Select Committee on NG-CDF conducted an approval hearing on Thursday 20<sup>th</sup> April 2020 at 10.00 a.m. The nominee was vetted in accordance with the provisions of the Constitution, the Public Appointments (Parliamentary Approval) Act 2011 and the National Assembly Standing Orders on his suitability or otherwise for appointment as the CEO, NG-CDF Board.

Pursuant to the provisions of Section 6 (9) of the Public Appointments (Parliamentary Approval) 2011, the Clerk of the National Assembly placed an advertisement in the print media on 16<sup>th</sup> April 2020, inviting the public to submit memoranda by way of written statements on oath affidavits, on the suitability or otherwise of the nominee. The advertisement indicated that the submission were to be received by Wednesday 22<sup>nd</sup> April 2020 at 5.00 p.m.

By close of business on Wednesday 22<sup>nd</sup> April 2020 at 5.00 p.m. the Committee had received a total number of three submissions, one in support of the nominee and two contesting

the nomination of Mr. Yusuf Mbuno. Only the two contesting the nomination of the candidate met the threshold for consideration of memoranda as required by the regulations of the Public Appointments (Parliamentary Approval) Act 2011.

Hon. Temporary Deputy Speaker, the memoranda are as follows:

1. Mr. Kennedy O. Ondieki, on 7<sup>th</sup> April 2020, on behalf of the concerned citizens, presented memoranda in support of the appointment of Mr. Yusuf Mbuno based on the following grounds:
  - a) That the NGCDF Board conducted these interviews and the Acting CEO Mr. Yusuf Mbuno was ranked first followed by Professor Mohamed Abdille with Mr. Jactone Akello coming in as third. This shows that apart from the goodwill, the nominee performed above per in the interviews and has run in the interim the functions of the board per excellence.
  - b) The nominee has dutifully acted in the same capacity. Not exceeding the requisite terms and without the required payments, he carried out the functions diligently.
  - c) For the loss of fairness and justice to the nominee, he be allowed to serve as the substantive CEO to the NG-CDF.
2. The second memoranda came from Mr. Tolbert Manyange. In his affidavit dated 18<sup>th</sup> April 2020, he opposed the appointment on the following grounds:
  - a. That the recruitment to the NG-CDF Board and the recommendation made to the CS for appointment with the approval of Parliament of the nominee for the post of CEO does not meet the required leadership and integrity values set out in the Kenyan Constitution.
  - b. In sharp contrast to Section 20 of the NG-CDF Act, the Members of the National Assembly showed open bias in favour of one candidate and hostility towards other candidates.
  - c. If the nominee is appointed to the position, his allegiance will only be to the National Assembly and not the people of Kenya, the taxpayers and other arms of the Government. His appointment will greatly affect the delivery of services and negatively affect the people and institutions that will depend on the CEO's integrity
  - d. The selection will not be competitive because Members of the National Assembly have a close working relationship with the said nominee.
  - e. The nominee has already served in the same position for almost eight-and-a-half years in an acting capacity. The maximum period for the CEO for NG-CDF is six years. In this case if the nominee is appointed it will be a gross violation of the Act. Essentially, the nominee will have served for a record of 12 years and a possible term of 14 years.
3. Mr. Sam Kinyua, in his affidavit dated 20<sup>th</sup> April 2020, opposed the appointment of Mr. Yusuf based on the following grounds:
  - (i) The Nominee's intended appointment is in violation of Article 259 (3) (b) for the following reasons:
    - a. The law provides under section 20(4) of the NG-CDF Act that the holder of the office shall serve for three years.
    - b. The nominee has been acting since 2011 and remained for eight years consecutively contrary to the law.

- c. The nominee has served beyond the stipulated period and has illegally extended beyond the maximum period of two years.
- d. Finally, if appointed, the nominee will have served twice above the time limit by an extension of eight years taking into consideration his term being fresh.

Sections 20 (3) and 13(3) of the NG-CDF Act, provide that the CEO shall be responsible for the day to day management of the affairs of the Board and signing. Introduction shall be such that the signature of the CEO is mandatory on all payments- cheques and/or issuance intended for the release of money from the Fund. The above functions are duties that the nominee has been discharging for the last eight-and-a-half years.

The Committee noted the memoranda admissible in accordance with Section 6(9) of the Public Appointments (Parliamentary Approval) Act was the affidavits sworn by Mr. Tolbert Manyange and Mr. Sam Kinyua.

In light of the above, the nominee gave a reply on the allegations put up in the affidavits as follows:

- (i) He is the Chief Manager, Programmes and is serving as the Acting Chief Executive Officer of the NG-CDF.
- (ii) The affidavits are scandalous and frivolous with the sole aim of causing mayhem and disrupting a constitutional process that was initiated legally and performed within the confines of the laws of Kenya as regards due process.
- (iii) He has never been recruited as CEO of the NG-CDF Board as per the dictates of Section 20(1) of the NG-CDF Act but has been serving in an acting capacity. A person serving in an acting capacity is not subject to term limits associated with that office. Only a substantive holder of an office is subject to term limits of an office. There is no law that stops a person serving in an acting capacity from applying to be considered for appointment as a substantive holder of the same office.
- (iv) He has been serving as the Acting CEO of the NG-CDF Board awaiting the relevant authorities to appoint a substantive holder. He, therefore, cannot be blamed for the length of time he has served in acting capacity and further, there is no law that automatically changed his status from Acting CEO of NG-CDF to a substantive CEO as claimed.
- (v) The letter appointing him to serve as the CEO of the NG-CDF Board in an acting capacity clearly states that he was appointed to hold office until such a time as the office would be filled substantively. Accordingly, the terms and conditions of the letter of appointment stipulated the term limit, which is until such a time as the position would be filled by a substantive holder. The terms exclude the application of section 20(4) of the NG-CDF Act which only applies to a substantive holder of the office.
- (vi) There is misinterpretation of paragraph (c) of 14(1) to (9) of the Human Resource Policies and Procedure Manual for the Public Service Commission (PSC). The paragraph deals with allowances paid to an officer serving in an acting capacity and nothing further. The Board is an independent body and cannot by any means whatsoever be influenced in its decision in the recruitment process. There are speculations without any form of evidence to prove, influence in any decision of the Board.

- (vii) On the allegations of fraudulent withdrawals from the NG-CDF Board account, there are misrepresentation of the contents of the Auditor-General's Report. The payments in the bank not captured in the cash book, as stated in the Auditor-General's Report are as a result of cybercrime by external fraudsters, alien to the Board. Some were arrested by the Banking Fraud Investigations Unit and charged in a court of law. The case is still ongoing and the officers of the Board are key witness.

The Committee having vetted the nominee made the following observations:

- (i) That, the nominee is a Kenyan citizen born in Makueni County.
- (ii) The nominee has 28 years of experience having been in the public service since 1991 of which 16 were in senior management positions of Job Group P and above.
- (iii) The nominee holds a Masters of Arts Degree in Economics and a Bachelor of Arts Degree in Economics from the University of Nairobi (UoN) which are related degrees for the purpose of section 20(2)(a) of the NG-CDF Act 2015.
- (iv) The EACC, KRA, DCI, Office of the Registrar of Political Parties and HELB had sent clearance letters with respect to the nominee.
- (v) That, the nominee has not been charged in any court of law in the last three years.
- (vi) As stipulated in Article 75(1) of the Constitution he has not shown the possibility of potential conflict of interest.
- (vii) The nominee satisfies the requirements of Article 77(1) of the Constitution, in that he does not intend to participate in any other gainful employment if appointed as the CEO of the NG-CDF Board.
- (viii) The nominee does not hold office in any political party and therefore meets the requirements of Article 77(2) of the Constitution.
- (ix) The nominee has not been dismissed from a public office.
- (x) The nominee exhibited knowledge of the workings of the public service and displayed profound knowledge in the operation of the NG-CDF Board.

In conclusion, I urge Members of this House to read comprehensively the Report of the Select Committee on NG-CDF in order to fully appreciate and enrich the debate. I further urge Members to adopt the recommendation of the Committee as contained in this Report.

Hon. Temporary Deputy Speaker, with this I beg to move and request my colleague, Hon. Mary Wamaua to second. Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Mary Wamaua.

**Hon. (Ms.) Mary Njoroge** (Maragwa, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to second the Report as it has been read by the Hon. Member. From all that has been read by the Mover, we have heard about the nominee's experiences and abilities. It is good that this nominee has been working in acting capacity even though he was the Chief Manager, Programmes in the NG-CDF Board.

At least a majority of the Members have interacted with the nominee. They know his strengths and weaknesses. When vetting the nominee, we looked at his academic papers and experiences in the public service. We noticed the 16 years he worked in senior management positions. We found the nominee, if approved by this House, capable of being a substantive CEO of the NG-CDF Board.

The nominee exhibited knowledge in the operations of the NG-CDF Board and met all the requirements of section 20 of the NG-CDF Act. In his acting capacity he carried out his duties diligently and that is why the NG-CDF Board after conducting interviews ranked him as the best

compared to the others. In terms of academic qualifications, the nominee has a Masters of Arts Degree in Economics, Bachelor of Arts Degree in Economics from UoN which are related degrees to the purpose of Section 20(2) of NG-CDF Act 2015.

He met all other requirements as read by the Mover in terms of EACC, KRA, DCI, HELB and others. It is true that from one of the memoranda, a member of the public was really contesting his appointment. He said if this House approves his nomination, he will be working as a CEO for more than the stipulated time. I also want to echo the words of the Mover who said that a person in an acting capacity is not subject to term limits associated with that office. Only a substantive holder of an office is subject to the term limits of an office.

The letter that had been given to Mr. Mbuno was only holding brief until a substantive CEO would be appointed. Therefore, there is no law that stops a person serving in an acting capacity, from applying to be considered for appointment as a substantive holder of that same office. If he is blamed for the length of time he has served in an acting capacity, it will be wrong. We can only count this as an opportunity for all of us and especially the Select Committee to have known this nominee better.

Therefore, without much ado, because we understand the kind of nominee we are talking about, I request the Members that, in all fairness and justice, we adopt the Report of the Committee so that Mr. Mbuno serves as the substantive CEO. This is because we have already seen his capability. Having been confirmed, if at all, in acting capacity...

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Kindly second.

**Hon. (Ms.) Mary Njoro** (Maragwa, JP): In fact, I was concluding. I was requesting this House to adopt this Report to enable Mr. Mbuno to become the substantive CEO of the NG-CDF Board.

Hon. Temporary Deputy Speaker, I second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): I see interest from Hon. Shaban.

**Hon. (Dr.) Naomi Shaban** (Taveta, JP): Mhe. Naibu Spika wa Muda, asante sana kwa kunipatia fursa hii. Ningetaka tu kuipongeza Kamati hii kwa kazi nzuri iliyofanya, nakuipongeza bodi yenyewe pia ilivyofanya kazi nzuri hadi Waziri akaona ampatie Bw. Yusuf Mbuno kazi hii ya kusimamaia Hazina hii ya maendeleo katika Maeneo Bunge. La muhimu ni kujua kuwa Yusuf Mbuno amezoea kazi, ameiva na kuboea kwenye kazi na sasa ndio ataweza kutufanyia kazi kisawa sawa humu nchini kuhakikisha kwamba hazina hii inatumika kisawa sawa.

Naunga mkono uamuzi huu.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. ole Kenta.

**Hon. Richard ole Kenta** (Narok North, ODM): Thank you, Hon. Temporary Deputy Speaker. I would like to join my colleagues in congratulating the Committee. In fact, everybody knows that Yusuf Mbuno is very qualified for this job because he has been acting for eight years. I think people were against him simply because he was very effective. He has no political godfathers and he was also in good terms with parliamentarians. In fact, the problem with this country is that anybody who is in good terms with Parliament becomes an enemy of some quarters.

The only thing I can say is that Mr. Mbuno had been treated very unfairly. When somebody gets the best marks, is qualified and is a Kenyan and you deny that person his human rights then it becomes something else. I believe Parliament has done a good job. Parliament should actually

stand firm in circumstances like this one. I think Parliament has seen the fruits of Mr. Mbuno. He is actually a very effective person. He is a servant leader. He is humane. He is somebody who should actually be where we have put him. Nobody in this House can actually say that his appointment should not be approved. So, I call upon my colleagues to approve the appointment of Mr. Mbuno because he merits it. It is not because of anything else.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Mbadi.

**Hon. John Mbadi** (Suba South, ODM): Hon. Temporary Deputy Speaker, today I am very happy because we are trying to correct an injustice that was just about to happen. This injustice has been attempted many times. I am happy that this Committee has stood its ground so that we get the right person for this job. I think Mbuno has served very well in terms of managing this Fund. We have not had major scandals in this Fund. There has been improvement in terms of usage of the Fund by communicating with our Fund Managers to improve continuously the accountability for this Fund. That is why the NG-CDF has the least audit queries in this country.

I do not want to say much. Let this House agree with this Report so that we finish the debate on this matter today. It is just about five minutes away.

I support.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Wahome Muthoni, Member for Kandara.

**Hon. (Ms.) Alice Wahome** (Kandara, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this one minute to rise and support the Committee on their Report recommending the approval and appointment of Mr. Yusuf Mbuno as the CEO of the NG-CDF. I hear Members saying that he has not been treated well, and that it is time to correct the wrong. I am happy that we have reached this decision. The Committee should be commended for a job-well-done. Also, the NG-CDF Board should be commended for doing a good job.

I support.

**Hon. Benjamin Washiali** (Mumias East, JP): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Jomo Washiali, what is out of order?

**Hon. Benjamin Washiali** (Mumias East, JP): Thank you, Hon. Temporary Deputy Speaker. I was going to support the Motion.

The Mover and the seconder having said that Mr. Mbuno had been out of office for eight-and-a-half years, I feel that we do not add another one week. This is because if we do not finish this Motion now, it will mean that it will go up to next week on Wednesday. Therefore, I request the House that, under Standing Order No.95, we ask the Mover to reply.

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

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Let us have the Mover.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. Considering what my colleagues have said, I just want to thank them.

I reply.

*(Question put and agreed to)*

**Hon. Anthony Oluoch** (Mathare, ODM): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): What is out of order, Hon. Oluoch?

**Hon. Anthony Oluoch** (Mathare, ODM): Hon. Temporary Deputy Speaker, taking into account the two outstanding Motions that are on the Order Paper, I want to seek direction on the issue that was raised by Hon. Otiende Amollo earlier. The Motions almost relate to the same subject matter. Could the Motions be considered as consolidated when next they are called out?

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Member for Mathare, you have jumped the gun.

**Hon. Anthony Oluoch** (Mathare, ODM): Let me wait for them to be called out. I had looked at the time and it looked like it is time to adjourn.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): We would probably have started debate on it, but you have consumed the only minute that was available. However, it will find its time. I urge you to exercise a little patience in these special times. Hon. Oluoch, kindly bear with us.

Hon. Members, first of all, I thank you for the dedication you have shown today and stayed in the House up to this time, and for the work that you have done. I believe today we have given an opportunity to a good man to go and serve in the NG-CDF Board.

I thank you for that.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, the time being 7.00 p.m., the House stands adjourned until Wednesday, 6<sup>th</sup> May 2020, at 10.00 a.m.

The House rose at 7.00 p.m.