

PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

THE HANSARD

Wednesday, 2nd June 2020

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: We can commence business.

COMMUNICATION FROM THE CHAIR

RESOLUTION ON BILLS PUBLISHED DURING RECESS

Hon. Speaker: Hon. Members, you will recall that on 6th May, 2020, the House resolved as follows:

“That, should a Bill be published during the period of May/June recess or a published Bill becomes due for First Reading during the period, the Speaker shall upon lapse of seven days following the publication of the Bill, forthwith refer such Bill to the relevant committees for consideration, pursuant to Standing Order No. 127, relating to committal of Bills to committees and public participation. Upon the resumption of the House, it will cause the Bill to be read a First Time and the Second Reading which may be taken forthwith on such other day as the House Business Committee may determine”.

In this regard Hon. Members, I wish to report to the House that the Referendum Bill (National Assembly Bill No. 11 of 2020) was published on 8th May 2020. The Bill which was sponsored by the Constitutional Implementation Oversight Committee (CIOC) proposes to provide for the procedure of approval of an amendment of the Constitution through a referendum, the conduct of a referendum and further petitions for connected purposes.

In accordance with the resolution of the House on 6th of May, I have since referred the Bill to the CIOC for consideration, including undertaking the necessary public participation on the Bill. You will also note that the Bill is scheduled to be read a First Time today.

Similarly, I wish to report to the House that the Income Tax Bill (National Assembly Bill No. 12 of 2020) published during the recess period, precisely on 22nd May 2020, in accordance with the resolution of the House on 6th of May, it is now due for committal to the relevant departmental committee.

However, Hon. Members, I have since received a letter from the Leader of the Majority Party, requesting to withdraw the Bill for fresh publication. In his letter, the Leader of the Majority Party expressed that the Bill was published in the form in which it was received from the National Treasury early March 2020 and part of the proposals have since been overtaken by events

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

following the enactment of the Tax Laws (Amendment) Act, 2020. The Leader of the Majority Party for instance cites the reduction of the Corporate Tax as well as the Pay as You Earn (PAYE) from 30 per cent to 20 per cent and 25 per cent respectively which were contained in Tax Laws (Amendment) Act, 2020 and which the newly published Income Tax Bill, 2020 seems to inadvertently be reversing.

Hon. Members, Standing Order No. 140 (1) provides as follows:

“Either before the commencement of business on the Order Paper of the day for any stage of a Bill being read, the Member in charge of a Bill may, without notice claim to withdraw a Bill.

(2) If the Speaker is of the opinion that the claim is not an abuse of the proceedings of the House, the Speaker shall direct that the Bill shall be withdrawn”.

In this regard, the Income Tax Bill (National Assembly Bill No. 12 of 2020) hereby stands withdrawn. The Leader of the Majority Party indicates that he wishes to reintroduce the Bill within the Session after addressing the issues he has cited, a request that I have acceded to. Noting that there are further amendments proposed to be made to the Income Tax Act in the Finance Bill 2020, which is scheduled to be passed by the end of this month, it would only be prudent to undertake the republication of the Income Tax Bill 2020 after the enactment of the Finance Bill 2020.

The House is thus accordingly advised.

(Hon. Members stood at the gangways)

Hon. Members who have just come in, take your seats.

Is this Member looking for a seat or what? This one now is just walking all over, what is the problem? Hon. Members, we will encourage you to be coming a little earlier so that you can locate your seats much faster.

(Applause)

The Member for Wajir North appears lost. For those of you who appear lost, why can you not freeze so that we continue with business?

BUDGET HIGHLIGHTS AND REVENUE RAISING MEASURES

Hon. Members, pursuant to the provisions of Standing Order No.244C on Pronouncement of the Budget Highlights and Revenue Raising Measures, the Cabinet Secretary responsible for finance is required to make public pronouncement of the Budget Policy Highlights and Revenue Raising Measures for the National Government in the National Assembly as contemplated under the Public Finance Management Act.

In this regard, I wish to inform the House that I have received a letter from the Cabinet Secretary for the National Treasury requesting to make Public Pronouncements on the Budget Highlights and Revenue Raising Measures for the National Government for the Financial Year 2020/2021 in the House on Thursday, 11th June 2020. I have since acceded to the request and therefore the Cabinet Secretary for the National Treasury will make public his pronouncement on the Budget Highlights and Revenue Raising Measures for the National Government for the Financial Year 2020/2021 on Thursday, 11th June 2020 at 3.00 p.m.

In keeping with the Hon. Speaker's Guidelines on the conduct of plenary sittings during the COVID-19 Pandemic period issued on 2nd and 11th April 2020, I wish to inform the House that the leadership of the House, Members of the Budget and Appropriations Committee, Chairpersons of Departmental Committees as well as Chairpersons of other Select Committees will be accommodated in the Chamber. The rest of the membership may follow the proceedings from the designated areas within the precincts of Parliament or from their other places of abode.

Hon. Members, you are encouraged to be present during this important event that is synchronized with the Budget cycles of the rest of the East African Community. The Budget highlights will focus mainly on ways and means of financing the Budget for 2020/2021 and the Medium Term prior to the House concluding the Committee of Supply.

Thank you, Hon. Members.

PAPERS LAID

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

Legal Notice No.71 of 2020 relating to Public Health COVID-19 Restriction of Movements of Persons and Related Measures, Mandera County Order 2020 and the Explanatory Memorandum;

Legal Notice No.72 of 2020 relating to Public Health COVID-19 Restriction of Movement of Persons and Related Measures, Nairobi Metropolitan Area Extension Order 2020 and the Explanatory Memorandum;

Legal Notice No.73 of 2020 relating to Public Health COVID-19 Restriction of Movement of Persons and Related Measures, Mombasa County Extension Order 2020 and the Explanatory Memorandum;

Legal Notice No.74 of 2020 relating to Public Health COVID-19 Restriction of Movement of Persons and Related Measures, Kilifi County Extension Order 2020 and the Memorandum attached;

Legal Notice No.75 of 2020 relating to Public Health COVID-19 Restriction of Movement of Persons and Related Measures, Kwale County Extension Order 2020 and the Memorandum attached;

Legal Notice No.77 of 2020 relating to Public Health COVID-19 Restriction of Movement of Persons and Related Measures, Dadaab Refugee Complex and Kakuma Refugee Camp Order 2020 and the Explanatory Memorandum;

Legal Notice No.83 of 2020 relating to Public Health COVID-19 Restriction of Movement of Persons and Related Measures, Eastleigh Area Order 2020 and the Explanatory Memoranda; and,

Legal Notice No.84 of 2020 relating to Public Health COVID-19 Restriction of Movement of Persons and Related Measures, Mombasa Old Town Order 2020 and the Memorandum attached.

Hon. Speaker, items (a) to (h) as read out will go to the Committee on Delegated Legislation, as you usually direct.

I further beg to lay the following Paper:

The Bilateral Service Agreement between the Republic of Kenya and the Russian Federation and the explanatory memorandum, which will be referred to the Departmental Committee on Transport, Public Works and Housing;

Reports to Parliament of all new loans contracted by the Government of Kenya from 1st September 2019 to 30th April 2020, which will go to the Budget and Appropriations Committee;

The Annual Performance Report for the Financial Year 2018/2019 from the Ministry of Industrialisation, Trade and Enterprise Development pursuant to Article 153 (4) (a) and (b) of the Constitution – which will be referred to the Departmental Committee on Trade, Industry and Cooperatives;

The Quarterly Economic and Budgetary Review Report for the 2019/2020 Financial Year for the period ending on 31st March 2020, which will be referred to the Budget and Appropriations Committee;

The Biannual Report for the Commission on Administrative Justice for the period starting January to June 2019 and July to December 2019, which will be referred to the Departmental Committee on Justice and Legal Affairs;

List of nominees to the following National Government Constituencies Development Fund Committees from the National Government Constituencies Development Fund Board:

Garsen, Kabondo Kasipul, Turkana West, Balambala, Eldas, Gatanga, Homa Bay Town, Kilgoris, Malindi, Mathare, Mbooni, Nambale, Westlands, Bahati, Bomachoge Chache, Gichugu, Machakos Town, Mandera East, Matuga, Rongai, Vihiga, Hamisi, Kesses, Kiambaa, Kikuyu, Lari, Nakuru Town West, Rabai, Suba North, Tharaka, Voi, Baringo Central, Jomvu, Kiminini, Kisumu West, Kuresoi South, Laikipia East, Samburu East, Sirisia, Tinderet and Uriri.

Thank you, Hon. Speaker.

Hon. Speaker: Chairman of Public Investments Committee.

Hon. Abdullswamad Nassir (Mvita, ODM): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report on consideration of the Special Audit Report on Procurement of Pre-export Verification of Conformity (PVOC) to Standards Service for used motor vehicles, mobile equipment and used spare parts by the Kenya Bureau of Standards.

Hon. Speaker: Next Order.

NOTICES OF MOTION

ADOPTION OF REPORT ON PROCUREMENT OF PRE-EXPORT VERIFICATION OF CONFORMITY TO STANDARDS SERVICE

Hon. Speaker: Chairperson, Public Investments Committee.

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

THAT, the House adopts the Report on consideration of the Special Audit Report on Procurement of Pre-Export Verification of Conformity to Standards Service for used motor vehicles, mobile equipment and used spare parts by the Kenya Bureau of Standards (KEBS), laid on the Table of the House today, Tuesday, 2nd June 2020.

Hon. Speaker: Yes, Leader of the Majority Party.

ALTERATION OF THE CALENDAR OF THE HOUSE

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to give notice of the following Motion:

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

THAT, pursuant to the provisions of Standing Order No. 28(4), this House resolves to further alter its Calendar (Regular Sessions) for the Fourth Session (2020), as amended on Tuesday, 14th April 2020 and resolves to:

- (a) suspend its Sittings of Wednesdays (morning and afternoon) during the month of June, 2020 and the sitting of July 1, 2020;
- (b) hold Sittings during the month of June, 2020 as follows:
 - (i) Morning and Afternoon Sittings on Tuesday 9th, 16th, 23rd and 30th of June 2020 beginning at 10.00 a.m. and 2.30 p.m. respectively;
 - (ii) Afternoon Sittings on Thursday 4th, 11th, 18th and 25th of June 2020 at 2.30 p.m.
- (c) hold an afternoon sitting on Thursday, 2nd July 2020 at 2.30 p.m.

Hon. Speaker: Chairperson, National Government Constituencies Development Fund (NG – CDF).

APPROVAL OF NOMINEES FOR APPOINTMENT TO CONSTITUENCY COMMITTEES
OF THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND

Hon. Maoka Maore (Igembe North, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, pursuant to the provisions of Section 43(4) of the National Government Constituencies Development Fund, 2015 and Paragraph 5(10) of the National Government Constituencies Development Fund Regulations, 2016, this House approves the list of nominees for appointment to the following 41 constituency committees of the NG–CDF, laid on the Table of the House on Tuesday, 2nd June 2020:

- (i) Garsen
- (ii) Kabondo Kasipul
- (iii) Turkana West
- (iv) Balambala
- (v) Eldas
- (vi) Gatanga
- (vii) Homa Bay Town
- (viii) Kilgoris
- (ix) Malindi
- (x) Mathare
- (xi) Mbooni
- (xii) Nambale
- (xiii) Westlands
- (xiv) Bahati
- (xv) Bomachoge Chache
- (xvi) Gichugu
- (xvii) Machakos Town
- (xviii) Mandera East
- (xix) Matuga
- (xx) Rongai
- (xxi) Vihiga
- (xxii) Hamisi

- (xxiii) Kesses
- (xxiv) Kiambaa
- (xxv) Kikuyu
- (xxvi) Lari
- (xxvii) Nakuru Town West
- (xxviii) Rabai
- (xxix) Suba North
- (xxx) Tharaka
- (xxxi) Voi
- (xxxii) Baringo Central
- (xxxiii) Jomvu
- (xxxiv) Kiminini
- (xxxv) Kisumu West
- (xxxvi) Kuresoi South
- (xxxvii) Laikipia East
- (xxxviii) Samburu East
- (xxxix) Sirisia
- (xl) Tinderet
- (xli) Uriri.

STATEMENTS

GOVERNMENT DIRECTIVE ON STANDARD GAUGE RAILWAY FREIGHT OPERATIONS

Hon. Speaker: Member for Mvita Constituency.

Hon. Abdullswamad Nassir (Mvita, ODM): Thank you, Hon. Speaker. Pursuant to Standing Order No. 44(2) (c), I wish to make a Statement regarding a Government directive compelling all operators to ferry cargo for local market by rail through the Standard Gauge Railway (SGR) to the newly established Naivasha Inland Container Depot (NICD), for your guidance and the best approach to handle the matter.

Hon. Speaker, last year, all Government agencies, departments and all other operators were directed to transport all their cargo from the port of Mombasa through the SGR. This is a matter which I raised in this House and you gave directions that it be investigated by the relevant committee and they give a report. The findings were that the said directive published on 6th August 2019 was suspended, a position that has also been confirmed by the Ministry as a matter of national interest.

On 26th May 2020, the Government, through the Kenya Revenue Authority (KRA) notified all cargo operators at the port of Mombasa who include partner states of Uganda and Rwanda. The KRA has commenced movement of transit cargo from the port of Mombasa to the newly established NICD as from 1st June 2020. The reasons given are that there is need to decongest the port of Mombasa, improve efficiency of the facility and further, to contain the COVID-19 pandemic. This means the owners of cargo; private and public, as well as clearing agents will clear and collect their cargo at the NICD as cargo has already been transferred to this facility.

Hon. Speaker, arising from the above notice, a number of issues have arisen from the implementation of this new directive where cargo is to be cleared and collected at the said facility. Among them is lack of giving operators an option of transiting to the new process and equally choosing a mode of transportation of their choice, unclear cost of railing cargo by the SGR and

fears that the final cost of goods will be affected while road transport maybe cheaper. This is a deliberate effort by the Government to put road transport companies out of business and generally harm the entire economy of the coastal region.

Currently, there is already an issue which is brewing between Kenya and its biggest trading partner, the Republic of Uganda. Of course, cargo operators from the neighboring countries argue that the option of using the NICD for transit cargo does not reduce congestion as drivers still have to pick cargo from Naivasha to their destinations. Therefore, the use of NICD should be optional for all operators.

It is, therefore, against this background that I seek your direction on this matter that a full inquiry be undertaken to address the impact of the proposed notice of transit cargo and hinterland cargo. They should be made in phases rather than by rapid transition. I, therefore, request the Government to undertake an inquiry on how to sustain the SGR, to provide the latest statistics on the cost of using the SGR and clarify who should use the SGR exclusively, as it is important to have a liberal market where private businesses can choose the mode of ensuring that goods reach the intended destinations or customers.

The other matters that need to be addressed are:

- (i) What informed the notice of transit cargo by the Ministry of Transport, Urban Development, Housing and Infrastructure with regard to the current economic problems bedeviling the sector?
- (ii) What is causing the cargo congestion at the port of Mombasa and what plans are there to reduce the congestion as well as address the port efficiency?
- (iii) How is addressing the COVID-19 pandemic a measure of decongesting the port of Mombasa?
- (iv) What other notice on this cargo issued is contrary to the Competition Act?
- (v) Why could the Ministry not allow cargo operators and clearing agents the option of choosing the NICD or use any other facility that is acceptable by law?

Thank you very much, Hon. Speaker.

Hon. Speaker: So, which Committee will investigate that? You have not directed. You have indicated that you want me to give direction.

Hon. Abdullswamad Nassir (Mvita, ODM): Hon. Speaker, considering that this is something that had already been dealt with by the Departmental Committee on Transport, Public Works and Housing and that it involves the Competition Act as I had stated, it is the reason why I am requesting your discretion on whether it should be for the Departmental Committee on Finance and National Planning, the Departmental Committee on Transport, Public Works and Housing, as well as the Departmental Committee on Trade Industry and Cooperatives.

Hon. Speaker: Why not the Committee on Implementation?

Hon. Abdullswamad Nassir (Mvita, ODM): I agree. The first one will have to be the Committee on Implementation.

Hon. Speaker: I think so. If the House has resolved in a way, what remains is implementation. So, the Committee on Implementation should get seized of your request and check what the decision in the first instance was.

Hon. Abdullswamad Nassir (Mvita, ODM): I stand guided, Hon. Speaker. Thank you very much.

Hon. Speaker: Very well.

Let us have Hon. Ayub Savula or Hon. Owen Baya.

MEASURES TO CUSHION COASTAL COUNTIES
FROM DISRUPTIONS OF COVID-19 PANDEMIC

Hon. Owen Baya (Kilifi North, ODM): Thank you very much, Hon. Speaker.

Pursuant to Standing Order No. 44(2) (c), I request for a Statement from the Chairperson of the Departmental Committee on Finance and National Planning regarding curfew and inter-county cessation of movement or partial lockdown in the country.

Certain regions among them Nairobi, Mombasa, Kilifi and Kwale have not only been put under curfew, but also under cessation of movement. The people in the coastal counties are bearing more economic and life disruptions than any other parts of the country and therefore require more relief interventions. It is against this backdrop that I seek a Statement from the Chairperson of the Departmental Committee on Finance and National Planning on the following:

- (i) What measures has the relevant ministry put in place to mitigate against the economic disruptions caused by the curfew and cessation in Kilifi County?
- (ii) What relief food programme has the Government put in place to ensure that the people of Kilifi do not starve to death?
- (iii) What special assistance has the national Government put in place to cushion the County Government of Kilifi in managing medical supplies and personnel?
- (iv) What special programme has the national Government put in place to cushion workers who are laid off in the tourism and hotel industry in Kilifi County?
- (v) How much money was allocated to the County Government of Kilifi for the fight against the COVID-19 pandemic?

Hon. Speaker: I do not seem to see the Chair of the Departmental Committee on Finance and National Planning, Hon. Limo. The request for Statement will be forwarded to the Committee via the Office of the Leader of the Majority Party.

It is now well over 30 minutes since the House resumed. Therefore, Serjeant-At-Arms will allow in any Member who desires to come into the Chamber. That includes Hon. Owen Baya, if he desires to remain in the Chamber.

There were some responses to Questions. Hon. Paul Koinange was to respond to a request for a Statement by the Hon. Elijah Memusi. Hon. Koinange, are you ready?

MOVEMENT OF PEOPLE AND LIVESTOCK ACROSS
THE KENYA-TANZANIA NAMANGA BORDER

Hon. Paul Koinange (Kiambaa, JP): I am ready, Hon. Speaker. Thank you.

I wish to make a Statement on the movement of people and livestock across the Kenya-Tanzania Namanga border point.

The Member of Parliament for Kajiado Central Constituency, Hon. Elijah Memusi, had requested for a Statement on movement of people and livestock across the Kenya-Tanzania Namanga border point. He particularly sought to be informed on:

- (i) The step the Government is putting in place to contain crossing of people and livestock across the Kenya-Tanzania border points, especially at the Namanga border point during this pandemic.

- (ii) Whether the Government is considering closing down movement of people in the Namanga and Isibania border points among others only with exception of essential goods and services.

The Government has employed the following measures to contain crossing of people and livestock across Kenya-Tanzania border points during this pandemic period:

- (i) Cessation of all movement of persons in and out of country except returning citizens who must undergo mandatory 14 days' quarantine and test for COVID-19;
- (ii) Transporters of cargo must undergo mandatory testing for COVID-19 and produce a certificate to allow them enter the country; and
- (iii) All livestock markets across the country have been closed.

As stated above, the Government has issued a directive of cessation of movement across the borders except for drivers of essential goods. These include the Namanga and Isibania border points.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Memusi.

Hon. Memusi ole Kanchory (Kajiado Central, ODM): Thank you, Hon. Speaker for giving me this opportunity. Let me also thank the Chairperson of the Departmental Committee on Administration and National Security, Hon. Koinange, for that response.

However, my major concern is on *panya* routes. I have not seen any effort by government agencies to try and man some of the *panya* routes. Giving directions of people not to get into the country through the known entry points has been done. That is okay. However, I would like the Chairperson to make an effort to make sure that security teams are patrolling or manning the *panya* routes that are known. These are *panya* routes that people know. We continue seeing people from the other side and our people from Kenya crossing to Tanzania. So, my major concern is on the *panya* routes. They are still not manned.

Secondly, I know this is a new concern; truck drivers who are coming into the country before getting tested are interacting freely with the people of Namanga. This poses a great danger in terms of them spreading the COVID-19 disease. So, I request that we also put measures in place to check those drivers. Before they are tested, let them be secluded somewhere so that they stop interacting with the people freely.

I thank you, Hon. Speaker.

Hon. Speaker: You talked about *panya* routes. I suppose we may have to engage cats. We may have to get cats to deal with the *panyas*.

(Laughter)

Hon. Koinange, would you wish to respond briefly?

Hon. Paul Koinange (Kiambaa, JP): Thank you, Hon. Speaker.

As you may recall, we also wanted to visit that area in Namanga some time back. It is because we were also very concerned. I assure Hon. Memusi that we will sit and see what we can do about the *panya* routes and, of course, the drivers who are coming from Tanzania into Kenya to make sure that they are tested before they interact. Of course it is very difficult to stop that, but we will see what we can do.

Hon. Speaker: What is your point of order? You have not put your intervention on, Hon. Mbui.

Hon. Robert Mbui (Kathiani, WDM-K): I am a bit concerned about the language that the Hon. Chair and also Hon. Memusi have used. It has gone to the *Hansard*. It is this question of *panya* routes which you have also raised. I think we need to confirm what *panya* routes are so that if anyone is to read this *Hansard* about today's deliberations then they can know what we are talking about. Maybe they need to clarify so that they do not use that. I think it is unparliamentary.

Hon. Speaker: Hon. Memusi, do you wish to explain what those routes are? Obviously, anybody who understands Kiswahili knows *panyas* must be rats.

Hon. Memusi ole Kanchory (Kajiado Central, ODM): Anybody should know that. Just for record purposes, these are informal routes that are used. Many definitions are being given: illegal routes, informal routes. I think we get the point.

Hon. Speaker: So, a "*panya* route", for the benefit of Hon. Mbui, shall mean and include illegal, informal and casual routes. That is what Hon. Jimmy Angwenyi referred to. Anyhow, it is all those kinds of routes that are not formal. Hon. Koinange, you were also to respond to a request by Hon. Gichimu.

WELFARE OF ELDERS DURING THE COVID-19 PANDEMIC

Hon. Paul Koinange (Kiambaa, JP): Yes, Hon. Speaker. Let me respond to Hon. Gichimu Githinji's request. The Member of Parliament for Gichugu Constituency requested for a statement on the state of welfare of the village elders, block leaders and *Nyumba Kumi* leaders during the COVID-19 pandemic. He particularly sought to be informed on the measures that have been taken to ensure that:

- (i) The village elders, block leaders and *Nyumba Kumi* volunteers are provided with requisite protective gear such as face masks, gloves, soap and sanitizers for their use in the course of discharging their duties during the period of COVID-19 pandemic;
- (ii) The above mentioned are covered by the National Hospital Insurance Fund (NHIF) during the period of COVID-19 and thereafter; and
- (iii) If they are facilitated with monthly allowances to enable them meet their daily expenses while being involved during the period of COVID-19 and thereafter while discharging their duties and responsibilities.

The village elders, block leaders and *Nyumba Kumi* volunteers are not categorized as frontline staff as per the Ministry of Health guidelines, however, they were issued with Personal Protective Equipments (PPEs) including face masks, hand sanitizers and soap through their respective county commissioners among other beneficiaries. Also, all national Government administrators, as is the case with all other civil servants, are covered by the Government managed National Hospital Insurance Fund medical scheme. Village elders, block leaders and *Nyumba Kumi* Members offer voluntary services to their communities. No facilitation has been provided for the village elders, block leaders and *Nyumba Kumi* volunteers since the Ministry of Interior and Coordination of National Government has no budgetary allocation for their payment.

Thank you.

Hon. Speaker: Hon. Githinji Gichimu. I can see you at the corner.

Hon. Gichimu Githinji (Gichugu, JP): Thank you, Hon. Speaker. At least, I have something to report back on many questions that were asked in my constituency by the said group of people, that is, the elders and *Nyumba Kumi* volunteers. This group of people has been there long before the COVID-19 pandemic. The answer is not satisfactory. The fact is that they have

been regarded just like any other beneficiaries of the facilities. *Nyumba Kumi* leaders and village elders are a creation of the Government. Gichugu is one of the pioneer constituencies for elders alongside Kibra. When an answer is given that elders and *Nyumba Kumi* leaders are regarded just like any other beneficiaries in the country, knowing that they have assisted the national Government administration on the ground, it is wanting.

The last bit of the response that there is no facilitation because of lack of budget allocation is not convincing. There was no budget allocation for masks, sanitizers and PPEs. So, their facilitation ought to have also been factored considering that their work on the ground is very important irrespective of whether they are regarded as frontline workers or not. It begs the question whether the Government requires to utilise these people going forward for all communication and work on the ground. I want to note that there was a Motion before this House on the same. It is high time that probably, I or any other person, comes up with a law that will protect these people.

Thank you.

Hon. Speaker: Very well. Budget for what? Hon. Angwenyi.

Hon. Jimmy Angwenyi (Kitutu Chache North, JP): Thank you, Hon. Speaker. The village elders and *Nyumba Kumi* leaders provide an important service to this country on matters of security and welfare of people. I call upon this House to provide a budget, in this coming Budget, for payment of these people. They are providing an important service and we pay them nothing. I want to ask the concerned committee to come up with a budget for this type of people.

Hon. Speaker: Very well. Is this Omboko Milemba? Yes Hon. Omboko Milemba.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Speaker for this opportunity. There was a Motion before this House specifically on the issue of *Nyumba Kumi* people and village elders. From the answer that has been given, the truth is that some of the points stated are not correct. These village elders were not given any facilities. We come from places where they live. They do not have sanitizers and PPEs. However, for the sake of the House, they are part and parcel of frontline officers when it comes to stopping gatherings like funerals in the villages and any other happening of that nature. So, in the meantime, some allocation should be given from the contributions that are going towards the Coronavirus pandemic as we make a law that will support the village elders and *Nyumba Kumi* leaders as part of the frontline workers. They should be classified in that particular line.

Thank you.

Hon. Speaker: Hon. Pukose.

Hon. (Dr.) Robert Pukose (Endebess, JP): Hon. Speaker, the *Nyumba Kumi* elders in the villages are actually frontline workers in as far as COVID-19 fight is concerned. What happens is that they are the first people to report a stranger within a village. And they are the ones who will inquire where the person has come from and even take the history of their travel and assess if the person is a risk to the community. What we now know is that this is a foreign disease. It came through air travel, landed in our country and has been spread within the community. So I think it would be important for the Chair of the Departmental Committee on Administration and National Security to find out how the *Nyumba Kumi* elders can be incorporated in the fight against COVID-19. If we are to improve our preventive measures, this is a critical area that we must consider so that we can control this disease. In as far as my constituency is concerned, we have used the elders to distribute hand sanitisers and masks to the community. They are the ones who can tell who is sick and who is not. So, as Parliament, let us give them support. They just need some facilitation during this time. They are critical players in the fight against COVID-19.

Thank you, Hon. Speaker.

Hon. Speaker: You know there are some other considerations. And remember this is not debate. There is a Motion on the Order Paper. During debate on it, a lot of these issues on village elders and others could very well be covered.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Speaker. The answer from Hon. Paul Koinange is not satisfactory. There is the COVID-19 Emergency Fund on which this House did not give an itemised budget. The *Nyumba Kumi* elders, during this time of cessation of movement, are the ones that identify strangers that have travelled from areas where there is cessation of movement, probably from Nairobi to Narok or other areas. They come into contact with them. There is also Ksh200 million which has been set aside to cushion the poor, the vulnerable and people living with disability. We have used the *Nyumba Kumi* elders to identify these particular groups. We have used them in the cash transfer programme. They are at risk. We can classify them as providers of essential services. If they have to go to every house to conduct identification of the vulnerable people that will benefit from the cash transfers and if they are the ones that come into contact with those who have travelled from epicentres of COVID-19, they are at risk. Since we did not itemise the COVID-19 Emergency Fund, it is the duty of Hon. Paul Koinange and the Ministry of Interior and Coordination of National Government to make sure that the elders are at least given something to cater for the work they are doing.

Thank you very much, Hon. Speaker.

Hon. Speaker: Hon. Members, I am sure you know me. When I tell you this is not business, I mean it. Because I see many of you want to contribute to this, why do you not just wait to get to the Motion appearing as Order No. 11? What you are saying will go a long way to enrich that Motion, so that what you are saying is not lost. Now you are just reacting to a statement. I am sure if you address this when you are debating the Motion, it will fit in very well. I am not saying you do not discuss village elders and other villagers, but just do so on that Motion. I think it will enrich the debate.

Hon. Maanzo.

PERSONAL STATEMENTS

DEMISE OF HON. PETER NYAMASI KIILU

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you, Hon. Speaker. Pursuant to Standing Order 43, I wish to make a statement regarding the sad demise of Hon. Peter Nyamasi Kiilu, former Member of Parliament for Makueni Constituency, which occurred on Tuesday, 19th May 2020.

The late Hon. Peter Kiilu was an accomplished scholar, being a holder of a bachelor's degree in Government and Sociology from the University of Nairobi and several certificates on public policy, governance and administration from various institutions, including the Kenya School of Government (formerly the Kenya Institute of Administration), University of Birmingham in the United Kingdom, Harvard University, the JF Kennedy School of Government in the United States of America, the Galilee International Management Institute in Israel, among others.

Before successfully contesting the position of Member of Parliament for Makueni Constituency in 2007, Hon. Peter Kiilu was a dedicated public administrator. Following his graduation from the University of Nairobi, he briefly taught at a local secondary school before he joined the public service, where he served as a District Officer from 1977 to 1983. As a District

Officer, he served in various stations including Elgeyo Marakwet, Kericho, Turkana, Nakuru and Uasin Gishu.

In 1983, he was promoted to the rank of District Commissioner, where he served in various stations including Siaya, Turkana and Nandi. In 1991, he was promoted to Provincial Commissioner, where he served in several provinces including Nyanza, North Eastern, Coast, Central and Western. Between 2003 and 2006, he served as a Deputy Secretary of the Public Service Commission, where he retired from public administration.

In recognition of his distinguished and honourable service in public administration, he was awarded a State Commendation in the class of Elder of the Burning Spear (EBS).

In addition, Hon. Kiilu served as a Member of Parliament for Makueni Constituency with vigour. While in the National Assembly, he served as the Vice-Chairperson of the Departmental Committee on Administration and National Security, member of the House Broadcasting Committee as well as on other *ad hoc* committees.

In January 2014, he was appointed by His Excellency President Uhuru Kenyatta as the Chairperson of the Water Resources Management Authority (WARMA). After the expiry of his tenure, he retired from active service but continued to serve his local community in various capacities until his demise.

Hon. Speaker, I wish to take this opportunity on my behalf and that of the people of Makueni Constituency to convey my deepest condolences to the family and friends of the late Peter Kiilu. May his soul rest in eternal peace.

I thank you, Hon. Speaker.

Hon. Speaker: Hon. David Ochieng’.

PURPORTED DISCHARGE FROM COMMITTEES

Hon. David Ochieng’ (Ugenya, MDG): Thank you so much, Hon. Speaker. I rise under Standing Order Nos. 1, 172, 173 and 176. On 29th of last month, I received a letter from the Office of the Whip of the Minority Party, which purported to communicate the intention of the Minority side of this House, what was referred to as the Minority Parliamentary Group meeting, to discharge me from the Departmental Committee on Health of this House.

Hon. Speaker, I want you to allow me to request you to make a ruling on this letter I received. I do not have to respond to it, largely because I do not belong to the Minority or Majority side. I do not belong to the National Super Alliance (NASA); neither do I belong to Jubilee. This is something that was well publicised. The National Executive Council (NEC) of the party I belong to has been wondering whether I entered into a secret agreement with NASA in the House. They have been wondering whether the Movement for Democracy and Growth (MDG) party signed a secret agreement with NASA in the House without the knowledge of the party’s NEC membership.

Hon. Speaker, allow me to address you on this matter so that it can be put to rest. The role of committees in any Assembly cannot be gainsaid. In fact, in 1885, this got Wilson to write about committees. He said that it was not far from the truth to say that Congress in session was Congress on public exhibition while Congress in committee rooms was congress at work. I find myself in a very unique situation – I am the only Member of Parliament of the party that I belong to. The question that arises is whether being the only Member of Parliament and, therefore, belonging to a party that will not be referred to, legally, as a parliamentary party, I belong to any committee? Can I be assigned to any committee? When this communication was made to me, there was live broadcast.

The Leader of the Majority Party in this House alleged that I went to his office and begged for a committee position from him. There is a procedure in this House for nominating and assigning Members Committees. This procedure is captured under Standing Order Nos.172 to 176. No Member of Parliament, be it the Leader of the Majority Party or the Leader of the Minority Party, can allocate another Member a Committee. It is a process that culminates in approval by this House. In fact, if COVID-19 isolation allowed you to be in a Committee, that must be approved by this House. I have always believed that my membership in the Departmental Committee on Health was through appointment by this House. It was not through individuals. At least, it was not through begging. If my belonging to the Departmental Committee on Health is because of Orange Democratic Movement (ODM) Party or anybody donating the slot me, then I reject it. I do not want it. I do not deserve it. This is because this House has rules.

As regards small parties, Standing Order No.174 (2) says that a Member belonging to a party other than a parliamentary party or Independent Member may be nominated to serve in a select committee and the allocation of membership of select committees shall be as nearly as is practicable proportional to the number of Members belonging to such parties and Independent Members.

Hon. Speaker, Standing Orders No.174 (2) basically breathes life into the Standing Orders what the Constitution says. Article 10 of the Constitution is very clear about governance principles, our values, inclusivity, equity, equality, non-discrimination and taking care of marginalised groups. That is what Standing Order No.172 (2) provides. There are 200 constituencies in this country, and they are all equal. We know why the Committees are there. All of us know that most of the work that Parliament does happens in the Committees. Is it possible for the Minority side to say that because that is one Member of Parliament from a region where we control, he cannot be a Member of a Committee unless he talks to us? It would mean that next time Hon. Junet will tell me where to sit in this House because I am a minority.

History is very important. When you are born in a rich family and you are told that your father used to ride a bicycle, you might not believe. Around 1996/1997, a man we respect so much, the enigma “Baba”, was the only Member of the National Development Party in this House, but he was a Member of a Committee. Following the general elections in 1997, he came back with more than 20 Members in his party. So, I want to say that we should be aware of what we wish for. I could be the only one in my party today, but you never know what will happen tomorrow. It could go to the MDG party. How did I end up in the Departmental Committee on Health?

Hon. Speaker, following the by-election last year, I came to your office to inquire on how one can get into a Committee. After consultations with you and the Leader of the Majority Party, we agreed that because it would be untidy at that point in time to open up all Committee memberships, I would replace the Member that I replaced in my constituency in the Health Committee. This was not an ordination by any party but rather pursuant to the provisions of Standing Order No.174 (2). The question then begs: Can the Minority Party, to which I do not belong, purport to discharge me from the Departmental Committee on Health? My party, MDG, has never signed a coalition agreement with NASA. We do not affiliate with them.

For the last one year I have been in this House, I have never seen the Minority Whip or the Leader of the Minority Party come to where I sit to try and whip or tell me what to do because they know that I do not belong to their party. I understand that at this point in time, it is appropriate for them to link me with the Deputy President, Hon. William Ruto. It is something I have done during the campaigns in Ugenya so many times. They can do that in the public domain but they

cannot be allowed to unwittingly break the law. I would, therefore, request your ruling on the following:

(i) whether, in view of Article 10 of the Constitution, Members of the National Assembly can be excluded from membership of the Committees of the Assembly because they belong to non-parliamentary parties;

(ii) whether, in view of the provisions of Standing Order No.174(2), a Member of Parliament belonging to a non-parliamentary party is entitled to allocations and to serve in a select committee;

(iii) whether, in view of the provisions of Standing Orders No.174(2), a Member of Parliament belonging to a non-parliamentary party must caucus with or affiliate himself or herself with majority and minority parties to get allocation to serve in a select committee;

(iv) whether the allocation and my service in the Departmental Committee on Health is a donation by the Majority coalition where my party, MDG, is neither a Member nor an affiliate;

(v) whether the minority coalition can discharge me from the membership of the of the Departmental Committee; and,

(vi) whether the Committee on Selection has acted equitably in allocating me to serve in only one select committee while other Members of Parliament serve in up to three Committees.

Hon. Speaker, I believe your determination of this matter will set the record straight in a way that will make the rules clear for the future.

Thank you.

Hon. John Mbadi (Suba South, ODM): On a point of order, Hon. Speaker.

Hon. Speaker: Yes, Leader of the Minority Party.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Speaker. The issue that Hon. Ochieng has raised is weighty and fundamental. I think it goes to the core of Article 4(2) of the Constitution of this country. In the Constitution, it is clear that Kenya shall be a multiparty democracy. Therefore, we are at liberty to choose to make conscious decisions and choices to belong to any party without any coercion whatsoever. It is on record and clear, as Hon. Ochieng has said, that he made a choice to be in the MDG party. We have no quarrel with that. I just want to confirm that the MDG party is neither an affiliate of the NASA Coalition nor related to ODM in whichever way. As a matter of fact, we were in competition in Ugenya.

However, Standing Order No.174(1) says that in nominating Members to serve in a select committee, the Committee on Selection shall ensure that the membership of each Committee reflects the relative majority of seats held by each of the parliamentary parties in the National Assembly. It is obvious that Hon. Ochieng's MDG party is not a parliamentary party. Actually, it is a one-member party in this House and, therefore, this provision will leave him out. However, Hon. Speaker, it is again true that what he has read regarding Standing Order 174(2) that a Member who does not belong to a parliamentary party - because again Members of Parliament are supposed to provide oversight and you can provide oversight only through committees - can be accommodated.

However, where I have a problem and on which you must rule, is that immediately this Parliament came into being, a tabulation and calculation was done based on parties' strengths and in all committees of Parliament, namely, departmental committees and other select committees - we agreed on the membership demography that is the number of slots that were for the Jubilee Party and those that were for the National Super Alliance (NASA) Coalition. We agreed at that

time that independent Members of Parliament were going to be aligned either to Jubilee or to the NASA side. Moreover, I can give an example of the Member of Parliament we famously call "Jicho Pevu", who decided to align himself to the Jubilee Party and also Hon. Chepkut. Hon. Masara, Hon. Shakeel Shabbir and Charles Kilonzo aligned themselves to the NASA Coalition.

Therefore, we assign Members to committees, and the main reason why this provision of the Standing Order is here, is because we expect our Members to protect the interest of political parties in terms of policies and manifestos in committees. Therefore, in the Departmental Committee on Health, for example, which Hon. Ochieng' has referred to, we assigned an Orange Democratic Movement (ODM) Member called Hon. Christopher Karan, who was then the Member for Ugenya. When he lost his seat to Ochieng', we agreed to allow Ochieng' to continue sitting in that Committee courtesy of a slot that was given to NASA and by extension to ODM.

Therefore, Hon. Speaker, Hon. Ochieng' cannot have his cake and eat it at the same time. He has to declare whether he is not interested in aligning himself to NASA, in which case he must just do the honourable thing of surrendering our committee slot which was assigned to NASA and then the House, maybe, can collectively consider - through the Selection Committee which is chaired by the Leader of Majority and where I sit - and agree on how to deal with Members who kind of appear like nomads or people who do not really have parties in which to sit.

Therefore, Hon. Speaker, as I conclude, this position that Ochieng' is sitting in the Departmental Committee on Health is a position that we magnanimously allowed him to occupy and that magnanimity can only continue in so far as the person who is magnanimous wishes to be magnanimous. It is something you cannot force.

(Applause)

It is something you cannot blackmail us into agreeing to. Therefore, as a party, we have been doing some contact-tracing and if we contact trace and find you in a political corner that we are not comfortable with, we must isolate you, quarantine you and deal with you as is required.

(Laughter)

Therefore, with all due respect to Hon. Ochieng', and he is a good friend of mine, he just has to do the honourable thing in politics and accept if he does not want. I am happy he has declared that he has nothing to do with NASA or ODM. I want him to continue that way because he will cause confusion and cause my ODM Party some pain. I want more numbers in the 13th Parliament and I want Ochieng' to take the position he has taken - that he is away from us - so that we can again deal with him in 2022 properly as NDG against ODM. I will again lead the party. I know he succeeded in defeating my party this time, but I am organising myself better as the Chairman of ODM to face him head on in 2022 and it should start today. However, I ask him to kindly just respond by resigning - leaving our seat and then we will consider him as the Committee on Selection for any committee that we might find available for him. Thank you, Hon. Speaker

Hon. Speaker: What is it contact-tracing?

(Laughter)

Hon. Millie Odhiambo, what is your point of order?

Hon. (Ms.) Odhiambo Mabona (Suba North, ODM): Thank you, Hon. Speaker. Noting that Hon. David Ochieng' has been isolated, I am worried that he is a bit too close to me and he might not be keeping social distance which might affect my electability.

(Laughter)

Having said that, I want to say that as we listen to Hon. Ochieng', we are a House of rules and procedures and we are also a House that adheres to the Constitution. The issues that Hon. Ochieng' has raised are very pertinent, but as a lawyer and from what he has read and what Hon. Mbadi has read, he knows that he is actually standing on stilts. Our Standing Orders do not support his position because as one-man member of a party, he does not qualify. By his own words, he has said that he even thought he is a one-party member, he only qualifies to be in one committee which is the Departmental Committee on Health when other Members are in two or three committees. Most of them are in the Jubilee Party because of their strength. I am in the Minority Party and I am only in the Budget and Appropriations Committee.

Therefore, if that is the procedure, my party could not have worked so hard to get so many seats and he is in the Departmental Committee on Health and I am only in the Budget and Appropriations Committee. It would only be fair that he lets go of the Departmental Committee on Health, so that it is given to me, so that it shows that I am a minority and it is actually in a single party.

Having said that, from the pertinent issues being raised from an equality and equity perspective and representation, we need to amend our Standing Orders so that people do not serve at the mercy of the majority or the minority parties. Therefore, let us, as a House, going forward make provisions. I know Hon. Duale is saying no way, but let us make provisions for the reality that there are Members who have come in as independent Members and how they should serve. Even if they are going to serve in half a committee to acknowledge that they are serving, let them serve in half a committee, but just to recognise that they are also representing their constituencies. It may not be now, and I know that is not something my chairman would be keen on supporting, but it is what is in the Constitution that we need to observe human rights and the rule of law on the issues of representation. However, unfortunately, the law as it is, does not support that position and, hence, Hon. Ochieng's very elaborate plea is not currently anchored in law. Therefore, let him release the slot in the Departmental Committee on Health and give it to me. Thank you my good friend, Hon. Ochieng', but that is the reality when you are not in either the Majority Party or the Minority Party.

(Laughter)

Hon. Speaker: Leader of the Majority Party, you have the Floor.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Speaker. This matter is very weighty. I think it is one of the times the House will look at you to make a decision because our system is a presidential one and both in the Constitution and the Standing Orders, it recognises the majority and the minority. It recognises what is a parliamentary party and what is not a parliamentary party. The threshold of being a parliamentary party is stipulated in law.

Hon. Speaker, Hon. Ochieng's party is not a minority party. Neither is it a majority, nor a parliamentary party. In the previous Parliaments, independent Members of Parliament and Members of small parties would coalesce around either the majority or the minority parties. We

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

have about 18 independent Members in this House and based on the regions they come from, they aligned themselves, for whatever reasons, to either the minority or majority party. The NASA was a coalition. The Jubilee Party, its small affiliate parties and independent Members are a coalition.

In my opinion, we need guidance. We need a communication that will be used by future Parliaments if we shall still live in this presidential system. Why am I saying so? The function of a Member of Parliament in the Constitution is to legislate, oversight and represent. So, outside our parties, he must perform those duties. If we go back to history, this kind of a matter arose in the 10th Parliament, but now we are under a new dispensation. I am sure it is not only affecting Hon. Ochieng'. We have been very good to him. In fact, when he won, we sat with the Minority Party leadership and agreed that the only seat available was that of our brother Christopher Karan. Hon. Ochieng' wanted to go to the Departmental Committee on Justice and Legal Affairs and we told him he had no space there.

This is the season for contact chasing, quarantine, isolation and social distancing. What the weather man is predicting politically is not favourable. I think as the Speaker makes communication - because he is not a Member of any political party - Hon. Ochieng' will need somewhere to sit and that is why we are leaders. You are a vibrant Member and you need to represent your people. Hon. Speaker, in the communication you are going to give, whatever you come up with is going to set a precedent for future Parliaments. Therefore, it is a very weighty matter even constitutionally looking at the rights of a Member of Parliament in terms of his voters and political party, what a parliamentary party is and whether we have the numbers.

Hon. Speaker on a light note, Hon. Chachu Ganya, the man with so many camels, will agree with me. I do not know what Hon. Millie would say on how fishermen and women behave, but among the pastoralists, those who have few animals do not make decisions. Indeed, decisions are made by those who own many animals. This is because those with few animals are normally helped even during a drought when there is no milk. This is why the Minority and the Majority parties would have to be coalesced. Hon. Ochieng', if you are very uncomfortable with the Minority Party, nothing will stop you... We will still do the calculation with Hon. Mbadi and if we find a slot, we will give you. You are not isolated as such. I thought you are more comfortable with the Minority even with the 2022 politics. However, if you do not want them and they want to quarantine you, please, join us. We will do the numbers with Hon. Mbadi as the Hon. Speaker does the communication. We want to respect each and every Member here. All we want is to follow the Majority and the Minority parties and agree on which one is a parliamentary party.

Hon. Speaker, you need to declare in your communication which ones are parliamentary parties in this House. It is Jubilee, ODM and the Wiper Democratic Party. The rest must look for somewhere to surrogate. We are not the problem. The problem is the people of Kenya. So, Amani, the Forum for Restoration of Democracy-Kenya (FORD-K) and the Movement for Democracy and Growth (MDG) are not parliamentary parties. I am sure this matter that Hon. Ochieng' has raised is also good for future Parliaments and future Independent Members of Parliament. If they feel like they do not want to work with the Minority and the Majority parties, then being Members of Parliament, they have a right and your communication will help.

Hon. Speaker, I am sure you are up to the task. This is a serious matter and you will give us direction

Hon. Speaker: Hon. Mbui, I will deal with the matter. It is not very complex. I know the spirit. Hon. Millie, there was a reason why we added some things around 174 in the last Parliament, but we will deal with it. Every Member is entitled to serve in a committee. That is a fact, whether

Independent or belonging to a party. It is how they get to those committees that needs a determination. So, we can leave that one to rest.

I see another request from Hon. Otiende Amollo.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Speaker. I rise under Standing Order 1(1) on a procedural question of which I invite and seek your direction. This is the question of the procedure for removal of a Member of the Parliamentary Service Commission (PSC), noting that this is something that touches on the Constitution, the Parliamentary Service Act and the Standing Orders.

Hon. Speaker, I recall your Communication that you made on the 22nd February, 2018, during the debate on the names of the Members of the PSC. I wish also to draw your attention to a meeting that was held in this Chamber by the NASA Coalition on 28th May last month, which was attended by 124 Members either in person or by proxy. Those Members as members of a coalition reached a unanimous decision and resolved to effect certain changes on the composition of the PSC.

I seek your guidance because it is important to have it before we take any action and to avoid either acting in vain, unnecessary contestation or unnecessary interpretation of the relevant provisions. We are aware, and no one can doubt it, that the PSC is a constitutional commission under Article 248. That invites the interpretation, quite arguable, that any question of removal of a member of a commission must be under Article 251 of the Constitution as read with Standing Order 230. That argument can be persuasive and has been made by some Members of this House.

First, it is also to be noted that Article 248 of the Constitution which lists the constitutional commissions and requirements is very express and states: “Except to the extent that this Constitution provides otherwise”. Therefore, the question is, if there is any other part of the Constitution that provides different from what Article 251 does and the answer appears to be yes. That is Article 127 of the Constitution.

Hon. Speaker, while Article 251 of the Constitution talks of removal from office, Article 127 of the Constitution talks of vacation of office. A close examination of Article 127 reveals something that is interesting and is not often noted. First of all, under Article 127(2)(c) in terms of composition in Parliament, states:

“(c) seven members appointed by Parliament from among its members of whom...”

The process we have voluntarily adopted here usually includes some form of election, but the word used in the Constitution is “appointed”. This word is very important because when you come to Article 127(4)(b) of the Constitution, it states:

“(4) A member of the Commission shall vacate office—

(b) if the person is an appointed member, on revocation of the person’s appointment by Parliament”.

There are three catch phrases. First, it uses the word “appointed” similar to the word used when they are being elected. Second, it also says on revocation. So, it is a different consideration from removal in Article 215 of the Constitution. Thirdly, it says revocation of that appointment by Parliament. This means that removal will not be done by one House, but both Houses.

If that interpretation is correct - and I am more persuaded by it and can tell you having been a member of the Committee of Experts - we paid due consideration to the uniqueness of the Parliamentary Service Commission. That, because it is us Members who appoint people to that Commission, we want them to serve our purposes. If they do not, then we must have the liberty to revoke that appointment at will, indeed, without giving any reasons because when we appointed them, we were not required to give reasons.

Hon. Speaker, that interpretation falls in tandem with Section 10 of the Parliamentary Service Act, which we passed last year. What is required now is a Motion initially supported by a quarter of the Members, in this case, 87 of them. Once it is presented, then the Motion will carry the day if it is supported by a third of all the Members and then a select committee of 11 will be appointed to examine the issue and report. Once satisfied, this House will effect that change and communicate to the other House, which must follow a similar process.

If that interpretation is correct, and I am seeking to persuade you it is, then the guidance would draw us away from Article 251 of the Constitution and Standing Order 230 and focus on Article 127 of the Constitution and the provisions of Section 10 of the Parliamentary Service Act. If this is done, then we will be able to very smoothly handle this question which again has not always been resolved very clearly.

Hon. Speaker, I seek your guidance on the matter proactively to avoid contention and acrimony. I invite your guidance accordingly.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Mbadi.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Speaker, for giving me this opportunity. First, I want to start by thanking the Senior Counsel, and Member for Rarieda, Hon. Otiende Amollo, for raising this matter at this stage.

It is true that last week, I chaired a Parliamentary Group (PG) meeting of the NASA Coalition. In that meeting, 108 Members out of 135 were physically present and 16 Members sent apologies including the Member in question, whom I want to just refer to as the Member of the PSC, who the Parliamentary Group passed a resolution to recall from the Commission.

Hon. Speaker, while seated there chairing that meeting, Members unanimously agreed through a Motion which was moved and seconded. In fact, there was a unanimous vote and not a single dissent from the Parliamentary Group because as a coalition, they had lost confidence in the representation of this Member to the PSC. The Constitution is clear under Article 127 that the composition of the PSC shall be the Speaker, who is clearly designated unless we pass a vote of no confidence to impeach him and remove him from that seat. Hon. Speaker, you will definitely be the Chair of this Commission up to 2022.

For the other seven Members, four shall come from the Majority Party, in this case the Jubilee Coalition, and three shall come from the minority coalition or the Minority Party, which in this case, the NASA Coalition, and then two will come from outside. So, our reasoning, which I want to persuade you to rule on affirmatively, is that you cannot fail to fire a person you hire, even in normal law of natural justice. The only thing you are required to do is to follow a process so that there is due process of the law.

As Hon. Otiende has put it, clearly, this spells out as an appointment in the Constitution. Again, the same Constitution speaks to the removal of an appointed member. This again can be done through revocation of that appointment by Parliament. For those who have been reasoning and arguing that the removal from the PSC must follow the provisions of Article 251 just because PSC is listed under Article 248 of the Constitution, I think where they are missing the point is that the framers of the Constitution provided exemptions under Article 248 that except to the extent that the Constitution provides otherwise.

If you look at this Constitution in Article 250, it states that each commission shall consist of at least three members, but not more than nine members. If you calculate the membership of the PSC, there are 10 members. There is the Speaker and seven members coming from Parliament and other two members from outside. The totality of this is 10, which means it does not respect this

provision. I think this is cured because the provision under Article 248 of the Constitution had already envisaged that there could be some commissions that may not strictly follow the provisions of this Chapter.

I can mention many other things including that the Secretary to the Commission should be appointed by the commission. In our case, it is clearly defined in the Constitution and you cannot change it. The other thing that I wanted to mention about this Commission is that if you follow Article 251 of the Constitution, it is clear there will be a petition which will be considered by the National Assembly and having been satisfied with the position, will pass it and then the President shall appoint a tribunal. The President, in case of the PSC, does not appoint the commissioners. The commissioners where the President's appointment is required are the ones supposed to follow the provisions of Article 251 of the Constitution. This Parliamentary Service Commission (PSC) is a functional Parliament entirely. Actually, these are the people who fight for the welfare of the Members of Parliament (MPs). These are trade unionists. You are actually chairing a trade union for these MPs; that is your basic role.

The trade unions must represent the union members and in this case, union members are MPs. If we feel that you are not representing us well, we should have the space and liberty to get you out of office so that we can get people who can represent us well. That is why you find that sometimes, we are not happy with commissioners but are forced to live with them for five years or six years, if a commissioner has been brought from outside.

Hon. Speaker, I request and seek you to rule that we can revoke the appointment of these commissioners to this Commission, as the Constitution says, as a House which has appointed them so that we can have a Commission which will represent the interests of these MPs. I am not saying that this Commission has failed in totality, but if there is a member of that Commission, one, two or even all, we should be able as a House to recall and reprimand them.

Hon. Speaker, that is my contention and I beg that you rule.

Hon. Speaker: I see that the Member for Ugenya wants to weigh in on this issue.

Hon. David Ochieng' (Ugenya, MDG): Thank you, Hon. Speaker. I know that I am isolated; probably, I am quarantined.

Hon. Speaker, I agree with the adage that he who appoints should have the powers to fire. One unique thing about our new Constitution is that it deals with so many issues independently. The provisions for removing commissioners in Article 251 are okay but, I agree with Hon. (Dr.) Otiende Amollo, that PSC is a self-contained Commission. It is very clear on the procedures of appointment that does not go to the public; they are done from here just like the Commission of Revenue Allocation (CRA).

Hon. Speaker, as you make your ruling on this matter, I just want to draw your attention to just two things. That under Article 127 of the Constitution, there are appointments through two ways: appointment through an appointment and appointment through nomination. That law indicates how each is dealt with. That is why it says that those appointed and these are the MPs who I suppose are nominated is what they are talking about in 4(a) because the appointments, the seven of them under (1), four shall be by the majority while three by the minority. Those are the ones whose revocation happens by one, end of their term or two, if they cease to be Members.

Hon. Speaker this is very important to note. That is why 4 (b) are those appointed through appointment by this Assembly. I know this is a very silly season in our country and I pray for your wisdom when dealing with this. Whether, you will need an amendment to the Constitution to effect what some people want, so that you do not have to bend the law to meet whimsical reasons... If we intended that a member of PSC serve for five years, we must live with it. If you come to that

conclusion that this was the intention because of the provisions on how they are going to vacate office, it is intended that once appointed they will serve their full term or cease to hold office. The other two are the ones that we provide for that Parliament can remove them from office as it were.

So, Hon. Speaker, this is not a cut and dried issue as the two Members would want us to believe; it is something that requires a lot of wisdom based on the fact that the same law that provides on how they are appointed, provides how they will vacate office.

Hon. Speaker, those are my comments on this matter.

Hon. Speaker: I see Hon. Ole Sankok also wants to weigh in.

Hon. David ole Sankok (Nominated, JP): Thank you, Hon. Speaker.

Hon. Speaker, yes there are four commissioners from the majority side, three from the minority and two who are independent, and are appointed by this House. Even for an MP who is supposed to serve for five years, there is a process of recalling him or her. If you have been appointed by a group or somebody, then that person has the power to remove you from office; if you were hired, that person has the power to fire you as far as the due process of the law is followed. We cannot say that since you have been appointed as a commissioner, you can do whatever you want to do, disappoint those who appointed you, and remain there because you have five years. It is not possible. There is even a process of removing the President. Hon. Speaker, you are the third most powerful person in the country, but there is a process of removing you from that seat.

An hon. Member: He is the second most powerful!

Hon. David ole Sankok (Nominated, JP): Not second. He is the third most powerful person in the country. So, what I am simply saying is that if the National Super Alliance (NASA) Coalition followed the due process of the law in removing Hon. Aisha Jumwa, then your communication, Hon. Speaker, will be to that effect. The process of the law must be followed.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Ali Rasso.

Hon. Ali Rasso (Saku, JP): Thank you, Hon. Speaker, for this opportunity.

Hon. Speaker, Article 251 (2) of the Constitution states that a person desiring the removal of a member of a commission or a holder of an independent office on any ground specified in Clause 1, may present a petition to the National Assembly stating out the alleged facts constituting that ground.

Hon. Speaker, this House is the seat of democracy in this land. It is where democracy must be viciously protected. In democracy, they say that the majority will have their way and the minority will have their say. Two fundamental issues that are touching on the Member for Ugenya and this particular one on PSC have been presented before you. When we look at the political landscape in this country over the last few months, there is a lot that is going on. But this House must pronounce itself to the rule of law and constitutionalism, so that even the minorities in this House feels protected.

Article 95 of our Constitution is a very important Article. Article 94 on the role of Parliament is clear on what is expected both of this House and under Article 95 on what is expected of us as individual Members or even the appointed such as 001 in terms of protecting the fundamentals of this Constitution which protects each and every citizen of our country.

Finally, Hon. Speaker, nothing shall hinder the independence of Parliament. We can have our different political persuasion but the independence of the National Assembly is fundamental.

Hon. Speaker: Hon. Dennitah Ghati, do you want to weigh in on this one or is it something different?

Hon. (Ms.) Dennitah Ghati (Nominated, ODM): Thank you very much, Hon. Speaker, for the opportunity to weigh in on this matter.

We are talking about the PSC. From the outset, on behalf of Persons With Disabilities (PWDs), majority of commissions in this country do not obey the rule of inclusivity when it comes to PWDs. It is good we are discussing the PSC because Members who represent PWDs have noted that such an important body must pronounce itself on where it places Members with disabilities. The composition of the PSC must also look at that issue. We cannot say that the PSC is on its own, but that the National Gender and Equality Commission (NGEC) and the Commission on Administrative Justice (CAJ) must comply.

Having said that, if a political party appoints or nominates a Member to represent the political party on any commission, it is the prerogative and responsibility of the Member who has been appointed and given that opportunity to actually represent the political party. What is the point? We all pay allegiance to political parties and coalitions. I support that.

The PSC, just like any other commission in this country, must also pronounce itself very clearly on where PWDs fall when we talk about inclusivity in this country.

I beg to stop there.

Hon. Speaker: Let us have Hon. Tony Oluoch, the Member for Mathare.

Hon. Anthony Oluoch (Mathare, ODM): Thank you, Hon. Speaker. First of all, I agree entirely and I am persuaded by the arguments advanced by Hon. Otiende Amollo and ably supported by my Minority Leader.

In short, I gather from your ruling that the House should be persuaded that deference should be given to Article 127 of the Constitution to the extent that the procedure there takes precedence over that in Article 251. In short, Article 127 states - and I am persuaded - that a member of the PSC can be dewhipped in the same way you dewhip Members from a committee because that is the nominating entity.

The only thing that I persuade you to add when you are considering this ruling is that under Article 147 of the Constitution and the Fair Administrative Action Act, there would ordinarily be the requirement for one to be given opportunity to be heard when being dewhipped. I persuade you to put that in your ruling for purposes of Article 47, the Fair Administration Action Act and the provision under Section 10 of the PSC Act. To the extent that a committee is formed that will give that opportunity, that will suffice and there is no reason to defer back to the political party to form a disciplinary forum for purposes of being heard.

Hon. Speaker: Very well. Did I see Hon. Mbui? Hon. Mbui does not appear to have a card.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Speaker. Listening to the arguments forwarded by the two sides, I heard one talk about Article 251. It is true that Article 252 talks about independent commissions and office holders. Article 127 of the Constitution of Kenya is specifically about the PSC. It talks about the way in which a Member can be persuaded to vacate office. I would be persuaded to imagine that that is the one we should be following. The other Article talks about all commissions and independent office holders, but Article 127 is specific to the PSC, which is the commission we are concerned about in this House.

Hon. Speaker: Very well. I will give a ruling on it.

Let us move on to the next Order.

PROCEDURAL MOTION

LIMITATION OF DEBATE

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of Standing Order 97(1) and notwithstanding the resolution of the House of February 18, 2020, this House further resolves that during the Sittings of the House from June 4th, 2020 to July 2nd, 2020, each speech in debate on Bills, Motions (including Special Motions), Sessional Papers and Committee Reports, shall be limited as follows: a maximum of two hours with not more than 10 minutes for the Mover in moving and five minutes in replying and a maximum of five minutes for any other Member speaking, except for the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Committee who shall be limited to a maximum of 10 minutes, and that priority in speaking be accorded to the Leader of the Majority Party, the Leader of the Minority Party and Chairperson of the relevant Committee, in that order.

Provided that the resolution shall not apply to the Second Reading of the Finance Bill, 2020, debate on the Budget Estimates and the Committee of Supply for the Financial Year 2020/2021.

The House Business Committee (HBC), under your chair, felt that because of the situation we are in, we create time limits for Bills and Motions, give more Members time to speak and reduce the time which was being given to the Mover and the Seconder except for three items which are important to Kenyans, namely, the Finance Bill, the Budget Estimates and the Committee of Supply for the Financial Year 2020/2021. This is only for the period between Thursday this week and July 2nd when we shall go for our short recess if the House agrees on the Calendar.

This is a Procedural Motion before us, which is meant to guide the House on the manner in which debate will be carried out and seeks to set timelines for Members contributing before the House.

I beg to move and ask the Leader of the Minority Party, who is a Member of the HBC, to second.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Speaker. I second this Motion.

There is nothing much to say about the Motion that has been moved by the Leader of the Majority Party because it is a Procedural Motion. We are just trying to set the ground rules on the amount of time available for the Mover, the Seconder, other Members and the leadership of the House on both sides.

The two issues that were raised earlier mostly affect the Minority side. I request for an indication of the possible time you will make the ruling. When you contact-trace and find someone needs isolation, that isolation needs to be done quickly, otherwise, others may be infected. My request is that if possible, the rulings are made quickly, possibly on Thursday this week, so that I can start the process of dealing with Aisha Jumwa.

I beg to second.

Hon. Speaker: Hon. Mbadi, we will do it on Tuesday.

(Question proposed)

Hon. Members: Put the Question!

(Question put and agreed to)

Hon. Speaker: Next Order!

BILL

First Reading

THE REFERENDUM BILL

(Order for First Reading read-Read the First Time and ordered to be referred to the relevant Departmental Committee)

Hon. Speaker: Next Order!

MOTIONS

ALTERATION OF THE CALENDAR OF THE HOUSE

Hon. Speaker: The Leader of the Majority Party, you have the Floor.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to move the following

Motion:

THAT, pursuant to the provisions of Standing Order No.28(4), this House resolves to further alter its Calendar (Regular Sessions) for the Fourth Session (2020), as amended on Tuesday, 14th April 2020 and resolves to-

- (a) suspend its sittings of Wednesdays (morning and afternoon) during the month of June, 2020 and the sitting of 1st July 2020;
- (b) hold sittings during the month of June, 2020 as follows-
 - (i) Morning and afternoon sittings on Tuesdays of 9th, 16th, 23rd and 30th June 2020 commencing at 10.00 a.m and 2.30 p.m respectively;
 - (ii) Afternoon sittings on Thursday, 4th, 11th, 18th and 25th June 2020 at 2.30 p.m; and ,
- (c) hold an afternoon sitting on Thursday, 2nd July 2020 commencing at 2.30 p.m.

Hon. Speaker, I am sure Kenyans are aware that the President is trying to see how he can ease the COVID-19 restrictions. If you look at the business before the House, which is the Budget, Committee of Supply and the Finance Bill, the HBC, under your leadership, felt that we can sit twice a week. We will sit on Tuesday in the afternoon and then we allow the Clerk's office to administer the necessary safety measures in the Chamber on Wednesday. Then we will sit on Thursday in the afternoon. We will sit the full day on Tuesday and then we will have a break on Wednesday. Our committees can sit on Wednesdays, which is very good because even the subcommittee of the Cabinet sometimes sits through the virtual network on Tuesday. We will be sitting on Tuesday in the morning and afternoon. On Wednesday, we will allow the public health officers and the Clerk of the National Assembly to take care of the safety of the Chamber. We will be sitting on Thursday in the afternoon. Before we go on short recess on 2nd July, we will have completed the Budget Estimates, Committee of Supply and the Finance Bill, which is important

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

and has a deadline of 30th June 2020. We were only sitting for one day in a week. This Motion makes sure that we have two days in a week.

The alteration of the calendar will enable the House to conclude the business that we have which is important and has a timeline in this Session. We will do it in a timely manner. I ask the Leader of the Minority Party to support this Motion.

Hon. Speaker: Hon. Mbadi, you have the Floor.

Hon. John Mbadi (Suba South, ODM): Hon. Speaker, I support the Motion. In simple words, we are calling to have three sittings in the month of June, namely, on Tuesday in the morning and afternoon. Then we be free on Wednesday for preparation for Thursday and then we sit on Thursday in the afternoon. We will be sitting a little more than we have been sitting, since this pandemic became a problem to us.

I want to ask the House to agree that for the month of June, we sit on Tuesday, beginning next week, in the morning and afternoon and have a sitting on Thursday. This is a busy period. We will deal with the Budget and Appropriations Bill and the Finance Bill. We need these sittings.

Thank you, Hon. Speaker. I second the Motion.

(Question proposed)

Hon. Members: Put the Question!

Hon. Speaker: Hon. Members, I believe this Motion has been explained quite clearly by Hon. John Mbadi. It will make sure that there are more sittings. As you are all aware, the House is still at liberty, depending on business, to increase the sitting hours on any particular day.

(Question put and agreed to)

This is widely circulated. We are going to have more sittings, so that Members can indicate whether they want to attend morning sittings particularly on Tuesdays and afternoons or on Thursdays. This increases the number of Members who will participate. So, starting Tuesday next week, there will be morning sittings.

Let us move on to the next Order.

ESTABLISHMENT OF COMMITTEE ON COVID-19
PREVENTION RESPONSE AND MANAGEMENT

THAT, aware that the Coronavirus Pandemic (COVID-19) was declared by the World Health Organization (WHO) to be a Public Health Emergency of International concern; deeply concerned on the serious threat posed to the health and social-economic lives of Kenyans by the continued spread of the Pandemic; appreciating that both the National and County Governments have put in place some targeted interventions to respond and manage the COVID-19 pandemic through among others, enhanced medical and public health actions, mitigating social-economic shocks arising from the impact of the pandemic, creation of a National Emergency Response Fund to foster the national response to the pandemic, and formation of a National Emergency Response Committee on Coronavirus, which is tasked with among other things, to coordinate Kenya's preparedness, prevention and response to the threat of COVID-19,

and develop mitigation strategies with regard to the disease; cognisant that some of the policy measures and targeted interventions put in place by the Government are yet to be anchored in legislation and/or approved by Parliament;

Now therefore, this House resolves as follows –

(i) to acknowledge and appreciate individuals and corporate entities, development partners and multinational institutions for local and international technical, financial and human assistance efforts and support in response to the pandemic; and,

(ii) to establish an ad-hoc committee to be known as the Select Committee on the COVID-19 Prevention, Response and Management, whose mandate will be as follows-

(a) develop necessary legislative measures on COVID-19 prevention, response and management through which the Government would anchor the mechanisms to prevent, combat and respond to the pandemic, and to any other pandemics in the future, including but not limited to, ensuring enhanced medical and public health actions and facilities, strategies for cushioning the country from the effects of such pandemic on the social support system, economic stimulus for the Micro, Small and Medium Enterprises, and national public order measures for the maintenance of specific and competent functions during and after such pandemic;

(b) co-ordinate closely with the National Emergency Response Committee on COVID-19 which is tasked with among other things, coordinating the country's preparedness, prevention and response in the actions and measures taken to ensure that the committee delivers on its mandate more effectively;

(c) consider funding needs and requirements on COVID-19 prevention, combat, response and management; and,

(d) report and make recommendations on the item under paragraphs (a) and (c), and any other related matters within thirty (30) days, and make weekly progress reports on item (b) to the House, until the end of the pandemic.

(iii) That the Membership of the Committee be as follows –

- (i) The Hon. M.D. Ngunjiri Wambugu, MP;
- (ii) The Hon. (Dr.) Amos Kimunya, EGH, MP;
- (iii) The Hon. (Dr.) Makali Mulu, MP;
- (iv) The Hon. Yusuf Hassan, MP;
- (v) The Hon. Alice Wahome, MP;
- (vi) The Hon. Florence Mutua, MP;
- (vii) The Hon. Peris Tobiko, MP;
- (viii) The Hon. Peter Kaluma, MP;
- (ix) The Hon. Mishi Khamisi, MP;
- (x) The Hon. Beatrice Nyaga, MP;
- (xi) The Hon. Janet Ongera, MP;
- (xii) The Hon. (Dr.) Otiende Amollo, MP;
- (xiii) The Hon. Gathoni Wamuchomba, MP;
- (xiv) The Hon. Godfrey Osotsi, MP;
- (xv) The Hon. Didmus Barasa, MP;
- (xvi) The Hon. Joshua Kandie, MP;

- (xvii) The Hon. (Dr.) Daniel Kamuren Tuitoek, MP;
- (xviii) The Hon. Patrick Munene, MP;
- (ixx) The Hon. Anthony Oluoch, MP;
- (xx) The Hon. John Kiarie, MP;
- (xxi) The Hon. Abdi Omar Shurie, MP;
- (xxii) The Hon. Major (Rtd) BashirAbdullahi, MP; and,
- (xxiii) The Hon. Teddy Mwambire, MP.

(Hon. Ngunjiri Wambugu on 6.5.2020 - Afternoon Sitting)

(Resumption of Debate interrupted on 6.5.2020 - Afternoon Sitting)

Hon. Speaker: There was no particular Member on the Floor. The Motion had been moved by Hon. Ngunjiri Wambugu and seconded by Hon. Otiende Amollo. Debate can continue. I assume we will go by the list. I see Hon. Sankok is the first on board.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Speaker. I thank Hon. Wambugu for bringing such an important Motion at this particular time when we are faced with a pandemic.

(The Speaker (Hon. Justin Muturi) left the Chair)

(The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya) took the Chair)

The pandemic has not only crippled the economy of Kenya, but also the economy of the world. Our businesses are dying as our people suffer, more specifically persons with disabilities. I thank the President of the Republic of Kenya for setting aside Kshs200 million to cushion vulnerable persons with disabilities. Targeting is taking place and the majority will be receiving a stipend at the end of every month to cushion them from the pandemic. That is on top of the cash transfer to severely disabled persons.

This Motion is very important because this disease is very contagious. As a House, we need to allocate funds to fight it. Let us remind our people to stay safe by sanitising, keeping social distance and washing hands. Other countries have taken drastic measures. I hear in Europe it is illegal for people to move from one House to another. In our case, we are allowed to meet 15 people. So, the Mover brought a Motion that is very important.

We are lucky this disease is not airborne. If it were, it would have been very dangerous to be in this building. We are lucky that the disease is not sexually transmitted. As long as one wears a mask and observes social distancing in all engagements, one is safe. It is a disease that is transmitted through contact.

I support this Motion 100 per cent so that the House can be seen to be caring for its citizens.

With those remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Rosanna Passaris, the Member for Nairobi, you have the Floor.

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Thank you, Hon. Temporary Deputy Speaker. This Motion was brought to the House before we broke for recess and was shot down for various reasons. I am a Member of the Departmental Committee on Health. COVID-19 is a health crisis. It is a pandemic. It has social and economic effects as well. Looking at the list of the Members the Mover wants to constitute the ad-hoc committee, there are hardly Members of the Departmental Committee on Health.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Otiende Amollo, what is your point of order?

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Hon. Temporary Deputy Speaker, it is not my intention, and I would never take pleasure in interrupting the Member for Nairobi, but she commenced by saying that this Motion was brought here the first time and shot down. As a matter of fact, debate had not commenced. So, whether she is supporting it or not, it is okay, but that particular part should be corrected.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): That is correct, Hon. Passaris. We are actually beginning debate on the Motion. So, you can right or correct that notion.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Thank you. I stand corrected, Hon. Temporary Deputy Speaker.

At the time we had the discussion in the House, we were of the opinion that we already had many committees of the National Assembly, and that every committee was handling whatever area relates to the Coronavirus pandemic. For us in the Departmental Committee on Health, we handle all matters pertaining to health. Looking at the proposed membership of the Committee, I realise that you cannot be discussing a pandemic as a committee and avoid involving Members of the Departmental Committee on Health. Even if they were to include the Members of the Departmental Committee on Health, then we would still ask ourselves at what point we will contribute and take effect in terms of COVID-19 in our Departmental Committee on Health or in this select committee.

We have Sustainable Development Goals (SDGs). If we were to think about a select committee that needs to be formed, it would be one to deal with the SDGs, but why have we not had an SDGs select committee? Each Committee in the House addresses an area pertaining to whatever issues we have as a country. I feel that the proposed committee on COVID-19 response and management would be a duplication of what we are all doing in our respective committees. If it was not supposed to be a duplication, then we would be forced to decide that, maybe, in the Departmental Committee on Health, we should not discuss matters COVID-19 because there is a select committee. This creates some kind of confusion. Anything pertaining to the COVID-19 pandemic concerns every Member of this House. So, if we are going to form a prevention and management committee, then how will we do so and have only a few Members to make that decision? In Nairobi, we have a lot of issues and concerns. If we are going to have any response, it should involve the entire House. It cannot be a few individuals as we see here.

I oppose the Motion on the ground that all duly elected Members of Parliament, be they in the Senate or the National Assembly, are concerned about COVID-19. We cannot say that only a few Members are more responsible or more concerned about COVID-19. In our respective committees, we deal with all these matters. There will be duplication. If there is a select committee

that we need, it is one to deal with the SDGs because they are currently completely challenged. We are told in our respective committees to handle matters pertaining to SDGs.

With those remarks, I oppose.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us hear Hon. Dennitah Ghati.

Hon. (Ms.) Dennitah Ghati (Nominated, ODM): Thank you very much, Hon. Temporary Deputy Speaker, for giving me the opportunity to support the Motion.

The *ad-hoc* committee on COVID-19 is a great idea by the Member for Nyeri Town, Hon. Ngunjiri. It has come at a very opportune time. It seeks to cushion and find answers to the COVID-19 pandemic.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Ghati, I thought you were moving an amendment to the Motion.

Hon. (Ms.) Dennitah Ghati (Nominated, ODM): Hon. Temporary Deputy Speaker, I will also be moving an amendment.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): So, go straight to the amendment.

Hon. (Ms.) Dennitah Ghati (Nominated, ODM): Hon. Temporary Deputy Speaker, I seek to move an amendment to the Motion on the establishment of an *ad hoc* Committee on COVID-19 Prevention, Response and Management because of lack of inclusivity. This is simply because the Member of Parliament who has moved this Motion has blatantly forgotten to include Members representing persons with disabilities (PWDs). The COVID-19 pandemic has taken a toll especially on PWDs in this country. I respectfully wish to register my objection to the composition of the membership of this Committee.

As you are aware, PWDs are actually bearing the brunt of the COVID-19 pandemic in this country. People living with disabilities are currently being disproportionately impacted and they are the most affected by the effects of the COVID-19 pandemic. As Parliament, we are responsible for constituting a committee and we cannot build an inclusive response if we are excluding some Members.

Hon. Temporary Deputy Speaker, we have MPs who represent PWDs...

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Ghati, kindly be clear. Move the amendment so that Members are with you. You need to move the amendment, we propose the Question on the amendment and allow Members to debate. They will then either agree or disagree with you. So, kindly move your amendment and get your seconder on board and then we move to the next step. Move the amendment just as it is.

Hon. (Ms.) Dennitah Ghati (Nominated, ODM): Alright, Hon. Temporary Deputy Speaker. I beg to move that the Motion be amended in Paragraph 3 by inserting the following additional Members:

- (i) Hon. David Sankok, MP
- (ii) Hon. (Ms.) Dennitah Ghati, MP.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Do you have a seconder?

Hon. (Ms.) Dennitah Ghati (Nominated, ODM): I request Hon. Sankok...

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): The very Member you are proposing to be included is your seconder?

Hon. (Ms.) Dennitah Ghati (Nominated, ODM): I request Hon. (Dr.) Nyikal to second.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I wish you diversify. And I think Hon. Sankok has already contributed. If there is no other Member to second, I will allow him. Hon. Dennitah.

Hon. (Ms.) Dennitah Ghati (Nominated, ODM): I have Hon. Millie Odhiambo.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Millie Odhiambo, you have been picked as a seconder. I do not know if that was your point of order.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Speaker, I do not mind seconding, but I need a clarification because I do not know whether the Standing Orders... Unfortunately, I do not have my Standing Orders here. I do not know whether they were changed so that you can actually amend a list in the way we are doing it here. Maybe, you can advise because we should not do something in futility. Under the Standing Orders... I do not know whether things have changed because of the COVID-19 pandemic. So, I just need direction from the House so that we do not mislead my sister Hon. (Ms.) Dennitah Ghati when we are doing an exercise in futility. I would love to second her, but after clarification on whether what we are doing is actually procedural. It is either we defeat the list or a new one is brought. But I have never seen an amendment on a list during my three terms in Parliament.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Millie Odhiambo, what Hon. (Ms.) Dennitah Ghati is doing is actually to amend the Motion. So, do not look at the list in isolation. And she has presented her proposed amendment and it has been approved by the Speaker. So, we are going through the whole Motion of amending a Motion. So, if you can go on to second...

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Speaker, I am still very uncomfortable with the procedural bit, but now that I have gotten the assurance from the Chair, I wish to second. However, even as I am seconding, I would wish to indicate that once I speak to this and since there are many Members, I may not get an opportunity to speak to the substantive part of it and so, I will just speak to it.

I just want to say one or two things in relation to this and the subsequent one that the Kenya National Assembly needs to up its game on. This Motion was brought way ahead of even the Senatorial one, but now we are looking like we are following the Senate. So, we always do this. I know, for instance, I had brought a Reproductive Healthcare Bill. The Senate has come up with a similar Bill after me and passed theirs and they are bringing it to the National Assembly. So, we might as well give all our Bills to the Senate to do them.

Secondly, it is not uncommon to bring a select committee even though we have the Departmental Committee on Health when we think that we need a specific focus on an issue. So, personally, the reason that Members are giving that there is the Departmental Committee on Health and others really does not suffice. It is sufficient to do that.

Thirdly, I will support, reluctantly, based on the same issue that I raised on online *Bunge* when it was active, that men like conniving. The male Hon. Members here have connived and are giving themselves positions. If you look at Luo Nyanza, for instance, we have my good young brother here, Hon. Anthony Oluoch, Hon. (Dr.) Otiende Amollo and Hon. Peter Kaluma. The argument that they were saying is that they are lawyers. *Kwani* I am not a lawyer myself? So, if we want to ensure that we have inclusivity, let us ensure that we have representation even of women.

Hon. Temporary Deputy Speaker, if you see even what is going on in the parties when they are doing the "isolation and quarantine," why are the women the low hanging fruits? Even in Jubilee Party, now that Hon. (Ms.) Cecily Mbarire has been removed, why can we not have a

woman to replace her? I know I am not supposed to speak over other parties, but I am a defender of women. When people are “quarantining”, let them ensure that they take into account the women representation. We have women in Jubilee who are very strong, loyal and very ardent supporters of the President such as Hon. (Ms.) Sabina Chege, Hon. (Ms.) Gathoni Wamuchomba, Hon. (Ms.) Ruth Wangari and Hon. (Ms.) Fatuma Gedi. Why were they not considered? This is what I am seeing in this Committee even as I am supporting.

Finally, I support the issue of PWDs. Let them be included, but even as we are including them, for future reference, let them know that because of the diversity of the House, we cannot have PWDs all the time. However, on this one, I will support.

Thank you, Hon. Temporary Deputy Speaker.

(Hon. (Ms.) Odhiambo-Mabona consulted loudly)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Order, Hon. Millie Odhiambo! I am going to go ahead to propose the Question. I am not allowing any debate. Let me propose the Question and then we move to the substance of the Motion.

(Question, that the words to be added be added, proposed)

Hon. Members, you are now going to debate the amendment and then you either agree or disagree with Hon. (Ms.) Dennitah Ghata. There are Members who have put up their requests here. I see Hon. (Ms.) Sabina Chege Wanjiru.

Hon. (Ms.) Sabina Chege (Murang’a CWR, JP): Thank you, Hon. Temporary Deputy Speaker.

Although I would want to support the inclusion of the Members as suggested by Hon. Ghata and Hon. Sankok, the bigger question is the constitution of the entire Committee. I think Hon. Millie Odhiambo has alluded to how the Committee was constituted. Before we went on recess, I rose on the issue of whether this *ad hoc* committee is necessary. Though I would want to support the inclusion of persons with disability, the question is: Is this Committee necessary? That is what this House needs to address. Yes, we might amend and include persons with disability but, is it necessary for us to have this Committee in the first place?

I raised the issue of the works of the departmental committees. Though we have COVID-19 and there was an indication that we might be opening the country soon or later, there are other issues that are very pertinent in this nation. So, I would want this House, not being biased, to just look at the purpose or agenda of this *ad hoc* committee and ask ourselves whether it is necessary for us to have it. I will be waiting. Last time I asked a question and the Hon. Temporary Deputy Speaker then, Hon. Omulele, did not really answer my question. We have had a ruling in this House on the formation of *ad hoc* committees and whether they are doing work similar to the one that is being done by other committees.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Are you on the amendment, Hon. Sabina? Speak to it and let us know.

Hon. (Ms.) Sabina Chege (Murang’a CWR, JP): Yes, I am on the amendment. As I would wish that each and every committee takes into account the interests raised by Hon. Ghata and I would support them to be included, the question is whether this Committee is necessary. I support

Hon. Ghati's request for them to be included. However, even if they include them, are we, as a House, going to agree to form an ad hoc committee to do the work of departmental committees?

I rest my case.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Remember we are on the amendment. Hon. Martin Owino, speak to the amendment. Hon. Martin, you know you are just lucky because I thought you are on this side.

Hon. Martin Owino (Ndhiwa, ODM): As much as I respect people living with disability and also Hon. Ghati, I do not want to support this. So, I oppose it because even the cause for which this committee is being formed is wrong. It would be wrong for me to support it when I really disagree with the reason the committee is being formed. I looked at the obligations they are going to do and they are in conformity with the work of departmental committees.

I oppose this. I respect persons living with disability.

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

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

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker.

I wish to raise an issue on a point of order, especially noticing what is coming from the Departmental Committee on Health. I have served in this House for long. Select committees are formed even if they have mandates relating to a committee – if it is so special that special attention and focus needs to be put to it.

(Applause)

I urge Members to focus on other issues like composition, gender and persons with disability. I am raising this because I see we do not want to go that way in this Parliament and yet, I was in a committee on cattle rustling and I was in another on Internally Displaced Persons (IDPs), with my dear sister Sophia Abdi Noor. That is when the Departmental Committee on Justice and Legal Affairs, which I sat in, could easily have dealt with them. There was a Select Committee on Elections. So, it is not wrong to have a select committee.

So, are Members of the Departmental Committee on Health in order to mislead the House?

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Order, Hon. Millie. You were just coming up to oppose the opposition by Members of the Departmental Committee on Health, which is not right. Let them have their say and then the House will make its decision.

Hon. Owino, kindly finish your contribution.

Hon. Martin Owino (Ndhiwa, ODM): I will speak substantively on the Motion. However, I oppose the inclusion of people living with disability because I do not agree with the core mandate which is put here.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Sophia Abdi.

Hon. (Ms.) Sophia Abdi Noor (Ijara, PDR): Thank you Hon. Temporary Deputy Speaker for giving me this chance to contribute to this Motion.

I want, from the outset, to say that forming a select committee or *ad hoc* committees is a practice that has been practised even in this House. As my sister Hon. Millie Odhiambo has alluded, I was the Chair of the Departmental Committee on Labour and Social Welfare in the Tenth Parliament.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Sophia and Members, please speak to the amendment and then we will move to the substance of the Motion, either as amended or as it is.

Hon. (Ms.) Sophia Abdi Noor (Ijara, PDR): I will adhere to your guidance. I am supporting. If you look at the list itself, it is biased. We have six women only, out of 23 Members. It is not really coming out well. Most of the people who are suffering are the elderly, women and children who are always attached to the mothers. We are the ones who are feeling the pinch. We have been going around this country discussing, giving out food and doing a lot of things but, when it comes to the composition of the committee, we have six women only.

So, mine is that we need to relook at that list.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Have you supported the amendment or you are opposing it?

Hon. (Ms.) Sophia Abdi Noor (Ijara, PDR): I have one more woman coming on board due to the amendment. I am not refusing the woman to come on board. I am saying that the list is unconstitutional.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, I want to put the Question on the amendment so that we can move on to the substance of the Motion.

(Question, that the words to be added be added, put and negated)

(Debate on the original Motion resumed)

We will now go back to the substance of the Motion, as it is. Let us have Hon. Chepkut.

Hon. William Chepkut (Ainabkoi, Independent): Hon. Temporary Deputy Speaker, I oppose it in the strongest terms possible. An *ad hoc* committee is just a duplication. I urge Hon. Members to strengthen the Departmental Committee on Health that is led by Hon. Sabina Chege. Otherwise, this is, indeed, a duplication.

Secondly, since you are a top notch person, you know that His Excellency the President and the Ministry of Health have instituted many measures to defeat COVID-19. Therefore, what is it that this *ad hoc* committee will do? If we establish this *ad hoc* committee, what is it going to do that the Departmental Committee on Health cannot do?

Again, Hon. Temporary Deputy Speaker, I oppose the composition of the *ad hoc* committee. It is dubious. There is no Independent Member of Parliament and a competent doctor in its membership. So, why are we establishing it in the first place? I support the Departmental Committee on Health being given powers to do that task. After all, there are departmental committees on security and health. Why are we duplicating. That is conflict of interest. I reject and oppose it in the strongest terms possible. Soon or later, His Excellency the President is going to issue a statement on opening of schools and the economy of this country. I thank him because of the exceptions on taxation and the Kshs53 billion on economic stimulus package. As much as Hon. Kaluma is my friend, I oppose this Motion. I always agree with him but this time round, I oppose the Motion. Hon. Nyikal, since you are a competent professional doctor, do you really support this Motion? Reject it in the strongest terms possible.

Thank you.

(Laughter)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Chepkut, you only address the Speaker and you know that. I do not think it is Hon. Kaluma who moved the Motion. So, I do not know where Hon. Kaluma is coming in. Member for Rangwe.

Hon. (Dr.) Lillian Gogo (Rangwe, ODM): Thank you, Hon. Temporary Deputy Speaker for allowing me to weigh in on this matter. I rise to support this particular Motion on the basis of precedent that has been set. Members have talked about *ad hoc* committees that were formed earlier, even before this COVID-19 came, to look at other issues like cattle rustling and things that were important at that time. That is why they are called *ad hoc* committees. They only come in when it is necessary. They discharge a given duty after which they are disbanded. Therefore, I do not see any conflict of interest here. The challenge that we are facing as Kenyans is that, if you are not in it, then it is not a good thing. I can read that people are thinking that this *ad hoc* committee is going to gain in one way or another. This is a serving point for Kenyans. I want to appreciate people who have already done quite something on the issue of COVID-19 in this country. I want to support the work of the Government, the work of medical management systems and paramedics. I want to support our law enforcers who have done quite something. However, concerning the august House, we lag behind. Statements will be issued; things will happen and we will be out. Yet, we are busy discussing on our social platforms and giving our contributions.

The *ad hoc* committee is necessary because COVID-19 is multi-sectoral. It is beyond the Departmental Committee on Health. Committees will work together. Several contagious diseases already have established protocols in place. So, COVID-19 is just one of the contagious diseases that have come. It is a global pandemic. I do not see anything wrong with us having a parliamentary *ad hoc* committee that is going to work in line with the Departmental Committee on Health and other committees and sectors. I support this Motion because the *ad hoc* committee will be a focal point in response to COVID-19, especially on matters that concern this august House. Also, the Committee will be time-bound. I do not see why anyone should be scared of usurp of duties or duplication of roles. In any case, it will not be duplication of roles. It will be, being additive. There is work that has already been done, but more work can be done. I do not see why we should have any problem. The intention is to have this *ad hoc* committee up to the time we will have a working vaccine, and the health care system management and the health department determine that there is immunity. It is under such circumstances that this *ad hoc* committee can be dissolved.

It is also necessary to consider if there will be need for legislation. If that need is to come from this House, it will be a money Bill. Money Bills can only be generated in the National Assembly. So, when one will desire to speak on it and we do not have an *ad hoc* committee in place to look into the nitty gritty of the legislation of the money Bill aspect, we will go wrong. I support this Motion and appreciate the need to have the *ad hoc* committee as a vehicle to monitor the usage of funds. There are funds that have been given out by the Government and I can tell you for free that, as much as we are supposed to oversee it, that is not being done properly. The *ad hoc* committee, if constituted by Parliament, will look at the multi-sectoral systems that are already existing outside there, especially on matters oversight as we collectively play oversight role as MPs.

To bring it to a close, there are many people out there who are working on COVID-19. This matter had been raised earlier, but I need to speak on it. We have village elders. They are the ones who are in contact with the people on the ground. They inform the chiefs who in turn inform the Executive. Those people are completely forgotten. When it comes to matters of people who are vulnerable, nobody thinks about them. An *ad hoc* committee that is formed by Parliament will bring these things together by working with other disciplines so that, at the end of the day, we have

a coordinated system that I can know Rangwe is represented. I must not be necessarily there but I can give my views.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Before I give a chance to the Member for Kinangop - who is next on the list - I wish to give Hon. Millie clarity of mind on the issue she raised about approval of the list. It is water under the bridge, but it will be useful even for other Members to know what you were trying to raise. I will refer you to Standing Order No. 175 which is about approval of nomination. Once a list nominating Members is moved in the House, no objection against the proposed membership of a Member in a select committee shall be permitted and objections, if any, shall be formulated against the proposed membership as a whole. So, for clarity of mind, you can refer to Standing Order No. 175. However, that was not what Hon. Ghati was doing. She was adding Members to the list rather than opposing a Member or Members on the list. Member for Kinangop

Hon. Zachary Thuku (Kinangop, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this Motion on the establishment of an *ad hoc* committee on the coronavirus disease. At the outset, our Standing Orders are clear on the formation of an *ad hoc* committee. It envisages such a situation. But, as I oppose the Motion, I wish to state that the facts bear that what is envisaged in this Motion has been taken care of. In fact, the whole business of this committee is time barred, because so much water is under the bridge at the moment. There are laws that were enacted through the Committee on Delegated Legislation. There is some money that has been set aside. There is a fund that has been established. There is so much that has been done. I can tell you for sure that forming this committee is going to be an effort in futility. We are going to duplicate what has been done and what is being done by the relevant departmental committees.

On the issue of audits, because that is one of the issues that have been raised, now that there is a fund that has been established, we have to wait until such a time an audit has been done by the Office of the Auditor-General, so that then the audited accounts can be deliberated on by the Special Funds Accounts Committee. Therefore, forming an *ad hoc* committee will not serve the interests of Kenyans. For sure, the coronavirus disease is here to stay with us. Therefore, this cannot be an *ad hoc* committee, not unless we want to establish a committee that will oversee the management of this disease in the long run, which is not important. Therefore, I oppose this Motion in the strongest terms possible. I propose that we allow the established Departmental Committees and the oversight committees that are involved with finances, in terms of audit, to do their job.

I oppose, Hon. Temporary Deputy Speaker. Thank you.

The Temporary Deputy Speaker (Hon. Soipan Tuya): Member for Mvita.

Hon. Abdullswamad Nassir (Mvita, ODM): Ahsante sana, Mhe. Naibu Spika wa Muda. Ningependa tu wenzangu waniazime masikio yao. Kwanza, nataka kuchukua fursa hii kushukuru dadangu Mhe. Sabina na Kamati ya Afya. Nikiangalia Hoja kwa undani, hii kamati maalum imepatiwa nyadhifa gani inazidi mipaka ya ile ya afya? Ndani yake kuna masuala ya uchumi. Ndani yake kuna masuala yenye kuhusika na kitu gani kitaweza kufanywa baada ya hili janga la corona kumalizika? Kwa hivyo, mimi kibinafsi, na nina imani wengi hapa watakubaliana nami, napendekeza kuwa tuikubali Hoja hii kwa kauli moja sote na kwa minajili ya Kenya.

Nimeona dadangu kutoka Mombasa, Mbunge wa Likoni, ni moja wa wale ambao watakuwa katika kamati hii maalum. Ningeomba wasistize mambo sita zaidi. Kwanza, uchumi wa watu wetu. Pili, ni lazima tushinikize ya kuwa nchi ifunguliwe sasa hivi. Hali ya uchumi vile ilivyo, hali ya watu na nafsi zao na bugdha walizonazo, zinaleta changamoto mno. Ni lazima nchi

ifunguliwe. Katika kufunguliwa, ni lazima Kamati ya Afya iweze kuangalia masuala haya. Waweze kukubaliana na kupitisha Miswada ambayo itakubalika ya kuwa ikiwa nchi itafunguka, basi wale wa kufanya kazi na wananchi kwa ujumla, ikiwemo sisi Wajumbe, iwe ni sharti tuhakikishe hali zetu za afya ziko sawa. Ikiwa hatujijali, sisi tujali hali ya wale wengine. Ikiwa tunasema yule mwenye M-Pesa aweze kupimwa, na sisi pia tunahusiana na watu ambao wako mashinani, tujue hali zetu kwa sababu ya watu wetu.

Ni raha tena sana kwa sababu katika maeneo yaliyofungwa, licha ya kuwa katika hali ya mchipuko mchipuko wa hapa na pale wa kuzungumza na bugdha, pengine ikaweza kuchukuliwa ya kuwa Abdullswamad Sherrif Nassir ama Gavana wa Mombasa wana nguvu za kisheria kufunga mji. Nataka hii kamati iweze kuweka kinagaubaga. Na iweke kinagaubaga, sehemu ya Old Town na Eastleigh zilipofungwa, natija yake ilikuwa ni nini? Lengo lilikuwa ni lipi? Je, tuliweza kuhakikisha ya kuwa tumelifikia lile lengo letu? Hivi tunavyozungumza, kuna sehemu zingine za Kenya hii, na tunawaomba Mwenyezi Mungu... Hatujalii mtu yeyote mabaya. Lakini kuna baadhi ya sehemu nyingine katika Kenya hii watu zaidi wamepata mchipuko wa maradhi haya, lakini hatusikii kuwa sehemu zile zimefungwa. Kwa hivyo, ni lazima hii kamati iweze kutuambia kinagaubaga lengo la kufunga Old Town na Eastleigh lilikuwa ni nini. Kama madhumuni yalikuwa ni kufika sehemu hii, tulifika ama hatukufika? Na ikiwa tulifika tuambiwe hesabu vile ilivyo. Na ikiwa hatukufika pale, basi ni kwa nini kuongezwa ule muda wa kufungwa?

Ni lazima kuangaliwe njia muafaka—kwa lugha ya Kiingereza tutasema *protocols*. Sehemu zetu za ibada zikifunguliwa, watu watarejea vipi katika sehemu zile? Kamati hii ifanye kazi pamoja na makasisi, maimamu, na *pundit* wetu, ambao kwa lugha nyingine ni wale wa kuongoza katika *temples* ama baniani. Nikimalizia, ni ombi langu kuwa, tukiwa tunafungua mashule, vyo na taasisi, lazima tuhakikishe kuwa athari hii isiongezeke zaidi.

Kwa hayo yangu, nawasihi, nawaomba na nawanyenyekea tusiwekwe katika matakwa ya kamati moja na nyingine ikawa ni yenye kuziba matakwa ya Wakenya wote. Ni ombi ambalo nina imani ni la wengi walioko. Tena tunasistiza ya kuwa katika siku ambazo kuna bugdha, mtu yeyote ambaye kidogo anaona ana akili ataweza kuleta bugdha za kisiasa na jasho la kisiasa. Lakini hekima ni kuweza kuleta utuluvi katika sehemu ambayo iko na bugdha tayari.

Ahsante sana, Mhe. Naibu Spika wa Muda.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let me give the opportunity to the Chair of the Departmental Committee on Health, Hon. Sabina, to speak to the issues. She only spoke to the amendment. Did you speak to the Motion? We just started today. Go ahead.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Speaker. I want to make it clear that I spoke to the amendment by Hon. Dennitah Ghata. I am going to be very brief. On the issue of whether *ad hoc* committees can be formed by this House, it is true. Any *ad hoc* committee can be formed. I also want to refer to an earlier reference I made on the ruling by the Speaker of the National Assembly, Hon. Justin Muturi, on the case of Hon. Moses Kuria. I refer Members to the ruling that was made on 3rd December 2019.

I want to be very brief. The issues that were raised were conflict with the mandate of existing committees and conflict with Standing Order 86. Though I support the intention of this *ad hoc* committee, matters that are supposed to be dealt with by this committee, like taxation, economic stimulus packages and COVID-19 Emergency Fund, are active before the Departmental Committee on Finance and National Planning. So, this is not a matter for the Departmental Committee on Health only. Matters relating to regulations of COVID-19 were handled, and are still being handled, by the Committee on Delegated Legislation. So, again, this is not a new or unique matter in the House.

I have heard many Members, including the last speaker, raise the issue of social support, including the support of the people who were on the grassroots, the community and the ones who are helping the community. These matters and other related matters are actively being handled by the Departmental Committee of Labour and Social Welfare. We have matters of security and other several matters. It is not like we are not supporting the Motion but Members have raised a few other issues which, if Hon. Wambugu would have made further consultations, would not have been raised. The issues raised include those of gender balance, and inclusion of persons with disabilities and Members from different professions. I have asked Hon. Wambugu, especially when they were constituting the Committee; a Member from the Health Committee, Hon. Munene, comes from the same county with Hon. Nkatha. Even the question of regional balance was not considered. I respect senior Member, Hon. Dr. Nyikal, who is also active in the forum that formed the ad hoc committee. He is one professional whom I think could also have been ...

I respect Hon. Wambugu as the Mover. We belong to the same party. We also share the same political ideology. We may be called "Kieleweke." Hon. Wambugu also comes from my region, and also from the same area with the Cabinet Secretary Kagwe.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuiya): Hon. Sabina Chege, is that a party? It sounds like a strange party.

Hon. Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Speaker, it is not a party. We have a movement. Just for your information, we are doing very well. I am very proud of Hon. Wambugu as the founder of the Kieleweke Movement.

As we think about COVID-19, there is a lot that has been done in this nation. COVID-19 has caused a lot of pain to Kenyans. Matters of economic strain, curfew, isolation, lockdown and sicknesses have left many families suffering. There is no hero in pain. No one at any point would become famous when there is pain. Out of experience, and especially to my brothers, no one likes to be reminded of pain. Even with regard to the pain of circumcision, no one wants to remember the doctor who took him through. So, I urge this House that we may support various departmental committees. There are matters that are weighty and need to be addressed. We do not need to go through an ad hoc committee since we already have competent committees in place. I have seen the Cabinet Secretary moving from one committee to another. The issue of Senators calling Cabinet Secretaries who are under the national Government... I know there was a Covid-19 kind of ad hoc Committee in the Senate. Sometimes, it even becomes hard when Members of this House ask the Cabinet Secretary for Health to appear before us to answer some questions because he was at the Senate. You find a Cabinet Secretary being called by the Committee on Delegated Legislation and, at the same time, also being called by another parliamentary Committee. So, our Cabinet Secretaries are spread so thin coming to Parliament to address a similar issue being handled by three to five committees. So, I urge this House that, in the spirit of empowering committees, we work together and make work very easy. Let us try to help Kenyans and make sure that the challenge of COVID-19 that we are facing is addressed in a proper way, moving forward, so that we save on costs and time. I urge the House to reject the proposed ad hoc committee. Please, join hands with other Committees that already exist. There is so much we can do. We even have challenges of sitting in this House. I want to meet with my Committee but every time there is no room because we do not have enough space. We are trying virtual working and it has also brought challenges. So, I reject. I do not support the formation of this Committee. It is not out of any personal issue but out of principle and just wanting to make sure that we make work easier for everybody.

With those remarks, I oppose.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuiya): Hon. Maanzo, I will give you two minutes because we are bound by the time that has been allocated to this debate.

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I just wanted to state that although a formation of an ad hoc committee can be very useful, we are faced with very unique circumstances which are not only Kenyan, but worldwide. There is no such committee which has been formed in any other part of the world. Health committees, under coordination of national executives in every country, are dealing with COVID-19 issues. In the case of New York City, Governor Andrew Cuomo has led the fight against COVID-19 and it is now clear for...

Hon. Peter Kaluma (Homa Bay Town, ODM): On a point of information!

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuiya): Hon. Kaluma, you want to inform Hon. Maanzo? Hon. Maanzo, do you want to be informed?

Hon. Daniel Maanzo (Makueni, WDM-K): He can inform me.

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Temporary Deputy Speaker, Hon. Maanzo has debated with the assumption that no such committee has been formed anywhere across the world. I wanted to inform him as my learned friend that, in the United Kingdom, there is the Corona Virus Act 2020 that has facilitated the fight, through the Houses of Parliament, and through an ad hoc Committee. That is the situation in the USA, Canada and Australia. In fact, in the larger economies, including Italy, where parliaments have had to intervene, they did so through parliamentary ad hoc committees. Because of the cross-cutting nature of the Coronavirus issue, that is the way to go. The Senate of the Republic of Kenya is also a House of Parliament. That is the direction to go.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuiya): Hon. Maanzo, are you better informed?

Hon. Daniel Maanzo (Makueni, WDM-K): Those are taskforces. They are different from an ad hoc committee. That is also already happening in Kenya. We know that the Executive has taken this matter very keenly. We have a security team which advises the President before they make any announcement on how to fight this disease. Now that it is clear from the World Health Organisation that this disease is going to be in the world for quite some time, especially when it is going to take about a year for medication or inoculation to begin, it is only fair that we allow the Departmental Committee on Health, the Committee on Delegated Legislation and any other existing Parliamentary Committee to respond to COVID-19 whenever issues arise. So far, matters have already been settled. There is no more work to be done on COVID-19. What is being looked into now is medication and prevention. We all know the protocols on how to prevent this disease. In fact, if people were obedient in the world – this is a disease of disobedience – this disease would have been crashed by now. It would have been sanitised away. It would have been masked away and no one would be sick of COVID-19. We would get rid of it as soon as possible. Again, it is about the conduct and behaviour of people in the world. It would come with one person and end with that one person.

I have a lot of respect for my colleagues who are already in this Committee, my friend, Hon. Wambugu, Hon. Otiende Amollo and others. I believe they can do a good job but trust me, this one was not properly constituted. If it was, then, I would support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuiya): Hon. Members, just to let you know; we are bound by limitation of time for any Motion. We only had an hour for this one and it is finished. There is time for the Mover to reply. I would give him the liberty to donate part

of his time to some of his friends. Hon. Wambugu, you have 10 minutes. No, you have five minutes. I am sorry. So, you can donate part of those few minutes to whoever you wish.

You have the Floor.

Hon. Ngunjiri Wambugu (Nyeri, JP): Thank you very much, Hon. Temporary Deputy Speaker.

I want to start by thanking all the Members who have contributed to this Motion. Even as I prepare to donate part of my time, one thing I want to say is that I have heard arguments that the proposed ad hoc committee will take over the work of other Committees. I have had arguments about duplication of functions. I would like Members to understand that once we form an ad hoc committee, we actually reduce the amount of time to be used to deal with these issues. Rather than having a Cabinet Secretary to appear before five committees, he will be called to appear before the ad hoc committee to deal with issues concerning this pandemic at one particular sitting.

I also want to raise the point that we also need to stop being scared of the unknown. We are in abnormal circumstances as our CS keeps telling us. For as long as we keep dealing with these abnormal circumstances, normally we will have a problem. This ad hoc committee is an abnormal proposal that is right what we need for this pandemic. I would like to donate the remaining part of my time to Hon. Oluoch. Had you spoken?

(Hon. Oluoch nodded in the affirmative)

He had spoken. I have Hon. Teddy here who had not spoken and I know I cannot see because of the mask. But I have Hon. (Ms.) Peris Tobiko and...

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): You have all of them next to you.

Hon. Ngunjiri Wambugu (Nyeri Town, JP): No. I do not think I want to donate to Hon. Nyikal. Thank you. Hon. Teddy.

(Laughter)

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

Hon. Teddy Mwambire (Ganze, ODM): Ahsante sana. Ningependa kufahamisha Waheshimiwa kwamba Hoja hii hailengi kudhalilisha ama kuharibia kazi ya kamati yoyote, lakini inasaidia kuweza kupambanua ujuaji na hali sawa ambayo itaweza kuleta mwelekeo utakaokuwa mwema. Ningependa watu waelewe kwamba madhumuni ya Kamati hii ni kuhakikisha kwamba kila kitu kitakuwa kinafanywa kwa makini na kitu ambacho kimefuatilia utaratibu wa sheria za Bunge na sheria ambazo ziko hata kwa Katiba. Kwa hivyo, hakuna mahali ambapo pana bana mtu yeyote. Kwa hivyo, natoa ile hofu ambayo imetokea kwa baadhi ya Waheshimiwa ambao wanasema kwamba masuala kama haya yatakuwa yanabana kamati nyingine. Ningependa tuunge mkono na tuweze kufuatilia ili tuhakikishe kwamba kila pembe ya nchi na kila kitu kinafuatiliwa kikamilifu ili kusiwe na upungufu wa kuweza kupata hakikisho la wazi kwa Bunge letu la Kitaifa hususan kwa kazi ambazo inastahili kuzifanya. Ahsante, na ninaunga mkono.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Wambugu, is it Hon. Tobiko or Oluoch?

Hon. (Ms.) Peris Tobiko (Kajiado East, JP): Thank you Hon. Temporary Deputy Chairlady. I support the formation of the committee and I just wanted to say one thing that this

House should not abdicate its role to the Executive because the Executive has its own role of implementation. However, this House has a bigger role of legislation and oversight and because of the various efforts that are there now on the issue of COVID-19, we need one committee that will be a one-stop shop for all the issues to be brought together and harmonized.

It worries me to see the Departmental Committee on Health being so worried that the proposed ad hoc committee may take its role and address issues beyond it - like issues to do with trade and the hunger that has been created by COVID-19 in our constituencies. There is a lot that needs to be brought under one roof in the formation of this committee. Therefore, I would say it has happened before...

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

Hon. (Ms.) Peris Tobiko (Kajiado East, JP): This House should rise to the occasion because the Executive has done its part and this House should also be seen to be actively doing its part. Therefore, I support and thank you Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Members, our time is up and I am going to put the Question.

(Loud consultations)

We are going to ascertain the requisite quorum for putting the Question.

(Loud consultations)

Let us have Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Speaker there is only one thing that I would like to debate.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): No. I am not letting you debate. You are raising a point of intervention.

QUORUM

Hon. (Dr.) James Nyikal (Seme, ODM): What I am raising, Hon. Temporary Deputy Chairlady is: Do we have a quorum to put the Question? That is my point.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I order that the Quorum Bell be rang for five minutes and then we will ascertain the need for a quorum.

(The Quorum Bell was rung)

Hon. Members, you are not supposed to leave the Chamber. That is Hon. Nyikal, Hon. Chepkut and Hon. Sabina. You still need to observe social distancing, Hon. Sabina.

Order, Hon. Members. Please, take your seats. Hon. Members, we should remember that we are not the only ones transacting the Chamber business. We have other Members in the lobby and in the tents, but, as it stands now, we are short of the requisite Quorum. We only have 28 of

us here, one in the lobby, and seven in the tents. So, we are taking consideration of the Members who are not physically here, but are following the proceedings.

All the same, this business shall go to the next Sitting when it comes on the Order Paper.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, the time being 5:52 p.m. This House stands adjourned until Thursday, 4th June, 2020 at 2.30 p.m.

The House rose at 5:53 p.m.