

**PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY**

THE HANSARD

Thursday, 30th June 2020

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: We may begin. I will make a Communication after Order No.7.

PAPER LAID

Hon. Speaker: Chairperson, Committee on Implementation, Hon. ole Kenta.

Hon. Richard ole Kenta (Narok North, ODM): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Select Committee on Implementation on submissions from stakeholders regarding the implementation status of legislations, petitions and resolutions made by the House.

Thank you, Hon. Speaker.

Hon. Speaker: Very well, next Order.

NOTICE OF MOTION

IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS

Hon. Speaker: Once again, Hon. ole Kenta.

Hon. Richard ole Kenta (Narok North, ODM): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Select Committee on Implementation on considerations and submissions from stakeholders regarding implementation status of legislations, petitions and resolutions passed by this House, laid on the Table of the House on Tuesday, 30th June 2020.

Hon. Speaker: Very well, next Order.

ORDINARY QUESTIONS

Hon. Speaker: Question by Private Notice, Hon. Mbarire.

Next, Question by the Member for Wundanyi, Hon. Danson Mwashako, I have just seen the Member. Maybe he has gone to some other place. The next Question by the Member for West Mugirango, Hon. Kemosi. Put your card. It is not showing. You can come to the Dispatch Box.

(*Hon. Vincent Kemosi moved to the Dispatch Box*)

Question No.102/2020

IMPLEMENTATION OF *KAZI MTAANI* INITIATIVE

Hon. Vincent Kemosi (West Mugirango, FORD-K): Hon. Speaker, my Question is directed to the Cabinet Secretary for Interior and Coordination of National Government.

Could the Cabinet Secretary:

- (i) Provide a report regarding the programme of implementation of the *Kazi Mtaani* initiative by the National Government, indicating the constituencies where the initiative has been rolled out and total number of youths who have been engaged under the initiative in each constituency?
- (ii) Why have some constituencies including West Mugirango Constituency not benefitted under the initiative?

Thank you, Hon. Speaker.

Hon. Speaker: The Question is to be replied before the Departmental Committee on Administration and National Security.

The next Question is by the Member for Teso, Hon. Omuse.

Question No.107/2020

STALLED CONSTRUCTION OF BUSIA -ALUPE BYPASS IN TESO SOUTH

Hon. Geoffrey Omuse (Teso South, ODM): Hon. Speaker, I wish to ask the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works:

- (i) Could the Cabinet Secretary explain why the construction of Busia (Jnc B1) – Alupe (Jnc C43) Bypass in Teso South Constituency has stalled despite having been funded, and when are works expected to resume?
- (ii) Could the Cabinet Secretary also explain the measures the Ministry has put in place to ensure that the construction of the said road is resumed and completed on time?

Hon. Speaker: Question to be replied before the Departmental Committee on Transport, Public Works and Housing. For the second time, Question by Private Notice, Hon. Cecily Mbarire.

QUESTION BY PRIVATE NOTICE

Question No.010/2020

CASES OF TEENAGE PREGNANCIES SINCE THE ONSET OF COVID-19 PANDEMIC

Hon. (Ms.) Cecily Mbarire (Nominated, JP): Thank you, Hon. Speaker.

Hon. Speaker, I rise to ask Question by Private Notice to the Cabinet Secretary for Labour and Social Welfare:

- (i) Could the Cabinet Secretary provide a detailed report on the cases of teenage pregnancies reported across the country since the onset of the COVID-19 pandemic period that led to closure of schools and other learning institutions?
- (ii) What urgent steps is the Ministry taking to ensure protection and safety of all children in the country?
- (iii) Could the Cabinet Secretary assure the Committee that legal action will be taken against the persons responsible for these acts in accordance with the Children Act and the Sexual Offences Act?
- (iv) Has Ministry put in place any programme to support the said children during the pregnancies, to the delivery of their babies and beyond, and most importantly, reintegrating them to the society and ensure they continue with their schooling?

Hon. Speaker: Question to be replied before the Departmental Committee on Labour and Social Welfare. For the second time, Question No.084 by the Member for Wundanyi, Hon. Danson Mwashako.

ORDINARY QUESTIONS

Question No.084/2020

HATUA YA KOMESHA UHASAMA KATI YA BINADAMU NA WANYAMA PORI WUNDANYI

Hon. Danson Mwashako (Wundayi, WDM-K): Asante Mheshimiwa Spika. Naomba msamaha kwa kuchelewa kidogo. Mheshimiwa Spika nauliza Swali kwa Waziri wa Utalii na Huduma za Wanyama wa Pori.

- (i) Je, Waziri amepata ripoti kuhusu tumbili wanaosababisha hasara kubwa na uharibifu katika Eneo Bunge la Wundanyi?
- (ii) Ni hatua gani Wizara inachukua kukomesha mgogoro kati ya watu na wanyama na hasa kudhibiti idadi ya tumbili walio Eneo Bunge la Wundanyi ambao wanasababisha hasara kubwa na uharibifu wa mimea hivyo kuathiri vibaya kipato muhimu cha watu wa eneo bunge langu?
- (iii) Je, ni mipango gani Wizara inafanya kuwalipa fidia wakulima ambao wametiwa hasara ya mimea na vyakula vyao kuharibiwa na wanyama hawa?

Asante Mhe. Spika.

Hon. Speaker: Swali hilo litajibiwa mbele ya Kamati ya Mazingira na Mali Asili.

Next segment, Statements. The first request is by Hon. (Prof.) Jackline Oduol.

STATEMENTS

SALE OF ILLICIT BREW TO UNDERAGE YOUTH

Hon. (Prof.) Jacqueline Oduol (Nominate, ODM): Hon. Speaker, pursuant to Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security, regarding sale of illicit brews to underage youth.

Hon. Speaker, COVID-19 lockdown has brought about some unprecedented effect to the society and especially to underage youth below the age of 18 years who are currently at home due

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to closure of learning institutions. It has been noted that the underage youth are accessing illicit brew being sold in certain homesteads in rural areas across the country. Increased cases of child abuse and exposure to violence due to the trauma and uncertainties during this period of COVID-19 pandemic have been reported. With bars in market centres closed down, people are sheltering in village dens in known homesteads, which sell illicit brews and which continue to operate with impunity and total disregard of the law and the COVID-19 guidelines.

Hon. Speaker, noting that COVID-19 pandemic has shifted the weight of law enforcement, specifically the administration, security officers and chiefs to focusing on adherence to COVID-19 precautionary measures, the crackdown has been slowed down and dealers are freely conducting the sale of illicit brews more robustly. The situation is aggravated by the extremely potent and cheap alcohol sachets, for instance, *Simba Waragi*, being imported into the county through porous borders from neighboring countries.

As a result, it has now become the norm for underage children to patronise these dens and to access the illicit brews even in the presence of older women and men causing tremendous harm to boy and girl children alike. These children are becoming addicted to the brews which will have long term effects on their lives. In addition, many girls are being abused and impregnated. Therefore, we are staring at the beginning of a shadow pandemic that is threatening to destroy the future of our country.

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

1. What steps is the Ministry of Interior and Coordination of National Government taking to curb the sale of illicit brews in homesteads in rural areas and informal settlements?
2. What measures has the Ministry put in place to ensure that illicit brews are not sold to underage youth?
3. What measures are in place to stop the smuggling of sachets of *Simba Waragi* into Kenya from other neighbouring countries?

I thank you, Hon. Speaker.

Hon. Speaker: Chairperson, Hon. Koinange.

Hon. Paul Koinange (Kiambaa, JP): Thank you, Hon. Speaker. If we can get about three weeks, it will be good. I think the Member has given us a very good background with regard to the issues of alcohol in the country during this time of COVID-19 pandemic. This will enable us to come up with a very good report covering all the areas that she has mentioned.

Thank you, Hon. Speaker.

Hon. Speaker: Very well. The next request is by the Member for Maragwa, Hon. Mary Wamaua Njoroge.

HOME BIRTHS AND ROUTINE IMMUNIZATION FOR CHILDREN DURING THE COVID-19 PANDEMIC

Hon. (Ms.) Mary Njoroge (Maragwa, JP): Thank you, Hon. Speaker, for giving me this chance to request for this Statement.

Pursuant to Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Health regarding the home births and routine immunization for children during the COVID-19 pandemic.

Hon. Speaker, while appreciating the measures the Ministry of Health has taken to contain and possibly bring to an end the spread of the coronavirus disease in the country, patients and

expectant mothers have been reluctant to visit health institutions for fear of contracting the COVID-19 disease. Expectant mothers are now opting for private midwives to assist in home births and postnatal care. It is of concern that traditional midwives have never been endorsed by the Government despite their existence.

Further, the preexisting crisis may draw more women to give birth in their homes and as a result, more infants and young children will miss the pediatric appointments for routine immunization and other health related matters.

It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Health to address the following-

- i What is the status of hospital visits, vaccination of children and births by expectant mothers as compared to same period last year?
- ii What measures has the relevant Ministry taken to support expectant mothers who opt to give birth at home, including access to medical assistance or referral services after birth?
- iii What is the status of routine immunisation services countrywide during the COVID-19 pandemic period and which immunisation services are being provided?
- iv What steps has the relevant Ministry taken to improve the immunisation coverage to children during the COVID-19 pandemic period.

Thank you, Hon. Speaker?

Hon. Speaker: The Chairperson of the Departmental Committee on Health, Hon. Sabina Chege. The Chair is absent, desiring not to be present. The request will be presented through the Office of the Leader of the Majority Party.

Hon. (Ms.) Mary Njoroge (Maragwa, JP): Thank you.

Hon. Speaker: The next request is by the Member for Voi, Hon. Jones Mlolwa. Insert your card. Why were you seated there when you were going to request for a Statement?

DISBURSEMENT OF FUNDS UNDER THE INFRASTRUCTURE FUNDS PROGRAMME TO SECONDARY SCHOOLS

Hon. Jones Mlolwa (Voi, ODM): Hon. Speaker, pursuant to the provisions of Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Education and Research regarding distribution of funds under the infrastructure funds programme in secondary schools.

Hon. Speaker, the Ministry of Education launched infrastructure programme with the objective of supporting development of physical and instrumental facilities in secondary schools in the country. Regrettably, the allocation and distribution of these funds from the programme to schools has not been undertaken in a predictable, fair and equitable manner. This inequality has resulted in poor quality education since most of the schools particularly those in marginalised and semi-arid areas, the urban poor and the rural areas are not able to access basic facilities that ought to enable them to support the critical Government target of achieving 100 per cent transition of learners from primary to secondary schools.

It is on the account of these concerns that I wish to request for a Statement from the Chairperson of the Departmental Committee on Education and Research on the following:

- (i) What is the status of reimbursement of infrastructure funds to secondary schools across the constituencies including the beneficiaries since 2015 to date?

(ii) What measures have been put in place to ensure that these funds under the said programme are disbursed in predictable, fair and equitable manner?

Thank you, Hon. Speaker.

Hon. Speaker: The Statement will be given by the Departmental Committee on Education and Research. I do not see the Chairperson. The request will be channelled through the Office of the Leader of the Majority Party who will communicate to the departmental Committee.

Next request for a Statement is by the Member for Lugari, the Hon. Ayub Savula.

DISBURSEMENT OF STRATEGIC FOOD RESERVE TRUST FUND

Hon. Ayub Angatia (Lugari, ANC): Thank you, Hon. Speaker.

My Statement regards disbandment of the Strategic Food Reserve Trust Fund in the country.

Hon. Speaker, pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Agriculture and Livestock regarding disbandment of the Strategic Food Reserve Trust Fund (SFRT) in the country.

Hon. Speaker, the Strategic Food Reserve Trust Fund is a fund established under the Public Funds Management Regulation of 2015 with its main function being to stabilise food supply and price in the country, arrange for procurement, storage and sale of food commodities, maintain adequate strategic food reserve in physical stocks and cash equivalent at any one given time and mobilise resources to support strategic food reserve and related activities.

It is of great concern that the Government has disbanded the SFRT and ordered a further restructuring of the National Cereals and Produce Board to take up SFRT role. This has disadvantaged farmers on matters relating to imports.

Further, Kenya is facing a serious food shortage owing to the locust invasion, coronavirus lockdowns, floods and unavoidable weather conditions.

The Strategic Food Reserve sold all its stock but it is yet to restock because the Board was not given a go ahead to buy maize.

Further, the country had expected to harvest 40 million bags of maize but less than 30 million bags were realised last season.

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

1. Explain the circumstances that led to the disbandment of the Strategic Food Reserve Trust Fund.
2. Explain how the Government will manage matters with ensuring rotation of stocks at the Food Reserve, raising funds, monitoring grain market price and food quality standards along food supply chain in the absence of the Strategic Food Reserve Trust Fund.
3. Look into any possible way of restoring the SFRT Fund/Board to do the following functions:
 - a. Strengthening and making it corporate with a CEO of the Fund being the Fund administrator reporting to the Board; and
 - b. Transferring it to the National Treasury or the Office of the President as it is a Fund for strategic food security which is a matter of national security as it coordinates with several Government Ministries/State

departments that are beyond crop development and agriculture research to avoid undue dominance of maize in food conservation.

Thank you, Hon. Speaker:

Hon. Speaker: The Statement will be responded to through the Departmental Committee on Agriculture and Livestock.

Member for Narok, the Hon. Soipan.

COMPENSATION FOR HUMAN-WILDLIFE CONFLICT IN NAROK COUNTY

Hon. (Ms.) Soipan Tuya (Narok CWR, JP): Thank you, Hon. Speaker.

Hon. Speaker, pursuant to Standing Order No.44(2)(c), I seek a Statement from the Chairperson of the Departmental Committee on Environment and Natural Resources regarding compensation for human-wildlife conflict in Narok County and other parts of the country.

Hon. Speaker, more than 65 per cent of Kenya's wildlife roam freely from parks and reserves to community and private lands. Wildlife is a national heritage, an asset owned by all Kenyans and more than 75 per cent of our tourism is wildlife-based earning Kenya colossal amounts in revenue annually contributing as the second highest source of foreign exchange and job creation for Kenyans.

On the other hand, wildlife has become a walking nightmare and a curse to host communities in Narok and certainly in other affected counties. Countless families continue to lose both loved ones and their hard earned livelihoods due to the rampant human-wildlife conflicts. According to statistics, in a three-year period between 2015 and 2017, more than 500 persons were killed and more than 3,221 injured during which only 10 per cent of the reported cases were compensated.

In Narok County, the statistics are even more dismal with the last payments ever made for death dating back to 2014 for less than only 10 per cent of the reported cases while no single case of loss of property, livestock and crops has ever been paid since 2013 when the Wildlife Act was passed. Just a week ago, a 15 year old Form Two student from Motorok, a village in Maji Moto, Narosura Ward in Narok South, one Saruni Naingisa, sadly became part of this statistics when he was trampled to death by an elephant while he watered his family's tomato *shamba* at 10.00 a.m.

The Wildlife Act, 2013, Section 25, provides for compensation for personal injury, death or damage to property caused by wildlife, clearly stipulating the amount and procedure for payments to affected families, yet we continue to see a total lack of commitment on the part of the Ministry of Tourism and Wildlife and the Kenya Wildlife Service (KWS) to see through prompt response and compensation to those affected. Anytime there is death or injury to a wild animal, the KWS moves with lightning speed, but when human life is lost, we see total disregard on the part of the KWS for the right to human life.

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

Could the Ministry of Tourism and Wildlife:

- (i) Provide a detailed report on the current status of compensation for reported cases of death, loss of property, livestock and crops as a result of human-wildlife conflict per county?
- (ii) Provide a report on the amount of compensation funds budgeted in the current financial period and provide the compensation plan, again, per county?

Thank you, Hon. Speaker.

Hon. Speaker: I do not see the Chairman of the relevant Committee. Where is Hon. Kareke Mbiuki?

(Hon. Kareke Mbiuki spoke off record)

Yes, proceed.

Hon. Kareke Mbiuki (Maara, JP): Thank you, Hon. Speaker. I sympathise with Hon. Soipan and other Members because the issues of human-wildlife conflict have really caused a lot of problems in the country. My Committee has been seized of this matter of human-wildlife conflict through Questions and Petitions. We have also received a Question from Hon. Mwashako. I want to make an undertaking that we are going to prosecute all these issues within the next two weeks.

Allow me to say that the bigger challenge which we have is the budgetary allocation towards the issue to do with human-wildlife conflict. In the next Financial Year 2020/2021, we have an allocation of only Kshs500 million against confirmed cases of more than Kshs6 billion. So, as we prosecute this issue, I would also like to urge Members that we should consider doing further funding to the State Department of Wildlife, so that we can mitigate the issues of human-wildlife conflict. I want to make an undertaking that within the next two weeks, we are going to make a very comprehensive statement analyzing the payment done to date in Narok County and all the other parts of the country.

Thank you, Hon. Speaker.

Hon. Speaker: Very well. Serjeant-at-Arms, there are a total of 32 seats which Members had been allocated, but they appear to have decided to go to the villages or to the streets. So, you can invite all the other Members who may be desirous of coming into the Chamber. Invite 32 of them.

Hon. Korir, was yours a statement or a petition?

Hon. Nixon Korir (Lang'ata, JP): Hon. Speaker, mine was a petition.

Hon. Speaker: You see, that is why I thought you did not understand the procedures of the House when you were running up here to come and tell me about something about an Order that we have already passed, but because I had already approved it, I will allow that we go back to that Order No.4 for you to read out your Petition.

PETITION

ILLEGAL RECLAIM OF PRIVATELY-OWNED LAND IN LANG'ATA CONSTITUENCY

Hon. Nixon Korir (Lang'ata, JP): Thank you, Hon. Speaker, for intervening. I am reading this Petition on behalf of the residents of Sun Valley, Royal Park Estate, Kenya Medical Association (KMA) Estate, Shalom Estate and Forest View Estate in Lang'ata Constituency. I will read it verbatim.

The undersigned residents of the Republic of Kenya and residents of Sun Valley Phase I, II and III, Royal Park Estate, KMA Estate, Shalom Estate, Forest View Estate within Mugumoini Ward of Lang'ata Constituency in Nairobi, do petition the National Assembly under the provisions of Article 119 of the Constitution that grants Parliament mandate to consider any matter within its authority and Article 94(2) of the Constitution that grants the National Assembly powers to resolve issues of concern to the people.

The residents wish to draw to the attention of the National Assembly the following:

THAT, we are the lawful owners of all properties situated in the said estates having acquired them for value. Within the said estates, there are approximately 2,000 titles that have been issued by the Ministry of Lands and Physical Planning with over 90 per cent currently occupied by approximately 6,000 households with over 20,000 people living in them.

Within the said estates, there are also schools, churches, hospitals, mosques, prison department, dog unit section and other amenities. Within this parcel of land, is situated Saint Mary's Mission Hospital that treats over 2,000 residents of Lang'ata and Kibra constituencies per day and patients referred from other hospitals especially mothers and baby section of the hospital, which if demolished, will cause untold loss and suffering to the residents of these constituencies. The Government has also provided common utility and services to the property including water, sewerage, electricity and paved roads among others.

THAT, all developments within the estate underwent the necessary approvals from the Department of Physical Planning of the County Government of Nairobi and all the requisite building approvals were granted. Routine inspections of the said structures were done by the Government and county government departments such as National Construction Authority (NCA). A substantial number of the residents developed the property through bank finance, Savings and Credit Co-operatives (SACCOs), public sector mortgages schemes such as the Central Bank of Kenya (CBK) Mortgage Scheme, Parliamentary Service Commission and Public Service Commission, while others acquired through their retirement benefits.

THAT, the residents have had valid possession of the respective properties for over 20 years and a range of transactions over these properties have taken place. Some have charged financial institutions, some have sold and others have subdivided as allowed by law. We have paid duties, taxes and levies to the Government of Kenya for approval of various activities related to our parcels. The County Government of Nairobi continuously received land rates from our respective parcels which we have paid dutifully.

In a strange surprise and turn of events, on or around 2nd June 2020, the Cabinet Secretary responsible for the Ministry of Environment and Forestry made media pronouncements alleging that the land where the properties are situated are within Ngong Forest and has threatened to even release wild animals to our estate. The unwarranted threat by the Cabinet Secretary has been followed by continuous aerial and physical surveillance of the area by the Kenya Forest Service (KFS) team with the latter accompanied by a verbal warning to the security guards of the said team expressing the intention to fence off the main gate of the estates with intention to deny residents access to their premises or fence in the residents.

The verbal threats by the CS and the KFS have been captured and highlighted by both print and electronic media houses thus questioning the legality of our title documents which the Government validly issued to us. These threats have caused a lot of anxiety among us, the residents of these estates, and thus interfering with the quiet enjoyment of our properties.

The residents wish to inform the National Assembly that vide Legal Notice No.44 carried in the *Kenya Gazette* No.16 of 1998 dated 23rd March 1998, the then Minister for Environment, Mr. Lotodo, altered the boundary of the Ngong Forest Reserve so as to exclude the land occupied by the Sun Valley Phase I, II and III, Royal Park Estate, KMA Estate, Shalom Estate and Forest View Estate. Boundary Plan No.175/368 dated 10th December 1997, shows excision of approximately 53 hectares from Ngong Road Forest. After the gazettlement, a survey map was issued by the Survey of Kenya office delineating the boundary of these estates showing that Property LR. No.23256 is subject of the Legal Notice referred to above.

THAT, various grants were executed by the President of the Republic granting the property in question to the Kenya Building Society Limited (KBSL), the original owners of the property.

THAT, out of this excision, the Government, through the Ministry of Lands, has issued over 2,000 title deeds to the residents of this estate.

THAT, neither the Ministry of Lands and Physical Planning nor the Ministry of Environment has taken any step to challenge the validity or otherwise of the titles and no information has been shared with the residents impugning the validity of the titles.

THAT, on the contrary, the Ministry of Lands has continued, and rightfully so, to allow transaction on the titles including searches, sales and subdivision where applicable.

THAT, it is therefore, unfortunate that the Cabinet Secretary for Environment can make such roadside declarations, recklessly impugning the validity of the titles.

THAT, we wish to further point out that the Government has not issued any notice to the residents addressing the issues they have raised in the media - the residents have always been ready to listen to the Government.

THAT, we also wish to indicate that the Ministry of Environment and the Kenya Forest Service have not filed any suit in court to challenge Gazette Notice No.44 of 1998, which altered the boundaries of the forest which in any event was published by the very Ministry.

THAT, we have made the best effort to have this matter addressed by the relevant authorities, all of which have failed to give any satisfactory response.

THAT, none of the issues raised in this Petition are pending in a court of law, constitutional or any other legal body.

Therefore, your humble Petitioners pray:

(i) THAT, through the relevant Committee, Parliament intervenes by instructing the Cabinet Secretary of the Ministry of Environment and Forestry to follow the due process of law and get the proper information and proper maps from the Ministry responsible for matters relating to land;

(ii) THAT, Parliament intervenes by instructing the Cabinet Secretary of the Ministry of Environment and Forestry to desist forthwith from pursuing his intention of illegally reclaiming privately-owned land on which the fore stated estate stands; and,

(iii) THAT, Parliament intervenes to ensure that the Cabinet Secretary of the Ministry of Lands does protect the sanctity of title deeds that the residents hold for their legally acquired land and that the Kenya Forests Department stops harassing and causing unnecessary anxiety to the residents of this estate.

And your humble Petitioners will forever pray.

Thank you, Hon. Speaker.

Hon. Speaker: Order, Hon. Junet.

Hon. Junet Nuh (Suna East, ODM): Thank you, Hon. Speaker, for giving me this opportunity. I want to support the Petition that has just been read by the Member for Lang'ata.

This matter is of very great national importance. Here in Parliament is where issues of concern to the citizens are discussed. That is why we sit here every week, three or four times, even with the coronavirus pandemic. The land in question has been claimed to have been forest land.

(Several Hon. Members consulted)

Hon. Speaker, there is a community here which is discussing their communal issues.

On this issue that has been brought to the House through the Petition, I do not want to anticipate debate. I just want to add that there are over 1,000 people who are living on that land. It is a formal settlement. It is not an informal settlement. They are not shanties. They are not *mabati* structures. These are people who have been issued with title deeds by the Government of Kenya. The petitioners in their Petition claim that there was a survey plan and a deed plan. All documents were given. The forest was even de-gazetted by the Government of the Republic of Kenya.

It is my humble request that the House takes that Petition very seriously. I urge the Cabinet Secretary in charge of environment, now that this House is seized of the matter, to hold whatever action he wanted to take until this Petition is decided upon one way or the other. He should not release the animals from the national park to those people as he said. We do not want people to be eaten by lions and hyenas. Some of them are Government retirees. Some of them are from my constituency. They have retired from different departments of the Government. They petitioned me over the weekend.

This is an arm of Government. Since this arm of Government is seized of this matter for thorough investigation through a Petition, there is no arm that is more powerful than the other. Let him wait. Let the Departmental Committee on Lands investigate the matter. Let them bring their report to the House. Whichever way the House decides, we shall abide by it. There is a tendency of Cabinet Secretaries making roadside declarations. A Cabinet Secretary can just come to your house any day and tell you: "You are living by the side of the road. There was a vehicle which is supposed to pass here. You should not be here from tomorrow." We must be a country that follows the rule of law. If you want to demolish people's houses, follow the law. If those people are there illegally, remove them. If they are there legally, please, do not use force to remove anybody. We must be people who are governed by the law and the Constitution. That is how we can live together as a modern society.

Thank you, Hon. Speaker.

(Several Hon. Members raised their hands)

Hon. Speaker: Do not bother raising your hand. Raising your hand will be a reason for you not to comment. I am sure all of you, as people who have been in this House for some time, are aware of the provisions of Standing Order No.22, that you are only supposed to make comments, observations and clarifications, if any. Those are limited to a period of 30 minutes. So, anybody getting a chance to make comments should know your colleagues also will need to make some comments. It is because there are so many of you trying to catch my eye by raising your hands. Do not bother. I can see the interventions. So, do not bother raising your hands. Just make sure that you do not speak for more than two minutes.

Proceed, Member for Seme.

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

Let me start by declaring my interest in this matter. I happen to also own two houses there. This is a grave situation. Many people are involved. I think they are more than 1,000. These are large estates. In our case, in my younger days, we started a housing cooperative for doctors. We went and looked for land. We did the searches and did everything that is supposed to be done. We then built 112 houses for the young doctors who then were not housed. This matter now comes up even after we went through all the processes, including doing a title search. What else are citizens supposed to do as they transact on land? You go through all the processes and get documents from

the Government. Can the same Government turn round and repossess the land or destroy your house even without notice?

Further, people have been paying rates. The Government has offered services in those places. Some of the institutions found there are actually Government institutions. The Police Dog Section and the Kenya Prison Service are also located there. How could it be that nobody in the system noticed all this? The people being targeted are third or fourth buyers yet the people who were involved in the first transactions actually exist and are well known. I am not a lawyer, but I know there is provision that this may be an innocent purchaser, for reasonable consideration, who had no information. The only person who could have protected them would have been the Government, but the Government did not protect them.

This is something we should look at, at the policy level in future. If you are going to repossess land, who gets hurt and who committed the first offence, if there is any?

Hon. Speaker: Member for Makueni.

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you, Hon. Speaker, for giving me an opportunity to comment on this very important Petition.

I happened to have lived around that vicinity early in the 1990s. I am very familiar with what has been happening there. It is clear under the law there are methods which are used by anyone to acquire a piece of land. From the information given in the Petition, it seems that some procedures were followed. Even notices were given. This is not the only forest which has been affected in one way or the other. We have to be careful that a wrong precedent is not set in the country - the precedent of dealing with situations of this nature. The same Ministry at one point had an issue with houses along the Western Bypass.

Hon. Speaker, a meeting was held, issues were resolved, and the houses were not demolished. I want to urge that using that particular precedent, while Parliament is looking at this matter, there must be a reconciliatory meeting to reconcile all issues. This being Government land, a solution should be found.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Wajir East.

Hon. Rashid Kassim (Wajir East, WDM-K): Thank you, Hon. Speaker, for giving me an opportunity to support this Petition. About 1,700 individuals have been affected. The Petition has been brought here as a result of a deliberate pronouncement made by the Cabinet Secretary, Environment. A big number of these individuals are civil servants. These middle cadre civil servants have taken loans and others used their retirement benefits to acquire shelter in the city. The number of the affected households is enormous. These individuals bought land and were working on the fact that these were legally acquired titles. They bought land from individuals. The Gazette Notice No.44 of 1998 is a Government document that authorised excision of that land for private developers. The 1,700 individuals did due diligence while constructing these houses for their families. If we allow the destruction as pronounced by the CS on this matter, it will be an affront to the rights of these individuals. It will be an affront to the United Nations (UN) resolution to provide shelter for those individuals, particularly middle-class citizens.

I want to urge the Committee to do due diligence on how these persons acquired land there and the efforts undertaken by those individuals to get shelter in the city. Most of the individuals who stay there are my constituents. I sat with them during the weekend and they were already preparing a Petition. I am glad that the Member for Lang'ata has brought a Petition on their behalf. I want to urge the Committee to look at this matter critically, so that individuals housed there are not disadvantaged.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Endebess.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Speaker, for allowing me to support the Petition by Hon. Korir, Member for Lang'ata. It is inhuman and primitive for the CS to threaten to release wild animals on these people. That should not happen. You cannot threaten people that you will release wild animals on them. The Government is supposed to provide protection. According to the Wildlife Act, the wildlife should be protected from endangering the lives of people and that is why we have mechanisms for compensation. If anything happens, the CS should be held personally liable for any lives that will be lost, injuries, or damages on buildings that these people have invested in.

(*Applause*)

I hope the Committee will look at this matter. Once the report is ready, it should be tabled for debate in this House so that we can have binding resolutions to help these people have decent living since affordable housing is one of the key Big Four Agenda of the President.

Hon. Speaker: Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Speaker. I stand in solidarity with the affected families. The right to property is enshrined in Article 40 of the Constitution. Whoever wants to defeat that protection and the Constitution, as we say in law, whoever alleges, must prove it. The only instance where such a right can be defeated is where fraud can be ascertained.

Hon. Speaker, Sections 25 and 26 of the Land Registration Act reiterate the same position. Fraud, illegality and unprocedural process are the only reasons under which the right to property can be defeated.

I want to urge the Committee that is going to be seized of the matter to start their discussions based on those two legal provisions to assist them settle the matter. It is time we settle this matter once and for all. There have been so many cases of this nature. We must truly and fairly settle this matter to set a precedent to be used in future endeavours.

With those few remarks, I support the Petition.

Hon. Speaker: Member for Wundanyi.

Hon. Danson Mwashako (Wundanyi, WDM – K): Asante, Mhe. Spika. Ningependa kumpongeza mwenzangu, Mbunge wa Lang'ata kwa haraka alioichukulia suala hili na watu wake wakampa malalamishi yao na kuleta Bungeni. Mawaziri wetu wamekuwa wakisimama mikutanoni na kutoa maneno makali ambayo hayafuatilii miundo misingi ya kisheria. Hivi sasa tunapambana na janga la Korona, lakini Waziri alisema kuwa atawafungulia wanyama pori wavamie wananchi ambaeo hawana hatia. Leo hii, watoto wanaogopa Korona lakini katika eneo Bunge la Mhe. Korir, watoto sasa wanaogopa tena wanyama pori. Maneno ya Waziri ambayo hayapimwi yameleta uoga mahali pale. Ni vyema Waziri anapotamka jambo, awe amelichunguza kwa makini na sio tu kutia watu uoga. Mhe. Korir na wale ambaeo tunakaa maeneo yale tunaulizwa na wananchi tunafanya nini kuhusiana na suala hili. Ninajua baadhi ya wananchi wanaotoka kwenye eneo bunge langu ambaeo wamechukua mikopo, wengine mwaka jana tu. Hivi sasa, wanalipia mikopo, mamilioni ya pesa na inashangaza sana Waziri anapotangaza ya kuwa watu wanaoishi pale wana hatia. Ni vizuri iwapo Bunge hili litawafanya Mawaziri kuwajibika wanapotamka mambo yasiyo na misingi wa kisheria. Ninaunga Mkono ombi hili.

Mhe. Spika, kabla niketi...

Hon. Speaker: You have overshot your time. Let us have the Leader of the Minority Party.

Hon. Danson Mwashako (Wundanyi, WDM-K): On a point of order, Hon. Speaker.

Hon. Speaker: How? Where did you learn that from?

(Laughter)

Hon. Danson Mwashako (Wundanyi, WDM-K): Under Order No.7, you moved too expeditiously before...

Hon. Speaker: This House is not run like the county assemblies. You cannot be contributing to something, move to a point of order and then go to Order No.7. How is that? It is not done that way. You were all taken to several induction workshops. You cannot, under my watch, just introduce what we are seeing all over the county assemblies.

Leader of the Minority Party, you have the Floor.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Speaker, for giving me an opportunity to contribute to this Petition. I want to thank the Member for Lang'ata for bringing this Petition to the House. We do not agree on many things, but on this, we are together. I hope the Executive is listening and watching what we are discussing this afternoon. And I hope the President of the Republic of Kenya is watching.

Mistakes could have been made. And these mistakes could have been made probably in 1998 or earlier, in terms of excising this forest and allowing human habitation. But once a Government has already de-gazetted a forest and allowed people to settle, buy property and allowed the property to change hands, another Government cannot come and claim that previous Governments acted illegally. That was also a Government. The Executive needs to realise that what almost brought the American economy to its knees was the issue of property. We should not play with the sanctity of titles. Either a title is valid or it is not valid. We cannot have two ways. We want to tell this CS that process must be followed. If you look at Article 70 of the Constitution on enforcement of environmental rights, if you allege that a right to enjoyment of environmental rights has been violated, you need to go to court to get an order. It does not say that a CS is exempted from this provision. If the CS feels that the law has been violated, the best thing to do is to go to court, get an order and then he can evict the people. But you cannot threaten thousands of Kenyans who live there. This is something that this House should not allow. I expect this Committee to expeditiously deal with this matter and bring a report here, so that we can tell the CS that he does not own this country. He may be doing the right thing, but he is doing it the wrong way. Let him look for the best way to conserve our forests, but not to render people destitute, landless and homeless. It is not acceptable.

I heard him saying that even current Members of Parliament own houses there as if it is a crime to own a house in that place. People were selling and buying. I do not own a house there. I do not have a relative who owns any house there, but I am a Kenyan. I am a Member of the National Assembly and I speak on behalf of the people of Kenya. You cannot joke around with title deeds unless those title deeds are irregularly procured. But they were not. The forest was de-gazetted by Lotodo, who was a Minister like him, in 1998. He would want his decision today to be respected 10, 20 or 30 years to come. We do not want anarchy in this country. I thought he was a gentleman, but the way he talks shows otherwise. How can you say that you will release animals and threaten Kenyans that you will kill them? Are you a terrorist? What kind of a CS is he? Only terrorists can talk like that. I have never seen any human being so un-civilised. A lawyer of his repute is telling

people that he would release animals to kill them. What kind of a CS is that? In fact, if there is any CS who needs censure, it is this one, not the one whose name we saw here the other day. This is the CS that needs to be censured.

Hon. Speaker, thank you.

Hon. Speaker: We are almost ending the time allocated for comments. Member for Igembe Central.

Hon. Kubai Iringo (Igembe Central, JP): Thank you, Hon. Speaker, for allowing me to add my input on this Petition, which I support. The Government which gave out this land is the same Government which is trying to take away the land. People were given that piece of land, and not only in Lang'ata but in many other places in this country. It beats all reason when the Government gives you land and you have a valid title deed, which is already secured at Ardhi House and can be verified there, and then somebody comes and says that the title deed is illegal. Instead of pursuing the person or the office which issued that particular document or the person who processed the evaluation and the sale, you go to the individual who does not know anything. When you tell the individual this is not their place yet he has all the documents, it beats all reason. It is like putting some coins in one pocket and removing them and putting them in the other pocket. They are both your pockets. It is not the responsibility of the residents of Lang'ata to determine who was wrong and when. It is up to the same Government to identify when the rain started beating it. The people of Lang'ata should be left in peace. As it has been suggested here, let the CS hold his horses. Let the House determine the matter and then we can move forward.

I thank you, Hon. Speaker.

Hon. Speaker: Member for Kathiani.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Speaker, for this opportunity. The issue of land is extremely sensitive. In fact, sometimes it is a matter of life and death. It is not just about the threat from the CS, but really when people lose their livelihoods, many people commit suicide. It is important that we agree that as a capitalist nation, a title deed is an extremely sensitive document and must be respected. These people were apparently given title deeds by the Government. The CS issued a public pronouncement. Under the Statutory Instruments Act, one of the things that define regulations is a public pronouncement from a public officer which has the effect of law. In essence, that means that if the CS is serious about what he is saying, then he must bring it to this House to make a determination.

Hon. Speaker, I thank you for the opportunity.

Hon. Speaker: Member for Maara.

Hon. Kareke Mbiuki (Maara, JP): Thank you, Hon. Speaker, for giving me this opportunity to comment on this Petition by Hon. Korir. From the outset, I would like to indicate that the Departmental Committee on Environment and Natural Resources is already seized of this matter. We had a sitting yesterday where we requested the CS for Environment and Natural Resources to appear before the Committee this coming Monday so that he can explain to the Committee and the nation why he pronounced himself on this particular matter.

The issue of Ngong Forest is extremely emotive, bearing in mind the fact that just the other day we had a similar incident in Mau Forest. When we engaged the same CS on the evictions in Mau, he indicated that the people who were being evicted had encroached into land which initially was not supposed to be part of the settlement scheme. There are 22 blocs in Mau, many of which have been encroached into. We directed the CS to do a clean-up of the entire 22 blocs. When it comes to areas which have been invaded by the most vulnerable members of the society, that is where you end. There are so many other areas which I do not want to mention here. The report

which we tabled in this House is very clear on the same. The CS did not go there. We only saw him resurface in Ngong the other day.

It is extremely unfortunate that whatever is happening in Ngong may happen elsewhere. We have gazetted forests and seven water towers in the entire country. We want to call upon the CS to inform the country on all the areas he thinks Kenyans have encroached into. I come from the slopes of Mount Kenya, in particular Chogoria, and I do not know if I live in a gazetted forest. It is extremely unfortunate when a CS wakes up one morning, with all the arrogance you can talk about, and pronounces himself on these issues without following the law. It is incumbent upon this House to use the power bestowed on us when it comes to de-gazettlement of forests. We have several petitions from Mount Elgon seeking to de-gazette areas which have already been inhabited. This House is still seized of the matter. I want to urge Members of this House to be patient so that we can establish the truth.

Ngong Forest was established in 1932. We want to walk that journey from 1932 to date. I will table a Report in this House walking Kenyans through the entire journey. In case the process was not followed in terms of de-gazettlement; for example, did this House sanction the de-gazettlement of the forest or not? If it did not, who is going to be held liable? I request Hon. Members to be patient.

The Departmental Committee on Environment and Natural Resources is seized of this particular matter and we are going to prosecute it meticulously. At the same time, I am in touch with the Cabinet Secretary for Tourism and Wildlife. We have requested him not to release wild animals. Wildlife is not under the mandate of Mr. Keriako Tobiko.

(Loud consultations)

Hon. Speaker: Hon. Kareke Mbiuki has used the most appropriate word. I know many of you are in the habit of summoning and directing. It is never done like that like in the village. He is using the correct terminology.

Hon. Kareke Mbiuki (Maara, JP): Hon. Speaker, once a Minister, always a Minister. I know how to engage the Cabinet Secretary so that we can get the desired result. We have engaged the Cabinet Secretary for Tourism and Wildlife and requested him to ensure that animals are kept where they are supposed to be and not to be near innocent Kenyans. I want to assure this House that no house will be demolished by Mr. Keriako Tobiko until this House pronounces itself on this matter once and for all. It is not only about Ngong Forest, but also all the gazetted forests in the country.

(Applause)

However, we want to handle this matter holistically. Today it is Ngong. Tomorrow it will be Mt. Kenya and next day, it will be Mt. Elgon and the rest of the country will follow suit.

Hon. Speaker: You will deal with the petition. Hon. Korir, your Petition is directed to the Departmental Committee on Environment or is it the Departmental Committee on Lands? Please, give him the microphone.

Hon. Nixon Korir (Langata, JP): Hon. Speaker, I think this one will fall in both Committees. The issue of the title is under the Departmental Committee on Lands and the issue of environment, which the CS is arguing on, is under the Departmental Committee on Environment and Natural Resources. I think it could fall in both Committees.

Hon. Speaker: Are we going to have a joint sitting of the two Committees?

Hon. Nixon Korir (Langata, JP): If you instruct so, then it is possible.

Hon. Speaker: To which Committee have you directed your petition?

Hon. Nixon Korir (Langata, JP): I said to the relevant Committees.

Hon. Speaker: What do you mean? You cannot just walk in from the streets...

Hon. Nixon Korir (Langata, JP): This is because it is the CS for Environment and Natural Resources who brought this issue, then it can be handled by the Departmental Committee on Environment and Natural Resources.

Hon. Speaker: Very well. Then let the Petition go to the Departmental Committee on Environment and Natural Resources.

Hon Members, still, I know there are several others. However, the comments are timed out, I told you from the word go. If the Member who is engaging the Leader of the Majority Party could take a seat briefly. I have this short Communication to make as I had indicated earlier. This is to restate COVID-19 guidelines in Parliament.

COMMUNICATION FROM THE CHAIR

RESTATING THE COVID-19 GUIDELINES IN PARLIAMENT

Hon. Speaker: Hon. Members, you are aware, the World Health Organization (WHO) declared COVID-19 as a global pandemic in March 2020. The country, and indeed, the whole world has been collectively managing the pandemic over this time. We as Parliament have also taken steps to ensure the safety of the parliamentary fraternity. It is on this basis, and following media reports of alleged cases of COVID-19 within Parliament that I would wish to give the following information.

Hon. Members, following the declaration of the coronavirus as a global pandemic, we took several measures to help in combating the spread of the virus in Parliament specifically, and in the country in general. Some of these measures include limitation of the number of Members accessing the Chamber at any one time, the designation of holding-areas for Members, the adoption of virtual sittings for Committees where applicable as well as working-from-home measures for Members of staff. We have also held several voluntary testing sessions within Parliament including in April and the one that is currently ongoing here in Parliament being undertaken by the Ministry of Health.

Hon. Members, as you are also aware, we have also placed sanitizers throughout the buildings, installed hand washing stations and enforcement of wearing of face masks to conform to the public health guidelines. Additionally, fumigation, disinfection and sanitization exercises have continually been carried out in conjunction with the Ministry of Health, the latest having been undertaken last Friday, 26th June 2020 at the Chamber, committee rooms, all offices, prayer rooms and all common areas. These measures continue to be upheld during this difficult time. The House has also amended its rules of procedure to allow virtual sitting. These are progressive measures for which we continue to implement for the safety of all. I am aware that the procurement process for an appropriate technological system for fully virtual proceeding is ongoing and will be concluded in due course.

Hon. Members, over last few days, there have been media reports of alleged cases of COVID-19 in Parliament. As you all know, Members of Parliament, just like any other citizens are susceptible to the disease. From the daily briefing from the Ministry of Health, it is obvious

that the cases are rising in the country and no one is immune, when exposed to the virus, not even Members of Parliament, who also live among the community.

Having said that, I wish to note that, as of today, 30th June 2020, far from the speculations reported in the media and elsewhere, information available to the Office of Speaker indicate that we have two cases of the virus that have been reported among Members of Parliament. One of the affected Member has been attended to and has since been discharged from hospital after testing negative following treatment. The Member is currently in self-isolation. The other case has also been attended to and the Member is now in stable condition in the general ward care. I have deliberately given this information to reassure the public and dissuade the ongoing speculation.

Hon. Members, whilst the need for information is critical to the public, the media should in the first instance note that the medical details of individuals, including Members of Parliament, are confidential and ought to be treated as such. Additionally, the media should desist from sensationalising the cases in Parliament as though these cases were any different from the rest of the cases in the country. Going forward, we will endeavour to ensure that Parliament and all the users are safe-guarded from the disease through our continued collaboration with the Ministry of Health. Any information required on this matter will be provided in accordance with the existing guideline relating to such matters.

In conclusion, I wish to restate as follows:

1. If a Member of Parliament or staff has come in contact with a COVID-19 case or suspected case, they are advised to undertake the voluntary testing as responsible citizens. Depending on the results, one is advised to self-isolate and notify the Speaker's Office immediately.

2. The Ministry of Health is currently carrying out voluntary testing in Parliament. They have set up two centers. One at the Main Parliament Building on the Senate side and the other one on the Main Gate on the National Assembly side. Members of Parliament and staff are encouraged to undertake the voluntary tests.

3. Hon. Members of Parliament are reminded to also encourage their staff including drivers and security officers to undertake the tests and more importantly, to wear face masks whenever in public.

Finally, all committees are dissuaded from holding physical meetings and instead encouraged to have virtual meetings as practicable as possible. In this regard and pursuant to my earlier guidelines, no physical meetings are to be held without complying with the Ministry of Health guidelines and my direct authority.

Thank you, Hon. Members.

MOTIONS

APPROVAL OF THE MEDIATED VERSION OF THE COUNTY GOVERNMENTS (AMENDMENT) BILL, (SENATE BILL NO. 11 OF 2017)

(Hon. Amos Kimunya on 22.04.2020)

(Debate concluded on 30.06.2020)

Hon. Speaker: Hon. Members, debate on this Motion was concluded in the morning Sitting. What remained is for the Question to be put, which I hereby do.

(*Question put and agreed to*)

APPROVAL OF THE MEDIATED VERSION OF THE COUNTY GOVERNMENTS
(AMENDMENT BILL) (AMENDMENT) (NO.2) BILL (SENATE BILL NO.7 OF 2017)

(*Hon. Amos Kimunya on 22.04.2020*)

(*Debate concluded on 30.06.2020*)

Hon. Speaker: Hon. Members, once again - including the Member for Nairobi - let us be in the House. Again, debate on this Motion was concluded in the morning Sitting. What remained is for the Question to be put, which I hereby do.

(*Question put and agreed to*)

PROCEDURAL MOTIONS

CONSIDERATION OF CERTAIN BUSINESS RECEIVED
DURING THE JULY 2020 RECESS PERIOD

Hon. Amos Kimunya (Kipipiri, JP): Hon. Speaker, I beg to move:

THAT, notwithstanding the provisions of Standing Orders 41 and 42 relating to conveying of Messages from the Senate and from the President or the National Executive and Standing Orders 120, 122 and 126 relating to Publication, Procedure upon Publication and First Reading of Bills, this House orders that, during the period of the Short Recess of the Second Part of the Session (July 3rd – 27th, 2020)-

- (a) upon receipt of any Message from the Senate, or upon receipt of any name of a person nominated for appointment to a state or public office from the President or any other office in the National Executive, the Speaker shall forthwith refer such Message to the relevant Committee for consideration, without having to recall the House;
- (b) should a Bill be published during the period, 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 Committee for consideration pursuant to the provisions of Standing Order 127 (Comittal of Bills to Committees and public participation) and, upon resumption of the House, cause the Bill to be read a First Time and the Second Reading may be taken forthwith, or on such other day as the House Business Committee may determine.

(*The Speaker (Hon. Justin Muturi) left the chair*)

(The Temporary Deputy Speaker (Hon. Patrick Mariru) took the Chair)

- (c) should the Speaker receive a Message relating to the Senate's Amendments to a Bill originating in the National Assembly, the Speaker shall forthwith refer the Schedule of the Senate Amendments to the relevant Committee for consideration pursuant to the provisions of Standing Order 145 (Senate amendments to Bills originating in the National Assembly), and, upon resumption of the House, report such fact to the House; and,
- (d) should the Speaker receive a Message from the Senate in respect of any Special Bill concerning County Governments, or a Division of Revenue (Amendment) Bill, the Speaker shall forthwith refer such Bill and the accompanying Message to the relevant Committee for consideration pursuant to the provisions of Standing Order 143(3) (Consideration of Bills originating in the Senate), and, upon resumption of the House, cause the Bill to be read a First Time and the Second Reading may be taken forthwith, or on such other day as the House Business Committee may determine.

Hon. Temporary Deputy Speaker, the import of this House is to facilitate any Motion that comes into the House during the period that we are going on recess to be processed as if it came during the normal sittings of the House. This is so that we do not have to wait until we resume for what is basically routine reading of a first reading or committal to House. That could take place without necessarily having to be pronounced in this House. It is a fairly Procedural Motion. We do that every time we take a break so that we untie the Speaker's hands in the processing of Bills that come during that period. I really do not want to belabor the point beyond that. I ask Hon. Members to approve so that we can make progress. I ask the Leader of Minority Party, Hon. John Mbadi, to second.

Hon. John Mbadi (Suba South, ODM): Hon. Temporary Deputy Speaker, this is being proactive. As a House, we have developed a procedure where when we are breaking for recess, especially where the recess is going to take about three weeks like the one we have ahead of us, that for smooth functioning of this Parliament, we allow, in the event that there will be communication from the President - and this is just purely anticipatory... We are just anticipating and it has nothing to do with any possible changes in the Government. I know people will start speculating that we are speculating changes in the Government. However, in the event that, that happens, if there is any communication from the President, the Speaker will not have to wait for Parliament to reconvene or even ask Members to come back to deal with the communications from the chair. So, we are allowing the Speaker to refer the matters to the relevant committees for consideration. This will also include any possible Bills that will come from the Senate when we are out there on recess or even any other Bill that falls due. That would be after the publication period and then the committee can be seized of those Bills so that when we come back, the committees will have dealt with some Bills for us to now take them further to the Second Reading.

Hon. Temporary Deputy Speaker, with those many remarks, I second.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. Order! Order! I know Hon. Maanzo you are excited as Hon. Kanini Kega says, but I do not know what you are excited about.

(*Question proposed*)

Is it the mood of the House that I put the Question? It is a fairly procedural Motion. Is it the mood of the House that I put the Question?

Hon. Members: Yes!

(*Question put and agreed to*)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Next Order!

EXTENSION OF CONSIDERATION PERIOD FOR
NOMINEE FOR AUDITOR-GENERAL'S OFFICE

Hon. Isaac Ndirangu (Roysambu, JP): Hon. Temporary Deputy Speaker, I beg to move the following Procedural Motion:

THAT, pursuant to the provisions of Section 13 of the Public Appointments (Parliamentary Approval) Act No.33 of 2011 relating to the extension of period for consideration of nominees for appointment to public office, this House resolves to extend the period for consideration of the nominee submitted by His Excellency the President for appointment as the Auditor-General by a further period of 14 days from 8th July 2020.

Hon. Temporary Deputy Speaker, this Motion is pursuant to the stated Act and in line with your Communication of 23rd July 2020, directing the Departmental Committee on Finance and National Planning to undertake approval hearing on the nominee for the Auditor-General's Office – one Nancy Janet Gathugu – within 14 days from 23rd July 2020. This implies that the approval hearings and the debate by the House ought to be concluded by 8th July 2020.

Our Committee went ahead to notify the general public and the nominee about the approval hearing, which is set for Friday, 3rd July, 2020. It has since become necessary for the Committee to seek leave of the House to extend the period for consideration of the nominee for a further 14 days from 8th July 2020. As per the Calendar of this House, the House will be proceeding on a short recess starting this Friday. By the time the House resumes, it will be way past the deadline for approval. Section 9 of the Public Appointments (Parliamentary Approval) Act states that after the expiry of the period for consideration specified in Section 8 and Parliament has neither approved nor rejected the nomination of a candidate, the candidate shall be deemed to have been approved.

As this House may be aware, the appointment of the Auditor-General has taken a long time. The outgoing Auditor-General left in August last year. Therefore, we need to undertake the vetting exercise of the nominee as expeditiously as possible and conclude this matter. However, for the Committee to undertake sufficient due diligence and ensure that we have the right person for the job, we seek the indulgence of this House so as to undertake the vetting exercise, review memoranda from the public and prepare a comprehensive report on the nominee in readiness for debate when the House resumes on 28th July, 2020.

Hon. Temporary Deputy Speaker, I also take this opportunity to alert Members that we shall have some amendments on the Public Appointments (Parliamentary Approval) Act. The recommendation is that we extend the vetting period for nominees from 14 days to 28 days to enable the Committees to effectively undertake approval hearings so that we are not seen to be just rubber-stamping the decisions of the Executive.

Hon. Temporary Deputy Speaker, I am inviting the Members of this House to help by approving this resolution of extending the period for consideration of vetting of the nominee by a further 14 days.

With those few words, I wish to move and invite my colleague, Hon. Mboni Mwalika, to second.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Mboni Mwalika, you have the Floor.

Hon. David Mboni (Kitui Rural, CCU): Thank you, Hon. Temporary Deputy Speaker. The Office of the Auditor-General is extremely important to this country. This is because it examines expenditures of ministries, departments and agencies and how funds appropriated by this House are spent. It also points out where funds have been misappropriated and makes recommendations on the action to be taken. So, it is very important for this House and the Committee to have enough time to vet the nominee and ensure we get the right person to do that job.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): You second.

Hon. David Mboni (Kitui Rural, CCU): I second, Hon. Temporary Deputy Speaker. Thank you.

(*Question proposed*)

Hon. Members: Put the Question!

The Temporary Deputy Speaker (Hon. Patrick Mariru): Is it the mood of the House that I put the Question.

Hon. Members: Yes.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order Member! I will establish the mood of the House on this particular one. I cannot do so before asking Members, since this is a Procedural Motion and Members may wish to contribute. But let me establish from the House. Mover.

Hon. Isaac Ndirangu (Roysambu, JP): Thank you, Hon. Temporary Deputy Speaker. I wish to inform Members that the Auditor-General is a very important officer for the Government. Even this House is a consumer of that office.

(*Question put and agreed to*)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Next Order!

MOTIONS

APPROVAL OF NOMINEES FOR APPOINTMENT TO CONSTITUENCY COMMITTEES OF THE NG-CDF

The Temporary Deputy Speaker (Hon. Patrick Mariru): Chairperson, NG-CDF Committee, Hon. Maoka Maore, you have the Floor.

Hon. Maoka Maore (Igembe North, JP): Hon. Temporary Deputy Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of Section 43(4) and Regulation 5(10) of the National Government Constituency Development Fund, 2015, this House approves the list of nominees for appointment to the following fourteen (14) Constituency Committees of the National Government Constituency Development Fund, laid on the Table of the House on Tuesday, 30th June 2020-

1. AINAMOI CONSTITUENCY

NO.	NAME	CATEGORY	STATUTORY PROVISION FOR ASSUMPTION OF POSITION
1.	Tonui Fredrick Kibet	Male Youth Representative	Fresh-appointment, pursuant to Sec.43(3)
2.	Christopher Kiprotich Mibei	Male Adult Representative	Re-appointment, pursuant to Sec.43(8)
3.	Chepnetich Jackline	Female Youth Representative	Fresh-appointment, pursuant to Sec.43(3)
4.	Cherotich Violah	Female Adult Representative	Fresh-appointment, pursuant to Sec.43(3)
5.	Joel Kipyegon Langat	Representative of Persons Living with Disability	Re-appointment, pursuant to Sec.43(8)
6.	Koskey Cheruiyot Geoffrey	Nominee of the Constituency Office (Male)	Re-appointment, pursuant to Sec.43(8)
7.	Lily Chepkemoi Sirma	Nominee of the Constituency Office (Female)	Re-appointment, pursuant to Sec.43(8)

2. BANISSA CONSTITUENCY

NO.	NAME	CATEGORY	STATUTORY PROVISION FOR ASSUMPTION OF POSITION
1.	Abdirahman Ibrahim Abey	Male Youth Representative	Re-appointment, pursuant to Sec.43(8)
2.	Ahamed Wethow Issack	Male Adult Representative	Re-appointment, pursuant to Sec.43(8)
3.	Kaltuma Maalim Hassan	Female Youth Representative	Re-appointment, pursuant to Sec.43(8)
4.	Makai Hussein Ibrahim	Female Adult Representative	Re-appointment, pursuant to Sec.43(8)
5.	Hussein Maalim Mohamed	Representative of Persons Living with Disability	Re-appointment, pursuant to Sec.43(8)
6.	Mohamed Maalim Hassan	Nominee of the Constituency Office (Male)	Re-appointment, pursuant to Sec.43(8)
7.	Sadia Aliyerrow Abdi	Nominee of the Constituency Office (Female)	Re-appointment, pursuant to Sec.43(8)q

3. BONDO CONSTITUENCY

NO.	NAME	CATEGORY	STATUTORY PROVISION FOR ASSUMPTION OF POSITION
1.	Kennedy Onyango Osewe	Male Youth Representative	Fresh appointment, pursuant to Sec.43(3)
2.	Charles Otieno Ondiek	Male Adult Representative	Re-appointment, pursuant to Sec.43(8)
3.	Anne Akinyi Ajigo	Female Adult Representative	Fresh appointment, pursuant to Sec.43(3)
4.	Fredrick Odhiambo Otieno	Representative of Persons Living with Disability	Fresh appointment, pursuant to Sec.43(3)
5.	Gabriel Aura Odongo	Nominee of the Constituency Office (Male)	Fresh appointment, pursuant to Sec.43(3)
6.	Hellen Ngeso Otimbo	Nominee of the Constituency Office (Female)	Fresh appointment, pursuant to Sec.43(3)

4. DADAAB CONSTITUENCY

NO.	NAME	CATEGORY	STATUTORY PROVISION FOR ASSUMPTION OF POSITION
1.	Kamil Yussuf Rage	Male Youth Representative	Fresh-appointment, pursuant to Sec.43(3)
2.	Harom Mohamed Maalim	Male Adult Representative	Re-appointment, pursuant to Sec.43(8)
3.	Farhiya Yussuf Issa	Female Youth Representative	Fresh-appointment, pursuant to Sec.43(3)
4.	Sophia Iman Gure	Female Adult Representative	Re-appointment, pursuant to Sec.43(8)
5.	Abdi Abdullahi Khalif	Representative of Persons Living with Disability	Re-appointment, pursuant to Sec.43(8)
6.	Sahal Salah Ali	Nominee of the Constituency Office (Male)	Re-appointment, pursuant to Sec.43(8)
7.	Halima Hussein Muhamed	Nominee of the Constituency Office (Female)	Re-appointment, pursuant to Sec.43(8)

5. IKOLOMANI CONSTITUENCY

NO.	NAME	CATEGORY	STATUTORY PROVISION FOR

			ASSUMPTION OF POSITION
1.	Levy Makanga Lukunga	Male Youth Representative	Fresh-appointment, pursuant to Sec.43(3)
2.	David Muliru Lisamula	Male Adult Representative	Re-appointment, pursuant to Sec.43(8)
3.	Christine Amwalitsa Maliongo	Female Youth Representative	Fresh-appointment, pursuant to Sec.43(3)
4.	Pasilisa Khatayi Shitsukane	Female Adult Representative	Re-appointment, pursuant to Sec.43(8)
5.	Gideon Malukas Khasiani	Representative of Persons Living with Disability	Re-appointment, pursuant to Sec.43(8)
6.	Joseph N.Momanyi Mwanjilwa	Nominee of the Constituency Office (Male)	Re-appointment, pursuant to Sec.43(8)
7.	Hellen Ingato Munzala	Nominee of the Constituency Office (Female)	Re-appointment, pursuant to Sec.43(8)

6. ISILOO SOUTH CONSTITUENCY

NO.	NAME	CATEGORY	STATUTORY PROVISION FOR ASSUMPTION OF POSITION
1.	Abdullahi Sama Halake	Male Youth Representative	Fresh appointment, pursuant to Sec.43(3)
2.	Mohamed Mandera Boso	Male Adult Representative	Re-appointment, pursuant to Sec.43(8)
3.	Dahabo Abdikadir Daud	Female Youth Representative	Re-appointment, pursuant to Sec.43(8)
4.	Halima Ali Guyo	Female Adult Representative	Re-appointment, pursuant to Sec.43(8)
5.	Abdullahi Hassan Roba	Representative of Persons Living with Disability	Re-appointment, pursuant to Sec.43(8)
6.	Abdullahi Halo Huka	Nominee of the Constituency Office (Male)	Re-appointment, pursuant to Sec.43(8)
7.	Jillo Kalla	Nominee of the Constituency Office (Female)	Fresh appointment, pursuant to Sec.43(3)

7. KAJIADO NORTH CONSTITUENCY

NO.	NAME	CATEGORY	STATUTORY PROVISION FOR ASSUMPTION OF POSITION

1.	Peter Muiruri Njoroge	Male Youth Representative	Re-appointment, pursuant to Sec.43(8)
2.	Gatheru Simon	Male Adult Representative	Re-appointment, pursuant to Sec.43(8)
3.	Sophia Nasieku Katampoi	Female Youth Representative	Re-appointment, pursuant to Sec.43(8)
4.	Eunice Wanjiku Maina	Female Adult Representative	Re-appointment, pursuant to Sec.43(8)
5.	Julius Kamaru Suiyanga	Representative of Persons Living with Disability	Re-appointment, pursuant to Sec.43(8)
6.	Mohamed Elias	Nominee of the Constituency Office (Male)	Re-appointment, pursuant to Sec.43(8)
7.	Jedidah Wambui Marimbet	Nominee of the Constituency Office (Female)	Re-appointment, pursuant to Sec.43(8)q

8. KANGEMA CONSTITUENCY

NO.	NAME	CATEGORY	STATUTORY PROVISION FOR ASSUMPTION OF POSITION
1.	Elias Thuo Mwathi	Male Youth Representative	Re-appointment, pursuant to Sec.43(8)
2.	Samuel Muchunu Muraguri	Male Adult Representative	Re-appointment, pursuant to Sec.43(8)
3.	Emma Wanjiru Irungu	Female Youth Representative	Re-appointment, pursuant to Sec.43(8)
4.	Janeffer Waithera Ngugi	Female Adult Representative	Re-appointment, pursuant to Sec.43(8)
5.	Samson Mwangi Kaguma	Nominee of the Constituency Office (Male)	Re-appointment, pursuant to Sec.43(8)

9. KIAMBU CONSTITUENCY

NO.	NAME	CATEGORY	STATUTORY PROVISION FOR ASSUMPTION OF POSITION
1.	Joseph Githinji Njiraini	Male Youth Representative	Re-appointment, pursuant to Sec.43(8)
2.	Stephen Mwaura Ngugi	Male Adult Representative	Re-appointment, pursuant to Sec.43(8)
3.	Agnes Wanjiru Njoroge	Female Youth Representative	Re-appointment, pursuant to Sec.43(8)

4.	Mary Njeri Nganga	Female Adult Representative	Re-appointment, pursuant to Sec.43(8)
5.	Joseph Kamau Muriithi	Representative of Persons Living with Disability	Re-appointment, pursuant to Sec.43(8)
6.	Moses Macharia Mburu	Nominee of the Constituency Office (Male)	Re-appointment, pursuant to Sec.43(8)
7.	Rose Nguhi Mwangi	Nominee of the Constituency Office (Female)	Re-appointment, pursuant to Sec.43(8)

10. KITUI EAST CONSTITUENCY

NO.	NAME	CATEGORY	STATUTORY PROVISION FOR ASSUMPTION OF POSITION
1.	Aron Kilonzi Kasele	Male Youth Representative	Re-appointment, pursuant to Sec.43(8)
2.	Edward Ilandi Kitheka	Male Adult Representative	Re-appointment, pursuant to Sec.43(8)
3.	Pauline Katongu Jackson	Female Youth Representative	Re-appointment, pursuant to Sec.43(8)
4.	Bretta Mbesa Simba	Female Adult Representative	Re-appointment, pursuant to Sec.43(8)
5.	Mwia Mulatya	Representative of Persons Living with Disability	Re-appointment, pursuant to Sec.43(8)
6.	Petronic Mwambi Mutie	Nominee of the Constituency Office (Male)	Re-appointment, pursuant to Sec.43(8)
7.	Joyce Mueni Mumo	Nominee of the Constituency Office (Female)	Re-appointment, pursuant to Sec.43(8)

11. MANDERA WEST CONSTITUENCY

NO.	NAME	CATEGORY	STATUTORY PROVISION FOR ASSUMPTION OF POSITION
1.	Mahamud Mohamed Alio	Male Youth Representative	Re-appointment, pursuant to Sec.43(8)
2.	Mohamed Noor Daud	Male Adult Representative	Re-appointment, pursuant to Sec.43(8)
3.	Sahara Ahmed Mohamed	Female Youth Representative	Re-appointment, pursuant to Sec.43(8)
4.	Fatuma Hassan Mohamed	Female Adult Representative	Re-appointment, pursuant to Sec.43(8)

5.	Mohamed Nur Adan Abdi	Representative of Persons Living with Disability	Re-appointment, pursuant to Sec.43(8)
6.	Abdikadir Abdi Kala	Nominee of the Constituency Office (Male)	Re-appointment, pursuant to Sec.43(8)
7.	Fatuma Adan Mohamed	Nominee of the Constituency Office (Female)	Re-appointment, pursuant to Sec.43(8)

12. RARIEDA CONSTITUENCY

NO.	NAME	CATEGORY	STATUTORY PROVISION FOR ASSUMPTION OF POSITION
1.	Sylvance Ofuongo	Male Youth Representative	Fresh-appointment, pursuant to Sec.43(3)
2.	Paul Ochanda Saoke	Male Adult Representative	Re-appointment, pursuant to Sec.43(8)
3.	Jocinter Akech Obenge	Female Youth Representative	Fresh-appointment, pursuant to Sec.43(3)
4.	Bertha Akinyi Ongonga	Female Adult Representative	Re-appointment, pursuant to Sec.43(8)
5.	Mark Owino Ajwang	Representative of Persons Living with Disability	Re-appointment, pursuant to Sec.43(8)
6.	James Obuoro Okelo	Nominee of the Constituency Office (Male)	Re-appointment, pursuant to Sec.43(8)
7.	Emma Atieno Otieno	Nominee of the Constituency Office (Female)	Re-appointment, pursuant to Sec.43(8)

13. SIGOWET/SOIN CONSTITUENCY

NO.	NAME	CATEGORY	STATUTORY PROVISION FOR ASSUMPTION OF POSITION
1.	Owen Kimutai	Male Youth Representative	Re-appointment, pursuant to Sec.43(8)
2.	Kiplangat Cheruiyot	Stanley Male Adult Representative	Fresh-appointment, pursuant to Sec.43(3)
3.	Stella Chepkemoi	Female Youth Representative	Re-appointment, pursuant to Sec.43(8)
4.	Mary Chepwogen Yebei	Female Adult Representative	Re-appointment, pursuant to Sec.43(8)
5.	Bett Kiprop Jonathan	Representative of Persons Living with Disability	Re-appointment, pursuant to Sec.43(8)
6.	Langat Kipngeno Joseah	Nominee of the Constituency Office (Male)	Re-appointment, pursuant to Sec.43(8)

7. Joyline Chepkorir	Nominee of the Constituency Office (Female)	Re-appointment, pursuant to Sec.43(8)
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14. LUGARI CONSTITUENCY (*Re-Submitted to complete list of Nominees as earlier submission had only six nominees*)

NO.	NAME	CATEGORY	STATUTORY PROVISION FOR ASSUMPTION OF POSITION
1.	Beatrice Shirandula	Nambande Female Adult Representative	Re-appointment, pursuant to Sec.43(8)

Hon. Members will note that this is among the last batches of the committees that have been constituted and approved by this House. The House needs to approve them so they can join the legal status. They are from the following constituencies: Ainamoi, Banissa, Bondo, Dadaab, Ikolomani, Isiolo South, Kajiado North, Kangema, Kiambu, Kitui East, Mandera West, Rarieda, Sigowet/Soin and Lugari.

Without having to talk too much about the committees, unless Members wish to debate, I move that the members of those committees as appearing in the Order Paper be approved by this House and ask Hon. Tong'i, who is a Member of the Committee to second.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Tong'i, you have the Floor.

Hon. Richard Tong'i (Nyaribari Chache, JP): Thank you, Hon. Temporary Speaker and my Chairman, Hon. Maoka, my namesake for moving this important list of nominees for appointment to the NG-CDF committees.

It is important for Members and the country to appreciate that NG-CDF is one of the institutions in this Government that works and has proved to be working. This is especially now, when the President has given orders on how to manage the re-opening of schools. There is need for us to have the money urgently and if not now, it should have been yesterday. So, we are able to support the schools to reopen.

The President has given a directive that we need to build classrooms in every school to accommodate the new order of social distancing and sitting arrangement. We have also been instructed to make desks which some of us have been doing for schools. For this to happen, we need to have those committees in place for the constituencies which were not able to do so in time.

I also take this opportunity to ask the Government and the National Treasury to release the NG-CDF money. This is because most constituencies have not received even 50 per cent. Yet, we are at the tail-end of the financial year. So, it is important that the National Treasury moves with speed. I know they are working round the clock to ensure that we get the money. But it is important for them to understand and appreciate that NG-CDF is not like any other Government department. It touches the core of the nation because we touch peoples' lives in a very special way.

With those many words, I second what my Chairman has said and may those members be accepted. Thank you.

(Question proposed)

The Temporary Deputy Speaker (Hon. Patrick Mariru): We shall start with Hon. Mbui. The mood of the House is that I put the Question.

Hon. Members: Yes!

The Temporary Deputy Speaker (Hon. Patrick Mariru): We shall follow the mood of the House. Is that the mood of the House?

Hon. Members: Yes!

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. It is clear to me that that is the mood of the House. I will put the Question.

(*Question put and agreed to*)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Next Order!

ADOPTION OF REPORT ON PUBLIC PROCUREMENT
AND ASSET DISPOSAL REGULATIONS 2020

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have the Vice-Chairperson of the Committee on Delegated Legislation.

Hon. (Ms) Fatuma Gedi (Wajir CWR, PDR): Thank you, Hon. Temporary Deputy Speaker. I will try to be short and precise. I hope Hon. Kaluma can now contribute since this Motion is very interesting. It concerns many institutions and county governments.

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

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Public Procurement and Asset Disposal Regulations, 2020 (Legal Notice No. 69 of 2020) laid on the Table of the House on Thursday, June 25, 2020 and, pursuant to the provisions of Section 180 of the Public Procurement and Asset Disposal Act, 2015, approves the Public Procurement and Asset Disposal Regulations, 2020, published as Legal Notice No.69 of 22nd April 2020.

Hon. Temporary Deputy Speaker, Members and the public are accustomed to seeing reports on annulment coming from this Committee. This is because Section 15(1) and Standing Order No.210(4)(b) requires the Committee to only table reports on annulment. The ones we approve are communicated directly to the respective regulation-making authorities save for those whose parent Acts like the PFM Act, VAT Act *et cetera* which specify that the Regulations be approved by the National Assembly or Parliament for that matter.

If I can remind the House, early this year, we approved PFM (Covid-19 Fund) Regulations and also VAT Amendments Tax Rate Order 2020 which was amending the VAT from 16 per cent to 14 per cent. Section 180 of the Public Procurement and Asset Disposal Act, 2015 allows the Cabinet Secretary (CS) for the National Treasury and Planning to make the Public Procurement and Asset Disposal Regulations. The Section provides that the Regulations shall not take effect unless approved by Parliament. Unlike other regulations which commence on publication under Section 23 of the Statutory Instruments Act, these Regulations require affirmative resolution from the House before they come into force.

With the foregoing, therefore, this is the 3rd Report for approval the Committee has brought to the House for approval in this Fourth Session. Earlier on, I mentioned the PFM and the VAT regulations. The Committee has so far approved 30 out of the 47 instruments submitted to it since the beginning of this Session. Seventeen are pending consideration by the Committee. That can

tell you how the Committee on Delegated Legislation is very active in terms of meeting the requirements and also making sure that these regulations pass.

In exercise of the powers conferred by Section 180 of the Public Procurement and Asset Disposal Act (No. 33 of 2015), the CS for the National Treasury and Planning, Hon. (Amb.) Ukur Yatani, published the Public Procurement and Asset Disposal Regulations, 2020 *vide* Legal Notice No.69 of 2020 on 22nd April 2020. It seeks to operationalise the Public Procurement and Asset Disposal Act, 2015 on the coordination of procurement and disposal procedures by procuring entities. It also provides means of administering the powers vested in the CS for the Treasury and Planning under the Constitution, the Act and other related legislation. It harmonises and standardises application of Government service in controlling and managing the procurement in Government. It also sets out a standard public procurement and asset disposal management system for use in Government service and ensures accountability, efficiency, transparency and effective application and utilisation of public resources.

In the overview of these regulations, Part I provides for preliminary issues including citation, interpretation of terms used in the Regulations, application, object and purpose of the Regulations. Part II deals with responsibilities of bodies involved in public procurement and related provisions. Some Government entities have misused these procurement processes; some even up to now. With the counties having come on board, we have seen a lot of mismanagement of procurement processes where junior staff... I know many Members can attest to this. We have many problems in the counties of misuse of junior officers and intimidating and blackmailing them so that they can misappropriate or steal public funds. So, these Regulations will bring accountability and discipline in Government entities and also county governments.

Part III of these Regulations provides for county government responsibilities with respect to public procurement and asset disposal. It details the responsibilities of county treasury concerning the procurement function. Again, we have seen a lot of misuse of powers in counties. I think it is up to this House to fight this because it has really affected many county governments, including the county that I come from. Part IV of these Regulations provides for powers to ensure compliance and debarment procedures. It provides for the powers of investigations of the authorities and the procedure for request for debarment proceedings.

Part V provides for internal organization of procuring entities, including responsibilities of the accounting officers, minimum requirements of a procuring entity, appointment of tender opening committees, registration of procuring or asset disposal agents as well as transfer of procuring responsibility to another public entity. These regulations help in clearing roles for specific accounting officers. This is because we have seen in many counties county accounting officers being misused. This will make roles and responsibilities clear to avoid the mess that is going on in different entities and also in the county governments.

Part VI provides for the general procurement and asset disposal principles, including procurement planning, pricing, and the requirement not to split contracts, registration of suppliers, tender security, tender security declaration form, self-declaration form and confidentiality declaration.

Some people misuse this provision. That is why we need these regulations so that going forward, we can have discipline.

Part VI also provides for termination or cancellation of procurement and asset disposal proceedings, forms of communication, electronic procurement and asset disposal. Many people do not even get communication especially once they lose a contract. People just do a lot of monkey business. They take it for granted and yet, it is a person's right to receive communication.

Part VII provides the basic procurement rules, including the standard tender documents and formats to be used in the procurement proceedings, registration of suppliers, invitation of procurement, opening and evaluation of tenders. This regulation will ensure transparency so that awarding of contracts is on the basis of merit and not people misusing the powers given to them. It also provides for post-qualification and notification of intention to enter into a contract.

Part VIII provides for classified procurement methods and procedures including justification for the use of the classified description.

Part IX provides for the methods of procurement of goods, works and services, including the threshold for advertising of open tenders. It covers two-stage tendering and design competition. It is all about transparency and due process being followed, which many entities and county governments do not follow.

Part X provides for procurement consultancy services. It provides for the time of preparation for expression of interest or request for proposal to be a minimum of seven days.

Part XI provides for procurement contracts. This includes their publication, amendment or variation to contracts, reports, performance security, complex and specialised contracts, contract monitoring, contract termination, handover and acceptance of goods, works or services.

Part XII provides for the requirements for preferences and reservations in procurement. This includes the transfer of skills and technology, eligibility criteria and registration of enterprises and groups.

The Government has made substantial efforts for women and youths to benefit from the tendering processes. Unfortunately, many people misuse that provision and do not even give priority to women, youth and people living with disabilities, which is unfortunate. These Regulations will ensure that people living with disabilities, youth and women have space as the Government has already made efforts to accommodate them under the leadership of His Excellency the President.

There is no transparency in Government procurement. In most counties, governors have proxy companies which compete with people who are disadvantaged, especially the women, youth and people living with disabilities. Counties have rolled back our gains. They have taken us back. That is not what we expected. Those groups have been subjected to the risk of pending bills. I am sure many Members of Parliament can attest to the fact that there are people who have killed themselves. There are people who are sick. There are people who sold all their assets because of pending bills in county governments. As legislators, we should not encourage that especially when His Excellency the President gave orders that all counties must pay all the pending bills. It is unfortunate that people are still misusing those powers and actually paying their proxy accounts and leaving out the people who are deserving of payment.

These Regulations will make sure that there is a fair distribution of resources and awarding of contracts so that governors should serve their people and support the entire counties and people regardless of where the person comes from, whether they voted for them or whether that community supports them or not. We need to put strong measures in place.

These Regulations will also ensure that accounting officers are held responsible. In a certain county in North Eastern, there are people who have been charged with conspiring to defraud the county of Kshs26 million, which is unfortunate. The same governors are the ones blackmailing and coercing those accounting officers. When the accounting officers do what the governors want, the accounting officers are the ones who end up in problems. We want a clear delineation of responsibilities between the county accounting officers, the Members of County Executive Committees (CECs) and the governor. If we pass these Regulations, they will transform

procurement in county governments. They will be accountable so that they deliver value for money to Kenyans.

Part XIII provides for inventory control, asset and stores management, distribution guidelines and the role of accounting officers in asset management.

Part XIV provides for disposal of assets, disposal committee and procedure for disposal.

Part XV provides for administrative review of procurement and disposal proceedings, hearing notice, panels, quorum and proceedings.

Part XVI deals with offences and sanctions and imposes a maximum fine of Kshs4 million to a natural person contravening the regulations and a maximum of Kshs10 million for juristic person. This is within the limits as set out in Section 176 of the Public Procurement and Asset Disposal Act, 2015.

The legal basis for scrutiny is that the Committee examined the Procurement and Asset Disposal Regulations, 2020...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Gedi, the Vice-Chair, I am sure you are almost concluding because I had given you a few additional minutes over and above the minutes required, pursuant to the Resolution of the House on June 2nd. You better be concluding because you are on borrowed time.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Thank you, Hon. Temporary Deputy Speaker. As I said, these are very important regulations. This is the third set of regulations that has come to this House because of Article 115.

Let me just be brief and say that the Committee examined the Procurement and Asset Disposal Regulations, 2020 and found that the scrutiny was undertaken following the publication in the Gazette. I will just be quick. The Regulations were published in the Gazette on 22nd April and submitted to the Clerk of the National Assembly on 30th April. In terms of the statutory instruments, it was okay.

In terms of public participation, the regulation-making authority demonstrated that public participation was adequately conducted and attached copies of the report of the multi-sectoral task force that came before the Committee made up of the Council of Governors, the Kenya Private Sector Alliance (KEPSA) and professional bodies such as the Public Procurement Regulatory Authority, the Kenya Institute of Supplies Management, Accounting Officers of Ministerial Department Agencies and County Executive Committees Members of Finance, the civil society and development partners. That, in itself, tells you that they were satisfied with these Regulations.

There were county participation forums in 43 out of 47 counties between 19th September 2019 and 9th October 2019. The Cabinet approved these Regulations on 22nd December 2019. There was engagement with the Attorney General's Office. There was also pre-publication engagement with the Committee on Delegated Legislation.

Hon. Temporary Deputy Speaker, in a nutshell, the Committee is satisfied that the Regulations do not require Regulatory Impact Statement according to Sections 6, 7 and 8 of the Public Procurement and Asset Disposal Act, since they seek to regulate procurement procedures both at national and county levels.

Finally, the Committee made a recommendation. Having examined the Public Procurement and Asset Disposal Regulations, 2020, against the Constitution, Interpretation and General Provisions Act, Public Procurement and Asset Disposal Act and the Statutory Instruments Act, the Committee recommends that the House approves the said statutory instrument in accordance with Section 180 of the Public Procurement and Asset Disposal Act (No.33 of 2015).

Lastly, let me not leave the Floor without thanking the Members of the Committee on Delegated Legislation for their tireless efforts and contribution to these Regulations. I beg to move and request Hon. Wambugu Munene, the Member for Kirinyaga Central, to second the Motion.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Wambugu Munene, you have five minutes to contribute.

Hon. Munene Wambugu (Kirinyaga Central, JP): Thank you, Hon. Temporary Deputy Speaker. At the outset, I must say that these are among the few regulations which normally come to this House for approval. Ordinarily, once we approve regulations, we normally write to the entities. However, these are among those few regulations which call for the whole House to affirm the decision of the Committee because of their importance.

Once the Regulations are approved, they will assist the national Government and county governments on how to proceed with procurement henceforth. I believe that we will make a proper case for the House to approve them. We all know that most issues, especially when it comes to corruption, they zero-in when the public bodies are tendering, procuring and disposing Government assets. The Regulations have captured a laid down proper procedure which is well detailed, articulated, very clear and easy to understand. If these Regulations are approved by this House, you can only fail to follow them, if you wish. You will not say that there is something which is grey which makes the procurement go the wrong way.

In the recent case of the County which I come from, we saw that most of the issues that touched on the impeachment of the Governor were on procurement. Most of the cases of the governors who have been brought before the Senate and cases that Ethics and Anti-Corruption Commission (EACC) take to court touch on procurement. That is because that is where corruption and good governance are. If these Regulations are passed by this House, we will ensure that going forward, there will be more accountability because they have laid down the procedure that any public entity, be it national or county government, is supposed to follow when it is procuring. They will also bring about transparency because they have laid down the process which should be followed. They have clearly put what you are supposed to do, so that the procurement process or disposal of any public asset is above board.

These Regulations have given the power to the Cabinet Secretary (CS) for the National Treasury because procurement is under his docket. They explain how he is supposed to exercise his power when he oversees procurement within public entities. Our Committee was concerned with ensuring that the Regulations are okay. The work of the Committee on Delegated Legislation is to ensure that regulations satisfy the requirements of the Statutory Instruments Act. The first one is to ensure that they are published and submitted to this Parliament within statutory timelines. We, as a Committee, are satisfied that, that was done.

We also checked whether these Regulations bring about any cost or they will require more cost when you are procuring or disposing assets. We are convinced that these Regulations do not require Regulatory Impact Statement because there will be no additional cost. Most importantly, when making these Regulations, the public was involved. There was adequate public participation. For the two years that I have been in this Committee, these Regulations are among those which the public has been involved. There were extensive consultations in 43 out of 47 counties. Various bodies were involved. All bodies which are involved or have interests in procurement were involved, including the Public Procurement Regulatory Authority. When we considered these Regulations, we felt that they ought to have been brought earlier because they give effect to the Public Procurement and Asset Disposal Act, 2015. They have come five years down the line.

If we approve these Regulations, the country will go in the right direction. I urge Hon. Members of this House to concur or agree with the Committee on Delegated Legislation and approve them.

I thank you, Hon. Temporary Deputy Speaker. I beg to second the Motion.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. I am sure that Members noted what Hon. Munene and Hon. Gedi said. If there is an approval of the statutory instruments at the Committee level, they are not brought to the House. However, this specific one and a few others require to be approved by the House. As the Members debate, it is good to take note of that.

(Question proposed)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let the Members have an opportunity to speak to this Motion, which is on extremely important Regulations. Hon. Members, I also want to remind you that the House resolved on such a matter. We will only have five minutes per Member. Organise your thoughts accordingly. Shall we start with Hon. Oduol Adhiambro?

(Hon. Robert Mbui spoke off-record)

Hon. Mbui, you spoke but you will definitely get a chance to contribute.

Hon. (Prof.) Jacqueline Oduol (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to contribute to this Motion which is important. I would like to thank the Committee and Vice-Chair for presenting these very important Regulations clearly. We can see that there is clearly an effort to address and cure gaps that have created a problem. I would like in particular to single out how, as we look at these Regulations, we have attempted - and the Regulations does attempt- to help us as a country to address what was a gap from the previous regulations, regarding government to government procurement.

Hon. Temporary Deputy Speaker, there is a way that the whole country is aware that still to date, there are still those who are concerned with the manner in which the Government handled prominent projects, specifically the Standard Gauge Railway (SGR). And how, in terms of the way that the concessionary loan from the Republic of China to the Government of Kenya, left opportunities and gaps that many members of the country are still not happy with because they were not quite clear; and it was not spelt out how it is that the money that was going to be used and the total cost of the project would be accounted for.

Therefore, as I support these Regulations, I want to thank the Committee because I can see that we are now going to ensure that relevant bilateral or multilateral agreements or government-to-government agreements will have to specify procurement procedures. However, it is important for us to note that, even as we look at this in the Regulations, we see that no further guidance has been provided with respect to the type of procurement procedure to be adopted. Therefore, as I support these Regulations, it will be important that the Committee takes into account that even though we have made an improvement, it would be useful to help see that the procedure that would be adopted, for example, would specifically address the very important area of a competitive open tender process.

So, in order not to deny a number of members who also want to speak on this chance, I would like to support these Regulations. In particular, I would like to commend the manner in which the Regulations help us to be much more true to Article 227 of the Constitution. But I would,

however, urge the Committee that it would be useful that having gone the extra mile, to ensure that we address and, indeed, cure gaps that seem to continue giving us problems in the country, concerning procurement and regulations; particularly from Government systems, whether they are national or county governments. That it would be useful that even as we give room, that we would ensure that we have to specify procurement procedures. It will be important to come up with some clear specifications of the kind of issues or the manner in which these guidelines will appear.

Hon. Temporary Deputy Speaker, with that, I would like to support the Motion. Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Mbui, you have the Floor.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I also rise to support the Committee's recommendations and would like to begin by congratulating the Committee on Delegated Legislation for the excellent work it has done. All regulations that come to the House must go through this Committee.

I remember, even the regulations that came up on the issues of Health, when Covid-19 had just stepped into the boundaries of this country. This Committee was actually meeting and dealing with those matters. So, I want to congratulate the Committee and its leadership.

Hon. Temporary Deputy Speaker, the purpose of these Regulations is to actualise the Acts of Parliament that this House passes. Normally, the laws are a little bit ambiguous. There is now need for regulatory-making authorities to add actual 'meat' into the Acts. This is to ensure that the Acts can be used for the purpose for which they were intended. So, every time Parliament passes an Act of Parliament, there is an opportunity for the regulators to ensure that they come up with regulations that makes this possible so that what Parliament passes can now be used for Kenyans to get value for it.

These particular Regulations are on the Public Procurement and Asset Disposal Act of 2015 and are meant to operationalise that Act. But when you look at Article 10 of the Constitution, it is very clear about national values and principles of governance. Part 2(c) of Article says that some of the values are good governance, integrity, transparency and accountability. Basically, this Act ensures that, that happens in this country.

The purpose of these regulations is to operationalise that Act, to harmonise and standardise the application of Government services in controlling of procurement and set a standard for public procurement and asset disposal management system for use in the Government. This is important because what has been happening is that we have not regulated how e-tendering/e-procurement will be done. These Regulations have actually specified the manner in which we can have digital signatures, how to procure online and get tenders opened online. This is really a step in the right direction, considering that these things have previously been done manually. Now, even during this period of Covid-19, no one wants to handle physical documents. This is a way in which we can ensure that Kenyans are safe as they do their procurement.

Hon. Temporary Deputy Speaker, I also want to observe that it also provides for county governments responsibilities in respect to public procurement and asset disposal. This has been said by the Vice-Chairperson and it is important to note that the county governments have been cutting corners on the issues of public procurement. The law is very clear but apparently, when you go to the county government, who is really responsible? These Regulations have set responsibility on every individual at the county level so that whenever we have issues of impeachment of a governor, then we know what the governor is expected to have done and what they did wrong. Without these Regulations, it becomes a cat and mouse game.

They have also provided many rules and regulations which help to reduce the abuse in the process of procurement in this country. Normally, many of the cases that go to the courts on

public finance abuse are mainly issues of procurement. This is going to tighten the noose and ensure that the rules are very clear, that nobody can abuse them.

Finally, this Committee's responsibility is to ensure that the regulations that come before the Committee are not against the Constitution. They are in line with the parent Act and also in line with the Statutory Instrument Act. I believe that these Regulations are, and that is why we recommended for approval and I approve.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): To my right, let us now have Hon. Murugara.

Hon. George Gitonga (Tharaka, DP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Report of the Committee on Delegated Legislation. The Regulations under considerations are made under the Public Procurement and Asset Disposal Act, 2015 and it is important that this House approves them as proposed by the Committee.

We know for sure that public procurement both at the national Government and county governments has been wanting. We do have an Act of Parliament that we are supposed to follow when doing public procurement, but due to lack of regulations, that has been subject to abuse, especially in the county governments. We have nothing against county governments; it is only that most of the time, they are rogue and go their way to do procurement in the best way they deem fit while we actually have a law that should guide them. We have seen several surges of cases where governors are now being impeached and the reasons for the impeachments are purely because they have abused the law especially that on procurement.

The Vice-Chairperson has articulately stated that in some cases, governors are known to register as many companies as possible and flout procurement laws to award tenders to those companies. This is purely out of greed! They are out to enrich themselves at the expense of ordinary citizen that they are supposed to serve. This is very important because we saw it in the Senate. We watched very carefully.

We listened to the Members of the County Assembly (MCAs) of Kirinyaga County and when it came to the Senate, we were told there was no sufficient evidence. However, it is now important to call upon the law enforcers in the country - the Ethics and Anti-Corruption Commission and Office of the Directorate of Criminal Investigations (DCI) to move with speed and look at exactly what is happening in all the counties, not just in Kirinyaga, Kitui or Tharaka Nithi. That is because procurement laws are being flouted left, right and centre.

As regards the Regulations that are before the House, public procurement is now eased. The Government will be able to issue tenders in an easier manner. The county governments will be procuring their services in a simplified manner and this is where these Regulations come in handy in spite of the fact that five years have lapsed since the parent law was passed. But better late than never! We now have the laws and we must protect the property of our citizens. We must protect the wealth of this country from greedy and unscrupulous leaders who are out to enrich themselves at the expense of the good order of the country.

With those remarks, I support this Motion.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. T. J. Kajwang'.

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Speaker, it is good that you have recognised some of us who are not members of this Committee to give our views.

When Section 180 of the Act as read with Section 15 of the Statutory Instruments Act speak about some of those regulations or instruments which should come before the National

Assembly for scrutiny, we should ask ourselves why is it that some of them can go directly to regulation-making authorities and when some of them have to be approved by the House. In my submission, those of which must come to the Plenary must receive thorough scrutiny. The threshold of scrutiny is enhanced. That does not surprise us of the instruments which deal with finances and which deal with procurement because it is the intention of the law that those instruments are particularly and specifically in accordance with both the Constitution and the laws around it.

So, when I look at the Statutory Instrument that has been before us, and has been argued well by Hon. Gedi, in fact, she has spoken like five main lawyers in one and when Hon. Kaluma and Hon. T.J. Kajwang' will one day join her Committee, she will be spoilt for choice of who will be her Vice-Chair because she is definitely the Chair. But both of us pledge that we will work very loyally under her.

My concern is about two things. The first one is about the Government to Government procurements. It is a whole gamut on how public money has been misused in this country. The Executive or anybody else would make a tour to China or wherever, they go with a memorandum of understanding which nobody knows in any procurement law. By the time they come back with them, the procurement authorities will have no option because they shall have been put in law or have been signed and they have to pick from those people that must supply. With these Regulations, it gives us an opportunity to restrict how some of these things would be controlled.

Secondly, it has to do with the sentencing. Hon. Gedi must now spread her bed of roses; not on thorns because in the general law by which one of our Members was a victim last week, if there is a problem, let us say, Kshs100,000 has been misappropriated, all the court will do is to multiply it by two and get you to pay it. That is how those people are paying billions of shillings as fines. So, we must see how the spirit of sentencing and spirit of penal law under that Regulation has accorded to the Act. Otherwise, if we create some inconsistence, then the courts first will have a very hard task on sentencing and it will be very readily rendered redundant. So, that is one area. I have not had a privilege, I must confess, of reading this Report because it is not available in our digital system. Those are some of the issues that we want to see how consistent the provisions are.

If you give me one minute, Hon. Temporary Deputy Speaker to wind up, I will talk about the issue of procurement entities who have decided that because there is a threshold of procurement, they will generally flout them because there is no direct mechanism of anchoring them. These regulations have now allowed them. It like it has broken procurement law in smaller bits that they can now know how to do e-claims and how to do disposals. Those of us who are in Public Accounts Committee or in the Special Funds Accounts Committee will now have instruments by which we can hold the procurement entities

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Are you done? I add you 30 seconds to conclude that note.

Hon. T.J. Kajwang' (Ruaraka, ODM): The Committees that have oversight responsibilities or mandates by Articles 94 and 95 of the Constitution will not have direct legislative power by which they can withhold procurement entities so that a procurement entity cannot come and say that the law did not go into telling them how that mechanics can be worked.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Shall we have Hon. Garane, the Member for Lagdera?

Hon. Mohamed Hire (Lagdera, KANU): Thank you, Hon. Temporary Deputy Speaker. First, I thank the Committee for doing a commendable job of bringing these Regulations on procurement and assets disposal.

The procurement process is a critical function in any entity. This is where pilferage and misuse of entities' resources takes place. We have seen many institutions and many entities misuse the gaps in procurement laws to waste public money. These Regulations will help in streamlining those processes.

One of the key problems we have at the moment is the issue of pending bills. Pending bills, whether at the national level or at the county level, are due to not following procurement processes. For instance, what the county governments are doing is that if they inherit pending bills from a previous county government, they do not pay. Even after the directive from the President and by the Cabinet Secretary for National Treasury and Planning, we still have pending bills at the county governments. These Regulations will ensure those innocent suppliers and innocent contractors, or those who have offered services to the county governments and to the national Government are promptly paid.

These Regulations will ensure that when they tender for services or goods, they do proper due diligence. If you look at the Auditor-General's reports, you will find that there are culprits who do not adhere to procurement processes. We have seen cases where entities, because they have not followed the correct procurement processes, end up making variations which they mostly abuse.

We have also seen cases where some county governments were not able to pay for services and goods they have been offered. Therefore, these Regulations, as made by the Committee on Delegated Legislation, are very important.

With those remarks, I support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us hear Hon. Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker. I am a Member of the Committee. Let me also take this opportunity to thank and congratulate our Members. I thank the Vice-Chair for the splendid job. I wish to just correct the CJ. Our Chair has left and there is a Chair presumptive. When he comes to the Committee, he needs to recognise the Chair presumptive so that he can work with us as we go forward.

These particular Regulations are made pursuant to Article 227 of the Constitution of Kenya that requires that any process of procurement of goods and services by the Government must be fair, equitable, transparent, competitive and cost-effective. The truth of the matter is that there are numerous cases pending in court – and many other complaints that are not before court – because we have not lived within the spirit of the Constitution. What is emerging all over is that we have skewed procurement processes where tender awards are pre-determined to benefit a few individuals to the detriment of many hardworking Kenyans.

These Regulations have been made pursuant to Section 180 of the Public Procurement and Disposal Act, 2015, which mandates the Cabinet Secretary to make Regulations. Unlike other Regulations that have come here before, they must come to the plenary and get approval of the whole House. This emphasises the importance attached to these Regulations as far as public procurement is concerned. Section 181 of the same Act requires the Cabinet Secretary to prepare a code of ethics to guide the procurement professionals in undertaking their duties during the procurement process. I hope the Cabinet Secretary will move with speed to prepare that particular code of ethics so that some of the drama, the obvious illegalities and immoral decisions being made by procurement professionals cease.

Hon. Temporary Deputy Speaker, as we have said continuously, corruption in this country starts at the budgeting stage. It is perfected at the procurement stage and then it is actualised at the time of payment. Many Kenyans will tell you that it is practically impossible to get a Government tender through a fair and transparent process. Many times, even before tenders are advertised, the winners are known. The race is purely a matter of procedure and just to comply with the law. It would, therefore, be important. We have no shortage of laws in this country. What we have is an issue of integrity in the public service. We, therefore, call upon all the procurement entities and professionals to adhere to the basic call to serve instead of seeking to enrich themselves.

We have numerous cases in court of procurement officers who have amassed wealth in such a short period of time that everybody wonders exactly what the issue is. We need to look at various issues at hand here, and that is where I conclude. I hope these Regulations will go a long way in addressing the mess we have had in the past. I hope these Regulations will work hand-in-hand with the various laws so that we severely punish those people who conspire, through the procurement process, to defraud the public of their hard-earned money.

The issue of pending bills is critical. Any procurement process must have a procurement plan that allows suppliers to be paid...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Wamuchomba.

Hon. (Ms.) Gathoni Wamuchomba (Kiambu CWR, JP): Thank you...

(Hon. (Ms.) Gathoni Wamuchomba did not wear a face mask)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Wamuchomba! You shall have your mask on. It is uncomfortable, but put it on for your own sake and for the sake of your neighbour.

Hon. (Ms.) Gathoni Wamuchomba (Kiambu CWR, JP): I am most obliged, Hon. Temporary Deputy Speaker.

Thank you for giving me an opportunity to support and contribute on this very important piece of legislation that has been executed by the Hon. Members and presented very ably on the Floor of this House by Hon. Fatuma Gedi, the presumptive Chair of the Committee on Delegated Legislation. I am very excited to hear that there are Kenyans who think about other Kenyans, and more specifically on issues of Kenyans who supply goods and services to the Government of Kenya and to the county governments that make up the Republic of Kenya.

I have interacted with very many victims – most of them being women, People with Disabilities (PWDs) and the youth – who have been frustrated on the corridors of most of the procurement offices, both at national and county government levels. I have a friend who has suffered severe depression. She supplied goods to a certain county government back in 2015, but she has not been paid to date. This honourable lady has gone through a lot of struggles in life. She has gradually lost her property, including a house. She finally lost her family because the family broke up. It is painful. I speak on this issue, knowing that I represent very many people who have been going through similar pain.

I am excited to see the Committee present their proposal to the House on what they suppose can help us to sort out the very many gaps that exist in procurement processes in this country. Unfortunately, Kenyans are very good at coming up with laws, but very poor in implementation of the same laws. His Excellency the President is on record giving orders to national and county governments to honour pending bills, some of which date back to 2014 and 2015, like the case I have just narrated.

I am excited that this piece of legislation will fill that gap, but we should actually amend the law to sort out these issues once and for all. There is a legal framework on payment for goods and services supplied to public entities. However, we have not come up with clear penalties for failure to pay even after suppliers of goods and services have been verified as having done what they were procured to do. We have heard of young women who have had to go through intimidation. They have had to come up with something so that they could be paid. By “something” I mean ways of bribery.

We have had even young women who have to have illegal friendships with some people in these offices so that they can get paid for what they supplied. It is illegal. It is immoral. We must stop this by making sure we come up with serious penalties for anybody who holds anybody’s payment in the name of such demands.

(*Applause*)

I request that the Committee that has presented this honourable piece to try and see whether they can add more penalties to those that fail. It is because we have tried all the ways and it seems that there is still not a seamless process when it comes to procurement and payment of the same services.

As I conclude, I know there is a lot of procurement...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. Your minute is gone, but I ask the Clerks-at-the-Table to be keen to alert the Member. Could you conclude that thought because I appreciate we did not alert you? What is your seat number?

Hon. (Ms.) Gathoni Wamuchomba (Kiambu CWR, JP): It is number 278. Thank you. I appreciate.

As I wind up my thoughts, I was asking whether we can have a black book in this country where we can list offices that fail to oblige and honour payment of people who have been verified to have done what they are supposed to have done and ought to be paid and have not been paid. I recommend that this blacklisting starts off all the way since the county governments and the devolution processes started in this country.

With those very many remarks, I support the Regulations. Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Maanzo.

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to support these Regulations.

Procurement and disposal of public property is a very major thing in the country. All the budget that we approve ends up in the national Government and the counties. At one point or another, there has to be procurement of all the Government is buying at the national and county levels. The law which has been there is very good, but has been lacking in terms of Regulations which have to be made under this Act. Now that the Regulations have come forth, they are very good and they seek to regulate the process of procurement and disposal of public property.

There have been challenges in the last five years since the county governments started. A lot of people have done tendering. The tenders have been guided in a way or another. The person to procure or to do the work is predetermined. These Regulations seek to make sure that, as much as possible, there is control and the law is followed when it comes to procuring and disposal of public property on whatever job is done for the Government at national and county levels.

One of the biggest problems has been pending bills. One of the biggest issues, especially in the counties, is that people who have worked for the counties have not had their work verified.

They have not been paid over a long time. Knowing that many Kenyans who go through these processes have to borrow money from banks based on the documents they are given by these public institutions, they eventually do not make profits at all when you delay their payments. These are the jobs some of them are involved in. The law now allows people with disabilities and also young people to participate in these processes and benefit as bona fide Kenyans.

One of the issues which has come out very well in these Regulations and is important is punishment. The fine which is fairly substantial for anyone who breaches any of these Regulations or the law in relation to procurement. There are also a lot of matters in relation to tendering pending in court. With this sort of law and Regulations, that has been eased. The backlog in court which has also been affected by COVID-19 will be sorted in one way or another. Again, the tribunal which deals with procurement issues is helped.

Therefore, this is a law which, once approved and I believe Members of this House will approve it because Kenyans have waited for it for long, will smoothen those processes in not only procuring, but also in disposing of public property. A lot of times when Government properties are being sold or acquired for another party, they tend to go for very low prices. Again, it is a matter of ethics. Persons wanting to serve his country or Kenyans not wanting to steal from the State and people not taking unfair advantage to enrich themselves at the expense of others. I believe we will be able to make Kenya richer once these Regulations are in place and are applied strictly. All of us will own the property of Kenya and to protect it through this law so that we can make sure whoever deserves a tender gets it rightly and they go on to do the job properly, for value. They should also get paid on time so that they can take care of their families and businesses.

I want to urge Members to support this debate and say that the Committee has been doing a great job. I congratulate the Committee for the many hours it had to go through these processes keenly and make sure the country is served.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Nyikal Wambura.

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute.

Procurement is the main vehicle of execution of all public projects. As the Hon. Member said, all the money in the projects is expended through procurement. It is this process that ensures projects are completed, are quality and the absorption of the funds that we appropriate in this Parliament is done. So, it is an important function.

It is also the greatest risk for graft, corruption and loss of funds in which both the public and the businesspeople equally suffer. There is therefore need to have a clear structure of handling this. The Act itself gives very clear guidelines but, it is this statutory instrument that will actually give the details that will guide how the processes take place. It will give clear identity of the roles of people responsible and the responsibility that different people hold. It gives the precise processes of advertising, bidding, and opening of the tenders. It also gives the types of tenders and even the monitoring of the processes, if it is a case of construction or whatever process we are dealing with or variations. Those are the areas where we actually make losses as the public. Those are also the areas where businessmen can lose their businesses and wind up.

It will also give the processes for termination and how the terminations are handled. You heard of the big fines that have been given. There have been processes where tenders are purposely made faulty, terminated in a faulty manner, and the Government and the public ends up paying huge amounts of money. There are crafty businesspeople who have perfected the issue of faulty terminations. It starts as the process starts and they know it will be terminated. They know the process will be faulty but still they will get money. It is important that the details are in place.

In disposal, the public has lost great amounts of money. Huge public properties have been disposed of for a song. It is all by design because the generalities of the law give loopholes used by crafty people to acquire public property.

I support these regulations, as the Vice-Chair went through them, give clear details on all these areas and we believe they will protect the public and the businesspeople as well. It is also hoped that this will support the counties. As you can see, all the attempts by the MCAs to impeach the governors are all on procurement. There is a big issue, even if we help them in this country in devolution that we have not addressed; the counties are supposed to be independent entities. Independent but dependent. We have, however, not identified a way of ensuring that policies and standards that are of national function are applied, monitored and enforced at the counties level. Even if we have this, that is a matter that we must look at.

I support the Motion to approve these statutory instruments. Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Oundo Kaluma.

Hon. Peter Kaluma (Homa Bay Town, ODM): Thank you, Hon. Temporary Deputy Speaker, for the report coming on this Public Procurement and Disposal Act. I was among the Members to serve in the first Committee when it was first established in 2013 under the new Constitution. On procurement, we ought to be bold than we have been. It is under the realm of procurement that corruption is built in this country. The rate at which we are procuring for goods and services is too high. These monies that we budget and appropriate cannot leave the coffers into the pockets of people without passing through that system.

I had a benchmarking trip with Ethics and Anti-Corruption Commission (EACC) and Directorate of Criminal Investigations (DCI) to Rome Italy not long ago. They did reveal that as against the black book we are talking about, no company can engage in public procurement whose value would be an equivalent of Kshs100 million unless you are approved by Government agencies and you are in the white book. Italy has a procedure that we must incorporate in our procurement system. The procedure incorporates Anti-Corruption Commission such that the authorities in charge of corruption are part and parcel of the procurement process, and do not just come in at the end when monies are being validly paid because some papers have been made to look well. It is an area that the Committee has looked into and it is something that we must progress into going forward.

Secondly, we must move from the idea of paper-based procurement to service delivery on the ground. We have overemphasised the Public Procurement and Disposal Act and the laws around procurement to the extent that even for the miniature works like NG-CDF works in the constituencies, the local communities cannot do them. They cannot be contracted. There are people in offices who do not know how to do the technical work, but are good at making papers. Strangers are procured yet it is the local people who are doing the work, only for money to go elsewhere. We must move to a system of questioning whether there has been delivery in substance as against a mere situation of paper work. If we approach it that way, we will succeed.

The other limb around procurement that we need to look at is how we can ensure that the costing is down. I want to address the EACC. I was happy a while ago because there was a move against procurement officers in Government. In my own constituency, when I was elected, I sat with the national Government procurement officers and asked them the cost of doing a classroom. They told me it is Ksh1.8 million. I chased them from that meeting and I ended up doing two classrooms to completion at Ksh1.3 million, and I continue to date. We must have penalties that will make people fear the idea that through procurement or being merely neat on paper you can enter into public coffers and eat money. If we do that, and we look at the procurement regime in

detail, then we would be helped. Let us make it possible for people who are not tenderpreneurs to deliver and work. They deliver more than those who are perfect on paper.

I thank the Committee for a work well-done. I support the leadership as we move forward. It is an opportunity for us to look at the law. Indeed, if a Member has an amendment proposal, I believe this is an elevated interrogation of what should be a statutory instrument. We can prefer those amendments and enrich these regulations into something that will serve our nation better.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Ngugi Nduati, you have the Floor.

Hon. Joseph Nduati (Gatanga, JP): Hon. Temporary Deputy Speaker, will you allow me to remove the mask?

The Temporary Deputy Speaker (Hon. Patrick Mariru): You will be out of order.

Hon. Joseph Nduati (Gatanga, JP): Let me use it. Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to speak on this Bill.

At the outset, I want to advise Dr. Oundo that it is easy to get a Government tender. It is very easy for anybody in this House to get a tender but it is hard to get paid. You can even get one next week. If you want a better tender, you can go to the counties. You will get a job but once the governor is through with his term, you do not get paid. The question is not about getting work. It has happened. The incoming Chair has confirmed that there are so many pending bills, especially in the counties. The problem has been payment for works undertaken by contractors.

I want to thank the Committee for the good report. I can see that it now allows for digital signature and electronic submission of documents. I, however, did not like the fact that you have to physically take the tender security to the procuring entity. We must review that.

Although we have reviewed these regulations, they are still not favourable to our people, especially the youth and upcoming businesspeople. We will continue to see the Chinese do the works for many years. First, tender security that we keep talking about but does not add any value. You want our people to tender for jobs yet most of them are poor. You expect them to have cash bonds and bank guarantees, where are they going to get this money? We must do away with this if we want to help the youth.

Performance security is one thing that has frustrated many Kenyans who have done very well in other sectors. I would like to demonstrate that. The government entity would require you to provide a performance bond of 10 per cent, which is Ksh100 million. To start that job, because you do not have Ksh100 million, you will want advance payment. You will again be required to secure that advance payment, at about 10 per cent, which works out to Ksh100 million again. So, to start a job which is worth Ksh1 billion, and here we pass jobs worth billions, you will require Ksh200 million. Very few of us have that kind of money. Hon. Murugara, I know you are well endowed and you can afford this. But for most of us, it would be very difficult. That is why I am saying as Parliament we pass regulations which are going to frustrate our people. We should not sit here to pass regulations which frustrate our people. I want to assure you, because we are beginning a new financial year tomorrow and we are going to tender for roads, you will not see our people participating. I like what the first President of this country did when he came to office. To support our businessmen, he used to advance them money to start jobs. There was nothing like performance security. And when it was there, it would be deducted in three equal instalments, which was very easy. So this is something that we need to review. That is why you see our youth refusing to join Technical Vocational Educational and Training Institutions (TVET). Where are they going to work? They know two or three years after college, they will be working for a Chinese

where they cannot grow. Why would they join the TVETs? That is why the youth have refused to join the TVETs all over the country.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): What is your point of order, Hon. Gedi? Hon. Nduati, your time is up. Let us hear what Hon. Gedi has.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Temporary Deputy Speaker, I was listening to Hon. Nduati and I think he is misleading this House. If he can read, there is nowhere the Regulations oppress our people. In fact, these Regulations seek to help our people. And I was very clear when I was moving the Motion. Currently, what happens in the counties is a total mess. That is what we want to deal with. If we bring transparency and discipline in the county and national governments through these Regulations, our youth and women will have equal chance to do business and they will be paid. I think the Member did not get the Regulations right. The Regulations seek to help our people.

The Temporary Deputy Speaker (Hon. Patrick Mariru): You know Members can think differently. Maybe Hon. Nduati still believes the Regulations do not help his people. Hon. Nduati, you have 30 seconds to tie up your contribution.

Hon. Joseph Nduati (Gatanga, JP): Thank you very much, Hon. Temporary Deputy Speaker. Incoming Chair, I apply these regulations every day, so I know what I am talking about.

Finally, I want the national government to follow the good example we have with the NG-CDF. At the NG-CDF, before you are given a job, money is set aside. The same thing should happen at the national government, because they are the people with the money. For us, we do not have a lot of money, but we make sure the jobs are secured, contractors are paid on time and there is no conflict anywhere.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Odoyo, Member for Nyando. He has taken leave. Hon. Jeremiah Kioni.

Hon. Jeremiah Kioni (Ndaragwa, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to contribute to this important Motion. I want to thank the Committee, especially *Mheshimiwa* Gedi, who seems to have done a commendable job this afternoon. Everybody is full of praise for her. I think she is also campaigning for that seat and she seems to have good support. Hon. Oundo on the other side certainly holds a different view, which can be improved.

These Regulations are actually in response to Article 227 of the Constitution. That Article of the Constitution requires that we use public resources effectively and in the most efficient, transparent and accountable manner. I want to thank the Committee for coming up with these Regulations. Certainly five years down the line, I think the Act was passed in 2015, I am certain that as they were coming up with these Regulations, they would have paid attention to the many judgments and rulings that our courts have delivered on these issues when we did not have the regulations. If that was done, we certainly have a very good document that will help us move this country further.

Members have talked extensively about procurement, but there is a sister to it: disposal of public assets. *Mheshimiwa* Kaluma alluded to this. We lose a lot of money in this country because of the way public assets are lost. *Mheshimiwa* Nyikal also spoke to this. There is a lot of collusion. We may be losing more money at disposal than at procurement. People will sit somewhere and conspire on how to dispose of a public asset, be it a vehicle or a piece of land or a building. Now that we have a procedure that needs to be followed, it is important that we pay attention to that

procedure. Hon. Nduati alluded to this, though I do not agree with many of the other statements that he made, including the argument that our young people should not go to TVET. He was really a prophet of doom this afternoon. We cannot come to *Bunge* and we all conspire to pass laws that are against our people. We come to represent the people. I do not think quite a bit of what he said is accurate. In Ndaragwa, the youth are keen to join TVET. We are actually waiting for it to be opened. We have huge numbers of young people who want to join TVET. I want to encourage the young people all over the country: you may not get employed tomorrow, but you will get a certificate, a degree or a diploma. Go for it. When employment opportunities come, they will never be given to those who refused to go to those TVETs. You will always be there trying.

Back to this issue, NG-CDF seems to have come up with a solution to many of the problems that we have in this country. And we continue to commend the Board. Even as we go through the Building Bridges Initiative (BBI) process, any person with an idea or a dream of doing away with NG-CDF is really doing away with one of the most efficient ways of using public money. We will need to make sure that the fund is protected. Even if it is not run by Members of Parliament, it is a model that must be allowed to go on in this country. The Ksh100 million that we are given is a conditional grant; we are given that money to use for specific projects. How I wish that we could use the same model when we allocate money to the county governments. We would certainly see changes in our system.

Finally, it is important that as Members of Parliament we continue biting the bullet. We refused to come up with a law on lifestyle audit. The courts came up with it. They are now auditing us by force. We will need to come up with a law that helps us in lifestyle audits. We watered down the Leadership and Integrity Act. We need to work on it so that we help our country in fighting corruption. We need to bite the bullet as Members of Parliament, like this Committee has done. I support and thank them.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Rono.

Hon. Daniel Rono (Keiyo South, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to also weigh in on these Regulations that the Committee has come up with. First and foremost, I want to commend the Committee on these Regulations. And I want to support my colleague who touched on the issue of payments.

To get paid in this country is a nightmare when you supply the Government and more particularly, the county government. We hope this will improve as we go along. We have even had situations where there are pronouncements from the President saying before 30th of that month, everybody should have been paid, but come the following month, nobody has been paid. At times I wonder whether the President connects with the people who implement his orders or it is wishful thinking. Needless to say, regulations touching on procurement and of course disposal, are very important. They need to be further tightened.

My Chairman, Hon. Kioni...

Hon. Temporary Deputy Speaker (Hon. Patrick Mariru): What is your point of order? Is that Hon. Lessonet? Order, Hon. Rono!

Hon. Daniel Rono (Keiyo South, JP): He was sleeping!

Hon. Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Rono! Do not engage Hon. Lessonet. He is on a point of order.

Hon. Moses Lessonet (Eldama Ravine, Keiyo South): On a point of order. This is Hon. Lessonet. I am rising under Standing Order No.95. Having noted the time which has been put on this particular Motion, and equally, that Members have continuously repeated themselves in contributing to this Motion, may the Mover be called upon to reply?

Hon. Temporary Deputy Speaker (Hon. Patrick Mariru): Your request is well in order, but we only have Hon. Rono who is the one speaking and Hon. Tuitoek who is not even here. Can we have the two Members contribute and everyone else would have?

Hon. Daniel Rono (Keiyo South, JP): Of course, when you are rudely interrupted like that, you lose the momentum. I hope I will regain as we go along. Kindly add me one more minute.

I mentioned the issues of procurement and disposal. Disposal is an elephant in itself. Goods belonging to the Government are sold at a throw away price. When you compare with the goods being bought, sometimes you find an item like a pencil and a biro attracting crazy amount of figures. The other day we had the famous “wheelbarrow.” It is ridiculous. People are still going scot free. In fact, they have been uplifted. They are now big people in Government. It is like they were honored and given a gift for procuring the wheelbarrow at a very expensive price.

We talked about the issue of people getting paid. It is a nightmare to get paid when you actually supply the Government. The other day for example, we told our youths to come and join this bandwagon of people tendering for goods so that they can supply the Government. I know of a youth group that supplied the Government and it has taken two years for them to be paid yet they were starters. How do we uplift such people who never saw payments for two years? It should be very clear. If you are tendering for goods, money should be in the account and not the money you are expecting. It is wrong. Let us use the CDF model as my Chairman said. This is where you have the money then you procure. For anything short of that, we should not follow. That way we will never have any pending bills in this country.

Lastly, I support this digital submission. Of course, the world is going digital, but if you are to go digital, let us do so totally. I find it very difficult if we do it in totality because you will need to bring a sample of what you are set to supply. I do not see a sample coming via digital.

Another issue is the tender regulations. We have had items that we tender. Even when the committee was awarding the tender, a Member of that committee might have even come from a supermarket or the manufacturer and they know so well that the price of that item is two-times what he has seen, and yet he still awards the tender because there are underhand dealings in these matters of tendering. We need to kill this. I like their regulations. As I said earlier, I had some tightening poles so that we move forward and forget about these people who are overnight millionaires as a result of tendering goods for the Government.

I support.

Hon. Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Tuitoek then Hon. Gedi.

Hon. Daniel Tuitoek (Mogotio, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to also comment or say something about public procurement, asset disposal and regulations. What is very important is to have an efficient system that can serve our people. One thing I have realised about procurement is that there are two major issues.

First of all, it takes a long time sometimes to procure something. So, we need efficient regulations in which things which are advertised and which have to be given out should be done in an efficient way and are time bound. One of the major challenges in these issues of procurement is to address the issue of young people or the young entrepreneurs. I think they are really facing a challenge in terms of mobilising funds because certain procurement rules are difficult as it was said by Hon. Nduati. That when you put in performance bond or put other requirements then the young people may not succeed. I know the National Treasury has been trying to be soft. They have actually waived a lot of things like experience which most of the projects require. This is what shows us what you have done before or whether you have done a similar project before. I think for

younger people they have tried to waive those particular requirements. So, these particular regulations which are being given here are good. I think they are addressing the issues of efficiency, control and managing procurement in Government to standardise them which is also very good.

Some procurements are not standardised across the Government. One of the challenges is this issue of giving out jobs or procuring or giving out tender when you do not have the money based on the budget... Many institutions give out tenders most of the time based on budgets but they may not really have the real cash. We should emphasise the issue of cash because when a tender takes a long time to pay then the overall cost of that project can go up. When you find road projects that are not paid on time they will certainly attract interest. I think it is good to actually look at this very closely so that we manage the cost of projects so that we do not allow excessive cost of projects. So, I think these particular regulations that are being given here are good.

I beg to support. Thank you.

Hon. Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Wandayi, I saw you walking. I am sure you were engaged elsewhere. Very well, it is very serious, but I will use my discretion. Please, if you could take your space and then after that, we shall open up. We shall have Hon. Gedi. In any case, this Report is also time bound. It has specific time it should take. Hon. Lessonet, in fact, you did not need to rise although it was okay to.

This Report has a specific timeframe. We are bound by that timeframe, based on our House Resolution.

Hon. Moses Lessonet (Eldama Ravine, JP): Okay.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Wandayi taking the Floor. We will then hear Hon. Gedi.

Hon. Opiyo Wandayi (Uganda, ODM): Hon. Temporary Deputy Speaker, thank you very much for using your discretion to allow me to make some comments. Actually, I came running when I heard my friend and Member of the Public Accounts Committee (PAC), Hon. Daniel Rono, contributing very robustly as usual on this very important matter.

Let me say at the outset that I support these Regulations. However, even as I support the Regulations, my understanding is that the problem we have had in procurement generally is not inadequacy of laws or the regulations. What we have had as a problem of procurement in this country is failure by the people who are charged with the responsibility of procuring for the respective agencies to adhere to the laid down procedures and rules. A bigger problem is that nothing has ever happened to those who have flagrantly abused the laid down procedures to serve as deterrence. That is the biggest problem.

Hon. Temporary Deputy Speaker, if you look at these Regulations and the parent Act – the Public Procurement and Asset Disposal Act of 2015 – you will notice that Kenya is one of the very few countries in sub-Saharan Africa with a robust legal regime. The question is why then we continuously have to face a situation where procurement becomes the single-most important avenue for corruption? Why is it so? The answer is simple. Those who have continued to abuse these processes and procedures have never been held to account. There is an issue that keeps on recurring in public procurement – the so-called "direct tendering". There is also the issue of "restricted tendering". There is no better way of stealing public funds, from what I have realised, than to hide behind terminologies like "direct tendering", "restricted tendering", and so on and so forth. A third terminology which raises eyebrows is the so-called "government to government tendering".

My plea even as we approve these Regulations is that we must put in place a mechanism to ensure that those who continue to flagrantly abuse these procedures are held to account. We have seen people turn into billionaires within a span of five to seven years in the counties. It is not a question of millionaires. It is now a question of billionaires. Moreover, if you look at it critically, you will find that these are people who have not laboured to amass the kind of wealth they have amassed within such a short time. It is simply a question of people who have abused the procurement rules and guidelines to enrich themselves at the expense of ordinary Kenyans who continue to pay taxes. Therefore, even as this House adopts these Regulations, it must do introspection. What can we do, as a House, to empower those who are charged with the responsibility of investigating and prosecuting these abuses to do their work without fear or favour? That is the question I want to leave this House with.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us now hear Hon. Gedi

Hon. (Ms.) Fatuma Gedi (Wajir (CWR), PDR): Hon. Temporary Deputy Speaker, I thank you and hon. Members for staying up to this time in order to make their wonderful contributions to this Motion. As I said, these Regulations are very important to our people – the country and Parliament – because, as an oversight role, we want to make sure that no shilling that is appropriated by this House is mismanaged and misused by government entities at national or county government levels. I also thank the Members who are praying and wishing me well. I want them to know that I do not take their prayers for granted.

(*Laughter*)

With those remarks, I beg to reply.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, we shall pend putting the Question for this particular Motion to a subsequent day.

(*Putting of the Question deferred*)

BILLS

Second Readings

THE REFUGEES BILL

Hon. Maoka Maore (Igembe North, JP): Hon. Temporary Deputy Speaker, I request that you stand down this Order until the substantive Mover and Seconder are available.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Since they are not here, we shall step down the Bill.

(*Bill deferred*)

THE CARE AND PROTECTION OF OLDER MEMBERS OF SOCIETY BILL

(*Hon. Amos Kimunya on 17.03.2020*)

(*Resumption of Debate interrupted on 17.03.2020*)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, this is a resumption of debate interrupted on Tuesday, 17th March, 2020. It is a while back. I need to be clear on who spoke and who did not speak.

(*Consultations*)

Essentially, if you have spoken on this Bill you may not speak on it again. Hon. Wambugu, did you speak on this Bill? I am sure I will get the list in a minute.

Proceed, Hon. Munene.

Hon. Munene Wambugu (Kirinyaga Central, JP): Thank you, Hon. Temporary Deputy Speaker. I wanted to contribute to the Refugees Bill but now that I am on my feet, I will have one or two things to say.

I thank you for giving me this opportunity. This Bill is very timely. As a society, time has come when we should embrace taking care of our old people. You know at one point in time all of us are going to age and a society is gauged by how it takes care of its old people and people who deserve care. The Mover of this Bill has done a good job. This is the right way to go so that at least as you age in this country of ours – which we were given by God – you know that eventually this country will care of you and when the time comes you will not be abandoned but be taken care of. Moreover, the beauty about this Bill is that it also says how we should go about it in terms of process and procedure. As we speak, there is no proper rule about taking care of old people. Most Kenyans depend on relatives, well-wishers and NGOs, who just dump people into old people's homes. Moreover, we assume that relatives will take care of their old people. With a proper role, we will be joining the progressive nations which have seen the need to take care of their old populations and people in need of care.

With those remarks, I support this Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Mawathe, you have the Floor.

Hon. Julius Mawathe (Embakasi South, WDM-K): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to speak to this Bill. I support it and as my colleague has said a while ago, this Bill is long overdue. There is need for us to take care of our elderly. As time progresses, that is also where we are headed. So, not only do we need what is stated in here but we also need homes for the elderly to be constructed and this is a large industry. In other parts of the world, elderly care homes is a very large industry where people have a place to go. They do not just depend on their relatives. Sometimes their relatives may not be willing to help. I did not get a chance to contribute last week on the issue of taxation of the elderly people's pension. Parliament made a wise decision of protecting the retirees. It was a very bad idea to even have thought of taxing them.

I support. Thank you.

Hon. Temporary Deputy Speaker (Hon. Patrick Mariru): Very well, let us have Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me opportunity to discuss this. It is an issue that is long overdue. Aging is a reality and the number of people getting elderly is increasing. Though our health system may not be good

but the improvement in our economic status means that the life expectancy is increasing and so we will have more old people.

Secondly, the structure of our families and our lifestyles has also changed. In the old days, most of the people looked at the children as their support system in their old age. That is no longer true. Children move and live far off in other countries. We, therefore, will have a situation where we are going to have a large number of people who are elderly who need care. Therefore, a structure has to be put in place. For these people, it is like the situation is reversing. Their rights are becoming increasingly important, that is the right to legal capacity as is taken care of in this Bill, the right to equality and non-discrimination. If you look at the area of jobs, some of us who are getting old, there is a feeling that old persons should not have jobs.

In some places, it is so bad that old people are thought to be wizards and witches and are killed against the rights that they are entitled to. So, they are entitled to protection, even to getting used to new technologies. As people get old and technologies increases, people find themselves unable to cope in the environment. Still they are entitled to access public facilities and even access information when you talk of ICT. Some of us are lucky we have got a little of it but even then, it will change. So, we are going to have a population that needs a lot of support. As a society, we are obliged to take care of our old people just as we are obliged to take care of our children.

In fact, when I was in the Ministry I had thought there should be a law that states that if young people do not take care of their old parents, they should be punished as equally as parents who are not taking care of their children. So, that is the context in which we should see this Bill. What are we going to do? We can take care of them at home. However, people still go out to work, they need support at home and so they will need systems. I see this Bill is looking at it through home based care programmes. There are times that even provisions for these people need to be delivered and that will need to be looked at.

When they are also being taken care of at home, the chance of abuse particularly when we employ people to take care of them is high. They are subject to abuse by the very same people who are likely to take care of them. Their health needs... I will tell you as a doctor that as you get older, your response to disease is different. The COVID-19 is one example but also in all other illnesses, you may not respond the same way. So, that level of care will also be looked at.

I like this Bill, because it has put structures for looking at the elderly persons in the homes. However, whether we like it or not, what is going to come is that there are going to be homes not in the communities but we are going to have old people's homes as a big challenge. This is because the financial outlay that is required is big. The personnel required is big and so we need to relook at that. The cash transfer programme is already having problems as some cannot access the cash. The people who are taking the funds are not taking care of them. So, this Bill provides for an authority that will say when we put up these homes how we will inspect them and how we will ensure that they are ethical issues there and this authority will look at that.

So, we could say a lot more but in general I support this Bill. We have to put a structure and a legal ...

Hon. Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Maanzo.

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to contribute on this very important Bill. It begins with the premise that when you obey your parents, you will live long in this world. That is the premise and the best there could have been. As people age they suffer from ailments. A lot of them who do not have children or may have lost their children as they live for long, find that they have no children to

take care of them. We only live for that reason so that we may do that duty of taking care of the elderly and our parents. This is a very important law.

If you look at what is happening in other countries, COVID-19 mostly affected the nursing homes in many parts of the world where the older people were caught by surprise. Out of the more than 10 million infections, statistics show that out of half a million or so deaths, were of the elderly than of younger people. There was one case we had in America where an elderly person surrendered a ventilator for a younger person and said he had lived his life and was ready to die. So, we want older people to bless us as they leave because this is something that is real. Older people are the ones who leave their property behind. There are many succession cases where younger people fight for the wealth of their parents instead of them also struggling to look for their own wealth. In many occasions where older persons were not taken care of while they lived, you find that whatever that is left behind is not blessed.

Therefore, it is very important to have a framework on how to deal with the older people who have no families to take care of them, no children to take care of them and no children to love them. Some never had children at all and by God's grace they lived many years even up to 100 years. My grandmother lived for 127 years. In her lifetime she never went to hospital. So, when she got sick with a heart problem she did not go beyond those years. She passed on when I was a first term Member of Parliament. When I started practising as a lawyer, she claimed she lived more because I took care of her. I think we have a duty all of us and the whole world that younger people take responsibility and take care of the older people, talk to them and even get stories of those earlier days. I am sure those who have parents who have lived over 100 years can tell us about the Spanish Flu that occurred 100 years ago and which was like the pandemic we have. That sort of talk could improve what is happening currently.

So, I support the law and authority which comes up with structures, a budget and a method, the care giving and ensuring that people are not abused in old age. We have great grandparents who have been killed by grandchildren because of this money that the Government is giving them because the younger ones think the older persons do not deserve it. Are we still going to charge bills for the old in hospitals?

For these people we can ensure their lives are made comfortable and they are useful to the country. We also have old people who abuse grandchildren left under their care for one reason or another like culture. What happens if an older person has a court case and is convicted? Who will pay their fine or bail? Will that old person stay in custody because they are unable to pay their bail?

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. Let us now hear Hon. Kioni.

Hon. Jeremiah Kioni (Ndaragwa, JP): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to contribute to this very important Bill from the Senate. We must thank the Senators for coming up with the Care and Protection of Older Members of Society Bill (Senate Bill No.17 of 2018).

From the outset, I think it is important to commend the Government. This is because it has continued to perfect the cash transfer system that benefits those a little advanced in age in our country. One of the ways of checking or establishing how civilised a country is, is by looking at how it takes care of the aged. Whenever you see an old person, it is good to remember that at one time he or she was young and contributed to the welfare of this country. We are where we are as a country because of their contributions.

It is important for us to do our best and take care of the old. In my constituency, I can say that virtually every family was involved in the freedom fighting movement. They were the *Mau Mau* fighters and those who are still alive are over 100 years old. Two weeks ago, I visited a lady in a place called Pesi. Hon. Temporary Deputy Speaker, I know you come from my neighbourhood. So, when I mention Pesi you know lower and upper Pesi. This lady is 102 years old and still stands upright. She has never worn shoes in her life. What horrifies me is when you come across such a lady and think the Government is not aware of her existence.

I want to thank the Government for attending to the plight of such ladies. Yesterday, the Deputy County Commissioner and everybody in my constituency went round looking for such older persons. I am sure they will now receive the attention they deserve at their age. This is just one case. We have many older persons both men and women or *wazee na akina mama* who are still not in the programme. They are not benefiting from the cash transfer meant for them.

I want to commend the Government because it is trying yet it lacks adequate resources. His Excellency the President is greatly concerned about this issue. I know the Government will continue reaching many older persons. But more work needs to be done and more money set aside so that many older persons can be brought within the bracket. As we do so, it is important to see what other countries are doing. They are not just giving money to the elderly but also to the caregivers. This is because you need to move out of employment to take care of an older person. When the country has resources, they should compensate caregivers as this money will be useful to them. It is good to also take care of caregivers.

It is also good to interest our young people into the caregiving career. Like Dr. Nyikal has said, we will have a huge population of old people who need to be cared for. But we do not have many young people interested in the caregiving career. It is a well-paying and good career. I want to encourage many of them to take it up.

While establishing the age of our old people, it is good to remember where we are coming from. Some of them may have reduced their age in their Identity Cards (ID). But they are older than what the ID indicates. This is because of reasons to do with colonial circumstances and environment. As we establish their age it is important to pay attention to those who may have indicated wrong birthdates yet, they need a lot of care.

I support this Bill and I know we will pay a lot of attention to the provisions of the Bill during the Third Reading...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well, Hon. Kioni. Your measurement of five minutes is completely scientific. The issue is that the Clerk should notify you.

Hon. Jeremiah Kioni (Ndaragwa, JP): (*Spoke off record*).

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Rono, you have the Floor.

Hon. Daniel Rono (Keiyo South, JP): Thank you, Hon. Temporary Deputy Speaker. Am I allowed to donate a minute to him?

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Kioni had five minutes. You also have five minutes.

Hon. Daniel Rono (Keiyo South, JP): He is my Chairman and I do not mind taking four minutes and giving him a slice of my time. I support this Bill on taking care of the elderly. We all know the elderly have few years in their journey. Where they have come from is further than where they are going. So, it is important for us to take care of them.

A good number of them have contributed something to this country. The young men and women have a duty to take care of them. I would have liked this Bill more, if it helped us establish

homes for the elderly above 70 years. So that we do not have to do cash transfers which are marred with a lot of irregularities and sometimes money getting lost.

Sometimes, the elderly are very lonely because they love company and more particularly talking to their fellow men and women. In some areas they stay far away from each other and experience challenges. The young ones leave them alone and this increases their loneliness. So, homes for the elderly should be established in every constituency and we can set aside money from our budget to take care of them.

In other countries, the caregivers are well paid and trained. I do not know why we cannot do the same. If we have managed to put aside money for the elderly, there is no reason why we cannot establish homes for them to be taken care of. Take note that these people are technically the chosen few by God. This is because for you to reach 70 or 80 years, you are actually among the chosen few. They form less than 10 per cent of the population of the country. So, it is only fair that they are well taken care of because they have very few years to live in this country.

Lastly, the elderly that we hear about are normally molested by other families. They are even abandoned. Some are suffering in the streets. Some are not cared for. They have no money particularly during hard times. You ask yourself: Why is this person not taking care of an elderly person? You will get an answer that this person has outlived his usefulness in this country and that he is not supposed to be living. He is taking too long living in this country. So, let us have a system where they are properly taken care of and well cared because they have actually contributed something.

I support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, there being no further interest on this Bill, is the Mover present? He is not present. I wonder why the Mover, the Chairperson of the Departmental Committee on Labour and Social Welfare, is not present. The reply will be done in subsequent time.

Next Order!

THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have the Chairperson, Vice-Chair or Member of the Departmental Committee on Justice and Legal Affairs. None is present. So, that is stepped down.

(Bill deferred)

Next Order!

THE COUNTY LAW COMPLIANCE AND ENFORCEMENT BILL

The Temporary Deputy Speaker (Hon. Patrick Mariru): Again, the Chairperson of the Departmental Committee on Justice and Legal Affairs is absent. The Vice-Chair is also absent. That will also be stepped down.

(Bill deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Patrick Mariru): There being no other business and the time being 6.33 p.m., this House stands adjourned until Thursday, 2nd July 2020, at 2.30 p.m.

The House rose at 6.33 p.m.