

PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

THE HANSARD

Thursday, 15th October 2020

The House met at 2.30 p.m.

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

PRAYERS

COMMUNICATION FROM THE CHAIR

PROCESSING OF LEGISLATIVE PROPOSALS

Hon. Speaker: Hon. Members, you will recall that on Thursday, 8th October 2020, during the Afternoon Sitting, the Member for Mathare, Hon. Anthony Oluoch, rose on a point of order seeking my direction on a number of issues. The gist of his point of order revolved around the processing of legislative proposals originated by individual Members and their eventual consideration once published into Bills, if at all. The Member lamented on the slow manner in which Members' legislative proposals are processed and took issue with the apparent stifling of the legislative mandate of Members and the House by the Budget and Appropriations Committee and Departmental Committees which are required to scrutinise Members' legislative proposals and recommend to the Speaker whether the proposals should be proceeded with or published into Bills.

Hon. Members, having considered the substance of the issues raised by Hon. Oluoch, I have isolated three (3) key questions that would require my direction. These are:

1. Whether the House has authority in respect of a decision on whether or not to proceed with or publish a legislative proposal;
2. What value does money-Bill certification and authorisation stage and pre-publication scrutiny add to the legislative process and whether the Committee's decision on a legislative proposal upon pre-publication scrutiny is final; and,
3. Whether a Member may reintroduce a legislative proposal after a negative decision by a Committee of the House.

Hon. Members, before I respond to the issues raised, it should be noted that the process of drafting a Bill involves several stages. The first stage is the drafting stage which entails the legislative proposal being prepared by the Directorate of Legal Services and reviewed in consultation with the respective Member. It is here that the Member confirms the draft proposal *vis-à-vis* his or her initial idea. Once drafted, the legislative proposal is submitted to the Parliamentary Budget Office (PBO) for money-Bill certification. Proposals that are found to have money-Bill aspects are committed to the Budget and Appropriations Committee for its

recommendation in accordance with Article 114 of the Constitution. Where the PBO certifies that a legislative proposal does not contain any money-Bill aspects, the proposal is committed to the relevant departmental committee for pre-publication scrutiny and relevant sectorial input. Ordinarily, the recommendation of the relevant committee is key in guiding the Speaker to make a determination on whether to publish a legislative proposal or not.

Hon. Members, statistics before me indicate that a total of 313 individual Members' legislative proposals have so far been proposed in the Twelfth Parliament. Of these, 91 are currently at the drafting stage while nine have been submitted to PBO for money-Bill certification.

A total of 42 legislative proposals which were determined to contain money-Bill aspects are currently pending before the Budget and Appropriations Committee. On the other hand, 69 legislative proposals are being considered before the relevant departmental committees after either being considered by the Budget and Appropriations Committee and recommended to be proceeded with or after having been determined as not containing any money-Bill aspects. In the course of considering the legislative proposals, the Budget and Appropriations Committee and the various departmental committees have recommended that 31 proposals should either not be proceeded with or published on the considered advice of the National Treasury or on account of relevant sectorial concerns.

Finally, 63 legislative proposals have so far either been recommended for publication, approved for publication by my office, or published as Bills that are now at different stages of consideration by the House. Eight of the proposals initially approved for processing have been withdrawn by the Members concerned. As you will note from the above statistics, Hon. Members, a total of 111 legislative proposals are before the Budget and Appropriations Committee and the various departmental committees. This represents nearly half of all the personal legislative outputs of individual Members to date.

Just for your information, Hon. Members, of the proposals that have been published into Bills, one has been assented to, two have been passed and are undergoing preparation for assent, four have been concluded by the House and are currently undergoing consideration in the Senate, five are awaiting Committee of the whole House, 45 are awaiting or undergoing Second Reading, four have been lost and two have been withdrawn by the Members who introduced them.

There has been some progress in consideration of Members' Bills, and the House Business Committee has resolved to continue prioritising them in coming weeks, and has gone as far as moving a Motion to allow that Thursday Morning Sittings during this part of the Session be reserved specifically for individual Members' business to clear the backlog.

On the first issue relating to whether the House has authority in respect of the process of a legislative proposal, Members will recall that before the 10th Parliament, Members wishing to introduce a Bill had to seek leave of the House by way of a Motion. The House would then take a vote on whether the proposal was to be proceeded with or not. This procedure was done away with during the review of the Standing Orders in 2008. A new procedure was then introduced that gave the Speaker the power to determine whether a legislative proposal was to be proceeded with or not based on the recommendation of the Clerk as to conformity to format and style.

However, after several years in operation and the new Constitution coming into force, a need arose for the establishment of a mechanism to sieve legislative work before its consideration by the plenary of the House. This was especially with regard to the confirmation with the money-Bill aspects of legislative proposals, its constitutionality or otherwise, and its conformity with the drafting format and style of the House to ensure consistence in legislative outputs.

The Standing Orders were accordingly reviewed and during the 11th Parliament, the current system of pre-publication scrutiny that I have described above was introduced.

Hon. Members, let me allow the Members to come in. Members at the door, make your way into the House so that we can proceed.

(Several Hon. Members entered the Chamber)

Hon. Members, allow me now to respond to the second and third matters raised by Hon. Oluoch. To begin with, on whether the Committee's decision on a legislative proposal upon pre-publication scrutiny is final, I wish to categorically state that it is not. Why do I say so? First, where the attention of the House Business Committee is drawn to the fact that the Budget and Appropriations Committee has recommended that a significant number of legislative proposals to be proceeded with and the proposals remain stuck in departmental committees, the House Business Committee has always risen to the occasion and sought the resolution of the House to cause the proposals to be published. Members may recall that on 21st February 2019, the then Leader of the Majority Party, Hon. Aden Duale, moved a Motion, on behalf of the House Business Committee, that sought the resolution of the House for the publication of thirty (30) legislative proposals whose consideration was inordinately delayed by various departmental committees. The Motion was approved and saw the publication of the Bills, some of which have since been passed by the House. Therefore, the recommendation of departmental committees in respect of a legislative proposal is not final or binding as to the fate of a proposal.

Secondly, Hon. Members, a cursory reading of Standing Order No.114 readily reveals the discretion that the House has granted the Speaker with regard to any recommendation made by a departmental committee on a legislative proposal. The Speaker has the discretion to agree or not to agree with the recommendations of the relevant committee. Indeed, on a few occasions, and for considered reasons, I have disagreed with the decision of a departmental committee on a legislative proposal. As an example, in the 11th Parliament, the then Member for Baringo County, Hon. Grace Kiptui, sought to amend the Basic Education Act of 2013 to provide for the distribution of free sanitary towels to every girl-child enrolled in a public basic education institution upon attaining puberty. Whereas the Budget and Appropriations Committee recommended that the legislative proposal be proceeded with, the Departmental Committee on Education, Research and Technology recommended that it should not be published. This was ostensibly on the basis that the Government had already established a sanitary towels programme in the country. Having considered the matter, I directed the publication of the proposal against the recommendation of the Committee. At the time, my determination was informed by, among other things, the fact that the proposal did not offend the Constitution or contradict or duplicate any existing law. It was also my view then, which view I still hold, that rejecting a proposal by a Member without relevant and weighty reasons amounts to curtailing the Member's constitutional right to legislate. The recommendation by the Departmental Committee on Education, Research and Technology to shelve the proposal on account of the Government's programme would only leave the matter at the mercies of Government policy which is unpredictable and can be terminated at any time as opposed to legislation. I felt that the Committee was becoming a roadblock as they had raised no constitutional or legal issues but rather, were making administrative arguments for the administration.

Similarly, during the 11th Parliament, it is on record that my determination on the fate of the Persons with Disabilities (Amendment) Bill, 2013, sponsored by the then Member for Nyandarua County, Hon. Wanjiku Muhia, the National Employment Authority Bill, 2015

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

sponsored by the then nominated Member, Hon. Johnson Sakaja, the Banking (Amendment) Bill sponsored by the Member for Kiambu Constituency, Hon. Jude Njomo and the Engineering Technologists and Technicians Bill sponsored by the then Member for Bomet County, Hon. Cecilia Ng'etich, countermanded the recommendations made by the respective departmental committees. All of these proposals were subsequently passed by the House and assented into law.

Hon. Members, the practice world over is that whenever Speakers are faced with a situation where they have to decide between a policy and a proposed legislation, they tend to rule in favour of legislation since it asserts the authority of the House. The above two scenarios exemplified by the actions of the House Business Committee and of the Speaker conform to a long held parliamentary tradition that, whenever the Speaker is confronted by a choice between the House, a Committee or an individual Member of the House, he always chooses the House for resolution.

Hon. Members, I hasten to caution that the discretion that the House has lent the Speaker ought not to be construed by Members as a convenient avenue of circumventing the carefully woven fabric of the committee system under the Standing Orders. Majority of the work of the House is conducted in committees which have at their disposal relevant sectorial experience and expertise in their respective mandates and the assistance of competent technical officers both from within and outside Parliament. Accordingly, a decision to countermand the recommendation from a Committee of the House should be viewed as an exception and not the rule.

Consequently, in the exceptional circumstance where a Member is genuinely aggrieved by the recommendation of a committee or the manner in which his or her legislative output is being processed by a committee, two secondary avenues for seeking direction or redress exist. First, and with regard to inordinate delays in the consideration or processing of a legislative proposal, the Member may move the House Business Committee to seek a resolution of the House for the advancement of its legislative mandate. Secondly, where a committee has made an adverse recommendation with regard to a legislative proposal, the Member may provide the Speaker with relevant information to inform his consideration of the Report and recommendation of the Departmental Committee.

From the foregoing, you will note that the discretion granted to the Speaker by Standing Order No.114 is only with regard to the recommendation made by the departmental committees. Hon. Members, as you are aware, the pre-publication scrutiny in our current legislative process has two steps namely: money-Bill certification and consideration by the relevant committee. If a legislative proposal is determined to have money-Bill aspects contemplated under Article No.114 of the Constitution, it is forwarded to the Budget and Appropriations Committee for consideration and recommendation in consultation with the Cabinet Secretary for the National Treasury. On the other hand, if the proposal is determined not to have any money-Bill aspects, the Standing Orders require the Speaker to forward it to the relevant committee for initial consideration. In considering a legislative proposal, the relevant committee checks on such issues as constitutionality, existing provisions in law or conflict with other existing law without proposed amendment or repeal.

As to whether that process adds value, I wish to state as follows: Firstly, Article 114 of the Constitution is a constitutional requirement. It is not a procedure or step that the House has a decision over as the House may proceed “only in accordance with the recommendation of the Budget and Appropriations Committee after taking into account the views of the Cabinet Secretary for the National Treasury”.

Therefore, there is no question as to whether the process is necessary or not. Indeed, Article 114 of the Constitution expressly requires the House to only proceed with the consideration of a money bill in line with the recommendation of a committee mandated with that task and after

taking into account the views of the Cabinet Secretary responsible for finance. This House has, in its Standing Orders, mandated the Budget and Appropriations Committee as the relevant committee contemplated by the Constitution. Consequently, the Speaker has no discretion with regard to the recommendation made by the Budget and Appropriations Committee on a proposal that has been certified to contain money-Bill aspects.

Hon. Members, on the third question of whether a Member can reintroduce a legislative proposal after a negative decision by the relevant committee, I note that the Standing Orders do prohibit the reintroduction of a legislative proposal in the same or an enriched form. The United States of America (USA) Congress publishes approximately 2,000 bills every year.

The practice is conscious of the fact that not all the published Bills will be considered by the House, or be concluded if at all considered. However, it is the duty of the processes of any legislature to not only facilitate Members to undertake their duty, but to also facilitate the display of the performance of that very duty.

Undeniably, not all Bills that are published become law. Some Bills are published to cause an action, resolve issues of concern to the people or elicit national debate on the subject. For instance, in the Ninth Parliament, the then Member for Konoin, Hon. (Dr.) Julius Kones, sponsored the Tea (Amendment) Bill with the intention of causing the Executive to take certain actions in the tea sector. No sooner had the Bill been published than the Executive, not only went ahead to take administrative actions to address concerns in the tea sector at the time, but also introduced a concurrent Bill. No wonder, after Senator Cheruiyot published his Tea Bill and action started in both Houses, the Executive started pushing for changes in the tea sector.

Similarly, during the Eleventh Parliament, the then Member for Mukurweini, Hon. Kabando wa Kabando, proposed an amendment to the Central Bank Act to require the Central Bank of Kenya (CBK) to put in place mechanisms to enable the public to participate in Government securities through electronic means and in lower minimum denominations. Soon, thereafter, the CBK instituted measures that saw the reduction of the minimum investment in Government securities from Kshs50,000 to Kshs3,000 and the introduction of phone-based trading in those securities.

Therefore, I am convinced that we should make our processes less difficult and ensure that they are facilitative to Members. As the Speaker, I will not hesitate to disagree with a committee where it is being unnecessarily obstructive.

Hon. Members, whereas the Member has raised valid questions that have constitutional grounding particularly in respect to Articles 94 and 95 of the Constitution on the role of Parliament, the processes in question are ingrained in the Standing Orders and derived from constitutional requirements. At present, no catastrophic or terminal failure has revealed itself with regard to the functioning of the committee system and the pre-publication scrutiny procedure established by the House to sieve the legislative works submitted for consideration by the plenary.

Despite appreciating that the structure of the committee system is firm, I am constrained to admit that the statistics of the legislative work of individual Members pending before the Budget and Appropriations Committee and the various departmental committees are worrying. If they are left unchecked, they may indeed disillusion the affected Members and discourage others from exercising their constitutional mandate to legislate. It is, therefore, my finding that some departmental committees are misapplying the provisions of Standing Order No. 114 on pre-publication scrutiny.

The intention was not for the departmental committees to curtail the legislative authority of the House or to stop Members from publishing Bills but, rather to facilitate them in this

endeavour. I am, indeed, concerned by the high number of legislative proposals that have been lying in departmental committees for far too long. Some of them have been before committees for over a year. For instance, on 17th October 2019, the Committee deferred making a decision on a legislative proposal by Hon. George Kariuki, MP, titled: The Constitution of Kenya (Amendment) Bill, 2019. That decision is still pending one year down the line. This is a blatant abuse of the parliamentary process and should not be allowed.

(Applause)

In any case, should the Committee find difficulty in getting views of the Cabinet Secretary as required, the same should be reported to allow the House to make an appropriate resolution in the circumstances.

Hon. Members, to ensure the processing of these proposals one way or the other, and to safeguard the authority of the House, I hereby direct as follows:

1. THAT, all departmental committees have until 3rd November 2020 to consider all legislative proposals before them, whose 21 days have expired and make their recommendations known to me on or before 3rd November, 2020.
2. THAT, failure to comply with the above-mentioned directive will leave the House Business Committee with no other option but to follow the precedent set in 2019 by immediately seeking an order of the House for authorisation to have the Bills published as legislative proposals.
3. THAT, the Procedure and House Rules Committee relooks at the Standing Order No. 114 and related provisions of the Standing Orders in respect of the value especially with regard to the role of departmental committees in pre-publication scrutiny. This is bearing in mind that once published, the same Bills are still committed back to the same committees for consideration, including conducting public participation. In making its recommendations, the Procedure and House Rules Committee should consider providing for an appellate mechanism during the pre-publication stage and before a recommendation is made to the Speaker.
4. THAT, at least once a week, the Clerk to publish, on the parliamentary website, the list of Members' legislative proposals which have been drafted and are awaiting the money-Bill recommendation or are undergoing pre-publication scrutiny in committees and brief the House Business Committee on regular basis on the same.

I thank you, Hon. Members.

MESSAGES

DECISION OF THE SENATE ON THE COUNTY OUTDOOR ADVERTISING CONTROL BILL AND THE SECTIONAL PROPERTIES BILL

Hon. Speaker: Sorry, Hon. Members. There is heavy business and you are going on recess today. Let us just deal with the business.

Hon. Members, pursuant to the provisions of Standing Order No. 41, I wish to report to the House that I have received two Messages from the Senate regarding its passage of the County Outdoor Advertising Control Bill (Senate Bill No. 19 of 2018) and the Sectional Properties Bill (National Assembly Bill No. 23 of 2019). The first Message conveys that:

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

“On Thursday, 8th October 2020, the Senate considered and approved the National Assembly amendments to the County Outdoor Advertising Control Bill (Senate Bill No. 19 of 2018).”

Hon. Members, you will recall that on Thursday, 25th June 2020, this House considered and passed the said Bill with amendments to Clauses 2, 3, 4, 10, 15 and 21. The Senate’s approval of the National Assembly’s amendments now concludes the bicameral consideration of the Bill in accordance with the provisions of Article 112(2) of the Constitution.

Hon. Members, the second Message relates to the passage of the Sectional Properties Bill (National Assembly Bill No.23 of 2019). The Message conveys that:

“On Thursday, 8th October 2020, the Senate considered and passed the Sectional Properties Bill (National Assembly Bill No.23 of 2019) with amendments to Clause 2 and now seeks the concurrence of the National Assembly.”

In this regard, I direct the Clerk to circulate the Senate amendments to all Members pursuant to the provisions of Standing Order No.145.

Further, the Senate amendments to the Bill are hereby committed to the Departmental Committee on Lands for consideration. The Committee is expected to submit its report before the amendments are considered by the House. For avoidance of doubt, the House is reminded that the National Assembly will only consider the amendments made by the Senate to the Bill and not any other part of the Bill.

I thank you.

Hon. Mukhwana Khamala.

PETITIONS

IMMINENT CLOSURE OF JOMO KENYATTA UNIVERSITY OF SCIENCE AND TECHNOLOGY – KAKAMEGA CAMPUS

Hon. Titus Khamala (Lurambi, ANC): Thank you, Hon. Speaker.

I, the undersigned, on behalf of the concerned students of the Jomo Kenyatta University of Agriculture and Technology (JKUAT), Kakamega Campus, draw the attention of the House to the following:

THAT, university education is one of the critical foundations for building the necessary technical human resource capabilities needed to drive the country towards achieving the Kenya Vision 2030 as well as establishing the country as a middle class economy;

THAT, in furtherance of the above vision, the Government embarked on an ambitious programme of expanding places for university education by accrediting more universities and establishing new campuses;

THAT, in 2011, the Jomo Kenyatta University of Science and Technology opened a constituent campus in Kakamega Town at Ambwere Furaha Building with an initial enrolment of 17 students, which has grown to more than 800 undergraduate and postgraduate students currently pursuing different courses;

THAT, from 2017, the political leadership in Kakamega and the County Government of Kakamega initiated plans to secure land to relocate the campus from the rented premises to its own premises and put up appropriate structures in support of permanent establishment of the campus;

THAT, the County Government of Kakamega has already secured for the campus approximately 3.5 acres of land with lecture rooms in Lurambi Constituency and another 50 acres in Likuyani Constituency;

THAT, the process of fully securing land for the campus began in 2017 and the final approvals were forwarded to the National Land Commission in 2019 for allocation of allotment letters and issuance of title deeds to the campus;

THAT, in a disappointing turn of events, on 15th June 2020, the management of JKUAT, Kakamega Campus, issued a short notice for permanent closure of Kakamega Campus by 30th August 2020 and directed students to either opt for online classes or relocate to other JKUAT campuses in Kitale, Kisii and Nakuru;

THAT, the abrupt closure of the campus is not in the best interest of the students given that it will adversely disrupt learning programmes for more than 800 students, some of whom had just one semester remaining to complete their undergraduate studies and occasion loss of livelihoods for staff and service providers in Kakamega Town, who were dependent on the university population;

THAT, the imminent closure has failed to take cognizance of the efforts made by the County Government of Kakamega to avail land in Lurambi and Likuyani constituencies for the permanent establishment of the campus and, hence, likely to erode the gains made in expanding opportunities for accessing university education;

THAT, the inconveniences and challenges associated with the imminent closure will potentially shatter the dreams of many undergraduate and postgraduate students at the affected campus because some of them may not be able to fund the relocation or opt for online classes given that technology courses cannot be effectively delivered online;

THAT, efforts by the local leadership and the student leadership to have the relocation halted have not yielded any fruits;

THAT, the matters in respect of which this Petition is made are not pending before a court of law, constitutional or legal body;

Therefore, your humble petitioners pray that the National Assembly, through the Department Committee on Education and Research:

- (i) Inquires into the issues raised in the Petition with a view to establishing the circumstances leading to the abrupt issuance of a memo for closure of the Jomo Kenyatta University of Science and Technology, Kakamega Campus, despite the progress made in providing land for permanent establishment of the facility at its own premises;
- (ii) Recommends to the Ministry of Education and the Commission for University Education to reverse the decision to close the campus so as to secure the interest of students whose studies are at the risk of being shattered by the abrupt closure;
- (iii) Makes any other recommendation it deems necessary in addressing the plight of the Petitioners.

And your petitioners will ever pray.

(Loud consultations)

Hon. Speaker: Hon. Mbadi.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Speaker. I wanted to contribute to this Petition but mostly now, to try to have some facts clarified. Hon. Khamala says that there

is a university campus in Kakamega which is about to be relocated. The way he was pronouncing it got us concerned because he was talking of “Kambas” being relocated from Kakamega. I think that has a very serious implication because that would be scary if Kambas were being relocated from Kakamega.

(Laughter)

Just to set the records straight, it is the JKUAT Campus which is situated in Kakamega Town that is being relocated. So, the petitioners are praying that the matter should be looked into. I support that fully. Really, university campuses have helped most of our towns grow. In fact, without those higher learning institutions in Kakamega Town and Bondo, just to mention the towns I am familiar with, they would just be dead towns. So, any attempt to relocate campuses is, in essence, killing the economy of those regions.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Iringo.

Hon. Kubai Iringo (Igembe Central, JP): Thank you, Hon. Speaker. Let me give my brief comments on this Petition by my friend, Bishop Khamala. As Hon. Mbadi has put it, I thought he was talking of “Kambas” but I took my time to get to know what he was talking about. Let us appreciate the fact that, that is a dialect issue. We have different dialects.

I also concur with the petitioner because once an institution has been established in a certain place and you decide to relocate it, you really inconvenience people. Some people will already have invested in that area in terms of constructing buildings for student hostels, among other facilities and amenities.

Once you relocate, you will kill that market. Some people might have borrowed loans to invest and once you close the university, they will end up not paying loans and their land will be auctioned. You will also inconvenience students. I support the Petition.

Hon. Speaker: Member for Emuhaya.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Speaker. I had to fight with the Leader of the Minority Party so that the Petition is not interfered with because I was concerned that it was affecting Kakamega Town. The relocation of campuses by the leadership of many universities has been rampant. We lost Eburnangwe Campus, and that affected the economy of that area in a big way. I am sure that the loss of Jomo Kenyatta University of Agriculture and Technology (JKUAT) Campus will affect the area.

I support the Petition.

Hon. Speaker: Member for Marakwet East.

Hon. Kangogo Bowen (Marakwet East, JP): Hon. Speaker, I beg to differ with my colleagues. The principal objective of establishing a university is to get skilled and specialised persons in their areas of education. The opening of so many universities across the country has brought down the standards of education. I am an alumnus of JKUAT, and it is very embarrassing that a once best ranked university in Africa is now ranked the lowest because of so many small campuses in places such as Mathare. In my view, we must stick to the principal objective of establishing universities and get quality graduates, and not to boost the economies of shopping centres.

Hon. Speaker: Member for Kiminini.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Hon. Speaker, I support the Petition. We need to understand that when a university is established, if programmes cannot sustain

themselves, there is no way it can continue to exist. Maybe, the cost of those Module II programmes should be increased. It is high time we allocated more money to the Higher Education Loans Board (HELB). This is not only happening in Kakamega. We have experienced the same in Kitale. It is true that when a university is established in an area, the economic activities and the Gross Domestic Product go up because there are extracurricular activities. That is because those students have to eat and get accommodation. You cannot force a university to be there if it has not broken even. It is the responsibility of local leadership to invest and sponsor more students to those campuses for purposes of breaking even. We should understand the logic that, that is a business venture and not a humanitarian activity. There was a Motion that was passed in the Senate and sponsored by Hon. Khalwale, that with devolution, we must have a university in every county. We know how much a university contributes to the economy of an area. It is like an industry and the local leadership must look for ways of sustaining them.

Thank you, Hon. Speaker.

Hon. Speaker: I hope you did not say rental income and extracurricular activities.

(Laughter)

I see. Which ones? Let us have the Member for Endebess.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Speaker. I support the Petition by Hon. Khamala. I want to urge the Committee that while it will be looking at this Petition, it should come up with standards that universities must adhere to before establishing campuses. This is because when you establish a campus and people enroll for various courses and then you close it down, you create an economic catastrophe. You will interrupt their studies and yet, they will have paid and moved closer to the campus. In Kitale, we had Mount Kenya University establishing several campuses but after they were closed, those who wanted to advance their education were left stranded. How do you transfer your programme to another campus? The Committee must look into these issues. The Petition is in good faith.

Hon. Speaker: Member for Rarieda.

Hon. Otiende Amollo (Rarieda, ODM): Hon. Speaker, I wish to support the Petition. In doing so, we should take cognisance of the fact that there appears to be a conscious decision by the Government, particularly the Ministry of Education, to discourage opening of campuses and recentralising them. That policy should be reconsidered. First of all, the Constitution of Kenya requires decentralisation and access to services all over the country. The idea of opening campuses is in keeping with the spirit and letter of the Constitution, and their closure directly negates that requirement of the Constitution.

Hon. Speaker, secondly, we are aware that we live in a country where, for almost four decades, we were guided by Sessional Paper No. 10 of 1965, which appeared to concentrate resources in areas that were deemed to be productive, and those resources included educational facilities. There are many parts of this country which did not benefit from having a university and the closest they came is by having those campuses. When you close down those campuses, you will be going back to that Sessional Paper that created injustices for many decades.

It is also true that in many instances, the decision to set up the main universities followed the leadership of this country. Apart from the University of Nairobi and Kenyatta University, most universities that were established later followed that pattern. The only way to defeat that pattern is to allow other areas to have satellite campuses. In my view, our question should be: Does the campus have proper facilities? Are we maintaining proper quality and standards? If we are, there

is no reason to close it. While I support the Petition, I realise that the original campus was not appropriately placed as it was on the fourth floor of a building which no doubt had neighbours like butcheries and salons. That is definitely not appropriate for a learning environment. While the petitioner notes that the county government went ahead and secured 50 acres, I want to note that, that is the kind of situation you want for a campus.

I support the Petition.

Hon. Speaker: Hon. Members, a Petition just requires short comments. I will have one more contribution from the Member for Bomachoge Borabu.

Hon. (Prof.) Zadoc Ogutu (Bomachoge Borabu, Independent): Thank you, Hon. Speaker. I want to join my colleagues in supporting this Petition on grounds of accountability. We should stand our ground and question the leadership of the universities on some of their decisions. In the 1990s and early 2010, universities went on massive expansion without the approval of the right institutions. Since they are now dry of students from respective catchments, they are closing campuses without considering the damage that will have on communities. We must hold them accountable.

I support.

Hon. Speaker: The Petition is referred to the Departmental Committee on Education and Research, in accordance with the Standing Orders.

Next Order.

PAPERS LAID

Hon. Speaker: Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

(i) Legal Notice No. 188 of 2020 relating to Value Added Tax (VAT) (Amendment) Invoice Regulations from the National Treasury.

(ii) Report on Study of Perceptions and Experiences of Corruption in the Public Service in Kenya from the National Crime Research Centre.

(iii) The Report of the Auditor-General on Financial Statements for the Industrial and Commercial Development Corporation for the Financial Year ended 30th June, 2018, and certificates therein.

(iv) The Reports of the Auditor-General and Financial Statements in respect of the following institutions for the Financial Year ended 30th June, 2019, and the certificates therein:

- a) The Judiciary Service Commission;
- b) The State Law Office and Department of Justice;
- c) The State Law Office and Department of Justice Official Receiver;
- d) The State Department for Fisheries, Aquaculture and the Blue Economy;
- e) The State Department for Industrialisation;
- f) The State Department for Co-operatives;
- g) The Office of the Director of Public Prosecutions; and
- h) The Industrial and Commercial Development Corporation.

Thank you.

Hon. Speaker: Chairman of the Departmental Committee on Justice and Legal Affairs.

Hon. Clement Kigano (Kangema, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House today, Thursday, 15th October, 2020, Afternoon Sitting:

Reports of the Departmental Committee on Justice and Legal Affairs in three sets:

(i) Consideration of the Independent Electoral and Boundaries Commission (IEBC) (Amendment) Bill, National Assembly Bill No. 24 of 2019;

(ii) Consideration of the Referendum Bill No. 2, National Assembly Bill No. 14 of 2020; and

(iii) Consideration of the Statute Law Miscellaneous (Amendment) Bill, National Assembly Bill No. 15 of 2020.

Thank you.

Hon. Speaker: The Referendum Bill No. 2, is it National Assembly Bill No. 14 or No. 15?

Hon. Clement Kigano (Kangema, JP): Hon. Speaker, the Referendum Bill No. 2, is National Assembly Bill No.14. It is not No.15.

Hon. Speaker: Very well. The Chairperson of the Departmental Committee on Lands.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House today, Thursday, 15th October, 2020, Afternoon Sitting:

Report of the Departmental Committee on Lands on its consideration of a Public Petition by the residents of Vota, Mua Ward in Machakos Town Constituency regarding the obstruction of tarmacking of Konza-Katumani Road.

Thank you.

Hon. Speaker: Before we commence, allow me to direct as follows so that we proceed in a neat way, the reason why I was asking Hon. Muturi Kigano whether the Referendum Bill No. 2, is National Assembly Bill No.14 or No 15 is because there was another Report that was tabled by the Constitutional Implementation Oversight Committee (CIOC) on the same subject of referendum. I think, in fairness to the House, it will be decent and neater if the two committees can have a sitting during recess period so that they can harmonise the two Bills. They are on the same subject. Hon. Kigano.

Hon. Clement Kigano (Kangema, JP): Hon. Speaker, I informally brought this to the attention of the Leader of the Majority Party some time back. What can happen is that during the Committee of the whole House stage, we can collapse into one.

Hon. Speaker: Would it be neater if ---When the Bill comes for Second Reading, it will be general debate. However, the House in plenary will benefit a great deal if there will have been a meeting between the Departmental Committee on Justice and Legal Affairs and the CIOC. That is because the subject is the same. You could begin by agreeing on general approaches and jointly give us a way forward so that, as Members debate, there is no confusion. Get in touch with the Office of the Clerk. If you can look for Hon. Kioni, you can agree on the dates that your two committees can meet. It should not be difficult to come up with some broad agreements.

QUESTIONS AND STATEMENTS

Hon. Speaker: The first Question is by the Member for Westlands, Hon. Timothy Wanyonyi.

Question No. 253/2020

DELAYED CONSTRUCTION OF PEDESTRIAN FOOT BRIDGES IN WESTLANDS CONSTITUENCY

Hon. Tim Wanyonyi (Westlands, ODM): Thank you, Hon. Speaker. I wish to ask Question No.253/2020 to the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works:

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

- (i) Could the Cabinet Secretary explain why the construction of a foot bridge at Githogoro Village along the Nairobi Northern Bypass is yet to be undertaken despite the Ministry having given an undertaking to do so?
- (ii) Could the Cabinet Secretary further explain when a pedestrian foot bridge will be constructed on Waiyaki way along the Nairobi-Nakuru Road near the ABC Place-APDK/Red Hill Road Junction to facilitate easy access of APDK Offices by persons with disabilities?
- (iii) Could the Cabinet Secretary explain why the Ministry does not incorporate social inclusion as part of the road designs during construction of major road projects and whether there are any plans to do so?

Hon. Speaker: The Question will be replied before the Departmental Committee on Transport, Public Works and Housing. Next Question is by the Member for Kathiani, Hon. Mbui.

Question No. 256/2020

MEDICAL ASSISTANCE FOR VILLAGE HEADMAN OF ITHAENI SUB-LOCATION

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Speaker. I rise to ask Question No.256/2020 to the Cabinet Secretary for Interior and Coordination of National Government:

- (i) Is the Cabinet Secretary aware that one Peter Nzioki Munyao of ID No. 0752089, the village headman for Makumbini in Ithaeni Sub-location, Kaewa Location, Kathiani Constituency broke his leg while enforcing the curfew imposed during this COVID-19 pandemic period?
- (ii) Could the Cabinet Secretary explain the measures the Ministry will take to assist the officer to settle the expenses and the medical bills incurred as a result of the incident, considering that the officer got injured while on duty?

Hon. Speaker: The Question will be replied before the Departmental Committee on Administration and National Security. Next Question is by the Member for Mwingi West.

Question No. 270/2020

DELAY IN PAYMENT OF COMPENSATION TO REBECCA KILYUNGI

Hon. Charles Nguna (Mwingi West, WDM-K): Thank you, Hon. Speaker. I wish to ask Question No.270/2020 to the Cabinet Secretary for Education:

- (i) Could the Cabinet Secretary explain when the Ministry intends to pay one Rebecca Kilyungi of ID No. 0402320 compensation of Kshs3,385,800, which was awarded by the Magistrate's Court in Mwingi Vide Civil Case No. 188 of 2008?
- (ii) What has caused the delay in effecting the said compensation, which was awarded following the death of one Lucas Mutuku Kilyungi, who passed on following a road accident involving a Ministry of Education Motor Vehicle Registration No. GK A945G?

Thank you Hon. Speaker.

Hon. Speaker: Question to be replied before the Departmental Committee on Education and Research. Next Question by the Member for Meru County.

Question No. 287/2020

MEASURES TO CURB GENDER-BASED VIOLENCE IN MERU COUNTY

Hon. (Ms.) Kawira Mwangaza (Meru CWR, Independent): Hon. Speaker, I beg to ask the Cabinet Secretary for Interior and Coordination of National Government the following Question:

- (i) Could the Cabinet Secretary provide a list of all gender-based violence cases that are recorded to have taken place in Meru County since January 2019?
- (ii) What is the status of investigations into the said gender-based cases and progress of prosecution of the culprits, if any?
- (iii) What measures has the Ministry put in place to bring to an end the rising cases of gender-based violence in the country?

Hon. Speaker: Question to be replied to before the Departmental Committee on Administration and National Security. Next Question is by the Member for Voi.

*Question No. 289/2020*PLAN FOR CONSTRUCTION AND REFURBISHMENT
OF VOI-TAVETA ONE-METRE GAUGE RAILWAY LINE

Hon. Jones Mlolwa (Voi, ODM): I wish to ask Question No.289/2020 to the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development.

- (i) When will the construction and refurbishment works on the Voi-Taveta One-Metre Gauge Railway (MGR) Line commence, considering that the Government is keen on revamping railway transport in the country?
- (ii) Could the Cabinet Secretary provide plans on refurbishment of the said railway line considering its importance in boosting transport network and improving the economy of the region?

Hon. Speaker: Question to be replied to before the Departmental Committee on Transport, Public Works and Housing. Next Question is by the Member for Nyando.

Question No. 296/2020

POLICY PLANS FOR INTERNS ENGAGED BY STATE DEPARTMENTS

Hon. Jared Okelo (Nyando, ODM): Hon. Speaker, I beg to ask the Cabinet Secretary for Public Service, Gender and Youth Affairs, the following Question:

- (i) What specific policy plans does the Ministry have for interns engaged by various State Departments for a year and whose tenures is about to end?
- (ii) In view of the service rendered to the public by the interns, could the Government consider renewing the 2019/2020 internship engagement or absorbing the interns permanently in the Public Service?

Hon. Speaker: Question to be replied to before the Departmental Committee on Labour and Social Welfare. Hon. Washiali.

Hon. Benjamin Washiali (Mumias East, JP): Hon. Speaker, pursuant to Standing Order No. 44 (2) (c), I wish to request....

Hon. Speaker: No! We are not yet there. What appeared before me was a Question. What I know is that I approved a Question.

Hon. Benjamin Washiali (Mumias East, JP): I do not have a copy of that Question, Hon. Speaker. Can I have a copy of that, please?

(Loud consultations)

Hon. Speaker: Okay. Proceed. Hon. Washiali.

Hon. Benjamin Washiali (Mumias East, JP): Hon. Speaker, what I have is a statement request and not a Question.

Hon. Speaker: Proceed.

STATEMENTS

CANCELLATION OF RELIGIOUS MEETINGS IN THE COUNTRY

Hon. Benjamin Washiali (Mumias East, JP): 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 Administration and National Security on the recently cancelled religious meetings in various parts of the country.

Hon. Speaker, Articles 36 and 37 of the Constitution guarantee freedom of association and assembly which are all critical prerequisite to a thriving and a progressive democracy. Furthermore, Article 32 safeguards freedom of religion, conscience, belief and opinion. Officials of the National Police Service recently cancelled high profile public religious functions in Mumias East and Matungu constituencies in contravention of the Constitution and questionable circumstances. They had no substantial basis and it involved unnecessary regrettable tear-gassing of Christians. Hon. Speaker, I wish to go through this Article because it is very important.

Hon. Speaker: No. No. You cannot read to us the law. Those who do not know the law and are here ought not to be here. Those are our rules.

Hon. Benjamin Washiali (Mumias East, JP): Okay. Hon. Speaker, I wish to proceed then. It is on account of those public concerns that I seek for a Statement from the Chairperson of the Departmental Committee on Administration and National Security on the following:

- (i) What were the specific reasons that led to the cancellation of those meetings?
- (ii) Is the Public Order Act that was cited by the Officer Commanding Police Station in both cases on cancelling the events still relevant and practical in the current constitutional dispensation?
- (iii) What informed the unnecessary use of force including the use of teargas against Christians who had gathered peacefully to undertake their religious duties?

Thank you Hon. Speaker.

Hon. Speaker: Is the Chair of that Committee in the House? Hon. Koinange! Hon. (Ms.) Fatuma Gedi? Yes?

(Hon. (Ms.) Fatuma Gedi stood up in her place)

It looks like you do not have a card? Why can you not press the intervention button?

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

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Speaker, I have heard Hon. Washiali and I commit to give a response after the recess.

Hon. Speaker: Very well. We are in the second segment. The Chairman of the Departmental Committee on Trade, Industry and Co-operatives.

PURCHASE OF PADDY RICE BY THE GOVERNMENT

Hon. Ali Adan (Mandera South, JP): Hon. Speaker, I wish to respond to a request for a Statement by Hon. Kabinga Wachira of Mwea. He requested for a Statement regarding the purchase of paddy rice grown in Mwea Irrigation Scheme by the Government. Just to bring the House up to speed, the question was:

Could the Cabinet Secretary explain the plans the Ministry has put in place to ensure the smooth and sustainable implementation of the Presidential Directive of 1st February 2020 on the Government buying paddy rice directly from farmers at a price of Kshs85?

Hon. Speaker, as directed by His Excellency the President, the society has been able to pay farmers for paddy rice delivered at Kshs85 per kilogramme. The Kenya National Trading Corporation (KNTC) has to date procured a total of 3,909 metric tonnes which is equivalent to 78,188 bags worth Kshs547, 314, 690 through Mwea Rice Growers Multipurpose Co-operative Society for white rice at Kshs140 per kilogramme as at 7th October, 2020.

Hon. Speaker, the KNTC has equally paid Kshs547,314,690 as at 7th October 2020 to rice procured and hence there are no outstanding bills as at 7th October 2020 owed to the society.

Hon. Speaker, as at 7th October 2020, the Kenya National Trading Corporation had sold a total of 31,879 bags, equivalent to 1,594 tonnes of locally produced rice worth Kshs201,695, 890 at an average unit price of Kshs160 per kilogramme of Mwea Pishori Rice and Kshs110 for Sindano Rice, respectively.

Hon. Speaker, the second question of the Hon. Member is on the same Presidential directive of February 2020 on the establishment of a paddy rice revolving fund to facilitate the Government in buying paddy rice from farmers, and whether it is being implemented.

The Corporation was allocated Kshs660 million as a revolving fund to purchase paddy rice. In part (iii) of the Statement Request, the hon. Member seeks to know when the KNTC is going to pay Mwea Rice Growers Multipurpose Co-operative Society for paddy rice worth Kshs200 million so that it can pay farmers. The KNTC temporarily suspended farmers' procurement of rice from Mwea Rice Growers Multipurpose Co-operative Society due to non-moving stocks amounting to 3,335.5 tonnes in KNTC's warehouses, which is equivalent to 66,708 bags worth about Kshs533,664,000.

Rice distribution operation has been adversely affected by the closure of all learning institutions, suspension of recruitments by the disciplined forces and the scaling down of operations by other rice consuming Ministries, Departments and Agencies (MDAs), thereby slowing down the movement of the commodity from the farmers. There has been a lot of excess rice in the warehouses. As rice distribution operation resumes to the various MDAs in line with the projections given, the KNTC will be in a position to resume the uptake of paddy rice at Mwea and pay the farmers.

Hon. Speaker, there is a very big challenge because the warehouses are full. The stocks are worth Kshs550 million and the next harvest is going to be in a couple of months. What is going to happen to the farmers? Despite the fact that rice distribution has been adversely affected by the closure of all learning institutions, suspension of recruitment by the disciplined forces and the

scaling down of other rice consuming MDAs, in my view, the KNTC has continued to discharge its role well. In addition, to further ensure sustainability of the project, the KNTC has devised various strategies for business development to enable more rice sales thereby curing the slow turnaround rate, which has inevitably led to the suspension of further procurement of rice from Mwea Rice Growers Multipurpose Co-operative Society. The strategy that the KNTC is currently pursuing to expand its rice clientele base include packaging and re-branding programmes and investing in aggressive marketing outreach with a view to increasing its market reach and coverage.

As a way of helping the farmers, it is important to compel the National Cereals and Produce Board (NCPB), which has now assumed the role of Strategic Food Reserve (SFR) to provide for strategic food reserve resources for purchase of rice. Also, for the Government to speedily implement the Warehouse Receipt System Act to reduce, among other things, post-harvest loss and rice price fluctuation. Obviously, a warehouse receipt is an instrument which farmers can use to draw some finances against their stocks.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Mwea.

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Speaker. I agree with the Report presented by the Chair of the Departmental Committee on Trade, Industry and Co-operatives. However, there are some facts on the ground that we need to look at.

Some Kshs200 million worth of rice is lying in Mwea Rice Growers Multipurpose Co-operative Society stores and they have no capacity to take any more from farmers. Those stocks are deliveries by farmers who have not been paid. As I have always said, the returns to the farmers are so low that, if they are not paid for what they deliver, they really suffer. In those circumstances, Mwea Rice Growers Multipurpose Co-operative Society is either going to be forced to take a loan to pay the farmers who have delivered that rice or the farmers will go without payments – something that would be detrimental to the farmers.

Some businesspeople have started taking advantage of that particular directive because of that temporary halting of purchase of rice from Mwea and the Kano Plains. Businesspeople are travelling all the way from Nairobi to buy rice in Mwea at cheap prices and hence exploiting the farmers who are unable to deliver their rice to Mwea Rice Growers Multipurpose Co-operative Society, whose storage facilities are currently full. This is likely to escalate the problem. The problem is likely to be even bigger in December, when we expect to have a bumper harvest. We have a lot of rice in the field. Again, farmers will not know where to take it if the KNTC does not come up with an immediate solution. I appreciate the mid-term and long-term plan by the KNTC, but the immediate solution to their current problem needs to be looked into.

It is also worth noting that Mwea Rice Growers Multipurpose Co-operative Society, or the site itself, has lost its traditional markets due to the high but favourable prices that the directive has brought to the farmers. As we appreciate it, we also know that there are some markets that cannot sustain that particular price and, therefore, they cannot buy rice from Mwea Rice Growers Multipurpose Co-operative Society, hence exacerbating the problem.

As I said, Mwea Rice Growers Multipurpose Co-operative Society will not be able to buy rice from farmers in December because of financial challenges as well as storage challenges. This, again, will be a major problem to farmers in both Mwea and the Kano Plains. This problem is not as small as the Ministry probably thinks. If nothing is done, both Mwea Rice Growers Multipurpose Co-operative Society and its sister society called Lainisha are likely to close down. If they close down, the farmers will have nowhere to turn to for financing because rice farmers in

Mwea have no title deeds. Therefore, they cannot go to banks to get finances. They rely on the two co-operative societies. If the two co-operative societies close down, the whole industry of rice farming in Mwea, which is the largest scheme in this country, will be affected. I know there are people who will be very happy with such a development because it will create an avenue for importing cheap and substandard rice into the country.

I thank the Departmental Committee on Agriculture and Livestock and the Ministry of Agriculture, Livestock and Fisheries. They have put in a lot of effort to increase rice production in the country thus, saving the country a lot of foreign exchange that would have gone towards importation of rice. If that directive is not fully implemented, it means people will turn back to importation. People will exploit that gap and a lot of foreign exchange will be lost.

Hon. Speaker, in conclusion, I request that the Government injects more money into the initiative so as to buy the rice that is in stock in Mwea. It can be held there but paid. We are lucky because even if you kept paddy rice for five years, it will not go bad. You can preserve rice in paddy form before you mill it. So, if the Government can avail some funds, pay for that stock that is in Mwea so that farmers can be paid and then work out on storage in December, that problem can be temporarily sorted out.

So, it is my humble prayer that the Departmental Committee on Trade, Industry and Co-operatives finds some time during the recess period to visit both Mwea and the KNTC before engaging the National Treasury so as to have a temporary solution to this problem, which is likely to be a major problem in Mwea. I thank you.

Hon. Speaker: Well, I thought in the Statement the Chairman indicated that, perhaps, it is high time the Strategic Grain Reserve considers also purchasing rice. We do not need to debate that. It is something that the Committee should pursue. Both your suggestion and what they have said should be pursued.

Next is the Chairman, Budget and Appropriations Committee (BAC).

STATUS REPORT ON LEGISLATIVE PROPOSALS REFERRED TO BUDGET AND APPROPRIATIONS COMMITTEE

Hon. Kanini Kega (Kieni, JP): Thank you Hon. Speaker. I rise to give a status report on the legislative proposals referred to the Budget and Appropriation Committee (BAC).

Hon. Speaker, I am happy that you have given a ruling. It is as if we read your mind. We had prepared a report from BAC. It will be brief because we have had quite a number of legislative proposals coming to the Committee and Members were sometimes complaining that BAC is the deathbed for legislative proposals. However, I am happy that we have processed quite a number of them.

Hon. Speaker, Article 114 of the Constitution as read together with the provisions of Standing Orders 114 (3)(b) and 6 provide for the referral and processing of legislative proposals which are draft money bills. Specifically, Standing Order 114 (3) (b) states that where the Speaker is of the opinion that a legislative proposal is a draft money bill in terms of Article 114 of the Constitution, he directs that the proposal be referred to the Budget and Appropriations Committee and the proposal shall be proceeded with only in accordance with the recommendations of the Committee after taking into account the views of the Cabinet Secretary responsible for finance.

Hon. Speaker, it is worth mentioning that the process of consideration of the draft money bills is meticulous, in that the Committee has to consider and evaluate technical briefs prepared by the Parliamentary Budget Office which provide a detailed examination of the manner in which the

proposal affects the current and future budgets and may include implications on tax measures. It considers the views of the Cabinet Secretary, National Treasury and holds discussions with the Member sponsoring the proposal before making a decision.

Hon. Speaker, at times, the Committee defers making its decision awaiting to receive comments from the Cabinet Secretary, National Treasury while, on other occasions, the Members sponsoring the legislative proposals are not available.

Hon. Speaker, in this regard, since the commencement of the 12th Parliament, the Budget and Appropriations Committee has processed 142 legislative proposals of which 117 were processed from January, 2018 to June, 2020 while 25 were processed between the months of July and September, 2020.

Hon. Speaker, between March and June 2020, no Bills were considered; the reason being during that period the Committee had to deal with two supplementary estimates, Division of Revenue Bill and the annual estimates. You will also recall that this was a difficult time on account of the lockdown infused by the COVID-19 pandemic.

Hon. Speaker, during the two months of July and September, we considered 25 Bills. For ease of reference, I have attached herewith annexures 1 to 5 on the status of all the legislative proposals that have been referred to the Budget and Appropriations Committee.

Hon. Speaker, I would like to inform the House that when a legislative proposal is referred to Budget and Appropriations Committee and it has financial implications, we must make decisions as to whether it should proceed and how it should be financed. Already, the macro framework was decided in this House for the next three years and thus, the overall resource envelope is restricted. Thus, some legislative proposals must be rejected on account of lack of resources. After all, the Legislature does not legislate in vain and if the legislative proposal requires billions of shillings, then that proposal must wait for when resources will be available.

As I conclude, Hon. Speaker, let me also voice my concern on over-legislation. There are so many legislative proposals in the social sector and very little on economic and public finance. It may be important that a technical evaluation is done as to why this is happening.

Hon. Speaker, I want to assure you and the entire membership of this august House that the Budget and Appropriations Committee continues to be committed to dispense the draft money Bills referred to it promptly, so as to hasten and facilitate the legislative role of this House as enshrined in our Constitution.

I, therefore, urge all stakeholders involved in the processing of the money Bills to cooperate.

Hon. Speaker, here attached are all the Bills and I want to invite Members to check the status of their Bills. I only have 19 legislative proposals which I want to commit to this House that by 3rd or by the time we resume from recess, we will have processed all of them.

Hon. Speaker, I thank you and submit.

Hon. Speaker: Hon. Ichung'wah, you must have a card. Is it a victim of the Public Order Act?

(Laughter)

Hon. Kimani Ichung'wah (Kikuyu, JP): Hon. Speaker, my card is a victim of my otherwise many good suits. So, I put it in one of my good suits and I cannot trace which one it is in. However, I will take time over the short recess to go through the suits and see where my card is.

Hon. Speaker, I want to comment on the issue that has been raised by the Chairman because, indeed, the Budget and Appropriations Committee puts in a lot of work and I can tell you that being a Chair *Emeritus* of this Committee. A lot of time is spent by the Committee outside of the budget cycle in consideration of the legislative proposals.

However, you also appreciate that, at the beginning of this Session, I think in February last year, the House Business Committee under your leadership was kind enough to fast track a number of Private Members' Bills or legislative proposals and actually exempted some from the rigorous process of going through departmental committees. That is why we have seen, out of that effort by the HBC, a number of legislative proposals have seen the light of day and coming before the House for debate. I appreciate that even my own Bill on the establishment of a Disaster Management Authority was concluded this morning.

At the beginning of this Session, I raised the issue of a number of legislative proposals lapsing. The Chair has mentioned the Committee has spent tremendous time and public resources to consider over 140 legislative proposals. This is because when they meet it is public resources they are expending. If we are unable to process these legislative proposals within this Session of Parliament this year, and we only have four weeks after we come back... Also, if we continue not knowing how COVID-19 will behave, we will have three or at most four sittings in a week. We may see a number of proposals lapsing at the end of this Session.

Hon. Speaker, I had sought your guidance. If I remember well, this is a matter you referred to the House Business Committee (HBC) to consider. That, we exempt many of the Members' legislative proposals from lapsing at the end of this Session; so that the tremendous work done by the Budget and Appropriations Committee and other Departmental Committees does not go to waste.

I want to beg you to direct the Leader of the Majority Party and the leadership in the HBC to facilitate a Procedural Motion where we will exempt many of these proposals from lapsing. I appreciate what the Chair has said, that the Departmental Committee on Finance and National Planning had a Public Finance Management (Amendment) Bill that is still somewhere in the works. Maybe the Chair is concerned on economic Bills touching on the economy and financial matters being given priority by the HBC, maybe in the next half of this Session when we come back from the short recess.

Thank you, Hon. Speaker.

Hon. Speaker: Yes. This is a matter that I think will be considered because I have heard several Members. Indeed, this is one of the reasons why I went into details to give the statistics of all the legislative proposals that have come from individual Members this Session. Maybe when we resume, we should consider a situation in which those that will be... If it is a Bill, going to the second year, if we go by the provisions of the Standing Orders, it may be lapsing.

Yet, a lot of public expenditure has gone into preparation, the Committee sittings and consideration by the officers of the Parliamentary Budget Office. I think this is something that the HBC will look into. So that, what Members have set out to do is not frustrated by the fluxion of time.

Leader of the Majority Party, you have the Floor.

STATEMENT

CONSIDERATION OF BUSINESS UPON RESUMPTION FROM RECESS

Hon. Amos Kimunya (Kipipiri, JP): Hon. Speaker, pursuant to the provisions of Standing Order No.44(2)(a), I rise to give the following Statement on behalf of the HBC which met on Wednesday, 13th October 2020, to prioritise business for consideration.

As Members are aware, the House is scheduled to proceed on a short recess commencing tomorrow, basically at the end of today, in accordance with the calendar of the House as amended on Tuesday, 30th June 2020. In this regard, the HBC has not scheduled any business for next week.

However, upon resumption from recess on Tuesday, 3rd November 2020 at 2.30 p.m. the following Business will be prioritised:

- (i) Sessional Paper No.2 of 2019 on the National Policy on Gender and Development;
- (ii) Sessional Paper No.3 of 2019 on the National Policy for eradication of Female Genital Mutilation;
- (iii) The County Governments (Amendment) Bill (Senate Bill No.13 of 2018);
- (iv) The County Statutory Instruments Bill (Senate Bill No.21 of 2018)
- (v) The Statutory Instruments (Amendment) Bill (Senate Bill No.24 of 2018); and,
- (vi) The Impeachment Procedure Bill (Senate Bill No.15 of 2018) and any other listed business today which will not be completed, will then be carried forward to that week.

Hon. Speaker, currently there are no Questions scheduled for reply. But the House will be updated on this when we resume the sittings. The HBC will reconvene on Wednesday, 4th November 2020 to schedule business for the week thereafter.

I now wish to lay this Statement on the Table of the House.

Thank you.

(Hon. Amos Kimunya laid the document on the Table)

Hon. Speaker: Next Order!

PROCEDURAL MOTIONS

CONSIDERATION OF CERTAIN BUSINESSES RECEIVED DURING OCTOBER/NOVEMBER RECESS

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

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 from 16th October to 2nd November 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 (Committal 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; and,
- (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 that relates to (Senate amendments to Bills originating in the National Assembly), and, upon resumption of the House, report such fact to the House.

Hon. Members, this is a Procedural Motion which we do to safeguard the processing of Bills. Messages and Communication between the Houses from the Executive, while we are away; so that, we do not pile up business waiting for us to come. This is something we do every time we are taking a break. We do not need to spend much time on it.

I beg to move and ask the Leader of the Minority Party, Hon. Mbadi to second.

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

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Speaker. I want to second this Procedural Motion. This is a new practice we have developed which I think is very good. Previously, we used to have cases where if there is a communication from the presidency or the Senate then, you would wait until we report back, or had to reconvene a Special Sitting just to read to us the communication and refer it to the Committee.

What we are doing is to ask the House to allow the Speaker to refer these communications when they come to the Committee to start dealing with them. So, when we report back a Report from the Committee will be ready.

Hon. Speaker, I second.

(Question proposed)

Hon. Members: Put the Question!

(Question put and agreed to)

EXTENSION OF TIME FOR CONSIDERATION OF
A NOMINEE AS THE DATA COMMISSIONER

Hon. William Kisang (Marakwet West, JP): Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of Section 13 of the Public Appointments (Parliamentary Approval) Act, 2011 relating to extension of period for consideration of nominees for appointment to a public office, this House resolves to extend the period for consideration of the nominee submitted by His Excellency the President for appointment as the Data Commissioner by a further period of 14 days with effect from 28th October, 2020.

Hon. Speaker, in line with your Communication dated 12th October 2020, you directed that the Departmental Committee undertakes approval hearing on the nominee within 14 days from 13th October 2020. This implies that the approval hearing and debate by the House ought to be concluded by 27th of this month. In your Communication, you also noted that the 14 days period within which the Committee is expected to consider the nominee and table the report for debate will lapse during the short recess that we are proceeding to today.

Therefore, the Committee seeks extension of time for the 14 days that we have requested so that we can have time to do the approvals. As this House may be aware, the Office of the Data Protection Commission is the first office and that the nominee, if approved by the House, will oversee the implementation of and be responsible for the enforcement of the Data Protection Act 2019 that was passed last year and basically enacted. The commissioner would have been appointed by now but there was a court case and the court case was concluded. For the Committee to undertake due diligence and to ensure that we have the right person for this job, we seek the indulgence of this House so as to undertake the vetting exercise and be able to prepare a comprehensive report on the nominee so that Members can go through it.

Already the Committee has done an advert in tomorrow's newspaper for the public to submit any information on the nominee. It will be in the papers tomorrow. There is something that has been going on in the media. That is, TV, radio and newspapers that this particular person who will be appointed as a Data Commissioner will replace an employee of the Independent Electoral and Boundaries Commission (IEBC). I wanted to tell Kenyans and this House that this is a new office that will be under the Ministry of ICT and not within IEBC. This is because there is a lot of misconception out there.

With those remarks, I beg to move and request my colleague, Hon. Osotsi, to second.

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

Hon. Godfrey Osotsi (Nominated, ANC): Thank you, Hon. Speaker. I rise to second the Motion for the extension of time so that the Committee, now that we are going on recess, can have enough time to interrogate the processes around the vetting of this nominee. However, what is more important is that this process was temporarily delayed because of a court case on the issue of strict adherence to timelines. Therefore, this Motion is very timely because it will help us navigate that area.

Most importantly, again, as the Chair has said, data protection is a new phenomenon. We are going to have a completely new organisation which is going to be headed by the Data Commissioner. There are a lot of complexities around this new task. Therefore, it will be important for the Committee to have enough time to interrogate this nominee for the purpose of determining her suitability. With those few remarks, I second.

(Question proposed)

Hon. Members: Put the Question!

Hon. Speaker: Is it the desire of the House that I put the Question?

Hon. Members: Yes!

Hon. Speaker: This is just for extension of time because the House is going on recess. I may need to announce when I finish this.

(Question put and agreed to)

EXTENSION OF TIME FOR CONSIDERATION OF SPECIFIED PETITIONS

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Hon. Speaker, I beg to move the following Motion:

THAT, notwithstanding the provisions of Standing Order 227(2) (Committal of Petitions), this House resolves to extend the period for consideration of the Public Petitions specified hereunder by the Departmental Committee on Lands by a further period of 60 days with effect from 13th October 2020-

- (i) Public Petition on Irregular Transfer of the Ownership of Chenze Ranch presented by The Hon. Stephen Tayari, MP on behalf of the Petitioners;
- (ii) Public Petition on Historical Land Injustices in Nandi County submitted by the Governor of Nandi County on behalf of the Petitioners;
- (iii) Public Petition on Historical land Injustices in Chepchas area of Bomet and Kericho Counties presented by The Hon. Brighton Yegon, MP on behalf of the Petitioners; and,
- (iv) Public Petition on Usage of Gituamba Land in Kinyona Ward of Muranga County presented by The Hon. Sabina Chege, MP on behalf of the Petitioners.

Hon. Speaker, this has been occasioned by the need to undertake exhaustive and conclusive consultations with relevant government agencies and their affected parties. In respect to the first Petition, the Committee has already met the petitioners, the Ministry of Lands and Physical Planning and the National Land Commission (NLC). The Committee has also undertaken the field visits. So, we are at the tail end. However, the Committee is yet to meet a key stakeholder who emerged in this Petition, namely the Rage Bridge Firm Limited that has delayed. To do justice to the Petition, the Committee is scheduled to meet the above mentioned stakeholder and get further submissions from the Ministry of Lands and Physical Planning.

With respect to the second and third petitions, the committee is yet to engage the concerned parties. The House will appreciate, on one of these days, we received three petitions on the same day and this is one of the reasons for the delays.

It is not worthy to underscore the fact that the in-tray for the Departmental Committee on Lands is full or we get a lot of petitions. During COVID-19 period, we were not able to handle the petitions as expected. This year 2020, despite the fact that we were not working throughout due to the COVID-19 pandemic, we received 11 petitions and we have finished five of them including one that I tabled today and the three that I tabled in the previous sitting.

With respect to the fourth petition, the committee has already engaged the petitioners and the Kenya Tea Development Agency (KTDA). We also invited the National Land Commission (NLC) in our last sitting. However, the NLC indicated that they were not ready for this petition. You can, therefore, see that the committee is making a lot of effort to ensure that we handle the issues. The NLC has however promised to bring information on this matter soonest possible.

I would like to assure this august House that the Departmental Committee on Lands appreciates the work that we undertake and we are willing to dispense of with all these matters before the long recess; that is on Thursday 3rd December 2020. This is the commitment we are giving to be able to deal with the four petitions that we have presented this afternoon.

With those remarks, I beg to move and request the Leader of Majority Party, Hon. Kimunya to second.

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

Hon. Amos Kimunya (Kipipiri, JP): Hon. Speaker, I beg to second the extension of time. Even as I do so, I really sympathise with the Departmental Committee on Lands because they receive all manner of petitions and land is very sensitive. Everyone who has attempted to resolve their land disputes has gone through the traditional courts, traditional systems and the courts. They then ended up in this Committee. I was the Minister for Lands for about two-and-half years. I know the kind of things you get. So, I sympathise with them and I wish we could give them more time beyond the 60 days. We are here to extend and ask Members to support this extension of time so that they can, at least, try to process this petition and give hope to Kenyans in one way or the other.

I beg to second.

(Question proposed)

(Question put and agreed to)

EXTENSION OF TIME FOR APPOINTMENT OF MEMBERS TO COMMITTEES

Hon. Amos Kimunya (Kipipiri, JP): Hon. Speaker, I beg to move the following procedural Motion.

THAT, noting the recent changes in the membership of Committees of the House and pursuant to the provisions of Standing Order 256A (Extension of Period Prescribed), this House resolves to extend the time for filling of the vacancies in the affected Committees until 12th November, 2020.

Members would note that indeed you communicated changes affecting the Committee of Cohesion and the Committee on Selection was supposed to provide a replacement within 14 days. Now, we are still consulting with the Whip and I am also aware that there are changes that were occasioned by the changes that we created earlier, when some people, for example were appointed to chairmen, yet they still held positions in committees and they could not resign because they were not anticipating they would be elected chairmen. So there is some cleaning up we need to do and we wish to take the time between now and the time we come back from recess for the two whips to clean up their committees then we will report a comprehensive list.

We also received requests from Members who are serving in committees they are uncomfortable with or they would want to shift. All these can be done during these two weeks. The two weeks were triggered by the recent changes we made and even as we fill, there is no point in filing one position, and then come back later to fill others. We would like to do it comprehensively. That is basically why we are asking for extra time. We do hope by 12th of November, we shall have finished this exercise and reported back to the House.

I beg to move and ask the Whip, Hon. Emmanuel Wangwe to second.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Speaker. I second the procedural Motion that we seek for extension of time until 12th November 2020.

In addition to what the Leader of the Majority Party has explained, we also have a cadre of colleagues who did not manage to get committees. We would also be considerate to such colleagues through the committee on selection. Therefore, the extension of this period is needed and we would be requesting our colleagues to support this Procedural Motion.

Thank you, Hon. Speaker, I second.

Hon. Speaker: Can I conclude this business?

(Question proposed)

Hon. Speaker: Is it the desire of the House that I put the Question?

Hon. Members: Yes!

(Question put and agreed to)

Hon. Speaker: Hon. Members, before we go to the next business, there is a requirement placed on me.

This is just to notify that Pursuant to the provisions of Standing Order 28(3) relating to Calendar of the National Assembly, the Speaker notifies that, upon the rise of the House today at the appointed time, regular sittings will resume on Tuesday, November 3rd 2020 at 2:30 p.m.

Hon. Members, unlike in the past, the House will rise and the announcement will be made without Question put so that nobody may raise the issue that a Question needed to be put. That was carried out when we adopted the Calendar.

Next Order!

MOTION

ADOPTION OF REPORT ON THE LUIGI-BROGLIO MALINDI SPACE CENTRE

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on its consideration of the Agreement between the Government of the Republic of Kenya and the Government of the Italian Republic on the Luigi-Broglio Malindi Space Centre, laid on the Table of the House on Wednesday, 26th June, 2019, and pursuant to the provisions of section 8(4) of the Treaty Making and Ratification Act, 2012 approves the Agreement between the Government of the Republic of Kenya and the Government of the Italian Republic on the Luigi Broglio Malindi Space Centre.

(Hon. Katoo ole Metito on 13.10.2020)

(Resumption of Debate interrupted on 13.10.2020)

Hon. Speaker: Hon. Clement Kigano, do you want to contribute to this?

Hon. Clement Kigano (Kangema, JP): Thank you, Hon. Speaker. I perused this Agreement when you gave us time. This is one of the best agreements that I have seen made by our Government with other governments.

I noticed that there is a section that provides for inter-ministerial committees for both Governments to supervise and align policy for the operation of the Ngomeni Project. On top of that there is inter-ministerial committee. I also noticed that section 5 provides for a Steering Committee, composed of Permanent Secretaries (PSs) of the respective Governments, to supervise execution of day-to-day project — this is like a Board of Governors (BOG) in the corporate world — and to draw strategic day-to-day operations.

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

Hon. Speaker, of importance is that, the Agreement also provides for corporate social responsibility. I know Ngomeni Area. It is specifically provided under the Agreement that the marginalised area of Magarini will be provided with an operator who will provide social amenities in respect of projects. It is for them to decide whether these projects will be channeled through the National Government Constituencies Development Fund (NG – CDF). This will contribute immensely to the development of the residents of Ngomeni, as the people who strategically own and neighbour the project in question.

I support and thank the Leader of the Majority Party for elaborating very well on Tuesday, when this matter arose. He was supported by Hon. (Dr.) Otiende Amollo and they were able to announce the importance of this Agreement.

So, I support.

Hon. Speaker: Hon. Members, when we adjourned this Debate, it was purely for those who had not looked at the Agreement because there were some issues which were raised. So, I do not know whether Members still want to raise some issues.

Let us hear the Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Speaker, thank you for this opportunity. I stand to support the Agreement. Thank you for giving us time to peruse it in details, so that we can debunk some of the misinformation that had been peddled here or elsewhere out there.

This is something that has been with us for many years, since 1962. Therefore, it is something that I would believe is an upgrade or a continuity. I do believe that for all those years, it must have served the two parties well and that is why they have considered to renew the same. Coming from the names, Malindi Loading and Truck Station is basically used for airspace; I mean space science and the rest.

Hon. Speaker, this Agreement provides a number of issues, interesting so to speak, the facility being a segment of the sea and part of the land in Ngomeni Area of Kilifi County. Two salient issues arise and sometimes as we say, when the deal is too good, we must think twice. There must be some extra benefits the Italian Government is gaining, probably, more that we can see or we can appreciate. I do believe that as we improve in our technology and understanding of space science, we will be able to see the intrinsic benefits the Italians are getting. It does not really explain, very clearly, why they would foot the day-to-day running operations, why they would give the Government of Kenya USD250,000 every year, why they would give the Government of Kenya 50 per cent of all the profits from commercial services and why they would give Kenya USD50 for financial authorisation fee. That is why, as a Government and country, we must continuously review what is basically happening there so that we can leverage ourselves; otherwise, we become leaders in this aspect.

The second issue that has drawn my attention is the mirrored or plethora of various governing structures. There is the Security Council of Ministers, Joint Steering Committee, Joint Management Board, and off course there is the Chief Executive Officer (CEO), who is an Italian; there is the Deputy CEO, who is a Kenyan; and then there is the provision to second as many Kenyans as possible, with technical knowledge for capacity building and the rest. I do find myself wondering, unless there is a justifiable reason which does not come out very clearly from the Report of the Committee, on why we needed such a convoluted and an expanded structure. Probably, there could be reason, but for the benefit of doubt, since most of us do not understand bilateral issues, we will take it that there must be a reason why that has been brought on board.

Hon. Speaker, thirdly, there is a provision to bring development to Ngomeni area. The term “development” is vague and unexplained. What constitutes development? I just pray and hope that the various arrangements given, for example: Tele-medicine, education and training; access to earth observation and space; science data; support of Kenyan Space Agency; and establishing of Regional Centre for Earth Observation, will somehow trickle down to the people of Kenya. Specifically, the question that we need to ask, and I do believe Hon. Owen Baya raised the same and many of us will raise the same... The extent, the quantum and the nature of development to Ngomeni area is not clearly explained. It is left to the discretion of the Joint Management Board, Italian Government and some mandarins in the Ministry. We do hope that they will not short change, or give lip service to the neighbouring community. This is something that involves the people of Kenya. Those developments should cascade beyond Ngomeni and reach other people of Kenya because we also see the space, when you sit under the moon at night.

With those few remarks, I support.

Hon. Speaker: Well, as a House, you remain with the oversight authority, nevertheless. That is provided for.

Hon. Kimani Ichung’wah, you have the Floor.

Hon. Kimani Ichung’wah (Kikuyu, JP): Thank you, Hon. Speaker. I also rise to support this Report by the Departmental Committee on Defence. Looking at the Agreement – I must thank you, Hon. Speaker, because of your timely guidance on Tuesday, when I sought to rise on a point of Order – I was actually seeking your indulgence so that you may allow the Members to read and appreciate. If you listen to the Leader of the Majority Party, it was quite clear that there was movement from the 1995 Agreement and the 2016 Agreement that is now before us.

Hon. Speaker, let me start by saying that if you look at this Agreement – now that we have had the opportunity to read and understand it – one of the things I appreciate about it is that just like any other lease agreement – because they are leasing land and space in the sea – when you lease even for your own rental income businesses, agreements are not cast in stone. Therefore, when you enter into a 15-year agreement, it cannot be that the amount of money you pay will be fixed for 15 years. You will appreciate that the 2016 Agreement has a clause within the sections of the Agreement which allows for the money that is payable to be reviewed every five years to the tune of US\$ 50,000. That is a good thing.

Secondly, the Agreement itself, unlike the 1995 Agreement, is not cast in stone. There is a midterm review where the Italian and Kenyan Governments can sit and review the terms of the Agreement. Therefore, some of the issues that were of great concern to Members in the 11th Parliament have been addressed by this new Agreement. For instance, there were issues raised by Hon. Baya to do with development work in Ngomeni and the surrounding areas. Article 8 of the Agreement stipulates the prerogatives and obligations of the Italian Government, some of which include undertaking training programmes for Kenyan nationals in aerospace science, space science technology and research to promote development projects for the community in Ngomeni area. Such things are measurable.

I appreciate what you have just said in relation to what the Member for Funyula said. I do not know whether the Chair of the Departmental Committee on Defence and Foreign Relations is here but there are Members of the Committee who are. It is a challenge to Members who sit on that Committee. It is upon this House as the one charged with the oversight responsibility not to wait for the midterm after seven years. It may be too long. Check after a year or two whether the Italian Government is training Kenyans in aerospace science. Are they offering scholarships to our

children? Are they enhancing the capacity of our training institutions to train Kenyans who will not only work in this space station but other space stations out of this country in other areas of the world where there are similar stations?

Even on issues to do with compensation for land and space being used, let us review every two years because circumstances change. Even the value of land leased that would be payable by the Italian Government to the Kenyan Government will change with time as Ngomeni and the surrounding areas change. Therefore, it would be imperative for the Committee to have a schedule.

I heard our Leader of the Majority Party Emeritus, Hon. Duale, say that when they went there in the 12th Parliament, they were not allowed to access the space centre. We must reiterate that we have a responsibility, a right and a mandate bestowed upon us by Kenyans as Members of Parliament to access any part of this country, even that site. The fact that it is managed by foreigners does not mean...

I appreciate the fact that there is now a Deputy CEO who is Kenyan. He or she should be able to facilitate Members of the Departmental Committee on Defence and Foreign Relations to access that site, review the terms and check whether some of the good things that have been improved in this Agreement are being implemented. I encourage the Committee and this House to keep checking. Hon. Baya and other Members from the Kilifi region should also keep checking that many of the good things that have been enhanced in this Agreement come to fruition and are of benefit to Kenyans.

I support the Motion.

Hon. Speaker: They could not have been allowed because of the Agreement subsisting then which was the 1995 one. They might have looked like strangers.

Let us have Hon. Osotsi.

Hon. Godfrey Osotsi (Nominated, ANC): Thank you, Hon. Speaker for the opportunity to contribute to this important Motion. I beg to differ with my colleagues who have supported this Motion. From the outset, I reject and oppose this Motion.

You are aware that this matter was brought forth by the current Governor of Vihiga, Hon. (Dr.) Ottichilo, in the 11th Parliament. He raised a number of issues about the importance of this centre to the country. Though this Report has tried to deal with the issues that he raised, they have not been satisfactorily addressed in terms of value for money to Kenyans. This Agreement is talking about only US\$250,000 that will be given...

Hon. Speaker: Sorry. Have you read it properly? It is in Euros. Just look at it. Many of you may not have looked at it. I have read it. It is in Euros.

Hon. Godfrey Osotsi (Nominated, ANC): Sorry, Hon. Speaker. It is 250,000 Euros which would be paid to the Kenyan Government every year. This is very little money compared to the benefits that arise from this resource. This is a space centre. A lot of activities happen around space centres. We are talking about issues of weather monitoring; telecommunication, telemedicine and others. If all those issues were quantified, you find that the Kenyan Government is losing a lot of money that is not declared to it. That is why Hon. (Dr.) Oundo was questioning why they could easily give us 250,000 Euros without much pressure.

The other reason why I oppose is because of the third-party agreements and that is where the devil is in the details. We need clarity on what is involved in third-party agreements. We know that space stations can also be rented to other countries such as the Chinese Government. We need to know more. This matter will touch on diplomatic relations with other strategic countries that this country engages with. We need clarity on that issue.

We also need clarity on the functions of this space centre and those of the Regional Centre for Mapping of Resources for Development (RCMRD) which is in Kasarani. Which is which? What are the functions of each? This Agreement seems to give a lot of weight to this Malindi Centre and not the centre we have...

Hon. Speaker: There is an intervention from the Member for Kilifi North.

Hon. Owen Baya (Kilifi North, ODM): Hon. Speaker, I would just like to inform the Member that he probably read the Agreement partially. There is a 50-50 sharing of all proceeds that are generated from all those other activities that come in and the commercial activities. There is also information that he is leaving out, namely, that there are almost 613,000 Euros that will go directly to the Ngomeni community. There are other things that the contributor is purposely leaving out because of the position he is taking. It is important that he reads the whole Agreement.

Hon. Speaker: Proceed. I will add you an extra 30 seconds.

Hon. Godfrey Osotsi (Nominated, ANC): Hon. Speaker, I have sufficiently read the Agreement. You remember in my contribution I said that there is more to this Agreement in terms of what services will be provided and what the revenue from those services will be. From my knowledge, a lot of revenue will arise from issues of weather management, sharing data on weather, issues of satellites and issues of telecommunication.

Hon. Speaker: Give him an extra one minute.

Hon. Godfrey Osotsi (Nominated, ANC): Another very important thing is that this centre deals with issues of telecommunication. This country has an issue with the digital divide. There are some counties which are not covered digitally. What will this Centre do in terms of supporting this country in that area instead of just giving...

Hon. Speaker: Hon. Osotsi, you now appear to be irrelevant. Hon. Members, you are assumed to have knowledge of certain things. You are looking at an agreement. An agreement involves two people.

The Constitution of this country provides that even if the national Executive negotiated with other parties; that will never be binding until it is ratified by this House. You are lucky that Hon. (Dr.) Otiende Amollo is sitting in front of you. So, negotiations have happened and now you are saying that there is no information. You know that you should go to the Report of the Departmental Committee on Defence and Foreign Relations to see when they met with the people who were involved in the negotiations and what information was given to them. If you just look at the Agreement and start to say that this is not enough or the information has not been given, for example, on where you are putting digital devices, surely, you are not dealing with this Report.

Hon. Osotsi, you have your 30 seconds.

Hon. Godfrey Osotsi (Nominated, ANC): Thank you, Hon. Speaker for the guidance. There were also concerns that were raised by the expert who was consulted, Prof Paul Baki, who is from the Union Space Working Group. Some of the issues he raised here seem not to have been captured in the agreement.

With those few remarks, because of time, I oppose.

Hon. Speaker: Let us now have Hon. Wangwe.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Speaker. I rise to support the Report of the Departmental Committee on Defence and Foreign Relations on the Agreement between the Government of Italy and the Government of Kenya. Basically, I am supporting this Report based on mathematical movement. When the mathematical movement is positive, definitely, it means that all the indicators are in positive support of where it is moving.

Hon. Speaker, there is a shift in the proposed agreement. First, there will be a benefit in terms of scholarships to the people of Kenya – 15 of them at a cost of Ksh2.6 million or 20,000 Euros for each. Compared to the Agreement of 1995, that is a positive development and it supports the whole Agreement.

Secondly, in this Agreement there is a positive movement of 6.4 million Euros in terms of community projects. The 1995 Agreement was only speculative; it did not guarantee the exact amount of money that would go to community projects support.

The leadership of that area, who are representatives in this House, should be our eyes. Let them check what is happening on the ground now that the agreement provides for mid-term review in terms of the licence by the Government, which is giving five years in the same Report. This can be discussed and the leadership from the area should communicate to the House whether any support will go to the community or not. Therefore, there is a window for review. After five years, they can review the licence fees. During that appraisal, we can hold the Italian Government responsible for not honouring the pledge they have made in the Agreement. This is also a positive move as they are shifting from the 50,000 Euros in terms of licence to 250,000 Euros, whether they will be making a profit or not. That is a big percentage.

Hon. Speaker, with that movement being positive to that extent, it makes sense for me to support the Agreement. We will be earning from the Government of Italy. The people of Kenya will benefit from this organisation.

With those remarks, I support.

(An Hon. Member spoke off record)

Hon. Speaker: Now, is it a point of order when the Member has completed. What is your point of order? What do you mean? I am following how you have placed your cards.

Let us have the Member for Makeni.

Hon. Daniel Maanzo (Makeni, WDM-K): Thank you, Hon. Speaker for giving me an opportunity to contribute on this very important matter. This Motion has been on the Floor before. Definitely, there is a lot of improvement comparing what we discussed in the 11th Parliament and what we are discussing now.

I want to concentrate on the aspect of corporate social responsibility, which was raised by the Member for Kilifi North, Hon. Baya. When you have something of this nature, corporate social responsibility is very important. First, the Space Centre is in Malindi because of the site's global positioning. That is the best position for a space centre to operate from. When it comes to corporate social responsibility, the Agreement puts some plausible and substantial base. It is very important for the local community to benefit.

The children who are growing around that area can be influenced by the presence of that facility to become space experts in future. The space centre will encourage the children around there to study hard and get scholarships for them to come back and work at the facility. So, being there is already a blessing to our country. We owe it to global positioning. As a House, we need to support it for the benefit of the many Kenyans who come from that area.

When it comes to the issue raised by Hon. Baya on public participation, and more so with regard to what he said about the county government... I believe Hon. Baya and his colleagues from that area sufficiently represent the people of Kilifi. Therefore, the excuses by my friend and former classmate, Governor Kingi, notwithstanding, Hon. Baya is here. He can report to us and we can work with him to make sure that the Space Centre is useful to Kenyans.

Hon. Speaker, through this House, Kenyans who are interested in space science are now getting informed. Those who did not have this information are now getting it through live broadcast of these proceedings. Many young people now know that there is an opportunity for them to study and become space experts in future.

With those remarks, I support.

(Hon. Odhiambo-Mabona spoke off record)

Hon. Speaker: Member for Suba North, if you say you want to talk...

Hon. Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Speaker for giving me this opportunity. I know there are Members who would like the debate to end with good reasons. However, when we are dealing with issues to do with treaties, they should indulge me because I am the one who introduced in this House the Bill that produced the Treaty Making and Ratification Act, which has ensured that Members debate and ratify treaties in this House. The Constitution provides that all treaties that are made in the country become part of the Kenyan laws, but it did not give Parliament the mandate to discuss them. So, I brought that law to ensure that Parliament is part of the treaty making process. I brought that legislation to ensure that when, as a country, we are making very serious decisions, parliamentarians who are representatives of the respective parts of the country – are involved. Because of that, I want to support, but with reservations.

Hon. Speaker, if you look at the Report and even what the Members are saying, there is a lot of focus on the issue of monetary benefit to the country and benefit to the local communities through corporate social responsibility projects. My concern is that I am not hearing us speaking very strongly to the issue of security, especially when we are talking about space and telecommunication. The former Leader of Majority talked about the Committee in the last Parliament not being allowed to access that centre. I hope those are issues that have been dealt with.

Also, a lot of times when we deal with treaties before the House, Members do not realise that we have the same power. In this instance, we may not amend, but we can pass with reservations. When we pass with reservations, it means we would have effectively amended the Treaty. If there are parts of a treaty we are not agreed with, we will be telling the Executive we are giving them the mandate to ratify, but with reservations on specified parts. I have noticed that most of the times we debate as though we only have one option: to reject or accept.

Hon. Speaker, I would have wished we speak more strongly to the issue of security. Also the other issue that I know was not canvassed because people think it is not very important, but from a power relation, I wonder whether the Committee will address the issue of the naming, the Luigi-Broglio Malindi Space Centre. Why will it not be Malindi so that the power is primarily Kenya because it is actually situated in Kenya? Even naming has an impact and importance.

Thank you, Hon. Speaker. I support with reservations.

Hon. Peter Mwathi (Limuru, JP): On a point of order, Hon. Speaker.

Hon. Speaker: There is an intervention by the Member for Limuru Constituency.

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Speaker. I have been listening to most of the contributors and going by what I have heard, the points that are coming up are repetitive because they are mostly in support.

Hon. Speaker, at this point, I would like to move that the Mover be called upon to reply.

(An Hon. Member moved swiftly along the gangway)

Hon. Speaker: The only problem I have is that some Members have never quite known when certain things are being said. You still want to dash even if you had taken a short cut, but if the Speaker is about to be on his feet, you better sit. Whatever you have can be sorted out later.

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

I note the nay came from the Hon. (Dr.) Nyikal. According to the record, even if he sat here the whole afternoon, because of what happened the other day, he would not get a chance. He lost his chance. He had a balance of three minutes. He is the first one I was supposed to have given a chance, but he was not in the Chamber at the time.

(Hon. (Dr.) James Nyikal spoke off record)

You cannot fault my memory, Hon. Nyikal. The record which was here from the *Hansard* was that when the debate was adjourned, the Hon. Nyikal was contributing and he had a balance of three minutes. So, when the debate was called after being moved again, the first person I was looking for was the Hon. (Dr.) Nyikal. I cannot miss to see him if he is in the Chamber. I know he is one of the most active Members of this House, but on that particular day at that particular time, he was not in the Chamber. So, he lost his balance of time he had. It is unfortunate. Do not worry, Hon. Nyikal. I needed to have told you that quietly, but it is the truth and it is factual.

The Hon. Leader of the Majority Party is replying on behalf of the Chair.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Speaker, I thank the Members for the contributions they made starting from the 10th Parliament and the 11th Parliament. We set the basis for a renegotiation of an Agreement that was skewed against Kenya and the locals to now a far much better Agreement. It probably may not be the best as Hon. Osotsi would like to see, it may not address all the issues, but in terms of access to the facility, obviously, the 1995 Agreement did not have Parliament in mind. It was done before the Constitution that was promulgated in 2010.

In 2016, it was of necessity because of the ratification, which now brings in parliamentary oversight. Nobody can then tell Parliament that we cannot access the facility because it is part of our constitutional duties. Nobody can restrict Parliament in terms of where they can access. These are the gains that have come in. We will now be able to do things far much better than before. The community will receive much in terms of the corporate social responsibility. About 180 Kenyans will be employed and scholarships and capacity building will be done. In the end, we believe that there will be more benefits accruing from utilisation of the Space Centre than before.

Technology has also changed and obviously some of the issues that I heard Hon. Osotsi talking about like the fibre connectivity has nothing to do with the space station. We already have a national fibre network connected through the sea to the rest of the world.

Hon. Speaker, I wanted to respond to some of those misconceptions for the record. I thank the rest of the membership for supporting this. We hope that everyone will vote in Agreement so that we can close one chapter as we go home today with a new agreement ratified so that the people of Ngomeni and Kenyans can realise the full benefits of this Agreement.

With those words, I beg to reply.

(Question put and agreed to)

Hon. Speaker: Hon. Members, before we proceed to Order Nos.13 and 14, being a Motion on the Consideration of Senate amendments to the Independent Electoral and Boundaries Commission (Amendment) No.3 Bill, (National Assembly Bill No.35 of 2019) and Committee of the whole House on these Senate amendments respectively, I wish to guide the House on the procedure to be followed.

You all recall that the National Assembly passed the Independent Electoral and Boundaries Commission (Amendment No.3) Bill, (National Assembly Bill No.35 of 2019) on 24th September 2019. The Bill seeks to amend the First Schedule to the Independent Electoral and Boundaries Commission Act of 2011 to provide for the establishment of a selection panel to oversee the filling of vacant positions in the Independent Electoral and Boundaries Commission. Following its passage by the House, the Bill was forwarded to the Senate for consideration as it is a Bill concerning county governments.

The Senate made various amendments to the Bill. The Senate amendments were committed to the Departmental Committee on Justice and Legal Affairs of this House and are now awaiting consideration by the House. The amendments will be moved by the Chairperson of the Departmental Committee on Justice and Legal Affairs. The manner of disposing these amendments is provided for under Standing Orders No.145 and 148.

In summary, Hon. Members, the House will generally debate the Senate amendments for not more than one hour under the Motion that, the Senate Amendments Be Now Considered. Thereafter, should the House resolve to consider the amendments, the House will dissolve into Committee of the whole House to dispose of the amendments sequentially. On the other hand, should the Motion be negatived, the Senate Amendments Be Now Considered, the provisions of Article 112 of the Constitution relating to a mediation process will apply. Similarly, should the Committee of the whole House amend or reject any Senate amendments, the mediation process will again kick off.

In conclusion, should the House pass the Senate amendments as proposed by the Senate, I will proceed to forward the Bill to the President for assent in accordance with the provisions of Article 112 of the Constitution.

The House is accordingly guided.

I thank you.

Next Order!

MOTION

CONSIDERATION OF SENATE AMENDMENTS TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO.35 OF 2019)

Hon. Speaker: Let us have the Chairperson, Departmental Committee on Justice and Legal Affairs.

Hon. Clement Kigano (Kangema, JP): Hon. Speaker, thank you for the guidance that you have given the House.

With that in mind, I beg to move:

THAT, the Senate Amendments to the Independent Electoral & Boundaries Commission (Amendment) (No.3) Bill (National Assembly Bill No. 35 of 2019) be now considered.

I beg to move, and request my colleague, Hon. Otiende Amollo, the Vice Chairperson of the Departmental Committee on Justice and Legal Affairs, to second.

Hon. Speaker: Proceed, Hon. Otiende Amollo.

Hon. Otiende Amollo (Rarieda, ODM): Thank you, Hon. Speaker. I beg to second this Motion. It is a simple and clear Motion. I urge Members to support this amendment of the Senate wholly, and preferably, without any sort of amendment for the simple reason that if we go that way, then we will still be in danger of not having a properly constituted Independent Electoral and Boundaries Commission (IEBC).

First, I second this Motion because there is a lacuna in the law. The current law only provided for appointment of the current Commissioners and no other. That is the only reason why so far, we have been unable to fill the four vacancies that arose.

What the Senate did, which is reasonable in the opinion of the Committee, was to reduce the very complex and elaborate process of appointing the appointing Committee which had 11 members, but which have now been reduced to seven. Of those seven members, four of them are to be appointed by the Parliamentary Service Commission, two of them by the Inter-Religious Council of Kenya and one by the Law Society of Kenya (LSK), which now makes it seven. The Committee viewed that as quite reasonable. It reduces the complexity.

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

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

Hon. Temporary Deputy Speaker, we also noted that the Senate decided to introduce qualifications of who can serve in the appointing panel, which is quite reasonable. Those qualifications require you to be a citizen of Kenya, have integrity and at least, have a degree. All that was reasonable in the view of the Committee.

It is to be noted, and this is important for Parliament, that this process places the primacy of the appointment of Commissioners in Parliament. This is because four of the seven are actually appointed by the Parliamentary Service Commission. So, Parliament has the greatest say in the appointment of the Commissioners. I dare say that if we adopted this and it was signed into law, there would be no reason why we would not immediately have proceeded and fill the four vacancies that currently exist in the IEBC. If we were to do that, we would then have the space to address the very fundamental issue of how to deal with the three existing Commissioners, most of who many people have expressed disquiet about. However, we cannot deal with them until and unless we have a process of appointing others because there cannot be an IEBC without Commissioners.

I want to plead that in the context of the dangers that we face of having a general election in less than two years and all the initiatives that we are having in terms of amendment of the Constitution, the most stable institution that we require in this country is the IEBC. By simply adopting what we had already passed and the Senate adjusted to a limited extent, we will have helped this country avert a very big danger. As we speak, if anything was to happen to anyone of

those Commissioners, we would not have a Commission even capable of conducting the by-elections that we are facing. That is a grave danger to our country that we should not face.

Therefore, I urge Hon. Members to agree with us despite any temptation you might have of adjusting one or two things. I can tell you that even the Committee was tempted to question the idea of why the LSK should be part of the seven. However, we restrain ourselves noting what the Speaker has just indicated that if you try to touch anything, then we will go for mediation. Right now, we are facing a recess and we will lose a lot of time. We resolved that whatever little danger or impropriety one could say that the Senate may have done, it is insignificant compared to the lacuna that we need to seal.

Therefore, I beg to second this Motion as presented. Thank you.

(Question proposed)

The Temporary Deputy Speaker (Hon. Christopher Omulele): The first Member with interest on my screen here is Hon. Kosgei Kimutai, the Member for Chepalungu. He is not desiring to be in the House. The next interest I see is from Hon. Amos Kimunya, the Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support that this House considers the amendment from the Senate. It is a custom that any Bill affecting counties would have to be sent to the Senate. It is within their prerogative to prefer any amendment that they would want to bring. When they bring it to us, we look at it, and if it is reasonable, we accept. If it is unreasonable, we go for mediation. From the Report of the Departmental Committee on Justice and Legal Affairs and our own interpretation, there was only one issue I had, that is, the fact that we are limiting the appointment to only the LSK instead of opening to the wider professions.

If we were to even attempt to make an amendment to that, we will then go to open another Pandora's Box. Accountants, engineers, *et cetera*, would also want to come in and we will go back to the 11 or 18 people in the panel. So, we trust on this one that the LSK, especially after the tea and *mandazi* session in Parliament that it is new leadership will not use this opportunity to derail the process. I am sure the Chairperson and the Vice Chairperson are senior Members within that profession.

So, that is one of the issues that Members had, that LSK wants to occupy Parliament and we are now seeing LSK being proposed to appoint somebody into the appointing committee of the IEBC Commissioners. They could actually jeopardise. I know Hon. Millie Odhiambo and Hon. Soipan are seasoned Members of that society. We have so many Members here who protect the leadership of LSK from wanting to sabotage the work of the House.

On that understanding, I accepted that perhaps we do not even need to make that amendment. So, I would urge the House that since it is really a technical issue before us, we should accept to debate the amendment then we get to the Committee of the whole House, we agree on those amendments and we make progress. If we do that, at least, before we go home today, we will have cleared the way for other processes that affect IEBC so that credibility of that body can become clear in the eyes of Kenyans.

With those words, I beg to support and urge the House that let us move with speed and finish this matter, get into the Committee of the whole House and we dispose of it as fast as possible. I beg to support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Hon. Leader of the Majority Party, you seem to be of the position that the LSK will be protected on this Floor any day, even when it holds that the House and what you are saying now is an illegality. When we pass this, we would like to see whether the LSK will be able to follow up. But that is for another day.

Let us have Hon. Odege, the Member for Nyatike.

Hon. Tom Odege (Nyatike, ODM): Hon. Temporary Deputy Speaker, allow me also to add my voice on the same and support the Motion tabled before us by the Committee.

Listening to the Mover and the Seconder, let us not discipline an organisation because of an individual that is now the LSK. The institution is bigger than an individual and will continue being with them without that gentleman.

I am standing here to support. I thank you for that.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Odege, when the individual is the president of the institution, I think he is the spokesman for that institution when he speaks.

Hon. Mwathi Mungai, the Member for Limuru, you have the Floor.

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Motion. I listened to the Seconder very clearly that there could be danger that the IEBC for any reason that we do not anticipate could be properly constituted. The fact that we are not very far off from another election, we need to start putting our house in order. I am sure that there may be issues that are contained in the Bill but I think I want to concur with the Mover that if we open then it might spiral into mediation that shall never end.

So, I also urge my colleagues to support it so that progressively we can protect our institution. I thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Let us now hear Hon. Obara Akinyi, the Member of Kabondo Kasipul.

Hon. (Ms.) Eve Obara (Kabondo Kasipul, ODM): Thank you very much, Hon. Temporary Deputy Speaker. I too join my colleagues to support.

I have noted that the critical issues have been captured: the qualification, the integrity and also the fact that there must be citizens of Kenya. The second one is that four out of seven, if you have a majority in the appointing authority, it places the greatest amount of say to the Parliament.

Therefore, I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Yes, Hon. Oundo Ojiambo, the Member of Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Speaker, thank you for this opportunity.

At the outset, let me state I support the amendments from the Senate, because they are very difficult people to deal with, so to speak. I have had an occasion to attend a mediation process and I even regretted why I accepted the invitation to go there. They are so inconsiderate in discussions. However, it also shows that they are probably beating this House into submission with the insurgence and the difficult approach but we have to accept.

At times, you have to accept to fight another day. The issue of the IEBC is very critical to this country that any further delay puts this country in danger and jeopardy because you never know what can happen that will necessitate an immediate election. The way the IEBC as constituted is, indeed, unconstitutional and has no capacity to execute its mandate in the event we have to go to a referendum in support the Building Bridges Initiative (BBI) which is going to happen, anyway. On that score, I support.

As I support, we need to send a very clear message to the LSK. I hope they will not extend the double speak. When it favours them, they gladly take up the position. When they do not feel like, as they pursue certain agenda that is part of the current political dispensation, they come and say all those kinds of things.

On that score I support and urge my colleagues to let it go and let us complete this process for the support of this country.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Odhiambo Akoth, the Member of Suba North, you have the Floor.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. I rise to support and thank the Departmental Committee on Justice and Legal Affairs for bringing it.

The only thing is that I was a little worried when Hon. Chairman and Hon. Otiende were speaking as though they were sacrificing efficiency at the altar of speed or necessity. But having listened to their reasons, there are times you can do that. Especially when we know that we have the possibility of amending, should need arise. Therefore, I am persuaded. Ordinarily, I would not sacrifice justice or efficiency at the altar of speed.

I know that one of the concerns that Members have is on the views of the LSK chairperson and of the LSK being included. I think as a House we need to show tolerance and fairness when we are able to include even people of diverse views. People do not necessarily have to agree with us all the time. For that reason, even when we are talking about the LSK, we are not talking about the chairman of the LSK neither are we talking about Mr. Havi as a person who has very strong views about occupying Parliament which is, of course, his right. I am very happy the way Parliament dealt with it. Instead of stopping him from coming in, he was able to come into Parliament. I do not see why we are also ridiculing when he had tea because it is a very African thing to extend friendship to people who visit you. So, it was good that Parliament offered him tea. Even if he still disagrees with us, the LSK as of necessity, as the premier organisation that deals with legal issues in the country and now that the issues that we are going to deal with here are primarily legal, I would support.

I would only add, because I have not had time to look at whether we have mentioned specifically on issues of gender representation, for me that would be of even graver interest or concern especially on the nominees from the PSC that we have. I think the Chair is alerting that they have actually made provision. If that is done, I am truly happy and I support.

Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Millie, I agree with you 100 per cent that the honourable Havi, the current president of the LSK, is always welcome to come to this precincts of Parliament and to say things that might not even be agreeable to all of us. So, he will always have a cup of tea here if he chooses to come and visit the House.

What is out of order, Hon. Akoth?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Sorry, Hon. Temporary Deputy Speaker. It is not you who is out of order. I am the one who is out of order so I wanted to report myself. I am out of order because I really should have said this even in the earlier Session when the substantive Speaker was here. It is just to say a very big thank you to the Office of the Speaker and Parliament as a whole for giving us the opportunity as MPs who are interested the Jerusalema Challenge Initiative. Many people may not have understood. Some Members may not have actually understood what it was about. We know that the Jerusalema Challenge was actually a global one which became a global anthem of hope during the Corona pandemic. As Parliament,

what we tried to do was to show that even as we are moving towards electioneering period, there is so much divisive politics. Politics is divisive in nature, but we wanted to demonstrate that we can still talk and listen to each other, and do politics devoid of violence even with those challenges. That was our theme because we are a bipartisan Parliament. I have noticed that a majority of the Members who participated in the challenge yesterday are not here today because it was extremely exhaustive. I want to thank the offices of the Speaker and the Leader of the Majority Party for the support. We had about 50 Members here yesterday.

Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Wangwe, Member for Navakholo, you have the Floor.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Motion. As a Member of the Departmental Committee on Justice and Legal Affairs, I want to state that this is a timely Motion and a wake-up call. We are working on a principle: “If you do not plan today, you are planning to fail”. We will have elections in May 2022 and this preparation is key. I want to agree with the Vice-Chairman of the Committee that we pass the Motion as it is and correct what might come up later when the IEBC is on course. A lot has been said about the inclusion of the LSK, but I want to state that we are looking at the LSK as a corporate entity and not as a person. Nelson Havi is from my area and many chairmen and presidents of the LSK come and go, but the reputation it has gained is what we want to bestow this responsibility. I want to ask Members to pass this Motion as it is in readiness for the election and have the IEBC in its proper form.

Hon. Daniel Maanzo (Makueni, WDM-K): On a point of order, Hon. Temporary Deputy Speaker.

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

Hon. Daniel Maanzo (Makueni, WDM-K): Hon. Temporary Deputy Speaker, owing to the fact that Members are now repeating themselves, may I request that we apply Standing Order No.95 so that the Mover is called upon to reply?

The Temporary Deputy Speaker (Hon. Christopher Omulele): Is it the mood of the House that the Mover be called upon to reply?

Hon. Members: Yes!

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

Hon. Clement Kigano (Kangema, JP): Thank you, Hon. Temporary Deputy Speaker. On a light touch, I want to thank the Member for Suba North for creating this form of therapy in the *Jerusalema* dance. I want to ask her to make arrangements for the senior citizens to participate in their pace. I assure her that she will get many Members, including me.

The amendments may be short, but they have huge ramifications in our governance and society. The Vice-Chair of the Committee has given sound reasons why the amendments are necessary. I do not want to dwell on that, but the justification is there. If a vacancy arises in the IEBC as it is constituted today, we shall have a constitutional disorder. The amendment has come to cure that.

We might have problems with the LSK, but we considered that with the Committee. We wanted the association of professional bodies in the country to provide a member, but because of

the problem of time, we left it to the LSK. It will not always be the LSK as we see it now. I want to note with a lot of respect that there may be cases of McNaughton Rules in leadership. That notwithstanding, we have to provide leadership. The Commission will have a composition of seven members, and so it will be one against six, and I do not think it can cause any harm. I want to thank Members for the support. This should be the route for the BBI and any other future amendments for the voice of “Wanjiku” to be heard.

With those remarks, I beg to reply.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Senior Counsel Muturi, I heard you mention McNaughton Rules, but I know it is on a light touch.

(Question put and agreed to)

Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

[The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya) took the Chair]

SENATE AMENDMENTS TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (AMENDMENT) BILL

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Members, we are now in the Committee of the whole House to consider the Senate Amendments to the Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill (National Assembly Bill No.35 of 2019).

*Clause 2
Senate Amendment*

Hon. Clement Kigano (Kangema, JP): I beg to move the following Senate amendments: THAT, Clause 2 of the Bill be amended—

(a) in paragraph (a) by deleting the word “eleven” appearing immediately after the words “therefor the words” and substituting therefor the word “seven”;

(b) by deleting paragraph (b) and substituting therefor the following new paragraph—

(b) by deleting paragraph 1 (2) and substituting therefor the following new subparagraph—

(2) The selection panel shall consist of—

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

- (a) two men and two women nominated by the Parliamentary Service Commission;
 - (b) one person nominated by the Law Society of Kenya; and (c) two persons nominated by the Inter-religious Council of Kenya.
 - (c) by inserting the following new paragraph immediately after paragraph (b)—
 - (ba) by inserting the following new paragraph immediately after paragraph 1(2)—
 - (2A) A person is qualified for appointment as a member of the selection panel if such person—
 - (a) is a citizen of Kenya;
 - (b) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution; and
 - (c) holds a degree from a university recognised in Kenya
- Hon. Chairperson, we have clauses without amendments.

(Question of the amendment proposed)

Do I see interest from Hon. Mungai? I do not want to gag anyone. Member for Limuru.
Hon. Peter Mwangi (Limuru, JP): I am looking for the amendments, but I am not seeing them. I do not wish to contribute on that.

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

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

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

(Senate amendments to Clause 2 agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): I now call upon the Mover to move reporting.

Hon. Clement Kigano (Kangema, JP): Hon. Temporary Deputy Chairlady, I beg to move that the Committee do report to the House its consideration of the Senate amendments to the Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill (National Assembly Bill No.35 of 2019) and its approval thereof without amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT

SENATE AMENDMENTS TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. Christopher Omulele): Chairperson.

Hon. (Ms.) Soipan Tuya (Narok CWR, JP): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Senate amendments to the Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill (National Assembly Bill No.35 of 2019) and approved the same without amendments.

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

Hon. Clement Kigano (Kangema, JP): Thank you, Hon. Temporary Deputy Speaker, I beg to move that the House do agree with the Committee in the said Report. I request Hon. (Dr.) Otiende to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): I second.

(Question proposed)

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

Hon. Members: Yes.

(Question put and agreed to)

Next Order!

MOTION

SESSIONAL PAPER ON NATIONAL POLICY ON GENDER AND DEVELOPMENT

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Chairperson, Departmental Committee on Labour and Social Welfare. Proceed, Hon. Mwathi, Member for Limuru.

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Temporary Deputy Speaker. I beg to move the following Motion:

THAT, this House adopts the Report of the Committee on Labour and Social Welfare on its consideration of the Sessional Paper No.2 of 2019 on the National Policy on Gender and Development, laid on the Table of the House on Thursday, 8th October 2020 and further approves Sessional Paper No. 2 of 2019.

The Departmental Committee on Labour and Social Welfare is established as per Standing Order No.216. It specifically draws its mandate from Standing Order No.216(5). It among others, studies

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

the programme and policy objectives of ministries and departments and the effectiveness of the implementation. The National Policy on Gender and Development had been done by the Cabinet in 2000. The one we have now under the Sessional Paper No.2 of 2019 is a review of the earlier one to align it with the provisions of the Constitution of Kenya, 2010.

This policy is geared towards complying with Article 27 of the Constitution on equality and freedom from discrimination. The formulation of National Policy on Gender and Development considered the patriarchal nature of our society in Kenya, supported by statutory, religious and customary laws and practices thus impeding access to the goal of gender equality and women empowerment by administration and procedural mechanisms. The policy takes cognisance of the values and principles set out in the Constitution and legislations aligned to the Constitution.

The national and county governments with varied functions should contribute to gender equality; Kenya's Vision 2030 and the third Medium-Term Plan, the Big Four Agenda, international and regional treaties on gender equality that Kenya has ratified, Agenda 2063 of the African Union titled "*The Africa we want*" seeking among other things, to build inclusive and accountable states and institutions, lessons learned from the implementation of the Millennium Development Goals (MDGs) and the Sustainable Development Goals under the 2030 agenda for sustainable development adopted by the United Nations in September 2015.

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

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

The overall goal of the policy is to achieve gender equality by creating a just society where women, men, boys and girls have equal access to opportunities in the political, economic, cultural and social spheres of life. Specifically, the policy intends to facilitate the implementation of the Constitution and domesticate the international and regional obligations and commitments that promote gender equality and freedom from discrimination, provide a framework to integrate and mainstream gender into the national and county governments' development planning and budgeting as well as resultant policy programmes and plans including those of non-state actors, promote and support the rights-based approach when dealing with gender related matters and find the institutional framework and performance indicators for effective trafficking, monitoring and evaluation, and reporting of implementation of gender equality and women empowerment.

Implementation of the policy is expected to result in achievement of equality and economic empowerment, equal rights and opportunities in socio-economic and political spheres for women, men, girls and boys, and equal rights in marriage, preservation of the dignity of women, men, girls and boys and acknowledgement and respect for diversity for all Kenyans.

The policy under consideration in the Sessional Paper No.2 of 2019 may be reviewed after five years or in any other such time that the ministry responsible for gender shall determine. So, it is a document that we shall pass, but may be reviewed. Upon consideration of the Sessional Paper, No.2 of 2019 on National Policy on Gender and Development, the Committee made the following observations:

1. The National Policy on Gender and Development is a review of the National Policy on Gender and Development adopted by the Cabinet in 2000, like I said before. The policy outlines the national agenda for gender equality and how Kenya intends to realise these ideals.

2. The policy builds on the provisions of gender equality in Article 10 on National Values and Principles, Article 27 on Equality of Treatment and Freedom from Discrimination and Chapter Four on the Bill of Rights in the Constitution of Kenya.
3. There is need for constant monitoring of gains made with regard to gender equality in the Constitution of Kenya and relevant legislations to avoid retrogressing.
4. The policy aims at achieving equality of opportunity and outcomes with respect to access to and control of national and county resources and services.
5. Parliament has already enacted various laws and amended existing legislation to implement the constitutional provisions for gender equality including, Matrimonial Property Act of 2013, the Marriage Act of 2014, the Land Act of 2012 and the Land Registration Act of 2012 and the Counter-Trafficking in Persons Act of 2010. The review of the policy should have been completed earlier to guide the enactment of legislation on matters related to gender and development.
6. The State Department for Gender has been allocated approximately Kshs15 million for the implementation of the policy against a resource requirement of Kshs500 million. The allocation will not be adequate for the fulfillment of the policy objectives. Therefore, we are saying there is need to allocate further resources to that we can realise this policy if it is going to be implemented as presented.

The Committee therefore recommends as follows:

- (v) The House adopts this Report on Sessional Paper No.2 of 2019 on National Policy on Gender and Development, and;
- (vi) Approves Sessional Paper No.2 of 2019 on National Policy on Gender and Development.

In conclusion, allow me to thank your office and that of the Clerk of the National Assembly for the support accorded to the Committee during consideration of this Sessional Paper. Allow me to recognise the role of the Committee secretariat in this important process. May I also extend the Committee's appreciation to the State Department of Gender for coming up with this policy and apprising the Committee on its importance.

I beg to move and request Hon. Gideon Koske, who is my Vice-Chair, to second. I thank you.

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

Hon. Gideon Koske (Chepalungu, CCM): Thank you, Hon. Temporary Deputy Speaker. I note with appreciation that the overall goal of the policy is to achieve gender equality by creating a just society where women, men, boys and girls have equal access to opportunities in the political, economic, cultural and social spheres of life. The policy currently before the House builds on the National Policy on Gender and Development 2000, which provided a legitimate point of reference for addressing gender inequalities at all levels of Government and by all stakeholders. It provided an avenue for gender mainstreaming across all sectors in order to generate a vision and equitable development outcomes. The foundation of the current policy takes cognisance of the need to change the male-dominated social order in Kenya supported by statutory, religious and customary laws and practices. There is also the call for gender equality and women's empowerment by administrative and procedural mechanisms. This change should not just be cosmetic, but far-reaching and genuine. It should involve access to opportunities for girls' rights from early childhood education, right to political and other levels of leadership. This policy aims at achieving equality of opportunity and outcomes with respect to assets and control of national and county resources and services, an equality of treatment that meets the specific and distinct needs of

different categories of women and men. The policy further identifies the criteria for equality as follows:

- (i) Equality of treatment and freedom from discrimination as provided for under Article 27 of the Constitution.
- (ii) Equality in the political, social, economic and cultural development spheres for women and men.
- (iii) Respect for the human rights of women, men, boys and girls.
- (iv) Respect for provision on equality in the Bill of Rights, civil and administrative justice, judicial procedures and customary, cultural and religious practices.
- (v) Enforcement of statutory religious customary laws with the framework of this policy and constitutional changes.
- (vi) Duty-bearers at the national and county levels of government will be equipped with relevant gender responsive requirements for planning, budgeting and implementing development programmes.

Hon. Temporary Deputy Speaker, these provisions are very critical.

Lastly, I urge that this House allocates more resources to this critical sector to enable the State Department for Gender to implement this policy.

With those very many remarks, I beg to second the Motion.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I expected to see a floodgate of interest. I do not say gender interest, noting that the sessional paper is speaking to a current discourse which needs to be thought through thoroughly. Nevertheless, we have about five requests. Hon. (Dr.) Otiende Amollo.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Hon. Temporary Deputy Speaker, my problem with the Report is that I am unable to trace it in the electronic version so I am disabled from contribution. There being no physical copies, I do not know where to start. Perhaps, I could borrow the one from the clerks.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Yes, you can actually borrow from the clerks up here. Let us start from Hon. Odhiambo Akoth.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. I request that given the earlier observation that you made, you could use your discretion under Standing Order No.1 and add us a little more time, this is a subject that is very close to my heart on the issue of gender policy.

I wish to support the Committee's Report which basically revises the 2000 gender policy. Even in supporting, gender is a social construct. It is not about biological differences between men and women. The fact that I can have a child and Hon. Otiende Amollo cannot, is a biological construct. The fact that Hon. Otiende would be preferred to be given benefits as a man and not me is a gender construct. What this policy seeks to do is to look at discrimination that is not based on biological facts, but that would result especially in women being discriminated for cultural, religious and other factors.

Over time, we have misinterpreted for our own purposes religion and social issues to the benefit of our brothers - the men. An example is when men say they cannot cook. You will catch them dead cooking in their own houses, but when that factor becomes a paid factor, they will give it a nice name like "a chef" and then they take over and you find all the big hotels being run by

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

men. Those are the kind of things that we are saying that because of social construction, many women tend to suffer. Therefore, this policy seeks to create that balance.

Earlier today, somebody sent me a very nice photo and said, Hon. Millie, this is what you go through: That when I am going through an election, the first thing that you will see is men on the queue with you, but their path is very clear. But on mine, there are so many hurdles. There is nurturing and caring roles, babies and other factors.

I remember one of my colleagues here one time was rushing home for lunch to cook for the husband. One of the male colleagues was shocked and was asking how a Member of Parliament could be running home to cook for a husband. She said that it was because her husband demanded that she had to do so. It is not because there was nobody to cook in the house but because of the issues of power, control and relations that are so imbedded in the society. Such things sometimes make it very difficult for women to even rise to positions of leadership.

I am glad they have anchored this on international conventions and Kenya has ratified it because our Constitution provides so under Article 26, that all treaties that are ratified by Kenya shall form part of the laws of Kenya. Therefore, if you look at various treaties including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Maputo Protocol on Women which is the African Charter on Human and People's Rights, all have provisions relating to gender equality. Where there is no equality, we speak of equity. Equity is then an affirmative action and that is how we have 47 women coming to the House and that is where there have been historical injustices.

I had requested, with your indulgence, whether I could get one or two more minutes. I do not know whether that is possible so that I know what to say or not.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I will actually allow you two more minutes.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, I really appreciate.

As a country, we have really tried in terms of legislative work. One, of course, is the Constitution. Even though we are having challenges of realising the two-thirds gender rule - We are in court because we are not only disobeying our Constitution, but even the conventions that we have ratified. I think sometimes it is loss to us that even though sometimes a Member says that we will move the provision in the Constitution, we have to make a reservation to the Convention on Elimination of All Forms of Discrimination against Women which is also part of what talks of equality of both men and women. If you look at some of the laws that have been mentioned like the Matrimonial Property Act, the Marriage Act, the Land Act, the Land Registration Act and Counter-Trafficking in Persons Act - I am very happy I am the one who brought it - the Family Protection Act, the Sexual Offences Act and the Victim Protection Act, they speak to some of those issues that have been a challenge in the country.

The greater challenge for us now as a country is on two fronts, if I could say. Even though the law still provides for this, implementation is a challenge. Even as we are speaking now, I have been informed of a rape case in one of the beaches in my constituency. The reaction and response sometimes is not good as you would expect, especially of girls.

The other issue is the one of economic empowerment that the Government has done some work, but there is still a lot that needs to be done. Also, the issue of political participation of women needs to be enhanced and especially in party primaries. I do not know how far the Party Primaries Bill has reached. I had intended to bring one myself, but our political parties and this goes across

including mine have not done enough to make sure that there is a level playing field, especially for women. The sort of violence that we meet on our path is very difficult for women.

Last week, one of our teachers was telling me: “This woman”, and she was sitting before the public. He did not refer to her as the Member of Parliament. He said: “This woman, I will hold her by her vagina”. I do not know who would tell Hon. Junet that to his face. They know Hon. Junet will probably slap him back or kick him where it matters. But because they know we will not do the same, they are very brave and they can tell you ridiculous things like that. I think we need serious laws to deal firmly with people like those. If you do not have tough people like Millie Odhiambo, and as a woman you are told even something as small as that, you will not even vie as a sub-locational chair of anything. It does not have to be this way because we need women to be involved in politics. Politics is not about private parts. It is about intellect. It is about delivery...

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Junet, what is it? What is out of order?

Hon. Junet Nuh (Suna East, ODM): On a point of order, Hon. Temporary Deputy Speaker, let me reserve my comments.

(Laughter)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Okay. Let us have Hon. Millie complete her contribution.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you. I will conclude, but you can see the things we are hearing on the ground, it is even difficult for somebody like Hon. Junet who is tough to repeat on the Floor of the House. Those are the kind of things that we hear on the ground and elections are not even here yet. That is why it is important to have this gender policy. I would also want to encourage the Government to take very decisive action including the Teachers Service Commission to deal with their rogue teachers. You cannot have a teacher engaging and speaking like he is some useless person on the ground and talking a lot of nonsense. I am actually raising this issue with the TSC. You cannot have your teachers behaving like they are rogue people. Even politicians do not go that far. We say things, but we do not go that far.

With that I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I think the demonstration by Hon. Junet just goes to lay a lot of emphasis and weight to the kind of predicament that Hon. Millie is talking about to an extent that Hon. Junet cannot even verbalise his point of order. Let us have Hon. Hulufu Oda, Member for Isiolo North.

Hon. Hassan Hulufu (Isiolo North, KPP): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this Motion.

I would like to repeat what Hon. Millie has said. When we talk of gender, we are not talking about women or girls. We are talking about men, women, girls and boys. However, as we speak, the female gender is disadvantaged. Our girls, wives and mothers are disadvantaged. That is why if you read through the Sessional Paper, the theme of empowering women runs through all the chapters. I am sure in future when we achieve all the targets that we have set for ourselves as a nation through this Sessional Paper and probably through reviews, and we realise that the male gender will be disadvantaged, then the focus will shift. However, as of today, this policy paper is quite comprehensive in terms of helping us to integrate the various gender concerns in our development programmes and plans.

I come from a region where the disadvantages our women are exposed to are more pronounced. In our communities especially in the northern region, in the pastoral areas, we are still combating early marriages, female genital mutilation (FGM) and violation of women's rights. After closure of schools for close to nine months as a result of COVID-19, we have had young girls married off. As the schools have been re-opened for Grade 4, Standard 8 and Form 4, we are dealing with a situation where many girls who are supposed to report back to school and prepare for exams are missing. Through this Sessional Paper which tries to translate our aspiration as stipulated in our Constitution of 2010 and the various international conventions and continental agreements relating to gender, we will achieve gender equality.

When we talk about gender equality, we want to see our female colleagues, girls, ladies and women having equal access to enjoyment of rights. When it comes to employment, for example, they are accorded equal opportunities with their male counterparts who have similar qualifications. There are issues of equal pay for equal type and quality of work that they provide.

I stand here as a proud father of four daughters and it gives me pleasure to contribute here and support the adoption of this Sessional Paper, which will help us empower our women and girls.

I thank you for the opportunity and support the adoption of the Sessional Paper on National Policy on Gender and Development.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuiya): Very well said. Let us have the Member for Nyatike, Hon Odege.

Hon. Tom Odege (Nyatike, ODM): Thank you, Hon. Temporary Deputy Speaker. I also want to add my voice on the same and support the Report of the Departmental Committee on Labour and Social Welfare on gender and gender related issues.

I agree with the Mover of the Motion that gender is not only for females or males. In our country, when we talk about gender, we only refer to our ladies. Way back in the 1980s, when you talked about pension in the Public Service, women were not privileged enough to be paid pensions. When we go to our domestic lives, especially in the rural areas, you find that the boy child is given more preference than the girl child especially when it comes to inheritance and issues related to education. Although nowadays we say that the girl child is more empowered than the boy child, it is still not the reality on the ground.

My daughter may be watching me right now. She knows me as a traditionalist, but today I want to surprise her by supporting the girl child and say that we must give space to our ladies all over so that everybody regardless of gender can feel part and parcel of this nation. They can also rise and get their rightful share at the family and Government levels. That space is given to everybody so that people's rights can be achieved without any hindrance.

However, this one can only work if we have an enabling environment to have our girls compete favourably without fear or favour. A majority of the laws that we have written and the policies that we have rolled out have a major challenge in terms of implementation. We may have very good documents like the one we are debating, but if there is no force behind it, I can assure you it will form part of the files kept away. So, I urge us that after we pass this Policy Paper, let the Committee ensure that it is implemented to the letter. Whatever we are doing here is not just for the purpose of this House, but for the benefit of the whole country.

I thank you and support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuiya): Let us have Hon. (Dr.) Otiende Amollo.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Motion on Adoption of Sessional Paper No.2 of 2019 on Gender and Development...

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuiya): I am sorry, Hon. Otiende. I also render my apologies to the Leader of the Majority Party. You definitely have preference over Hon. Otiende, but let him finish.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Thank you, for your indulgence, Hon. Leader of the Majority Party.

I note from the Report that the last policy that was adopted was in 2000. That essentially means that ten years before the promulgation of our Constitution and ten years after the promulgation, we have not had a policy that is in tandem with the Constitution. It is, therefore, quite timely and appropriate that we should have such a policy. I note that from the summary as captured by the Cabinet Secretary, (Prof.) Margret Kobia and the Principal Secretary, the process appears to have been quite consultative involving ministries, Parliament, faith-based organisations, civil society and private sector organisations and a host of many other stakeholders. Although on the face of it, it does not acknowledge the National Gender and Equality Commission (NGEC), I notice it is acknowledged in the Bibliography and that perhaps captures the fact that they participated. Perhaps a subject for another day is to discuss where there is a particular constitutional commission that is given a mandate under the Constitution and at the same time there is policy to be formulated by the national Government, to what extent and in what manner the independent commissions should liaise with the Government in the development of such policies. Perhaps the Mover will guide us on that.

Overall, this policy is good. In terms of conceptualisation, it does exactly what the Mover and some of my colleagues have done. It disabuses the supposition that when you say gender, you mean women or girls. It makes it very clear and I am in total agreement that you are referring to both sexes. It also covers a broad spectrum of issues from health to housing, security to power relations and a host of others. Importantly, captures the question of the boy child on Page 23. Many times when people speak of gender, they refer to the girl child and women and forget about the boy child. The truth is that we have emphasised the girl child rightly in this country for the last two decades - so much that if you carefully look at the education sector today, you find that the boy child is starting to be greatly disadvantaged. As we uplift the girl child, we must also uplift the boy child. No one should be left behind.

This Report properly appreciates the challenge. In this country, we still have an ongoing challenge. Do we go for gender parity which essentially would mean not quite equality, but equal, or do we go for gender equity with in some sense speaks to affirmative action, realising we cannot achieve parity? I think in the conception of our Constitution and most of the laws we have so far, we have gone for gender equity. This is assuring and ensuring some measure of representation of both genders. The percentage we have used so far is one-third. Even this we have failed in many places.

We know that even in this House, we have in the last 10 years failed to achieve the one-third gender principle. But that is an ongoing challenge, in the context of this policy which helps us address all those issues. I think this policy puts us in a good pedestal to resolve the many outstanding issues we have on the issue of gender.

Hon. Temporary Deputy Speaker, I support the Motion.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): The Leader of the Majority Party, you have the Floor.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Sessional Paper, although coming 10 years after the passage of the Constitution. At least, it has helped in aligning the current thinking in the Ministry with the provisions of the 2010 Constitution.

I want to congratulate the Chair of the Departmental Committee on Labour and Social Welfare because this Sessional Paper was developed in 2019. It has been lying awaiting processing in the Committee. But, at least, now it has left the Committee and was tabled here just a couple of days ago. In the HBC, we realised sessional papers are important because they are the ones that anchor the laws, regulations and budgeting of any sector.

Without a guiding policy framework, it becomes difficult. Hence, we fast-tracked the need to get as many sessional papers in the House as possible, so that whenever Members look at the budget, laws and regulations, they can first see where something is anchored in the policy framework. Having this, at least, we can debate and see where the gender issue is in the policy framework and planning of Government.

As I was looking at this item on the Order Paper, I share your concerns. I was expecting to see people who are not politically inclined to want to see matters of the Independent Electoral and Boundaries Commission passage. I thought by the time we got to these two sessional papers, we would have a full House given the occurrence of the gender debate since it is almost at the extent of this House being threatened with a dissolution because of gender issues.

If you look at the interest by the Members, there is a total disconnect between what we hear out there. I would have liked to see the Kenya Women Parliamentary Association (KEWOPA) here when we are discussing this, so that they can guide the Kenyan ladies out there. I would also have liked to see a group that goes for... There is somewhere people disappear to during Valentine Day. There is a men's seminar that people disappear to. I would have liked to see the membership of that seminar here, so that they can tell us gender issues that perhaps according to them should be captured or have not been captured. Or whether their issues have been addressed properly in this policy.

Unfortunately, this is the way of life, that when important things are being discussed, the people most affected are not there. When it is passed, they complain later they were left behind. Fortunately, for the female gender, they are very well represented by Hon. Millie Odhiambo who has been an activist on this, Dr. Eva Obara and obviously the substantive Speaker. We thank you.

I know Hon. Millie Odhiambo reported earlier because of the *Jerusalem* dance challenge. A number of Members are nursing aches and muscle injuries because of over practising at high altitudes on top of the Kenyatta International Conference Centre (KICC) very early in the morning without warm-ups. The good thing is that, at least, we saw them participate yesterday in empathy with the victims. But today would have been the day to put their voices on what they want done on gender issues.

Dr. Amollo has said that the boy child has been marginalised over the last 20 years. Indeed, the emphasis on women empowerment has been going on. If you remember, the first meeting before Beijing was held in 1984. So, we are talking about close to 40 years ago. Since that time, there has been a lot of emphasis on the empowerment of the female gender. It has succeeded, but unfortunately, the boy child has been left behind. We see that happening in the countryside where you are unlikely to see any young girl lying on the roadside drunk in the middle of the day. It is the young men who are supposed to be catering for their future families.

If you look at the gender-based violence out there, it is not more about the women, but the young men being made to sleep under the beds or outside. They come home drunk and cannot

provide for the family. Even the children will tell you about how useless their fathers are. You never hear anyone saying how useless their mother is partly because of the stereotyping that has also come and the empowerment of women at the expense of men.

I am sure these are some of the issues which have been captured in this. So, as we talk about the gender question, it is not just women, but the empowerment of the two genders. So, we will never have that fight between the two. Like the old debates we used to have in primary school: Who is better, your father or mother or who is better a man or a woman, we do not need to have that kind of debate, but looking in totality on the human race.

Personally, when I get home, I am usually in a very awkward situation. I am surrounded by my mother, wife, daughter and grand-daughter and I am all alone. So, I am on a 20 per cent share within my family. This helps me appreciate the bigger issues of support of gender parity and equity. Right now, of course, my daughter is married and I have a grand-daughter. I would like to see some boys at her age being developed, so that in future, she can have somebody at par rather than her coming to me and saying grandpa, there is a problem. I cannot find a young man who is empowered to create a partnership with me.

The other thing I wanted to underscore, and I do not know how to bring this to the House is the importance of sessional papers. This is something I noticed in the 9th and 10th Parliament. In the 10th Parliament, I tabled and had sessional papers moved through a guillotine because nobody was interested to see what they contained. Then later on you hear people asking issues and you tell them it is in sessional paper number this. It is only one paper that people keep talking about and I think Hon. (Dr.) Otiende mentioned it today; the Sessional Paper No.1 of 1965. The only reason people are talking about it is because it has been in the media, but there are so many other sessional papers. There is the Sessional Paper of 1986 on the same thing on matters of economy, which was a revision of Sessional Paper No.1 of 1965, but you hardly hear anyone talking about it. This is what gave rise 20 years later to Vision 2030, which is another big planning for this country that we do not talk about.

As a House, we are not concerned with that bigger issue of planning, but the smaller bits and pieces that make political sense or that we can internalise with. I really urge the House that we start paying more attention to sessional papers and contribute to them so that we can anchor any legal drafting, budgeting and allocation of resources on the issues contained in those papers. We can have an in-depth debate on the matters for each sector based on what is in the policy and what we see as being on the ground as part of our oversight.

Hon. Temporary Deputy Speaker, I do not want to talk forever. I thank you for this chance. I want to stop there.

I beg to support.

Hon. Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have the Member for Kabondo Kasipul, Hon. Obara Akinyi.

Hon. (Ms.) Eve Obara (Kabondo Kasipul, ODM): Thank you very much, Hon. Temporary Deputy Speaker. I, too, support the Report of the Committee. This Motion is coming at the right time. It is timely particularly now when we are facing a lot of challenges in terms of not passing the two-thirds gender rule. I am sure out there the public is probably looking to see the seriousness of the Members of Parliament in addressing this matter.

The policy gives us a framework which will accelerate the realisation of gender equality and fairness. As the Mover was talking, I picked up a few issues that he talked about. Is it responsive? Does it consider the role needs and interests of women, boys and girls? Does it address the issues that affect women and agriculture and land rights? Does it bring in issues of gender

mainstreaming in all sectors? I am happy that in this policy, it is coming out very clearly that there are set out measures on which to address the existing gaps that we have currently on matters gender equality. As we pass this policy and get down to implementation, I ask that we get Government commitment on the implementation. That is where we normally fail. We have good policies, but rarely do we implement them. A good thing that has happened with the policy are the measures that have been set out that we can say that on this area, we expect this to be done.

So, once again, I support the gender policy as presented by the Committee. Thank you.

Hon. Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Next is the Member for Kirinyaga Central, Hon. Wambugu.

Hon. Munene Wambugu (Kirinyaga Central, JP): Thank you very much, Hon. Temporary Deputy Speaker, for giving me this chance to contribute and put my voice on this Motion. At the outset, I want to support this Motion and associate myself especially with what Hon. Millie Odhiambo, the Leader of the Majority Party and the Mover said.

The issue of gender has been misconstrued not only in Kenya, but the world over where people have taken gender to mean women or the girl child. However, this is far from it. Gender encompasses every one irrespective of the organ which you have. We should not lament very much about where we are on gender issues because it is not only in Kenya. It has happened across the world and even as recent as 1960s or thereabout, women in America were not voting. They did not have voting rights. So, the world over has made strides. I think the beauty of this policy is that its purpose is to ensure that every human being irrespective of whether male or female has the same opportunity and equality. When you look at our Constitution, it talks about us being born equal with some alienable human rights that you should not deny a person based on gender.

I am a proud father of one girl and two boys. I see all of them as equal, but it is because maybe I have been privileged to be exposed to see my children as equal. However, where we come from, for example, my constituency, which is quite exposed in terms of parity, depending on age, work is allocated to boys and other duties to girls. You are trained that a boy should not cry or he should do masculine work and the place of a lady is in the kitchen. So, even as we try to implement this gender policy, we should also change our cultural perception even when we speak as leaders and as activists. As the leader has said, there is this misconception that the boy child has now been overtaken by the girl child, but what have we been doing? We or activists have not stood strong enough to say that promoting women and girls' opportunities does not mean diminishing or not supporting the boy child.

I think the totality of this Sessional Paper is to create a just and fair society for everybody. It is only when everybody is regarded equally and given equal opportunity irrespective of gender, that our country is going to achieve development in terms of creating more wealth. Where I come from, women have organised themselves in women groups and through them, they are able to create wealth. So, it is a good thing when we encourage, support and put enough resources towards the attainment of gender equality. As a country, this is long overdue. The Committee has done a good job to come up with this Report which I want to associate myself with fully, and which I seek to fully support.

Thank you, Hon. Temporary Deputy Speaker.

Hon. Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Joshua Kandie, the Member for Baringo Central, you have the Floor.

Hon. Joshua Kandie (Baringo Central, MCCC): Thank you, Hon. Temporary Deputy Speaker. I also support the Report of the Departmental Committee on Labour and Social Welfare on this Sessional Paper No.2 of 2019. I support this Sessional Paper on three items. I saw that it

addresses gender equality for both women and men. Secondly, it also addresses the issue of boys and girls, which is also a good thing. I also want to add that as the Member of Parliament for Baringo Central, I only have boys. Gender equality is an issue which I also think is very important that we take seriously for both men and women.

I see that this Sessional Paper addresses economic empowerment for both men and women and also access to national and county government resources. The only problem I have with sessional papers or the ideas we come up with is the implementation. We produce volumes of good reports in Kenya, but there is a problem when it comes to implementation. I want to urge us and our Government to start implementing some of these policies we come up with. I have lived in one of the advanced countries and I was exposed so much so that when I came back to Kenya, I would go to the kitchen. I was chased away by my wife. She was wondering what I was doing in the kitchen. It is high time we also looked at those issues at home.

I, therefore, support the Report.

Thank you, Temporary Deputy Speaker.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us start with the Member for Baringo County.

Hon. (Ms.) Gladwell Cheruiyoi (Baringo CWR, KANU): Thank you, Hon. Temporary Deputy Speaker. I wanted to support the other one, but let me just contribute to this because it has some impact in every family.

When we talk about gender issues, for a very long time, people thought gender is women. It has been something that has been confusing people for a long time. It is time people are made aware so that when we discuss gender, it is both male and female, so that it is never mistaken with just women.

At the moment, when we talk about gender issues, all the time it is about women because of the challenges and vulnerability that women have in the country and even the world. We need to remember that the challenges that we have currently, as much as women are affected, we are focusing so much on the girl-child to a point that I am starting to think we are forgetting the boy-child. Since we think gender is female, when we talk about anything gender, we talk about female. At the moment, we are taking our children back to school from the COVID-19 Pandemic. After that long period of time, you realise that everyone is looking for interventions for the girls who have dropped out of school. All of us are thinking how many girls have dropped out of schools because of pregnancies and early marriages. Still, there are boys who drop out of school because of many other issues like drugs. Some went into businesses like *boda boda* and they are not ready to go back to school. It is only in fairness that we look into both girls and boys when we are looking into these issues that we are looking at. I know everyone is trying to find out how many girls will not go back to school, but we need to also need to know that many boys will not go back to school. In any case, when we look at the gender parity, we realise that at the base, we mobilise girls to go back to school, prepare a good room for them, but as we grow up, at the apex, it becomes narrower for the girl and wider for the boy who was not catered for at the base. So, we have inverted issues when we are looking at gender.

So, for me, the Report is good, but the biggest work that we have a country or as a Government or even as a House, is to create awareness so that people can be informed that when discussing gender, it is not about girls or women, but it is both men and women, so that we can achieve what we want. The two-third gender rule is not going anywhere because even in Parliament, we still mistake it. That is why we cannot pass that law. I support it in principle, but let us put our efforts on awareness.

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

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us have Hon. Savula.

Hon. Ayub Angatia (Lugari, ANC): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. Sorry my card was not working. I will contribute for a minute because I can see my senior has interest in this debate.

Hon. Temporary Deputy Speaker, I also support the debate on the issue of gender. Since Independence, we have been crying about the girl child. The population of the girl-child is now higher than that of the boy-child. The concentration has all along been on the girl-child. It is high time we now think about the boy-child. If we look at the labour sector, these days the girl-child can do anything. Initially, we did not have judges who were female in population the way we have now. Every judgment you read in the newspapers, the magistrate or the judge is female. The enthusiasm of assisting the boy-child has gone down. We need to focus on the boy-child. There is the issue of saying that the boy-child will be the head of the home. These days we are sharing responsibilities at home. You find the traditional believes like the boy-child will dictate whatever happens in the family and is the head of the family, these days it is called shared responsibility. You are a director the way your wife is in your family. So you cannot dictate anything. The boy-child has been neglected for a long time. Going with this trend, you will find the country leaning towards the boy-child. We are under threat to be dissolved because of the issue of gender, but biased towards the girl-child.

These are some of the issues that if we do not raise in such a debate, then we lose focus and we will have our boys suffering in the near future. Look at the performance of girls and boys at university and at Form Four level. The girls are the shinning stars because they are presumed to be of the weaker gender, so when you reach home, you are given limited responsibilities. A boy-child takes care of cows, milking, going to the shop and later becomes a watchman at the gate. The concentration has been to treat the girl-child as an egg. If you hold an egg too hard in your hands, it will break. If you release an egg, it will drop and break. So you treat an egg with care. So, we have abandoned the boy-child. I am one of the boys that have been abandoned, but my mother prays for me. The likes of Hon. Wangwe have abandoned me and am hanging in between the NASA Coalition and Jubilee Government. My friend went to the Government. My friend, Hon. Amollo Otiende, who is a Vice-Chair courtesy of the handshake in the Government. So, those of us in ANC have been abandoned gender-wise because the only femininity that we have in the National Assembly, we have given up to some national position. The other gender from the Senate has been taken over by the *tanga tanga* team, so the boy-child from the ANC is suffering and needs to be taken care of.

Thank you, Hon. Temporary Deputy Speaker.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us have a point of order by Hon. Millie Odhiambo.

QUORUM

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. You can see that this is eliciting a lot of interest and debate about the boys being marginalised than the girls and vice versa. Going by the fact that, as a country and as a Parliament, we are dealing with an issue that touches specifically on gender representation, would I be in order

to rise under Standing Order No.35 that the House be adjourned for lack of quorum, so that more Members are given an opportunity to debate?

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I, therefore, go on to order for the Quorum Bell to be rung for five minutes.

(The Quorum Bell was rung)

Order, Members. It seems like the status quo remains.

This particular Motion on Sessional Paper No.2 of 2019 on the National Policy on Gender and Development had a total debate time of two-and-half hours. We have used up one hour and five minutes. We are left with one hour and 25 minutes of debate time. It comes as a blessing in disguise to address the lamentations of the Leader of the Majority Party and other Members. After recess, we will hopefully have one hour and 25 minutes which is good enough time for the House to pronounce itself on which direction to go with regards to the gender policy.

I wish to emphasise a notification in the Order Paper which is that pursuant to the provisions of Standing Order No.28(3) relating to the Calendar of the National Assembly and as notified in today's Order Paper, we shall be going on a short recess. I call on Members to spend good time with their constituents and emphasise that we are still within the Coronavirus Pandemic. You may notice that there is a bit of laxity amongst Kenyans. The onus is on Members of this House to impress upon every Kenyan to continue observing the necessary protocols from the World Health Organisation and our own Ministry of Health, so that we can continue to combat the COVID-19 Pandemic. We thank God we are managing very well.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): With that, Hon. Members, the time being 7.00 p.m., this House stands adjourned until Tuesday, 3rd November 2020 at 2.30 p.m.

The House rose at 7.00 p.m.