

# PARLIAMENT OF KENYA

## THE NATIONAL ASSEMBLY

### THE HANSARD

Thursday, 1<sup>st</sup> October 2020

The House met at 2.30 p.m.

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

### PRAYERS

### COMMUNICATION FROM THE CHAIR

#### APPOINTMENT OF MEMBERS TO THE MEDIATION COMMITTEE ON THE COUNTY EARLY CHILDHOOD EDUCATION BILL

**Hon. Speaker:** Hon. Members, you will recall that on Thursday, 21<sup>st</sup> November 2019, the House passed amendments to the County Early Childhood Education Bill, (Senate Bill No.26 of 2018). You will also recall that on Tuesday, 30<sup>th</sup> June 2020, the Senate considered and approved the National Assembly's amendments to clauses 2, 8, 9, 15, 16, 20, 23, 24, 25, 29, 30, 35, 41, 43, 46, 47, 56, 63, 64, 66 and 69, as well as the Second Schedule but rejected the National Assembly's amendments to clauses 27, 28, 33, 36, 37, 44 and 68. In this regard, I requested the leadership of the Majority and Minority parties in the House to expeditiously nominate five Members for appointment to a mediation committee to consider the Bill, pursuant to Article 113 of the Constitution. Consequently, in consultation with the leadership of the Majority and Minority parties in the House, I hereby appoint the following Members to represent the National Assembly in the Mediation Committee to consider the said Bill:

- (i) The Hon. Martin Deric Wambugu Ngunjiri, MP;
- (ii) The Hon. (Dr.) Daniel Kamuren Tuitoek, MP;
- (iii) The Hon. John Paul Mwirigi, MP;
- (iv) The Hon. Eve Akinyi Obara, MP; and,
- (v) The Hon. (Dr.) Pamela Ochieng', MP.

Hon. Members, with this development, the Mediation Committee on the County Early Childhood Education Bill (Senate Bill No.26 of 2018) is now fully constituted since the Senate has nominated the following Senators to the said Committee:

- (i) Sen. Paul Mwangi Githiomi, MP;
- (ii) Sen. Okong'o Omogeni, MP;
- (iii) Sen. (Dr.) Agnes Zani, MP;
- (iv) Sen. Mary Yiane Seneta, MP; and,
- (v) Sen. Iman Falhada Dekow, MP.

Hon. Members, it is advisable that in attempting to develop an agreed version of the Bill, the Committee confines itself to the aforementioned contentious clauses of the Bill. I call upon the Members of the Committee to speedily embark on the process of developing a mediated version of the said Bill in accordance with Article 113 of the Constitution.

I thank you.

### PAPERS LAID

**Hon. Speaker:** Leader of Majority Party or Majority Whip as the case may be, take the Floor. Not able? We can then have the Chairman of the Departmental Committee on Justice and Legal Affairs. I can see you are already up. Give him the microphone. You are supposed to lay some Papers on the Table. Give him the microphone.

*(Hon. Clement Kigano walked in the Isle)*

I can see he is walking around. I do not know what he is doing. The microphone is already on. You have been given the microphone.

**Hon. Clement Kigano** (Kangema, JP): Thank you, Hon. Speaker. I was ousted from my seat by Hon. Maoka Maore who has reclaimed his substantive seat. Nevertheless, I beg to lay the following Paper on the Table of the House:

Reports of the Departmental Committee on Justice and Legal Affairs on reconsiderations of –

- (i) The Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill (National Assembly Bill No.35 of 2019);
- (ii) The Impeachment Procedure (Senate) Bill (No. 15 of 2018).

Thank you, Hon. Speaker.

**Hon. Speaker:** I can see the Paper indicates the name of the Vice-Chair of the Departmental Committee on Health, Hon. Joshua Kutuny.

*(Laughter)*

Can you tell the recently released Waluke not to laugh like that. He may have been doing it in prison but here you know...

No! He should go to Uhuru Park if he wants to laugh like that. He cannot be laughing from out there and make it impossible for us to transact business.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Health on its Inquiry into Utilisation of Funds Appropriated to the Ministry of Health in the Financial Year 2019/2020 for the COVID-19 Pandemic, with focus on Kenya Medical Supplies Authority (KEMSA).

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. Hon. Members, as you know, I always take time to look at those reports. Therefore, when you bring them to me to approve, you should know that I look at them. Please, just make up your mind as to whether we are technical staff. When you are inquiring into a matter, you may find that certain things may have been done in a way which is not in accordance

with the law. You must determine which is the right agency to which you can recommend further action.

I have read yours and when you say: “The Ethics and Anti-Corruption Commission (EACC) and the Directorate of Criminal Investigations (DCI) investigates”, you are actually almost causing the thing to be taken to some cupboard somewhere. This is because, who is going to investigate? When one will go, the other will say they are also investigating it and then there will be a paralysis. Therefore, it is good that when it comes to debate, you can decide because you know what it is that you found. Look at the EACC Act, see their mandate and establish what things they are mandated to investigate. This is so that if you think that it is them who should investigate, leave the other one so that you can, as a House, which has the mandate to oversee State organs ask: “We told you to investigate, what have you done?” It also helps the Committee on Implementation to make a follow up. However, when they are two, each will say that they left it to the other one to investigate and eventually nothing will be done. This is just advice, but you know what it is that you found out.

Let us have the Majority Whip.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker. On behalf of the Hon. Leader of the Majority Party, I beg to lay the following Papers on the Table of the House:

Report of the Auditor-General and Financial Statements of the Rural Electrification Scheme, Kenya Power and Lighting Company (KPLC) for the year ended 30<sup>th</sup> June 2019, and the certificate therein.

Report of the Auditor-General and Financial Statements of the Kenya Pipeline Company (KPC) Limited for the year ended 30<sup>th</sup> June 2019, and the certificates therein.

Report of the Auditor General and Financial Statements of the Kenya Youth Employment Opportunities Project, Certificate No. 5812 KE, National Industrial Training Authority (NITA) for the year ended 30<sup>th</sup> June 2019, and the certificate therein.

Special Audit Report of the Auditor-General of the Kenya Medical Supplies Authority for the period 13<sup>th</sup> March 2020 and 31<sup>st</sup> July 2020, and the certificates therein.

Annual Report of the Public Service Commission (PSC) for the Financial Year 2019/2020.

Annual Report of the Kenya Law Reform Commission (KLRC) for the Financial Year 2019/2020.

Thank you, Hon. Speaker.

**Hon. Speaker:** Now, again, for further guidance to the House, there is that No. 4, The Special Audit Report of the Auditor-General on the Kenya Medical Supplies Authority for the period 13<sup>th</sup> March 2020 and 31<sup>st</sup> July 2020, and the certificate therein.

In terms of the Constitution, if you look at Article 229 (8), within three months, the committee which deals with reports from the Auditor-General, is required to consider and report on them to the House.

I am saying this because I have seen there are too many reports even in the newspapers that, even the county assemblies are likely to start doing theirs. With this from the Auditor-General, all others are irrelevant. Even if you want to pick the report, you can. There was a program in *NTV* called *Gumzo Mtaani*.

*(Laughter)*

The Public Investments Committee (PIC) stands seized of the matter and it is the one to report to this House and not to any other House. This is the House under Article 95, which has

oversight authority over national State organs, and this body is a public parastatal. Therefore, with regard to the Report from the Auditor- General, you can discuss all those other things with regard to who wants to be employed and such. That is okay for entertainment purposes. However, for purposes of the things that the Auditor-General is supposed to deal with, PIC must move with speed to tell the country what it is that has been done.

Next Order.

## NOTICES OF MOTION

### ADOPTION OF REPORT ON UTILISATION OF FUNDS FOR COVID-19 PANDEMIC

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Speaker. I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Health on its Inquiry into Utilisation of Funds Appropriated to the Ministry of Health in the Financial Year 2019/ 2020 for COVID-19 Pandemic, with focus on Kenya Medical Supplies Authority (KEMSA), laid on the Table of the House on Thursday, 1<sup>st</sup> October, 2020.

I thank you.

**Hon. Speaker:** Very well! Next Order.

## QUESTIONS AND STATEMENTS

**Hon. Speaker:** At the outset, the second segment of this Order, that is, Statements and Responses the Chairperson, Departmental Committee on Environment and Natural Resources, you will issue these Statements on Tuesday next week in the afternoon.

Therefore, they will not be responded to today. I know a number of Members have also travelled. So, with fairness, the Statements should not be issued today, but on Tuesday next week on 6<sup>th</sup> October 2020.

The first Question is by the Hon. Member for Wundanyi, Hon. Mwashako.

## ORDINARY QUESTIONS

*Question No. 243/2020*

### STATUS OF CONSTRUCTION OF ROADS IN WUNDANYI CONSTITUENCY

**Hon. Speaker:** The Member is absent. Next Question is by the Member for Gilgil, Hon. Wangari.

*Question No. 248/2020*

### CRITERIA FOR DISTRIBUTION OF LOCALLY ASSEMBLED DESKS TO SCHOOLS

**Hon. (Ms.) Martha Wangari** (Gilgil, JP): Hon. Speaker, I wish to ask the following Question to the Cabinet Secretary for Education:

- (i) How many primary and secondary schools are to benefit from the supply of the locally assembled desks for schools in the FY2020/2021, and how many will be left out of the programme?
- (ii) What criteria were used in identifying the schools to benefit from the programme?
- (iii) What special considerations is the Ministry taking to ensure equity among sub-counties, considering that the number of schools vary from one sub-county to another?

Thank you, Hon. Speaker.

**Hon. Speaker:** To be responded to before the Departmental Committee on Education and Research. Next Question is by the Member for Kwale, Hon. Zuleikha Juma Hassan, who has requested for deferment, which has been acceded to.

*Question No. 249/2020*

#### RELEASE OF HAZARDOUS WASTE BY M/S SBNP VENTURES LIMITED

**Hon. Speaker:** Next Question is by Hon. Agoi. Initially, he had requested Hon. Omboko Milemba to ask the Question on his behalf but he is also not there. So, the Question is deferred.

*(Question deferred)*

*Question No. 250/2020*

#### STATUS OF COMPENSATION FOR VICTIMS OF TERRORIST ATTACKS

*(Question deferred)*

**Hon. Speaker:** Next is by the Member for Lamu East, Hon. Sharif. Just press the intervention button because you will suffer when I remove you from the main request section. I see Members fumbling. They have no cards.

*Question No. 252/2020.*

#### OPENING OF KENYA-SOMALIA BORDER

**Hon. Ali Sharif** (Lamu East, JP): Thank you, Hon. Speaker. I wish to ask the following Question to the Cabinet Secretary for Interior and Coordination of National Government:

- (i) Could the Cabinet Secretary state when the Kenya-Somalia Border at Kiunga Border Point will be opened to enable trading among the residents of Lamu East Constituency, noting that *Khat (Miraa)* traders from neighbouring counties are operating at the Border Point?
- (ii) When will the residents of Lamu East be allowed to conduct business and trade activities along the Kiunga-Somalia Border so as to enhance co-operation and improve on their livelihoods?

**Hon. Speaker:** Question to be replied to before the Departmental Committee on Education and Research. Is it? How? But that is what is indicated here. It must be the

Departmental Committee on Administration and National Security. In fact, that Question makes me make the following communication because I think the secretariat sometimes mixes.

### COMMUNICATION FROM THE CHAIR

#### REFERRAL OF QUESTIONS TO COMMITTEES

Hon. Members, you will recall that on Tuesday, 22<sup>nd</sup> and Thursday, 24<sup>th</sup> September 2020, during Order No.7 on Questions and Statements, the Member for Moyale, Hon. Qalicha Gufu Wario and the Member for Gem, Hon. Elisha Ochieng Odhiambo, did ask Ordinary Question No. 193/2020 and Question by Private Notice No. 026/2020, respectively. Indeed, I did refer the two Questions to the Departmental Committee on Defence and Foreign Relations.

Hon. Members, having received advice regarding the subject matter sought to be addressed by the two Questions and having acceded, I do now redirect the said Questions as follows:

The Question by the Hon. Member for Moyale is referred to the Departmental Committee on Administration and National Security and will be answered by the Cabinet Secretary for Interior and Coordination of National Government. The Question by the Hon. Elisha Odhiambo, which was given by Private Notice is referred to the Departmental Committee on Trade, Industry and Co-operatives and will be answered by the Cabinet Secretary responsible.

The House is accordingly guided. The corrections will be made. Next Question by the Member for Tharaka Nithi, Hon. Beatrice Nkatha.

#### *Question No.254/2020*

#### CONSTRUCTION OF CHUKA-KAANWA-KARENI ROAD

**Hon. (Ms.) Beatrice Nyaga** (Tharaka-Nithi CWR, JP): Thank you very much, Hon. Speaker. I rise to ask Question No.254/2020 in today's Order Paper. It is directed to the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development.

- (i) What steps has the Ministry taken to ensure the construction of the 28.5kilometer Chuka-Kaanwa-Kareni Road, a project funded by the European Union and the Government of Kenya and started in 2014 is completed, noting the EU commitment ends in 2021?
- (ii) Could the Cabinet Secretary consider urgent improvements of the said road as it is in a deplorable state before the actual construction commences?

**Hon. Speaker:** The Question is to be responded to before the Departmental Committee Transport, Public Works and Housing. Next is the Member for Bureti, Hon. Mutai.

#### *Question No.257/2020*

#### DELAY IN THE CONSTRUCTION OF BOSTO DAM

**Hon. Japheth Mutai** (Bureti, JP): Thank you, Hon. Speaker. My Question is directed to the Cabinet Secretary for Environment and Forestry.

- (i) Could the Cabinet Secretary explain what caused the delay in the construction of Bosto Dam in Bureti Constituency that was funded through a loan agreement

between the Government of Kenya and Exim Bank of China, which has since stalled, despite having the requisite clearance from NEMA?

- (ii) Could the Cabinet Secretary explain and provide details of whether the Government of Kenya has commenced the repayment of the loans for the said project?
- (iii) Could the Cabinet Secretary further explain other causes for the delay in constructing the dam and whether the Kenya Forest Service has played part in the delayed construction and, if so, what steps has the Cabinet Secretary taken to ensure that the construction of the Bosto Dam is completed and by when?

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Environment and National Resources. The next Question, which is the last one, was to be asked by the Member for Webuye West, Hon. Daniel Wanyama Sitati, who requested me to defer it and I acceded to his request.

*(Question No.260/2020)*

#### CONSTRUCTION OF KAKAMEGA–BUNGOMA BULK WATER SUPPLY AND SANITATION PROJECT

*(Question deferred)*

There was a Question by the Member who is walking like he is in his constituency. I intend to defer it because of the urgent matters that the House has to deal with just now. So, because the Member for Wundanyi was not present when I called his Question, it is deferred so that, next time, when you have a Question, you will be here at 2.30 p.m. The Majority Whip.

*Question No. 243/2020*

#### STATUS OF CONSTRUCTION OF ROADS IN WUNDANYI CONSTITUENCY

*(Question deferred)*

### STATEMENT

#### CONSIDERATION OF BUSINESS ON TUESDAY 6<sup>TH</sup> AND THURSDAY 8<sup>TH</sup> OCTOBER 2020

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker. On behalf of the Leader of the Majority Party, and pursuant to the provisions of Standing Order No.44(2)(a), I rise to give a Statement on behalf of the House Business Committee (HBC) which met on Wednesday, 30<sup>th</sup> September 2020 to prioritise business for consideration.

Hon. Speaker, on Tuesday, 6<sup>th</sup> October 2020 the HBC has prioritised consideration in Second Reading and Committee of the whole House of the County Allocation of Revenue Bill, 2020. It is our hope that the Budget and Appropriations Committee will consider the Bill and table the report by Tuesday next week to enable Members to acquaint themselves with its contents.

Hon. Speaker, we shall also continue with consideration of the Motion on the Status of Implementation of the Resolution of the House Regarding Conditional Approval of a Nominee for Appointment as Ambassador, the Second Readings of the Public Participation Bill (National

Assembly Bill No. 69 of 2019), the Public Fundraising Appeals Bill (National Assembly Bill No. 66 of 2019) and the County Governments (Amendment) Bill (Senate Bill No.13 of 2018), should we not conclude with them today.

The HBC has also prioritised consideration of the Report of the Public Investments Committee (PIC) on Special Audit Report on Kenya Bureau of Standards (KEBS) and the Report of the Committee on Implementation on a Public Petition on the Inquiry into the Crisis Facing Sugar Industry in Kenya, should they not be concluded today.

Hon. Speaker, also for debate in Second Reading during the Morning Sitting of Thursday, 8<sup>th</sup> October 2020 are the following Private Member Bills:

- (i) The National Disaster Management Authority Bill, 2019, by Hon. Kimani Ichung'wah, MP.
- (ii) The Land (Amendment) Bill, 2019 by Hon. Simon King'ara, MP.
- (iii) The Crops (Amendment) Bill, 2019 by Hon. Kassim Sawa Tandaza, MP.
- (iv) The Labour Relations (Amendment) Bill, 2019 by Hon. Kimani Ichung'wah, MP.
- (v) The Alcoholic Drinks Control (Amendment) Bill, 2019 by Hon. Silvanus Osoro Onyiego, MP.
- (vi) The Public Order (Amendment) Bill, 2019 by Simon King'ara, MP.

Hon. Speaker, in accordance with the provisions of Standing Order 42A(5) and (6), I wish to convey that the following Cabinet Secretaries are scheduled to appear before the Departmental Committees as follows:

- (i) The Cabinet Secretary for Energy will appear before the Departmental Committee on Energy on Wednesday, 7<sup>th</sup> October 2020 to answer Questions from the following Members:
  - (a) Hon. Andrew Mwadime, MP;
  - (b) Hon. Robert Mbui, MP;
  - (c) Hon. John Paul Mwirigi, MP; and,
  - (d) Hon. Samuel Gachobe, MP.
- (ii) The Cabinet Secretary for Interior and Coordination of National Government will appear before the Departmental Committee on Administration and National Security on Wednesday, 7<sup>th</sup> October 2020 to answer Questions from the following Members:
  - (a) Hon. Peter Masara, MP;
  - (b) Hon. Kipsengeret Koros, MP; and,
  - (c) Hon. Robert Pukose, MP.
- (iii) The Cabinet Secretary for Lands and Physical Planning will appear before the Departmental Committee on Lands on Tuesday, 6<sup>th</sup> October 2020 to answer Questions from the following Members:
  - (a) Hon. Moses K. Cheboi, CBS, MP; and,
  - (b) Hon. William Chepkut, MP.
- (iv) The Cabinet Secretary for Environment and Forestry will appear before the Departmental Committee on Environment and Natural Resources on Wednesday, 7<sup>th</sup> October 2020, to answer a Question from Hon. Mark Nyamita, MP.

Hon. Speaker, the HBC will reconvene on Wednesday, 7<sup>th</sup> October 2020 to schedule the business for the coming week. I now wish to lay this Statement on the Table of the House. Thank you, Hon. Speaker.

*(Hon. Emmanuel Wangwe laid the document on the Table)*

**Hon. Speaker:** Before we go to the next Order, I can see an intervention by the Member for Homa Bay, Hon. Kaluma.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): I thank you, Hon. Speaker. I rise under Standing Order No. 40(2) to request your intervention for alteration in the sequence of business, more particularly, to request that the Motion appearing under Order No. 14 in today's order of business be stepped down from consideration of the House today. As the Order Paper confirms, I have proffered a number of amendments to the subject matter of that Motion. Some of those amendments include the matters I heard you earlier this afternoon mention to the House in terms of our being definite in the particular roles that we may recommend as a Committee.

Unfortunately, I am joining a team from the Departmental Committee on Administration and National Security, which is travelling to somewhere in North Rift on matters of this Parliament. I am told that there is a bit of jam on Mombasa Road to the airport due to the commendable expressway ongoing construction. Additionally, following the approval of my amendments, I have engaged with the leadership of the Public Investments Committee and it appears to me that it is possible that we may have a convergence on a number of those amendments. I was, therefore, requesting that we be given time when I come back. We can engage formally with the Committee so that those matters we can agree on, we agree on mutually. We do not have to fight over the amendments because we are both doing the business of Parliament.

For that reason - and majorly the reason that I have to leave on another parliamentary business and I may not be available to assist Parliament transact that business - and, more so, the amendment - I crave for your indulgence and request for stepping down. Of course, I also crave for the indulgence of PIC so that this is transacted in a manner that the resolutions come out as good resolutions of this House duly considered. I thank you, Hon. Speaker.

**Hon. Speaker:** Chair of the PIC, what do you say to that?

**Hon. Abdullswamad Nassir** (Mvita, ODM): Thank you very much, Hon. Speaker. I think we will be on record as the PIC. We would not wish such kind of reports to have so many amendments. I have discussed the matter with Hon. Kaluma and we have agreed in principle that it is very vital that we see him formally. I think it is a twist of wordings so that we can accommodate each other. So, we will pray that he travels safely and he comes back. By Tuesday first thing in the morning, we will sit with him as a Committee. The HBC said it is going to prioritise this report so that we can transact it by Tuesday afternoon.

**Hon. Speaker:** It will either be Tuesday afternoon or Thursday. It will be one of those days.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Thank you.

**Hon. Speaker:** That request by Hon. Kaluma with the concurrence of the Chair of PIC is acceded to. So, the business appearing as Order No. 14 is stepped down and deferred to next week.

**MOTIONS**

THAT, this House adopts the Report of the Public Investments Committee on its consideration of the Special Audit Report on Procurement of Pre-Export Verification of Conformity to Standard Services for Used Motor Vehicles, Mobile Equipment and Used Spare Parts by the Kenya Bureau of Standards, laid on the Table of the House on Tuesday, 2<sup>nd</sup> June 2020.

*(Motion deferred)*

Let me just put the Question on Order Nos. 8 and 9 because they are very quick.

**REPORT ON STATUS OF IMPLEMENTATION OF  
LEGISLATION, PETITIONS AND RESOLUTIONS**

THAT, this House adopts the Report of the Committee on Implementation on the Status of Implementation of Legislations, Petitions and Resolutions passed by the House, laid on the Table of the House on Tuesday, 30<sup>th</sup> June 2020.

*(Hon. Richard ole Kenta on 24.9.2020)*

*(Debate concluded on 29.9.2020)*

**Hon. Speaker:** Hon. Members, debate on this Motion was concluded on Tuesday. I, therefore, put the Question.

*(Question put and agreed to)*

Next Order!

**BILL**

*First Reading*

**THE COUNTY ALLOCATION OF REVENUE BILL**

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

**Hon. Speaker:** Next Order!

**MOTION****REPORT ON STATUS OF IMPLEMENTATION OF RESOLUTION REGARDING CONDITIONAL  
APPROVAL OF NOMINEE FOR APPOINTMENT AS AMBASSADOR**

**Hon. Richard ole Kenta** (Narok North, ODM): Hon. Speaker, this is a very important matter. It has been appearing on the Order Paper severally. The last time I gave Notice of Motion was on 19<sup>th</sup> February 2020. The Motion is clear as stated on the Order Paper.

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Hon. Speaker, in today's Order Paper, I have seen the Motion listed. However, the framing of the Motion is very different from what we had actually given notice of. So, in the circumstances, I am unable to proceed with this Motion unless it reverts to the original format that I had actually given to this House.

**Hon. Speaker:** Hon. Members, there is nothing to comment. I wish to just make a comment. The Chair of the Committee on Implementation, Hon. Moitalele ole Kenta, has been to see me with this Order Paper and the Motion whose notice he gave on 19<sup>th</sup> February this year. The two are substantially different. The notice he gave to the House is not the Motion as drafted today. There is a mistake. I have acceded to his request, but I told him he has to come and state it here because all this is being done in the open. Hon. ole Kenta, this Motion talks about noting. The Motion whose notice he gave is not about noting. That is quite a significant change and I think it is only fair that the Motion from his Committee be as the Committee recommended, so that then the House can be seized of a proper Motion.

It is for that reason that I have agreed with Hon. ole Kenta that this Motion be taken out of the Order Paper today so that it can be reinstated in the format that his Committee recommended. Much more importantly, Hon. Members, the subject matter of this Motion has been litigated upon in the High Court Petition No. 367 of 2019 filed in the Constitutional and Human Rights Division. A judgement was issued on 14<sup>th</sup> November 2019. Therefore, the Committee and the House needs to look at what the court said so that you do not act in vain. The court has expressed itself in certain ways.

The judgment is available and I have a copy. So, it is fair that as you debate this Motion you are also given the copy of the judgment from the High Court. It seems to me that the matter has already left the purview of Parliament. The matter squarely lies in the Executive. So, the Executive can actually look at the judgment and proceed to act as appropriate. But that is not for me to say. As you know I have no vote.

You look at the judgment because it is not judgment of yesterday, it is judgment that was delivered on 14<sup>th</sup> November last year. In that decision, the High Court Justice Makau agreed with the original decision of Parliament and confirmed it. So, you may wish to ask yourself whether you need to revisit. It is perfectly within the power of the House after six months, to revisit. All these parameters should be considered. I think it is good for the House to take cognisance of the decision of the court to see whether indeed it is a matter that the House needs to revisit or it is a matter that the Executive needs to proceed on with, without necessarily involving the House.

Hon. ole Kenta's Committee will get their Motion as framed originally so that they can move it and the House will be at liberty to make a decision. At the same time, taking into account the decision of the High Court so that we do not appear to also be speaking at cross-purposes.

So that business is also taken out of the Order Paper for the reasons that I have given and because Hon. ole Kenta has been quite concerned that the Motion as drafted is not the Motion that his Committee came up with. It cannot be that we come and give him a Motion that he is not able to prosecute because this is not his Motion or Motion of his Committee. Let it be a Motion that they had framed and give to the House.

The House is, accordingly, advised. Let us move to the next Order. Hon. Duale wanted to raise an issue on it. Let the Order be read out first.

*(Motion deferred)*

**BILL**

## THE PUBLIC PARTICIPATION BILL

*Second Reading**(Hon. Justus Kizito on 29.9.2020)**(Resumption of Debate interrupted on 29.09.2020)***POINT OF ORDER**

## MATTER OF CONSTITUTIONALITY OF THE PUBLIC PARTICIPATION BILL

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I rise on a point of order under Standing Order No.83 to seek your guidance on whether the Public Participation Bill, 2019 which is before this House for the Second Reading, is properly before this House. I also note that there are two other Bills on the same subject, one by Hon. Chris Wamalwa and the other one being a Senate Bill awaiting a Second Reading. I say this because there are several constitutional issues arising from this Bill, which I seek to highlight, with your permission, and which I draw your attention to and seek your intervention.

First, Article 94(6) of the Constitution provides that:

“An Act of Parliament, or legislation of a county, that confers on any State organ, State officer or person the authority to make provision having the force of law in Kenya, as contemplated in Clause (5), shall expressly specify the purpose and objective for which that authority is conferred, the limits of the authority, the nature and scope of the law that may be made, and the principles and standards applicable to the law made under the authority.”

That is Article 94(6). Clause 13 of this Bill, which is before the House, confers upon the Attorney General the power to make regulations to implement this Bill. It fails to expressly specify the purpose and the objective for which that authority is conferred to the Attorney General. The Bill fails to specify the limit of the authority. The nature and the scope of the regulations that may be made by the Attorney General. It also fails to state or to set the statutory principles and the standards that are applicable to the law made under the authority. I draw your attention to this fact which may render this Bill as unconstitutional as it may offend Article 94(6) of the Constitution.

Further, Standing Order No.118 requires any provision on delegated powers to contain a distinct part defined as provisions on delegated powers. Clause 13 of the Bill is not in a distinct part, but a mix-up with other provisions. For this reason, the Bill flouts our own rules and procedures and this should not be allowed.

Secondly, Article 124 of the Constitution spreads out the authority of this august House to define its own rules to govern through the Standing Orders for the orderly conduct of proceedings. Very interestingly, what the Bill before this House is doing in Clause 13 is to confer upon the Attorney-General the powers to prescribe for this House how it should conduct its public participation.

This cannot be possible as it is flouting Article 124 of the Constitution. This Bill is asking the House to oust its powers and vest them on the Attorney General and the Executive. One arm of Government cannot - let me repeat - cannot prescribe rules for another arm of Government. This also offends the constitutional principle on separation of powers.

Finally, and lastly, you will observe that the matters contained in the Public Participation Bill seek to provide for the manner in which this House shall conduct its public participation process. Suffice it to say, these are matters that are to a good extent, already provided in Standing Order Nos. 127 and 128 expressly. If this House or the country feels like it wants to make it clear or improve it, then it should be done by amending Standing Order Nos. 127 and 128, not to create an Act of Parliament.

So, to what extent can this House legislate on matters that are purely procedural through an Act of Parliament? That is what we are doing. That is what this Bill is doing. I first wanted to oppose it last week, but later after reading it, I have realised it is very unconstitutional. We cannot legislate our own procedures. Public participation is a function of this House. Is this not a negation of Article 124 of the Constitution? To give an example, can we pass a Bill on how to elect the Speaker, the Deputy Speaker, or the Chairpersons of Committees? These are matters that are contained in our Standing Orders. The Judiciary for instance, provides such matters as fair hearing. On court proceedings, how they should be open to the public is within its internal procedures, called Civil Procedure Rules. I am sure Hon. Otiende, Hon. Millie and other lawyers in this House know that the Judiciary have their own Civil Procedure Rules. Why do you want to expose the future Houses of Parliament to vagaries of statutes?

The Public participation process is a matter that is purely internal that cannot be contained in an Act of Parliament, but only in our own internal rules of procedure, which is the Standing Orders. These are serious constitutional issues that are posed by this Bill, part of which touch on the authority and the privileges of the House.

Hon. Speaker, I seek your guidance on how we should proceed forward. In my view, I know that the Bill seeks to provide a legal framework for public participation for all State organs, including Parliament. One of the possible ways to cure this is to expunge the provisions dealing with public participation in Parliament, if possible, and legislate other organs, if we must. We cannot legislate and give our functions. Standing Order No. 127 and No. 198 on the Attorney General and the Executive tell us how we should conduct public participation.

The Constitution has always been our guiding principle. In light of the fact that the Bill may offend Article 94 and Article 124 of the Constitution, I seek your guidance on the following:

- (i) Whether we can proceed to consider the Bill as drafted.
- (ii) Is it a constitutional and procedural standing?
- (iii) Whether its consideration and possible passage is likely to prejudice the authority and the privilege of the House.

As I conclude, Hon. Speaker, I want to ask the Justice and Legal Affairs Committee (JLAC) to bring a report to the House. Hon. (Dr.) Otiende Amollo was part of the experts. The Constitution has created specific functions for the three arms of Government. We cannot mortgage our oversight role, representative role and legislative role to another arm of Government.

If you look at Standing Order No. 127, it will tell you the procedures of public participation. That is what the courts were using when litigants went to court to take up a matter that the House has legislated. The courts will look at the process of public participation. The implementer is the Clerk of the National Assembly, his directors and staff: to make sure that the process is followed.

Hon. Speaker, this Bill needs your guidance. I beseech you to make a communication about those questions that I have raised and whether we can proceed with it.

I thank you.

**Hon. Speaker:** I see the Leader of the Minority Party, Hon. John Mbadi, wants to weigh in.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. What Hon. Aden Duale has raised is very fundamental and it requires your ruling. But before you make your ruling, I just have comments to make.

Number one, our rules of procedure and Standing Orders are very clear about issues of constitutionality of any Bill or Motion. That at any stage, even at the Committee of the whole House or the Third Reading, if a Bill is found to infringe the provisions of the Constitution, you can still make a determination to have that dealt with at that stage. So, it is perfectly in order for Hon. Aden Duale to raise issues of constitutionality at this point in time.

Two, Hon. Speaker, we must be very careful with this issue of public participation. In the 2010 Constitution, out of excitement and out of the experience we had with the previous regime, there was a feeling in this country that we did not need the institutions. That the institution of Parliament was an evil institution, the Executive was evil, all the institutions, including the Judiciary. So, we found a lot of provisions in the Constitution, which looking at them critically, offend the very basic principles of democracy.

Article 1 of the Constitution talks about the people of Kenya exercising their power, either directly or through the democratically elected representatives. Ours is a representative democracy. Once the power to legislate is given to an institution, or to the people's representatives, you cannot take it away. In fact, even where we borrowed this public participation concept, I see what happens in the United States of America (USA), you see how the Congress deals with, what they call, public hearing; the evidence taking. It just simply means public committee sittings where witnesses are invited to appear before the committee. In this case, witnesses are anybody.

So, let us not take the responsibility of Parliament and give it to another institution. This is representative democracy. There is no taxation without representation. I sit here on behalf of the people of Suba South. It is expected that when I speak the people of Suba South have spoken and whatever decision I take, they have endorsed. If they have a problem with the decisions that I make for the five years, they have another way of getting me out and electing someone who would represent them more effectively. In fact, even in law, even if we made it is very difficult, there is a recall clause that if your constituents see that you are persistently and continuously making decisions that they do not like, they would recall you. Some of us who are making some mistakes here and there, you should be careful because you can be recalled.

Hon. Speaker, something that Hon. Aden Duale has raised, which we should not lose sight of, is Article 124, which recognised that this is an independent arm of Government. We are the only ones who can make rules, procedures and regulations, which govern our operations as a House. You cannot take such a responsibility and bestow it onto another arm of Government. In fact, the intention was to make the three arms of Government operate independently, but interdependently. But that does not mean we can allow the Office of the Attorney General to prescribe rules on how we conduct our business. That is unthinkable and unheard of. If we start on that trajectory, we are compromising the very cardinal principle of separation of powers in the three arms of Government.

I thank Hon. Aden Duale for being vigilant and spotting that, that is a serious anomaly that cannot be correct by subjecting it to a vote. The argument would be that if we are not happy with it, then we disapprove it. But a vote can go either way. So, a provision in the Bill that offends the Constitution cannot be subjected to a vote. Therefore, I urge that if we have to proceed with this Bill, those clauses that may offend the provisions of our Constitution should be expunged first so that we deal with the Bill as if those provisions never exist.

Hon. Speaker, you have made rulings on this matter before. You have made rulings where you have clearly stated, especially in omnibus laws, the miscellaneous amendments that we proceed with the Bill as if the provisions that would have offended the provisions of the Constitution did not exist. So, I also want to urge, like Hon. Aden Duale has asked, that this Bill be reconsidered. I want to plead with our Legal Department — I must admit that we have a very good Legal Department, they have not disappointed us in many areas and Hon. Aden Duale, who is the immediate former Leader of the Majority Party, and I have praised them before — to be very keen on these provisions in our laws, especially at the pre-publication stage scrutiny, so that we do not end up with provisions in our Bills which offend the Constitution because we may not spot them as we have identified with the ones that have been identified today.

I thank you.

**Hon. Speaker:** Hon. Members, I can see several of you have raised interventions. I am emulating other Members, like Hon. Kaluma, who have to dash somewhere.

Let us have Hon. Otiende.

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): Thank you, Hon. Speaker. I thank Hon. Duale for raising these matters.

I agree with Hon. Duale's conclusion, but not his reasoning. While I agree that Parliament cannot be infringed upon by taking jurisdiction that belongs to it and placing it on the Executive - as perhaps suggested in Clause 13 of the Bill - I must point out that this would not be the first Bill where Parliament has donated powers to make subsidiary legislation to the Attorney-General. It is precedented. In any event, even when it is donated, by the legislation that we pass, namely, the Statutory Instruments Act, delegated legislation will not be the authority until it comes back to us. Eventually, we give our stamp of approval through the Committee on Delegated Legislation. On the face of it, I would not take that as offending the Constitution.

Secondly, we can and ought to legislate on public participation. The Constitution mentions public participation in almost seven different articles. They are not all confined to Parliament. Therefore, when we seek to make this legislation, we do not make it only for ourselves. We seek to regulate it for all other bodies. The reference articles are 10, 69, 118, 184, 196, 201 and 232. By itself, I would not take that as an infringement. We really need a law on public participation.

I agree with Hon. Duale for a different reason. I intended to raise this. Last week, when this Bill was moved by Hon. Kizito, I heard the Members who submitted and I immediately realised the confusion. Most Members were submitting on a different Bill. They were making submissions on the Public Participation Bill No.71 which bears the name of Hon. Wamalwa. The one before this House is the Public Participation Bill No.69. This confusion, therefore, underpins why we need to step back and rationalise this.

First of all, we have two Bills. Some of the provisions do not tally. It may not be in good order to proceed to debate that Bill and either pass it or not without rationalising it with the others.

Secondly, you will remember that only last week, you communicated and indicated that the Public Participation Bill No.2 is also pending before the Departmental Committee on Justice and Legal Affairs. Those are now three Bills. I, therefore, agree with Hon. Duale that it may be

necessary to rationalise those Bills in terms of content and which Committee will deal with them so that we only discuss one Bill and come to a good conclusion.

I submit.

**Hon. Speaker:** This is not a very complex matter. As Hon. Otiende Amollo has said, the term “public participation” - though not expressly stated - starts at around Article 10 on national values in sub-article 2(a) on participation by the people. Chapter 8 of the Constitution is specifically on the Legislature. That is where you find Article 118 in Part 5.

I agree with Hon. Otiende Amollo. There is already Standing Order No.127 which is quite elaborate on how Parliament, and not the rest, will engage in public participation. Hon. Kimunya and Hon. John Mbadi will recall that this week and the other weeks, we have been grappling with an issue which is very clearly stated in the National Honours Act. It requires that three committees from the Judiciary, Parliament and the national Government publish the names of those whom they propose to forward to the President for consideration under Article 132 of the Constitution. It is only the committee of Parliament that publishes in keeping with the dictates of Article 118 on public participation which is a directive to Parliament.

The reason I agree with Hon. Otiende Amollo is because for the other arms of Government, public participation is non-existent even where the laws have been very clear. We, in Parliament, must also be careful on how much we want to control our own procedures. That is what Article 124(1) states. Each House of Parliament has the power to form committees and prescribe Standing Orders for the orderly conduct of business. That orderly conduct of business must include public participation which is directed by Article 118. There may be need for us to think this through and see how much more we want to do.

Of these three Bills, one is from the Senate, one from Hon. Wamalwa and there is one more. We must make up our minds. What do we want? We might state that in terms of public participation, the Judiciary shall do this or the other and then they tell us to forget that because they do not operate that way. They may say that we are introducing archaic things.

Let us have Hon. Wamalwa for two minutes because I must get out of here.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD – K): Thank you, Hon. Speaker.

There was a lot of litigation going round and they were quoting public participation everywhere. We lacked a clear framework on how public participation should be done, particularly in the counties. Governors select a few people here and there. I agree with what Hon. Duale has said. The main intention of this Bill was not so much to do with Article 118 of the Constitution which talks about legislation in terms of Parliament because that can be done within our Standing Orders.

My request is on the way forward. When we have three Bills, it is important that we sit down together, harmonise and integrate them into one Bill. First and foremost, I was very shocked last week when Hon. Otiende Amollo was analysing the Bill under Chris Wamalwa. I told him that the Bill on the Order Paper was not mine. He never spoke about it. I said that it must be a different Bill. When we looked at it, it was by the Parliamentary Broadcasting and Library Committee. We thought that maybe it should have emanated from the Departmental Committee on Justice and Legal Affairs and not the Parliamentary Broadcasting and Library Committee. Hon. Justus Kizito is a new Member and Chairperson. We met today. I agree with what my colleagues have said. We can stand down this Bill, meet, harmonise and have one Bill that will add value.

As Article 118 states, Parliament cannot give powers to the Executive because of the principle of separation of powers. When it comes to participation in Parliament, we can look into that within our own Standing Orders. There is room for Parliament as the legislative arm to see

how we can help other organs of Government which have been circumventing the issue of public participation.

Moving forward, let us sit together and harmonise so that we get an agreeable version of the Bill that can see the end of the day.

**Hon. Speaker:** Let us have Hon. T. J. Kajwang’.

**Hon. T. J. Kajwang’** (Ruaraka, ODM): Hon. Speaker, let me make one point so that we can release you.

It is good that this is coming from the Member for Garissa Township. This is the problem we have had since we started this Session of Parliament in 2010. The Constitution was a paradigm shift from what we used to have. Parliament is the authority for making legislation. This is highlighted in Articles 94 and 95 of the Constitution. We never actualised that.

Parliament is the authority for making legislation according to Articles 94 and 95 of the Constitution. Even though we are the ones who give out money to State Departments, we have never actualised that. We should run a pure presidential system with the Constitution of Kenya, 2010. We should give money to Parliament to create a legislative department which can originate Bills. Everybody out there can prefer legislative proposals and policies and give us legislative instructions. Parliament holds the power to draw, draft and print the Bills and then they are published.

Member for Garissa Township needs to pick a little salt. In his tenure, the Office of the Leader of the Majority Party accepted this idea that we must still continue to receive Bills from the Attorney-General. We did not see the constitutional mandate under Article 156 of the Constitution which does not give him power to do that. Things changed. However, he behaves as though he should pick instructions from the Attorney-General and the Cabinet. They bring legislative instructions and policies. However, the drafting of the Bills must be done in this House. So, it is all of us. It is not just the Member for Garissa Township, but all of us. We are the ones who give out money. Let us give enough money to Parliament, so that we can own this process. Everybody else will only prefer information and then we draft the Bills here.

Thank you, Hon. Speaker.

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

**Hon. Speaker:** Leader of the Majority Party, you have the Floor. I have only two more minutes.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Speaker. We will not keep you for a long time. One, I agree that we need to harmonise three Bills.

Two, it is not correct to say that Bills which come from outside, whether from the Attorney-General or ministries, are introduced directly into the House. Every Bill that comes to the House goes through the Directorate of Legal Services of Parliament which is highly resourced. We are trying to sort out some of those things. We have a checklist and steps to ensure that every step is done, and who reviews documents as part of building the capacity of that Directorate. It is not true that Bills come to this House without vetting. There are 26 steps that a Bill goes through. We do not have to draft Bills here. A Bill can come from anywhere. However, when it is introduced into the House by a Member of the House, it has to go through a whole series of checks and approvals to ensure that the quality is good. It is an oversight role. I want to take responsibility for this. We had said that the three Bills should be harmonised before they come here. However, in the rush to get it, it skipped our attention and we allowed one Bill to come and yet they are three. There is one by Senator Amos Wako through the Senate, another one by Hon. Chris Wamalwa and the third one by broadcasting.

We agreed that the three Bills should be harmonised and brought into one just like the two referendum Bills. There is one by the Departmental Committee on Justice and Legal Affairs and the other one by the Constitutional Implementation Oversight Committee (CIOC). If we do not harmonise the two Bills, Members will be contributing to one Bill thinking that they are contributing to another one. We undertake to harmonise them. I want to assure you that there is a strong parliamentary office which must continue giving continuous feedback to get them better by the day. That capacity exists.

*(Hon. (Ms.) Odhiambo-Mabona spoke off-record)*

**Hon. Speaker:** All Bills must go through... Hon. Millie Odhiambo, please, contribute for one minute.

*(Loud consultations)*

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Speaker. I was really pushing that you give me the chance to contribute because there are only two women in the House today. That does not stop me from still pushing for the two-thirds gender rule. I said it before. You can see that even when we are only two, it is still very difficult to catch your eye and yet I am wearing a brilliant blue. We are three in the House. We have Hon. Peris Tobiko and Hon. Sophia Abdi Noor. We are one-third. I am sorry because I know that we have one-third of the Members in the House today.

*(Loud consultations)*

The women representatives went to Mombasa for quality meetings. Hon. Speaker, they are not allowing me to state what I want. When the male Members of Parliament get an opportunity to bash us on the issue of representation, they are very happy. The male representatives have also gone to Mombasa. The other male Members of Parliament are here, but the male representatives have already gone to Mombasa with the women representatives.

*(Laughter)*

I want to thank Hon. Duale for bringing this Bill. However, I want to respectfully disagree with him based on Article 118 of the Constitution. Article 118(1)(b) of the Constitution says that Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its committees. So, public participation is enshrined in the Constitution. Unless we are saying that Article is unconstitutional, then that will take it to a much higher level. I agree with the Members that as Parliament, we can regulate what we want or how that public participation can be done either by an Act of Parliament or through our Standing Orders. That is up to us. I want to say what Hon. Duale referred to. We have Civil Procedure Act and Civil Procedure Rules. Talking about the rules is limiting.

I want to indicate that this is a matter that I raised before. Because we have two Houses, there will be a lot of confusion. I wanted to raise substantive legal issues, but I was informed by Hon. Otiende that I have the wrong Public Participation Bill. We will be wasting a lot of time looking at different Public Participation Bills. They are already three. The Table Office will receive

Bills and deal with them as they come. When you go there, you are given the wrong Bill. So, I will be contributing to the wrong Bill.

Two weeks ago, the Budget and Appropriations Committee discovered that we are processing three Bills on social workers. There is one that has been brought by a Member from Machakos County, whom I have forgotten his name, that has already passed through the Budget and Appropriations Committee. There is another one that has also passed through the Budget and Appropriations Committee that is tweaked a little from that. At that point, we were looking at a third one by Hon. Gladys Wanga. We put it aside, so that we can be advised on how to move. There are two Bills that have already passed the Budget and Appropriations Committee process. We are dealing with the third one.

I am dealing with the Reproductive Healthcare Bill which I have sponsored. It is before the Budget and Appropriations Committee. Hon. Kihika's Bill is in the Second Reading in the Senate. Once we harmonise the Bills, I do not mind letting go of mine. In any event, I have already brought many other Bills in the House. Can we find a way of harmonising them? I request the House leadership to deal with this very speedily because we are not using our time prudently. We have dealt with three similar matters in the Budget and Appropriations Committee. This is the same case with public participation. We have dealt with most of them, until sometimes you get a sense of *deja vu*. I know the Members are in a hurry. So, I will leave it at that. Please, can the House leadership help us urgently?

Thank you.

**Hon. Speaker:** Hon. Millie Odhiambo, we are already working on that thing because it is a matter of concern. I thank you because it is not many Members who are as magnanimous as you are. You made your proposal for assisted reproductive health Bill a little earlier than Hon. Kihika. It is good to be magnanimous.

Hon. Members, Standing Order No.127 is on Committal of Bills to Committees and Public Participation. Standing Order No.127(1) says that a Bill having been read a First Time shall stand committed to the relevant Departmental Committee without question put.

(i) Notwithstanding paragraph (1) the Assembly may resolve to commit a Bill to a select Committee established for that purpose.

(ii) The Departmental Committee to which a Bill is committed shall facilitate public participation on the Bill through an appropriate mechanism, including –

- (a) Inviting submissions of memoranda;
- (b) Holding public hearings;
- (c) Consulting relevant stakeholders in a sector; and,
- (d) Consulting experts on technical subjects.

Hon. Members, you are the people who pass these Standing Orders. You actually sought to address the issue of public participation, and largely what is captured here reflects what you will find in many jurisdictions – more particularly the jurisdictions that one of you made reference to, where they only invite people who have value to add to a proposed legislation. Otherwise we might as well say that every Committee will hold rallies every weekend to receive views at Uhuru Park or at such like venues.

What we have done here is to try to capture as much as possible what could add value to the legislation process when we are passing Bills. Unless we are told that there are shortcomings, like we have seen rulings from the courts where they have said that certain timelines were not sufficient; those are the things that we need to begin to address. What is sufficient time for public

participation? Note what the Departmental Committee on Budget and Appropriation was doing by going to villages and promising bridges and funny roads.

In the Budget making process, when you say you are going to receive views and all you get is people crying that there were locusts and tsetse flies in their areas, surely, in as much as it may be good to hear those views, what are you going to do about those situations? Budgets are not made that way. Even the other Arm of Government was supposed to do public participation in coming up with proposals on budgetary allocations. That is a subject that has been addressed in a number of forums that I have had. We need to pay attention to the 85 per cent or so that is left at the national level so that we see how it is allocated. But, again, it is this House which must deal with that aspect. It is you in the various Departmental committees, through the Budget and Appropriations Committee. But maybe we should also think of how to improve this. Even as we want to do legislation, we should stand and hold these legislations... This is because there are certain things that you may not bind other Arms of Government to do. They may come and tell you: "No, this does not apply in our field." So, we also need to concentrate on our own processes to make sure that they are beyond reproach.

Hon. Duale would recall that one of the judgements that I have in mind is one that said six days of public hearings was insufficient. Even as Kenyans are busy crying that we are not doing this, if the courts are saying that six days of public hearings are not enough, I do not know what is good enough. Each case will depend on its own peculiar merits. Is it not Hon. Millie? So, if it is about reproductive health care, obviously, there will be many key stakeholders, whom we have provided for here in that sector. A judge may say that if we have not had views from a particular sector, then we may not have sufficiently informed legislation. All these are matters you will have to consider. For the time being, I want to give direction. Given what you Members have said, there is need to stand down the consideration of this Bill.

*(Applause)*

Allow me to also address the issues you have raised, and specifically the one raised by Hon. Duale and consider the issue of three Bills dealing with the same subject matter. I think it is important. So, Hon. Kizito, Chairman of the Committee on Parliamentary Broadcasting and Library, stand it down. Let us deal with it after we have consulted widely.

Next Order!

#### THE PUBLIC FUNDRAISING APPEALS BILL

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, the Chairperson of the Constitution Implementation Oversight Committee, who was supposed to be moving this Bill, is tied up on Committee matters and has requested that we step it down until next week, when he will be available to move it. So, with the indulgence of the House, this Order is stepped down.

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

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

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Leader of Majority, I acquiesce to your request and direct that the business listed as Order No.12 be stepped down.

*(Bill deferred)*

Next Order!

#### THE COUNTY GOVERNMENTS (AMENDMENT) BILL

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, again, the Chairperson of the Departmental Committee on Administration and National Security is out of town. He travelled to Kisumu on Committee work. He had requested that we move this business to next week. The anticipation was that Order Nos.10 and 11 would take up most of the afternoon. We have also agreed with the Liaison Committee on how to avoid interference with Business on Thursday afternoons because of travelling by Committees. We are suffering from this problem because of travelling by Committees.

Again, with the indulgence of the House, I would like to have this Bill stepped down.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Leader of Majority, I acquiesce to your request and I direct that the business listed as Order No.13 be stepped down.

*(Bill deferred)*

Next Order!

#### THE COUNTY STATUTORY INSTRUMENTS BILL

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, again, for the same reason of travelling by Committees, the Chairperson of the Public Investments Committee (PIC), who has been very keen on moving this Bill...

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Leader of Majority, Order No.14 has already been stepped down. So, we are on Order No.15.

**Hon. Amos Kimunya** (Kipipiri, JP): Okay, on Order No.15, we have been trying to liaise with the Chair of the Committee on Delegated Legislation to fast-track his movement. He is on the way but he cannot be here right now. So, I would also like that we step it down. Should he come in good time, we will reorganize the Order Paper. But for now, I would like to ask that this business be stepped down.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Leader of Majority, I acquiesce to your request and I step down the business listed as Order No.15.

*(Bill deferred)*

Next Order!

**BILL***Second Reading*

## THE STATUTORY INSTRUMENTS (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Leader of the Majority Party, you have the Floor.

**Hon. Amos Kimunya** (Kipipiri, JP): Sadly, Hon. Temporary Deputy Speaker, it is the Chairperson of the Committee on Delegated Legislation, who was to move Orders Nos.15 and 16, and for the same reason of not being here, or his business having been reached when he is not here, I would like to ask that the Order be stepped down.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): I direct that the business listed as Order No.16 be stepped down as requested by the Leader of the Majority Party.

*(Bill deferred)*

**MOTION**REPORT ON PETITION ON INQUIRY INTO  
CRISIS FACING SUGAR INDUSTRY IN KENYA

THAT, this House adopts the Report of the Committee on Implementation on its consideration of a Public Petition on Inquiry into the Crisis Facing Sugar Industry in Kenya, laid on the Table of the House on Thursday, June 20, 2019.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): The Chairperson of the Committee on Implementation, you have the Floor. Let us have the Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, we are trying to get the Chair of the Committee on Implementation to get the report. He had gone looking for it, but we cannot wait for him to print and bring it. So, again, with the indulgence of the House, I would like to ask that this Order be stepped down until we reorganise it for next week.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): I direct that the business listed as Order No.17 be stepped down as requested by the Leader of the Majority Party.

*(Motion deferred)*

Leader of the Majority Party, looking at the way the order of business has gone on this afternoon, it will be good that the chairpersons of committees should know what is coming up and prepare a little more than they have shown today. They can also delegate because there are many capable Members. I see my brother, Hon. Osotsi, was very prepared to prosecute the business listed as Order No.17. If his Chairperson had delegated to him, I am sure he would have done justice to that business.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): I am also here!

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Millie Odhiambo, the Member for Suba North Constituency, of course, is always very keen to transact business and

we are thankful for that. She represents the other gender adequately even when she is alone in the Chamber.

*(Applause)*

We appreciate her commitment to the cause.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, the time being 4.03 p.m., the House stands adjourned until Tuesday, 6<sup>th</sup> October 2020, at 2.30 p.m.

The House rose at 4.03 p.m.