

**PARLIAMENT OF KENYA****THE NATIONAL ASSEMBLY****THE HANSARD****Tuesday, 15<sup>th</sup> June, 2021**

The House met at 2.30 p.m.

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

## PRAYERS

## PETITION

## REPEALING OF SECTION 22(1)(B) OF THE ELECTIONS ACT

**Hon. Speaker:** Hon. Members, pursuant to Standing Order 225(1)(b), I wish to report to the House that I have received a Petition from Messrs. Anthony Manyara and John Wangai asking the National Assembly to repeal Section 22(1)(b) of the Elections Act, 2011. For clarity, Section 22(1)(b) of the said Act provides that a person may be nominated as a candidate for an election under this Act only if that person holds, in the case of a Member of Parliament, a degree from a university recognised in Kenya; or in the case of member of a county assembly, a degree from a university recognised in Kenya.

Pursuant to section 1A of the Act, the cited provisions are to come into force and apply to qualifications for candidates in the general elections to be held after the 2017 general elections, being the August 2022 general elections. The Petitioners argue that Section 22(1)(b) are unconstitutional to the extent that they are discriminatory, inconsistent with the constitutional preserves in the Bill of Rights and against the will and sovereignty of the people, who, constitutionally are the ones to elect their representatives irrespective of academic credentials. They further argue that since the COVID-19 pandemic disrupted the academic calendar, some sitting and aspiring candidates who do not meet the academic requirements may be disadvantaged as they may not have completed the pursuit for their degrees within the projected time period of less than two years to the next election.

*(Laughter)*

In addition, the Petitioners claim that the university degree requirement will make political leadership a preserve of the elite and will disenfranchise a number of good leaders who may not have been privileged to pursue higher education.

Hon. Members, the Petitioners, therefore, pray that this House deletes Section 22(1)(b) of the Elections Act in its entirety so as to provide a fair play ground to all candidates seeking elective positions regardless of their educational background. On the same breath, one James Muriithi Ndwiga of Identification Card (ID) No. 25976982 has also petitioned the National Assembly. He

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proposes that the National Assembly deletes Section 22(1)(b) and substituting it with the following new section:

“Be a holder of a certificate, diploma or other post-secondary school qualification acquired one year before a general election or election, recognised by the relevant ministry and in such manner as may be prescribed by the Education Act.”

Hon. Members, having determined that the matters raised in the two petitions are well within the authority of this House, pursuant to the provisions of Standing Order 227, these consolidated petitions stand committed to the Departmental Committee on Justice and Legal Affairs. The Committee is required to consider the petition and report its findings to the House and the Petitioners in accordance to Standing Order 227(2). The Committee may also introduce a Bill to this House proposing to legislate in the manner prayed for by the petitioners.

I thank you, Hon. Members.

**Hon. Members:** Put the question!

**Hon. Speaker:** There is no question.

*(Laughter)*

The Petitioners have a right, of course, to petition the House. It is also fair to appreciate that Article 99 of the Constitution, among other qualifications, states that such educational qualifications as may be prescribed by an Act of Parliament. Even as they talk of un-constitutionalism, they may need to also address Article 99. I hope not all of you want to comment on this matter.

Hon. Duale, you have the Floor.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I want to thank you for presenting the petitions in accordance with our Standing Orders. You are right that every Kenyan has a right to petition the House. But I have some history, and I am sure Hon. Mbadi and Hon. Kimunya will agree with me. This matter came to the 10<sup>th</sup> Parliament when we were in the Old Chamber where the Senate is located. I remember the chorus was ‘people must go back to school’. That time, the number of people who did not have a degree were many and they were in the Cabinet of President Mwai Kibaki and Prime Minister Raila Odinga. I do not want to name them. When the House passed the Bill, President Kibaki used his veto power in accordance with Article 115 of the Constitution and he overturned the decision of the House.

In the 11<sup>th</sup> Parliament, we had a very robust discussion and we took into consideration the concerns of our colleagues. We said until 2022, go back to school. Covid-19 cannot be the reason. What is happening today is that even when your wife chases you away, you use Covid-19 as an excuse. Universities are on. People are studying online. So, as you have rightly read out Article 99(1) of the Constitution, it is a function of this House to enact an Act of Parliament. There is this story of leaders are born. When all of us were born, we did not have any experience. We did not have any qualification. We went to school. Some became doctors. We cannot have people who have no basic education qualification participating in the function of budget-making process in this House. We cannot have people who do not have the required educational qualification interrogating the Auditor-General’s report in this House. We cannot have people who have no qualification bringing Bills and representing people. We take our children to school. We cannot educate our children and then tell people you can come to the National Assembly or the Senate even if you have no qualification.

I want to urge the House that this time round, even if I am one of the affected, I had four years between 2017 and 2021. That is enough time to undertake a basic degree programme. The degree certificate must be verifiable and you must present transcripts. There are people in this House who are called doctors because they have honorary degrees. That is not a degree. You must have transcripts. We must know the colleagues with whom you were in university. Your lecturers must be known. I want to urge the House to deal with this Petition in accordance with Article 99(1).

**Hon. Speaker:** Let us have the Member for Ugenya.

**Hon. David Ochieng** (Ugenya, MDG): Hon. Speaker, I did not intend to speak on this matter, but Hon. Duale has talked about something. The same Constitution says the President and governors must have degrees. So, we are just extending this provision to make sure that those who come to this House do not stay here for four years without saying anything. There are Members who stay in this House for five years without saying anything and claim to be working on the ground. Our first and foremost duty as Members of this House is to debate in this Chamber, to legislate and bring Bills, not to work on the ground. In fact, if in future we want to make this Parliament robust, then we should take CDF away, so that Members take time on this Floor to debate as a people. People talk about veteran Members like James Orengo, Gitobu Imanyara and Martin Shikuku. They had no CDF. They spent their time on this Floor, made their contributions and did so well for the country. Here we spend so much time following CDF and how much money has been released. We do not pay time to debate. That is why some Members say: “*Wacha Wajaluo wazungumze Kizungu kwa Bunge*”, as we work on the ground.” It is not about Kizungu. It is about being able to interact with the tools that we use in this House.

If someone has not gone to school, how will he use this iPad? How will he be able to login and interact with the proceedings? One is supposed to login into the system, go to House business and check what is there before contributing. If you cannot do that, then we are wasting people’s time. Above all, if we are to interfere with the law, then this Parliament will stand indicted. We have deferred it very many times. This time we must put our feet down. If there is any Member in this House who thinks that he is going to convince others... More than 70 per cent of Members now have degrees. If you do not have, this is the time to ensure that you get one. If you do not get one, then wait for 2027. We cannot keep going back and forth.

Hon. Speaker, you observed the other day that some Members, instead of engaging with reports, they want to engage with witnesses who appear before Committees because they have nothing useful or useless to add to what is happening in Parliament. So, much as the petitioners have a right to bring a petition, I want to request the Committee concerned not to waste time on this matter. There are more serious business to be looked into. IEBC has not given us a report on how they intend to conduct elections in the next one year. The Departmental Committee on Justice and Legal Affairs should find out how prepared IEBC is to conduct elections, not these small matters of degrees and what-not. Let those matters be run by the universities. It is not our business to start asking people to go to school when they very well know that the reason Presidents Kenyatta, Moi, Kibaki and Uhuru have spent so much money on education is so that our children are able to participate in national development. So, this is a matter that requires the Committee to spend only a week. Let us give the petitioners a report within next week and deal with better things.

Thank you very much, Hon. Speaker.

**Hon. Speaker:** Let us not debate the petition. Let us only point out salient features. I can see there are very many of you who want to make comments. Take one or two minutes.

Hon. Kangogo Bowen, you have the Floor.

**Hon. Kangogo Bowen** (Marakwet East, JP): Thank you, Hon. Speaker, for giving me this opportunity to comment on this issue. Article 95 of the Constitution provides the role of this House. I am a graduate from Jomo Kenyatta University, Mr. Duale. It is impossible to have illiterate legislators here. You cannot legislate when you are illiterate. At the same time, we have seen cases where you have a law professor as a governor being overseen by illiterate MCAs. We discussed this issue in the 11<sup>th</sup> Parliament, as Hon. Duale has said. This time, we are not going to postpone the requirement to 2027. We need to do this thing once and for all. We have to make sure that we have Members who are able to interrogate members of the Executive and fully interrogate the Bills that will be coming to this House. They must be legislators of substance.

**Hon. Speaker:** The Member for Emuhaya is not in. Member for Alego Usonga, kindly, have the Floor.

**Hon. Samuel Atandi** (Alego Usonga, ODM): Thank you, Hon. Speaker. For avoidance of doubt, I am well-schooled. I went to university, and many people in this House know. However, the crisis in Kenya is not about lack of academic papers; it is integrity. There is no evidence that if you have many papers, then you probably have more integrity than others.

It is clear that many of us have gone to school and have many papers. However, when it comes to interrogation and decision-making, one's education level does not apply. Education qualification is never the yardstick. This House should not lock the voters from electing whoever they want. Kindly, talk for yourself because I am giving my views. This Petition is rightly before us. Let us give Kenyans an opportunity to elect leaders of their choice.

There are many Members in this House who do not have degrees, but they are effective leaders than many of us who have papers. If we intend to resolve the crisis of leadership in Kenya, let us look at what our problem is. It is not about academic papers, but people who lack integrity. Many people have gone to school, but they can never come up with ideas that can help Kenyans. In my view, this House must legislate and answer to the Petition as a request.

Thank you.

**Hon. Speaker:** In observation, it was dictated by the Constitution that such educational qualification shall be prescribed in an Act of Parliament. The Act of Parliament is the Elections Act No.11 of 2011, in case you have doubts. The 10<sup>th</sup> Parliament was acting to implement the requirements of Article 99 of the Constitution. It is not something that is found on the streets.

Member for Endebess.

**Hon. (Dr.) Robert Pukosse** (Endebess, JP): Thank you, Hon. Speaker. You have just said what I wanted to say. For purpose of clarification, and also to be on record, I am a holder of a Master's Degree in General Surgery. I am a surgeon.

Our Constitution demands that this House legislates on the qualifications for somebody to contest any position. That is the constitutional requirement. The Election Act 2011 was legislated and people have had 10 years knowing that this Act was going to come into force. There is, therefore, no reason for people to suggest that we postpone its implementation to 2027. It is wrong and an abuse of the legislative power of this House. If we will be legislating to change that, it will be unconstitutional. The lawyers who are here will tell us that it is unconstitutional.

Thank you.

**Hon. Speaker:** There is a schedule about the laws that Parliament had to pass within specified periods under Article 261 of the Constitution.

Hon. John Mbad, you have the Floor.

**Hon. John Mbad** (Suba South, ODM): Thank you, Hon. Speaker. The Petitioners have a right to petition the National Assembly to consider any matter that would be of interest to the

nation and to them. This law was passed by the 10<sup>th</sup> Parliament, as Hon. Duale has said. The person who inserted that amendment – and I hope I am not wrong – is the Leader of the Majority Party, Hon. Amos Kimunya. It was passed when some of our colleagues in Parliament who did not have degrees then did not know that we were passing it. I want to give you the magnitude of the problem if you do not have a degree. I remember clearly that we passed the amendment. One of my colleagues who did not have a degree then approached me in the lobby. He asked me if it was true that we had passed the said amendment that was going to bar anyone who did not have a degree from contesting. I told him “yes.” He was shocked because he was inside Parliament. The said Member of Parliament is still in this House. I do not know whether he now has a degree. I do not want to say who he is. Immediately thereafter, there was lobbying. The said Members went to the President. I remember some of them approached my party Leader and requested us to do something. One of the Members who petitioned the President now has a degree because he is a governor of a county.

There is enough time, like it was then. I spoke to this matter at a public function immediately after the 2017 general elections and it became a national debate. I told members of the county assemblies (MCAs) who did not have university degrees to go back to school in good time, and a demonstration was organised by some of my opponents. They asked women to demonstrate against me in Nairobi, Kisumu and Mombasa. I do not know why it turned out to be a women affair. In Kisumu and Mombasa, they called and told me that they were not going to demonstrate against me. The Nairobi ones went ahead with their demonstrations. However, I told them that I was like Noah when he was making the Arc. He told the people then: “Rain is coming. Please, take cover.” But some of them did not. When we reach 2022, you will know that I was a prophet. That hour of reckoning has now come. The MCAs who were saying “Mbadi is abusing us” should know that I was their friend. If you still do not have a degree, please, it is too bad for you. This House is hostile to any other extension from the way I look at it.

How do you expect the Chair of the Budget and Appropriations Committee in my County Assembly to be someone who does not have a university degree, like is the case in Homa Bay County? Surely, how? Let us be serious. You expect the Chair of the Budget and Appropriations Committee, like Hon. Kanini Kega here, looking at the Budget Estimates and yet, the membership of that Committee has people who have not gone beyond Standard VII or VIII just because we are politically correct? Let us retain this law as it is.

I request the Committee not to ever give this Petition a thought or propose an amendment through a Statute Law (Miscellaneous) Amendments Bill. Instead, the Report they should bring here should affirm it and have those Members who still do not have university degrees barred from contesting. We have other positions where they can still serve this country very well. You can be appointed to some committees in the constituencies and other places. This law must stand.

Thank you.

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

**Hon. Amos Kimunya** (Kipipiri, JP): As Hon. Mbadi has said, it is obviously the right of every Kenyan to entertain whatever wishes they have and to bring them here. As you rightly said, we are obligated by the current Constitution to prescribe education qualifications for anyone willing to contest. The current Constitution has introduced academic qualifications. The previous Constitution did not have that requirement. Its framers then determined that it was necessary to have a certain basic minimum educational qualification.

Hon. Speaker, when I brought the amendment here during the 10<sup>th</sup> Parliament, I remember we were seated in the Old Chamber. The matter became controversial. We even had a Division

and people voted and signed in the Lobby that they want a degree. Immediately after that, there was a delegation. I remember I was summoned by the former President and asked what I had done. I was accused of all manner of things and that I had rigged them out. Eventually, he said much as we are prescribing at this point, there are only a couple of months to the general election and it will look unfair that we are almost doing it to block people. Can we give people time to go to the university? I believe that is what happened with the 11<sup>th</sup> Parliament. People had been given time. As the Committee looks at this Petition, I also want them to consider that following the enactment of that Act, there are people who have invested their money and time to go to school because they now want to join parliamentary or county assembly leadership. If then it is seen that we make a law and then we reverse it so that the donkeys can catch up with the horses, we will never make a law that will be obeyed. This is because the people will not have a predictability that this law will hold into the future. They will think that we can always lobby for a law to be changed when they are not compliant.

I think that should not be the basis of this House. We cannot be legislating in vain. So, we encourage them to go to school and think of 2027. Let them give an opportunity for those who have prepared themselves to participate in the 2022 elections in compliance with the existing law, but not to change the law to suit those who have failed to comply.

Hon. Speaker, it will be the same argument that people extended; you must belong to a political party or declare yourself as independent. If we are to go back and start changing the law because some people have not joined a party, we will be making nonsense of the legal systems that we have created to underpin our electoral system.

I think this is the fact that people could vote through a Division and not even know what they were voting for until it was announced at 1:00 O'clock news that some people would be locked out. That is when they started panicking about the law that they had just passed. So, it just tells you that the quality of debate, representation and oversight will be far much improved when people can stand in this House and read the documents. They do not have to keep asking me if I have some moving notes.

People should read committee reports, interrogate a Bill, come and prosecute it here on the Floor of the House so that they are not an extension of my thinking or an extension of Hon. Duale or Hon. Mbadi's thinking. That is the kind of thing that we need to enrich this House even if it is for our respectability. Since we are endowed with a very progressive Constitution, let us set the pace for the rest of Africa.

I thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, you know there is always so much limited time for comments, but let me hear from another segment of Members. We do not know whether the donkeys are going to catch up with the horses.

Let us have Hon. Dennitah Ghati.

**Hon. (Ms.) Dennitah Ghati** (Nominated, ODM): Thank you, Hon. Speaker for giving this opportunity to the other gender.

We are talking about something very important; that is education. Allow me to say that I do not support that Petition simply because we have come a long way as a country in terms of education. The Cabinet Secretary (CS) for Finance just read the budget the other day and you saw the amount of money that was allocated to education. So, we will be making a mockery of education in this House, if we can accept someone to come into this dignified House without a degree.

You are aware that I am a very proud graduate. I happen to be an Irvine graduate from Columbia University USA, courtesy of the efforts of other people. Many of us such as Hon. Joyce Emanikor, Hon. Tecla Tum, and Hon. Sen. Mwaura all went to the US to pursue education. We went extra mile to just get education.

Therefore, if this House agrees to such a Petition, it will make a mockery of education. In the month of July, the G7 will be in London talking about issues to do with climate change and education. We have a lot of money that we are financing education. The Free Primary Education Summit is coming up in London where the G7 countries are putting together money to support education. What are we even talking about? We must have educated Members in this House. Anybody who is privileged to sit in this dignified House must have a basic degree. So, I even do not know why we are discussing this. For the first time, I support the Independent Elections and Boundaries Commission (IEBC) for putting the strict measure. People must go to school. Leaders and MPs must go to school. Why are we educating our children if we are advocating for people to come to Parliament without a degree?

Hon. Speaker, I do not support that Petition. I thank you.

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

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Speaker. Article 119 is very clear in terms of petitions to the House. The other day I was listening to some Members on this Floor of the House when the Auditor-General's Reports were brought here and they used the words "qualified" and "unqualified". I was shocked that they could not tell the difference. It is, indeed, important that we agree that people must go to school. This Petition is at the right place. Under Article 118, there must be public participation. We are saying this because some circumstances have been unique in this country.

How I wish that the Departmental Committee on Justice and Legal Affairs will do proper work so that we get that report so that we know what action to take. We have had great leaders such as Winston Churchill. He never had a degree, but he was such a wonderful leader. I am humbly requesting...

*(Applause)*

I know it was a different century but ... Some Members are talking here and they were my students at the university.

Hon. Speaker, during the Building Bridges Initiative (BBI) rallies, we were in Kakamega and the Members of the County Assembly (MCAs) wanted to knock it down because they thought that the issue of the degree was in the BBI. We had to tell them that it was in the Elections Act. I was given a responsibility by the county assemblies to bring an amendment to that law and I told them...

*(Loud consultations)*

Just listen. I am merely a messenger!

This is on your desk and I am happy the Petition has come. They tried to expedite this matter... When time comes on this Floor of this House, we will debate. However, in some unique circumstances, if Covid-19 contributed towards them not acquiring a degree, let us give them a hearing. Leadership is not only about academic qualifications. I agree that it has been a challenge because even Members here were asking questions when we were discussing the budget. However,

some have made an effort of going to school. If you did not qualify to go to the university directly, you must start with a certificate. I know Members who got the certificate and have now done a diploma. It is another process such that from the diploma, they can do a degree. If we have such circumstances, we can give a leeway and extend to 2027.

I thank you, Hon. Speaker.

**Hon. Christopher Omulele** (Luanda, ODM): On a point of order.

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

**Hon. Christopher Omulele** (Luanda, ODM): Thank you, Hon. Speaker for giving me this opportunity. I was rising on a point of order because my friend Hon. (Dr.) Wamalwa while speaking had lowered his mask to a level where he was not covering his mouth or his nose. We know that COVID is very serious in this country at this time. I think it behooves all Members of this House to take it seriously and wear their masks properly. It does not stop you from saying what you want to. Just wear your mask because it might protect somebody. You never know. Let us wear our masks properly all the time when we are in this House.

Hon. Speaker, having said that, and because you have given me this chance, I think it is important we uphold this law. As people come to debate in this House, let them be properly armed because they had sufficient time. The Constitution and the law require it. Let those who are ready go out and come back to this House after they are elected within the stipulations of the Elections Act, which requires a degree for one to come to this House. So, be it.

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

**Hon. Chachu Ganya** (North Horr, FAP): Thank you, Hon. Speaker. I want to join my colleagues in making a statement about this Petition. As my colleagues have said, clearly leadership demands some level of skills. The law is very clear and even the Constitution requires that the President, governors and their deputies must have degrees. This is also required for the rest of the elected Members, whether in the National Assembly or county level. They should have some level of education.

I was in the 10<sup>th</sup> Parliament with Hon. Duale and others, and this was an issue then. We passed the law but there were a number of Members who lacked a degree at that time. They petitioned the President successfully and we had to pass this law in the 11<sup>th</sup> Parliament. People were given five years to go and prepare themselves if they wanted to continue being Members of this House or at the county level. It is required for us to undertake responsibilities which come with our position in this House. Without a degree, there is no way you can oversee a Cabinet Secretary (CS), Principal Secretaries (PS) and others armed with a doctorate degree.

There is no way you can interrogate a budget of Kshs3 trillion when you cannot do good summation. It demands that we have these skills for us to undertake our functions of oversight, representation and law making. Also, for us to determine and make a decision on issues of national concern in this nation, we need this requirement. I strongly support that Members should have a degree at all levels. I even wish Members would have master degree and not only a first degree.

**Hon. Speaker:** Hon. Members, we are just commenting and are limited by the time we have for this. Of course, I just want to appreciate, before I give the last Member to comment on this, that you have heard the Petition states that this requirement is discriminatory. I do not know if in this case it says the Constitution has created discrimination in requiring the President, governors and County Executive Committee Members (CECs) to have university degrees. If this is discriminatory, it means we must go back to the Constitution and overhaul it to say we need farmers.

Let us have Hon. Olago Aluoch.



**Hon. Olago Aluoch** (Kisumu West, FORD-K): Thank you, Hon. Speaker. I want to go back in history a little bit. Hon. Chachu Ganya, Hon. Duale, Hon. Kimunya and Hon. Mbadi were in the 10<sup>th</sup> Parliament when we were debating this. It was very controversial then, but we all agreed to have this in the law. At that time, there were Members of this House in the Cabinet who did not have degrees. There were some who were backbenchers like us but were very close to State House. Like Hon. Mbadi has said they were not aware we were discussing it. But when they realised it had been passed, they lobbied and went to see His Excellency President Mwai Kibaki. That is when Hon. Kimunya was asked to say what happened in Parliament.

Since His Excellency President Mwai Kibaki refused to assent to this law, it is 10 years. It was very clear when he refused to assent that, that provision would take effect in 2022. It has been 10 years since. Anybody who was serious about getting a university degree would have it. What I see in that Petition is that if you have a driving license, you qualify to come here. I am glad that you have guided the House on the constitutional bedrock of what we have in the law. It makes me happy that as Members are discussing this in the Plenary, my Chairman Hon. Muturi Kigano is seriously making notes and listening. This is because when it comes to the Committee where I have the privilege of serving, we will look at the views expressed by Members. We will also go back to the HANSARD and look at why we have that provision in the law.

From where I stand, I can tell the House as a lawyer that, that provision in the Law is not unconstitutional. If it were, then the provision on age could be said to be unconstitutional. Kenyans have the right to bring this to our attention. But I can tell you as a Member of the Justice and Legal Affairs Committee that this matter should not be allowed to go through.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, also remember the Salaries and Remuneration Commission (SRC) placed MPs where they did because it was said there is no educational requirement for you to become a Member. You can come from the village because you are able to mobilise clans and people to bring you here. That is how the SRC determined that this job without any qualifications be placed in number 43-47 or thereabout.

Indeed, I think the points some of you have raised, even members of county assemblies (MCAs) must also take cognisance of those views expressed by the SRC in placing them where they are placed. One of the reasons is for this one you just walk in. You are sworn by villagers, your clansmen and women. They come singing and carrying you into Parliament. Hon. Maore, you want to have the last bit of the cherry.

**Hon. Maoka Maore** (Igembe North, JP): Thank you, Hon. Speaker. I want to bring my sentiments to this one. My emphasis is this: If you find the way leaders have been elevated in the recent times, there should never be an excuse of taking elders to the county assembly or Parliament. This is because they should be people who are prepared and purified through education, so we do not have chaos like we are having in county assemblies.

Money is sent there and nobody is able to account because the majority are just waiting to be told: *“Fanya hii. Tufiche hii hapa!* Until you find a situation where in the county assemblies or National Assembly some people have no idea what is happening, I want to agree on the issue of degrees and from a qualified university as Hon. Duale has put it. We do not want somebody to come with printed papers saying they have a degree and when we follow around, we do not know who their classmates were or the university they attended. Hon. Kigano’s Committee should save this country by not allowing a Bill on this one. *Ni kutusumbua tubure.*

*Ahsante.*

**Hon. Speaker:** From the education sector, Hon. Omboko Milemba, you have the Floor.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Speaker for being kind. I lost my opportunity and will be very brief. From the perspective of workers, we know every job must have a job description which leads to creation of titles, job levels and ranking in form of job evaluation.

Hon. Speaker, you have just said that you find yourself in trouble a lot of time with the SRC. You have just spoken on issues that concern Members of Parliament. It is because there is no job description. So, this is a law that is trying to bring a level and job description for Members of Parliament so that the ranking can be known. It should be in a bracket that is really known. That will be good for the House.

On education, usually there is need to encourage the society. You do this by encouraging the young ones. If we make it that you can come to Parliament without any certain job description, then the youthful people in school will not find mentorship in us. For that reason alone, there is need to put a job description for people who are coming to Parliament.

Finally, education has been expanded. There are online studies for everyone and, indeed, anybody can get a degree from where he is or from the comfort of his home.

Thank you, Hon. Speaker.

**Hon. Speaker:** I believe in the process. We also know that everybody calls you and even greet you asking: "Who are you?" And you answer: "I am Honourable so and so!" How do you honour yourself? Your name cannot be honourable. You are yourself. You are honoured by others. Let us try to educate one another, including those many honourables out there who want to honour themselves before they are honoured by the society. Let the Petition be committed to the Departmental Committee on Justice and Legal Affairs. The Chair has been listening. I am sure he will give it due consideration.

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:

A List of Nominees to the National Government Constituencies Development Fund Committees.

The Reports of the Auditor-General and Financial Statements of the Management and Supervision Fund for Trade for the years ended 30<sup>th</sup> June, 2013, 2014, 2015, 2016, 2017, 2018, 2019 and 2020, and the certificates therein.

The Report of the Auditor-General and Financial Statements of the Mwea Irrigation Development Project for the year ended 30<sup>th</sup> June, 2020 and the certificate therein.

The Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June, 2020, and the certificates therein:

- a) State Department for National Government Affirmative Action Fund;
- b) State Department for Uwezo Fund Oversight Board;
- c) Youth Enterprise Development Fund;
- d) State Department for Crop Development;
- e) Agricultural Information Resource Centre;
- f) Strategic Food Reserve Trust Fund; and,
- g) State Department for Livestock.

Thank you, Hon. Speaker.

**Hon. Speaker:** Let us have the Chairperson of the Budget and Appropriations Committee.

**Hon. Kanini Kega** (Kieni, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

The Report of the Budget and Appropriations Committee on its consideration of the County Allocation of Revenue Bill, 2021.

**Hon. Speaker:** Next Order!

## ORDINARY QUESTIONS

*Question No. 184/2021*

### ISSUANCE OF TITLE DEEDS TO AMUNGENTHI B SUB-SECTIONS

**Hon. John Paul Mwirigi** (Igembe South, JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Lands and Physical Planning:

- (i) Could the Cabinet Secretary explain why there have been multiple demarcations of land described as Amungenthi B Sub-Section C, D in Igembe South Sub-County since 1992 to date, with each demarcation giving different land registration (LR) numbers thereby creating confusion, suspicion and conflict?
- (ii) Could the Cabinet Secretary indicate when title deeds for the said parcel of land will be issued?
- (iii) Could the Cabinet Secretary also take disciplinary action against land officers working at the land offices in Kanuni Tumu Tumu area of Igembe South Sub-County who have been overcharging members of the public for land demarcation services to ensure that the vice is stopped forthwith, including effecting transfer of any officers who have overstayed at the station?

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Lands. Next Question is by the Member for Saboti, Hon. Caleb Amisi, who has written to request that the Question be asked on his behalf by the Member for Alego-Usonga, Hon. Atandi.

*Question No. 186/2021*

### DELAYED REMITTANCE TO ST. RAPHAEL DISPENSARY BY NHIF

**Hon. Samuel Atandi** (Alego-Usonga, ODM): Hon. Speaker, I rise to ask the Cabinet Secretary for Health:

- (i) Could the Cabinet Secretary explain why the National Hospital Insurance Fund (NHIF) is yet to remit over Kshs3 million owed to St. Raphael Dispensary in Matisi Village in Saboti Constituency as NHIF claims despite the facility having filed the claims correctly and on time, which has caused the facility to shut down operations owing to its inability to pay salaries and procure essential medical supplies?
- (ii) Could the Cabinet Secretary also explain the measures that the Government has put in place to ensure that NHIF funding is remitted to health facilities without unnecessary delays so as to protect health facilities from closure?

- (iii) Could the Cabinet Secretary also provide the implementation status of the Linda Mama Programme under the NHIF since its commencement, including the amount spent and its impact so far?

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Health. The last Question will be by the Member for Sirisia, Hon. Maj. (Rtd) John Waluke.

*Question No. 187/2021*

FACILITATION OF FARMERS TO ACCESS INTERNATIONAL MARKETS

**Hon. Maj. (Rtd) John Waluke** (Sirisia, JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Agriculture, Livestock and Fisheries the following Question.

- (i) What incentives has the Government provided to farmers to enable them take advantage of opportunities for free market access granted by countries such as South Korea for the export of farm produce, including green bananas and broccoli where the two crops are on high demand?
- (ii) What steps is the Ministry taking to ensure that farmers throughout the country are able to access quality standardisation and other requirements for agricultural produce to access the export market?
- (iii) Could the Ministry consider undertaking a survey and registration of all farmers whose produce is viable for the export market with a view to empowering and facilitating them accordingly?

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Agriculture and Livestock.

**REQUEST FOR STATEMENT**

**Hon. Speaker:** The next segment is request for Statements. The first request is by the Member for Mvita, Hon. Abdullswamad.

RENEWAL OF TEACHERS COLLECTIVE BARGAINING AGREEMENTS

**Hon. Abdullswamad Nassir** (Mvita, ODM): Hon. Speaker, I beg to speak in English so that my leader can know that I am educated enough.

Pursuant to the provisions of Standing Order 44 (2) (c), I seek to request a statement from the Chairperson of the Departmental Committee on Education regarding renewal of teachers' Collective Bargaining Agreement (CBA).

The current Collective Bargaining Agreement (CBA) between the Teachers Service Commission and teachers across the country is set to expire in a matter of weeks, thereby creating unwarranted anxiety amongst teachers.

Already, the Kenya National Union of Teachers (KNUT) as well as the Salaries and Remuneration Commission (SRC) have already submitted their respective CBA proposals, but the Teachers Service Commission (TSC) is yet to forward any proposal from its end.

Hon. Speaker, it is, therefore, on account of the aforementioned concern that I seek for a statement from the Chairperson of the Departmental Committee on Education and Research on the following:

- (i) Within which specific timelines is the TSC planning to submit its CBA proposals for teachers in order to renew the current CBA that is about to expire?
- (ii) How many KNUT members have either not been promoted or have not received salary increments as per the existing Collective Bargaining Agreement?

I thank you, Hon. Speaker.

**Hon. Speaker:** I suppose, Hon. Abdullswamad Nassir, that your request is not for a written answer. The answer should be brought to the Chamber. Very well. Chairlady of the Departmental Committee on Education, Hon. (Ms.) Florence Mutua, how long do you think you are going to do that? Can you put your card in? What is the number of the seat? That appears to be your regular position. That one is on.

**Hon. (Ms.) Florence Mutua** (Busia (CWR), ODM): Thank you, Hon. Speaker. That is a key question because the current CBA is coming to an end at the end of this month. It has been a big concern to the members of my Committee. We have raised that issue. I even met Madam Nancy Macharia this morning and she said she will look into it urgently. So, we are also expecting a response as soon as possible because we have to have something for the teachers by the end of the month.

**Hon. Speaker:** When do you think you can come up with the answer because the allegation is that they have not proffered a counter proposal to what the KNUT has presented?

**Hon. (Ms.) Florence Mutua** (Busia (CWR), ODM): That is what I went to ask Madam Nancy this morning. We are also expecting an answer the earliest. So, in a week, we also need an answer as a Committee.

**Hon. Speaker:** In a week's time?

**Hon. (Ms.) Florence Mutua** (Busia (CWR), ODM): Yes.

**Hon. Speaker:** Yes. This is an instruction from Parliament.

**Hon. (Ms.) Florence Mutua** (Busia (CWR), ODM): Yes. I thank you.

**Hon. Speaker:** Very well. Hon. Abdullswamad Nassir, one week's' time. Next segment is on Responses to Statements. The Chairman, Departmental Committee on Energy and Member for Nakuru Town East, Hon. David Gikaria.

## RESPONSE TO STATEMENTS

### PROCUREMENT OF ELECTRICITY BY KPLC LIMITED

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Speaker. First of all, I wish to register my apologies for not having been here last week, and neither was my Vice-Chair. I sincerely apologise for our absence. As it is, it is true that Hon. Aden Duale did, on 10<sup>th</sup> June 2021, rise on a point of order to request a statement. I have a Statement which I wish to read.

We have had three meetings, one of which was postponed because the Ministry was unable to attend and the other two. During the last one where Hon. Aden Duale had another engagement with the Departmental Committee on Administration and National Security, the response was availed to him in writing. I have read and Hon. Duale is not satisfied with two of the six issues that he had raised. Hon. Duale had requested the response from the Cabinet Secretary (CS) and it is as follows attached.

Hon. Speaker, President Uhuru Kenyatta, through a Special Gazette Notice of 3076 published on the 29<sup>th</sup> March 2021, appointed a taskforce primarily assigned with the undertaking a comprehensive review and analysis of all Power Purchase Agreements (PPAs) entered into

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between various Independent Power Producers (IPPs) and the Kenya Power and Lighting Company Limited (KPLC). The constitution for the taskforce by the President follows the revocation of a standing committee appointed by the Cabinet Secretary, Ministry of Energy, to undertake a similar exercise through a Special Gazette Notice No. 2219, published on 15th March 2021.

Notably, the mandate of the standing committee in the revoked notice was centred on the renegotiation of the PPAs, whereas the mandate of the taskforce in the Gazette Notice has been extended to include termination of the PPAs and any other appropriate action the taskforce deems fit as recommendation options. The Committee, therefore, in its meeting held on the 15<sup>th</sup> April 2021 requested the Ministry of Energy to table a report. This is what the Ministry did give: That these power producers each, individually, enter into a Power Purchase Agreements (PPAs) with KPLC which buys the power from them directly.

Question one that Hon. Aden Duale had sought is this: At what rate does KenGen supply electric power to KPLC? KenGen is currently the largest power producer in Kenya with several power plants located across the country. The power plants come in different sources of power ranging from hydro, geothermal, wind and thermal. KPLC pays KenGen for energy delivered, fuel used in generation and capacity charge for each power purchase agreement, as shown on the table below:

Hon. Speaker, the list is a bit too long and because Hon. Aden Duale had seen the Statement, he might be able...

**Hon. Speaker:** Does he have a copy of the Statement?

**Hon. David Gikaria** (Nakuru Town East, JP): Yes. He has a copy of the Statement.

**Hon. Speaker:** Okay. Very well.

**Hon. David Gikaria** (Nakuru Town East, JP): The second question was this: At what rate KPLC procures electric power from independent power producers? KPLC pays IPPs for energy delivered, fuel used in generation capacity, and charges for each power purchase agreement as shown below for 2019/2020 Financial Year. Again, Hon. Aden Duale has that. This was specifically for the 2019/2020 Financial Year. It is variance, which Hon. Duale has. It is in kilowatt hours. The charges are almost Kshs6,304,587,105.

The third question was this: What the basis was for the huge difference between rates charged by KenGen and the rates charged by independent power producers (IPPs). The different power plants are priced differently depending on various factors, a major one being the source of power. KenGen also has different prices for its power plants, some being higher or lower than other IPPs.

With regard to the fourth question, I agreed with Hon. Duale when he rose last week saying that he was not satisfied. The question was whether the Cabinet Secretary could provide a list of the IPPs, including their shareholders, directors and addresses. The list given here is only of some 19 IPPs with no names of directors, addresses or shareholders. That is why we totally agree with Duale as a Committee that the information he sought was not given as he had requested. As a Committee, we have been raising those issues. Hon. Pukose remembers them from when he was a Vice-Chair. It is purported or alleged that some of the past and present staff at the Ministry are out and maybe that is the reason why they do not want to give out that information. Again, as a Committee, we will be demanding for full disclosure as requested. We have been asking and the Committee should be privy to that information. It has not been brought to our Committee, but we will demand that, that information be provided as requested by Hon. Duale.

The fifth question was on how much money has been paid to each of the IPPs by the Kenya Power and Lighting Company (KPLC) and the Ministry of Energy since the commencement of their respective contracts with the Government of Kenya and the KPLC. The response is that some of those contracts go back over 25 years. Therefore, more time will be required to extract and consolidate that data for submission.

Again, as requested by Hon. Duale, it is not appropriate to have this kind of answer almost three months down the line. As a Committee, we will request your indulgence in terms of giving us an extra week so that we can request the Ministry to furnish us with this very important request that was asked by Hon. Duale.

The last question was what urgent measures the KPLC was taking to reduce the cost of electricity to households, businesses, factories and other consumers, with a view to supporting the Government's Big Four Agenda, especially in enhancing manufacturing. The answer is that there will be a renegotiation of existing power purchasing agreements (PPAs) for existing power plants. Second is the time of use of tariffs for large commercial and industrial customers. Third is lifeline tariffs for small and medium enterprises. Fourth is that on dispatch basis during operations, priority is given to renewable generation sources to meet demand while reducing thermal generation. Last is 132 KVA and 220 KVA tariffs.

Those are the responses that were given by the Cabinet Secretary. The response is signed by the Cabinet Secretary for the Ministry of Energy.

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

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I need your guidance on this matter because I asked six questions. This is a matter of public interest. It concerns the high prices that Kenyans pay for electricity. My interest was in the independent power producers. I have been given a list of 19 independent power producers. One of them is more like a Government entity, namely, Lake Turkana Wind Power Limited. The other power producers are Tsavo Power, Rabai Power, Imenti Tea Factory Hydro, Thika Power, Gikira Hydro, Gulf Power, Iberafrica Power and Mumias-Cogeneration. This is a matter of public interest. This Committee has done a good job.

The Government and, more so, the Ministry of Energy, has refused to answer two important questions. Under Article 117 on the powers and privileges given to Parliament and its Committees, Article 35 of the Constitution on access to information and the Powers and Privileges Act, this Committee, for the first time, has been denied answers to two important questions. The first one was on the directors and shareholders of the 18 independent power producers. I confirm that those directors and shareholders are big people. Some of them are in Government and others are in the energy sector.

Second, I have asked for the contractual obligation that they have entered into with the KPLC. The Chair has been denied that information for the last three months. I refer to the last response which states that I should go to a court of law and get an order as the Member of Parliament for Garissa Township, so that those answers can be availed to me.

Before you give direction, I say without fear of contradiction so that they can hear us that in 2019, the KPLC spent 15 times more money to buy power from the independent power producers, even compared to KenGen, which is a Government entity. In that period, KenGen was selling power to the KPLC at 4.6 cents per kilowatt hour. I will name four companies among the 19. Triumph Power Generating Company, whose directors' names we have been denied, sold power to the KPLC at 69.2 cents per kilowatt hour. That was 15 times more expensive. Gulf Power, Iberafrica Power, Power Tech Solutions and Tsavo Power sold power to the KPLC at 26.3, 16.9,

14.7 and 11.77 cents per kilowatt hours, respectively. Those independent power producers are making Kenyans pay for power. They are owned by people who mint billions.

I will give you a scenario. According to the KPLC, in the electricity power generating agreements they signed with those companies in 2018, the KPLC spent Kshs64 billion to buy 10.79 billion kilowatts per hour from those companies and KenGen. KenGen produced about 60 per cent of that. Those other companies took away close to Kshs29 billion and it is in the document. One thing that Kenyans do not know and I want the Ministry of Energy to tell me is that under those power purchase agreements, there is a component called capacity charges. The Member for Gem started from a very low rank at the KPLC. He climbed up the ladder until he became a big man and so, he understands what I am talking about. There is a component called capacity charges where the KPLC pays the independent power producers even when they are not generating power.

Hon. Speaker, even if all these power producers do not generate or sell power to the Kenya Power and Lighting Company (KPLC), they earn billions of shillings in the name of capacity charges which are transferred to the ordinary bills of Kenyans. This Government opened so many geothermal and solar projects. The biggest solar project in East and Central Africa is in my constituency. It pumps 55 megawatts to the national grid. We have geothermal power and Turkana Wind Power. Over the years, these independent power producers have generators. They do not sell power. However, they earn capacity charges.

Hon. Speaker, I want you to indulge me and this House. Ask this Committee to form an inquiry. We want to know the actual faces behind these 18 companies. Who are the owners and directors who steal from Kenyans through these exorbitant power prices? We ask you to order the Cabinet Secretary for Energy to table the contractual obligations of these companies before the Committee. Every contract must have a period. We want to know if Hon. Duale owns Gulf Energy or Tsavo Power Company. Some of these companies are listed. The Committee of this House cannot be told to tell Hon. Duale to go to court and get a court order for him to know the answers of the questions he had asked. This is a serious matter. It is just like the Anglo-leasing scandal which Hon. Maoka Maore raised questions on in the 9<sup>th</sup> Parliament. We want to protect public interest from few individual companies.

*(Applause)*

The Kenya Electricity Generating Company (KenGen) can provide enough power to KPLC. Why do we engage these companies? They were brought on board in 2001 during the drought when we had a shortage of power. We have enough power today. The KenGen can supply it. Why do we deny KenGen the opportunity to supply us power at Kshs4.6? We allow other people to supply it at Kshs69, Kshs26, Kshs17 or Kshs11? We are helping the Government. You need to direct this House to be furnished with the directors, shareholders and contracts of these companies and the price of power which they have been charging since 2001, so that the Committee of this House can bring this matter to rest.

I will not go to court. Under Article 117 of the Constitution, I enjoy privilege, powers and freedom of expression of thoughts to represent not only the people of Garissa Township Constituency, but also the great people of Kenya. This answer is unsatisfactory. Questions 4 and 5 were not answered deliberately because some people want to hide certain faces. Hon. Speaker, through your powers, help us to unmask these shareholders and directors of these companies. Let us have their contracts.



**Hon. Speaker:** I can see there are a few interventions. The Member for Gem wants to put in his specific knowledge. Please, do not do it now. Let me give directions.

The issues which have been raised by Hon. Duale are of great moment. They really go to the core of some of the key issues that we keep on addressing. We talk about the Big Four Agenda where there is the manufacturing component. We will not achieve it as long as some of the issues that Hon. Duale has raised are not addressed. I know Hon. Gikaria chairs a departmental committee. However, you will convert it to an inquiry which has all the powers to summon all the people who are involved. If they fail to appear before the Committee, report here. We will show you how we will drag them into the place.

*(Applause)*

Start with the CS, Ministry of Energy and his personal assistants. As a Committee, invite whomever you choose to invite. Members from KPLC have responded that Hon. Duale can go to court. We will not allow it, under my watch.

*(Applause)*

The Member of Parliament is entitled to a satisfactory answer. You should also invite the Registrar of Companies. There is even the issue of beneficial ownership these days. Let him come with all the CR12s of all the companies. If he does not bring them, then you will know that he is phony. The Registrar of Companies must bring all the CR12s of those companies before the Committee. That process is ongoing. Kenyans were praised the other day for complying in great numbers with the requirement for beneficial ownership. So, get the CR12s, so that you bring the answers as a report, Hon. Gikaria. Do not bring the Statement from the Ministry. You will bring the report. On the day that you will invite the people who are involved, invite Hon. Duale and the other interested Members like the Member for Endebess, Member for Gem and Member for Kwanza, whom I can see raised up his hand. You should also invite any other Member who desires to go and hear the Committee proceedings.

This matter affects everybody in the country. It is an important matter that the Committee should inquire into. It is not a matter of being given written Statements perfunctorily. You will now inquire into that. Go into whatever length and depth to find out the issues that Hon. Duale has raised. At least, you have a starting point. Get the *Hansard* to know the issues that Hon. Duale has raised. Indicate when every contract was first entered into by the companies. Was it for eternity? There is a language that is being used now in the Judiciary about eternal clauses. Indicate whether these green contracts are for eternity, so that we may know. Do they have expiry dates, even if Kenyans have so much sun today? There is a lot of cheap power. Why do we continue having such expensive contractual arrangements? There must be some point at which some of them may have to exit the scene. Hon. Gikaria, your Committee should take a little bit of time and call everybody who is in the whole chain from KenGen, KPLC, Ministry, Registrar of Companies and every other body that you think has any information to proffer, so that you table a report here which the entire House can debate and resolve in one way or the other.

In your report, you should also make recommendations on the direction that the House should take. We do not need to debate this matter further. That is sufficient, Hon. Gikaria, unless you think there is any other issue.

**Hon. David Gikaria** (Nakuru Town East, JP): Hon. Speaker, I want to thank you for your direction. I will engage the secretariat of the Committee immediately. We will immediately start an inquiry into this issue. As a Committee, we are so much concerned about the cost of electric power. Hon. Duale, through the intervention of the President after appointing the taskforce, thought it might unearth the problem. He gave them months to come up with a report. However, that does not stop us from continuing with what we have to do.

**Hon. Speaker:** That is Executive driven. It will not be brought here. Bring here what you find out.

**Hon. David Gikaria** (Nakuru Town East, JP): I will. Thank you, Hon. Speaker.

**Hon. Speaker:** On this segment, there is a general Statement by the Leader of the Majority Party, Hon. John Mbadi.

#### DEMISE OF HON. JAKOYO MIDIWO

**Hon. John Mbadi** (Suba South, ODM): Thank you very much, Hon. Speaker. I stand here, indeed, with a very heavy heart to convey my condolences to the family, relatives, friends and, of course, the great people of Gem Constituency, and to pay tribute to a fallen hero who was also a very good friend of mine, a comrade, political mentor and a reliable stalwart, a Member of my Party, the Orange Democratic Movement, (ODM), the late Hon. Washington Jakoyo Midiwo. Even adding the article ‘the’ and following it with ‘late’ is very difficult for me to pronounce before the name “Washington Jakoyo Midiwo”. I got to learn yesterday that Hon. Midowo succumbed to a heart attack at the age of 54.

Hon. Jakoyo was elected Member of Parliament for the first time in 2002 to represent the people of Gem Constituency in the National Assembly. He served in this House continuously for three terms up to 2017. The Members who worked with the late Hon. Jakoyo Midiwo will agree with me that he could be described as an astute debater and a courageous and charismatic leader. I must add that he was a witty politician. He was super forthright, very brave and straightforward. If I use those words liberally to describe my fallen friend, I would not be off the mark. He was actually a dedicated and selfless leader who served his people with zeal.

Hon. Speaker, allow me to move to a summary of Hon. Midiwo’s history. He was born in 1966 and officially joined politics in 2002 when he vied and won the Gem parliamentary seat on a National Rainbow Coalition (NARC) ticket. He went on to be re-elected to represent the same people of Gem for another two terms in 2007 and 2013 under the ODM.

During his time in this House, we all remember that Midiwo served in various House committees, but I want to single out the Departmental Committee on Finance and National Planning, and the Joint Committee on Parliamentary Broadcasting and Library. He also served in the House Business Committee by virtue of his position in the leadership of the House. He also served in the Departmental Committee on Defence and Foreign Relations, among others. I am reminded that he also served in the Members Services Committee.

Hon. Jakoyo served as the Whip of the ODM in this House from 15<sup>th</sup> January 2008 to 2013. Later on, after being re-elected for the third time under the new Constitution, he served as the first Deputy Leader of the Minority Party in the National Assembly of the Republic of Kenya. We all remember Jakoyo’s contribution. He used to sit around here. He consistently sat on this row.

Yesterday, the sun set and the clouds gathered, then we got the sad news of his demise, which was sudden. It was truly sudden because on Friday, I had a conversation with the late Washington Jakoyo Midiwo and I agreed with him that we would meet on Sunday evening to

discuss issues of ODM. On Saturday, I tried reaching him. His phone went through, but he did not pick my calls. That was very unusual of Jakoyo Midiwo. Those who had been communicating with him know that his phone is always on. There was no single time I had ever tried to reach out to him and his phone was either off or he did not pick. If he did not pick the call, he called you back almost immediately, but it was unusual this time round. However, I did not read much into it, and I did not expect the sad news of yesterday. However, we must accept that we are in a journey. All of us are heading to where our departed friend has now crossed over to.

Allow me, Hon. Speaker, to take a few minutes because I know many of my colleagues will also want to have opportunity to condole and share their grief over the death of our colleague.

I called Hon. Jakoyo Midowo, my political mentor and, indeed, he was. I must confess that I have had two political mentors, and both of them are now late; the late Gerald Otieno Kajwang', who started mentoring me into politics before I even came to Parliament and Jakoyo Midiwo, who immediately I came in here, gave me opportunity and immediately spotted some potential and put me very close to him. He introduced me to parliamentary procedures and allowed me space to grow. Jakoyo was someone who had no jealous. He would want you to grow as much as he grew politically. He was also very open, candid and honest. After the death of Joshua Ojode in a grisly accident, and his replacement was being discussed in the political corridors, I remember meeting Jakoyo in the stairs and he called me aside and told me that it was being said that I was going to be appointed assistant minister, but he did not want me to be appointed. He told me to my face and I asked him why. He told me that if Ababu Namwamba was crossing over to the Government to become a Member of the Cabinet and if he lost me as well, who would remain in the back bench? I told him that he was not thinking about my personal development and that he was thinking about the party. He immediately took about one minute thinking about my statement and told me that he agreed with me. So, that is Jakoyo. Other people would go behind your back and start discussing how you should not be appointed, but he first reached out to me and told me that he thought I should be appointed assistant minister. We have lost such kind of a person.

He was someone who could trust you once he knew you had some capacity and competence. I remember one time there was a Report that was tabled in this House through the Departmental Committee on Agriculture and Livestock that was chaired by Hon. John Mututho. The Report had personalised attacks on the Office of the Prime Minister. We sat with Jakoyo in the Prime Minister's Office with the technical team and agreed, the two of us, to bring amendments. He told me to go home and read the Report as he was also going to read it. We would converge the following day and propose amendments. I read up to 3.00 a.m. and came with amendments. When I met Jakoyo the following morning, he just laughed and told me that he knew I was going to read the Report and so I should go ahead and propose the amendments. When I took the Floor and made my contribution, all the Members, including the Cabinet Ministers, agreed with me. I think that is the first clear mark I made on the Floor of this House; that is how Jakoyo could trust you. I could go on and on.

Among my friends, there is no Hon. Member who has visited Suba South Constituency like Jakoyo Midiwo. He did so many fundraisings for me as the chief guest. It is only his constituency and Rarieda Constituency, where my wife comes from, where I have visited outside Homa Bay County more than any other constituency in the Republic of Kenya. So, I do not want to take all the time for my colleagues. It is, indeed, a sad moment for all. All the MPs here, especially those who served in the last Parliament and the previous Parliaments, will agree that we have lost someone who, even if he was not with you in the same side of the political divide, you could interact and socialise with him and he was a very genuine human being. I want to stop there.

Because I profess the Seventh Day Adventist faith, I will not say “may God rest his soul in eternal peace” because we believe that is a judgment that is left to God. However, he served this country. He lived his life.

Thank you very much. I pray for the family. Thank you, Hon. Speaker.

**Hon. Speaker:** Let us not take too long per person because I know there are many of us who would want to eulogise our good friend and brother, the Hon. Washington Jakoyo Midiwo. I will start with the Deputy Speaker.

**Hon. Moses Cheboi** (Kuresoi North, JP): I thank you, Hon. Speaker. On behalf of my constituency, my family and myself, I wish to pass my heartfelt condolences to the family of Hon. Jakoyo Midiwo.

I came to Parliament in 2002 and Jakoyo had also just been elected as a first term. What Hon. Mbadi did not say or did not say properly is that Jakoyo was a good person with a very good heart, and a big heart. When we came in 2002 because I want to be very brief, we were quite a lonely group of young Kenya African National Union (KANU) MPs who had been thrashed. The party had been thrashed in the general election. We were only 68. On the side of NARC, it was very difficult to interact with anybody on that side. They are the ones who were in Government. Remember NARC had just gotten to power. Many of them were fairly new to real power. They were very difficult and sometimes fairly arrogant. The only person who would interact with us across the aisle without a problem was Hon. Jakoyo Midiwo. I remember one time we went to his constituency and actually put him into a lot of trouble. Fourteen young Members from KANU visited his constituency and did a *Harambee* for him because there was nobody else we could interact with in Government. We had been used to power and we had no power any more, and, therefore, very lonely. We went to his constituency and I remember him being summoned and asked why he was behaving in that manner with people from the Opposition. That story went on and on. He was an active Member of the House.

Other than being a good debater, he was also a footballer, maybe not a very good footballer. If you get anybody from Nyanza or Western, when they come to Parliament here, they will believe in themselves just because they are very good the other side. He was not a good footballer, but a very social footballer. We would interact very well when we went on trips with him. I will just say he was a good man.

Lastly, I wanted to say something about him on a personal level. Many of these MPs have never lost elections. So, they would not know how cold it is to be outside Parliament when you lose an election. I remember when I lost the 2007 election and I had nothing much to do, Jakoyo Midiwo picked me from somewhere and gave me advice on what I could do and make my life useful during that difficult period. I was not ready with all the papers that were required. Because he was a Whip and had some control here and there, he waited for me to do those things that I did. I will not say what it was then. However, part of what sustained me outside this Parliament for five years is as a result of Hon. Jakoyo Midiwo. That is what I really wanted to stand and say. If there was anything I could do to say “thank you”, I really want to say “thank you” from the bottom of my heart. To the family, we pray for them and hope that God will...

**Hon. Aden Duale** (Garissa Township, JP): Be kind.

**Hon. Moses Cheboi** (Kuresoi North, JP): Let us not say “be kind”, Hon. Former Leader of the Majority Party. For us we say *Mungu afariji mioyo ya familia*. Then we can put that in English. Thank you very much, Hon. Speaker.

**Hon. Speaker:** Member for Gem.

**Hon. Elisha Odhiambo** (Gem, ODM): Hon. Speaker, I would like to thank you for giving me this opportunity to send my message of condolence and that of the good people of Gem following the sudden and untimely demise of our former MP, my friend and brother, Washington Jakoyo Midiwo.

As history would have it, I had a conversation with Jakoyo Midiwo on Friday at 6.00 p.m. That conversation was around telling him sorry for the demise of his elder sister Juliana. I asked him where I should send my donation and he told me to send it to him. Little did I know that was the last time I would talk to my brother Jakoyo. No wonder the Bible says, in Psalms 39:4, Lord show me my end; Lord teach me that my life is like a phantom. That my life is just like I am. The demise of Jakoyo has taught me a few lessons of life. During the 15 years of his membership in this House, Jakoyo exuded a sense of teamwork and a sense of bravery in articulating issues that touched on ordinary Kenyans. He will be remembered as a man who dedicated himself to serving the people of Gem and a man who had fidelity to the truth.

When he was in the line of duty, Jakoyo ensured that he was indeed the man in the arena - his face marred with sweat and dust most of the time, in attempts to ensure that we the people of Gem got what we deserved and what was rightfully ours. In his oversight role, he will be remembered as a man who was brave when he was tackling issues. It is in his representation role that we the people of Gem, that we will remember him for standing for what was right for the people of Gem.

The Hon. Jakoyo Midiwo, while serving as a Deputy Leader of the Minority Party in this House, helped consolidate the Members of the Opposition and led them as a solid and unshaken house that put the Government to check. The people of Gem will forever remember the Hon. Washington Jakoyo Midiwo for his transformation agenda and for the many projects that he launched using the National Government Constituencies Development Fund (NG-CDF) and ensuring that our students in schools had good classes.

On my personal encounter with my predecessor, I remember with a lot of nostalgia the many moments that we met with Jakoyo and joked about our competition. We thought that the competition was just like a football match between Gor Mahia and the AFC Leopards. After the match, sometimes you lose, sometimes you win. We kept our cool because we thought that we are all fighting for the beautiful constituency of Gem - the land that has the best of brains in this country.

Hon. Speaker, let me take this opportunity to convey sincere condolences to the family of Jakoyo and people of the entire Gem, and the friends and the loved ones of Jakoyo, for the loss that we have encountered in his demise. We wish to assure the family of Jakoyo that we are together with them in this and that we are praying for God's mercy and grace upon them during this difficult moment.

As I conclude, I wish to request Members to keep the family of our fallen brother and the people of Gem in prayers as we come to terms with the loss of the former Member for Gem. He was a man we will never forget for his work, deliberations, bravery and for investing in many of his friends. Jakoyo was one of those Members who spent time with ordinary people at home. He invested in his network; he had a huge network. I will forever remember him for his steadfastness and for being a true person. When he did not like something, he said it as it were. I remember for the last two years when he attended funerals in Gem and met people, he would tell them that Gem can have only one Member of Parliament. I will remember him for that for the rest of my life. And I will do anything possible to ensure that he is given a peaceful send-off. The Bible reminds me in

Revelation 21: “Then I saw a new heaven and a new earth, because the old had passed...” We look forward that when our day comes, we will meet him in heaven.

Thank you.

**Hon. Speaker:** Hon. Wandayi.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Thank you very much, Hon. Speaker. If you allow me, I may remove my mask because I want to refer to some notes on my phone. Let me join my colleagues...

*(Loud consultations)*

I have asked for permission from the Speaker to refer to notes on my phone, but if they insist, I will try to persevere. Let me join my colleagues in passing my deeply felt condolences to the family of my friend, Jakoyo Midiwo.

I came to know Jakoyo Midiwo when he was serving his first term in this Parliament. At that time, I was working for British American Tobacco (BAT) and there was a corporate social responsibility project I was implementing in his constituency. That is how I met him. From that first encounter, I learnt one or two things, one of which was that a Member of Parliament should not just sit back and wait for the so-called development to be brought by the Government. A Member of Parliament must go out of his way to create networks. That was a very valuable lesson I learnt from him.

Come 2013 when I was running to be Member of Parliament, Jakoyo stood by me from day one up to the last moment. I remember very well at that time I was still undertaking an assignment in Kampala. Even after I had won the ODM nominations in Ugunja and came to Nairobi to look for my nomination certificate, it was delaying, so I went back to Kampala. When the certificate was ready, Jakoyo called me saying, “I have the certificate with me and I want you to come and pick it from me lest somebody plays mischief.” So I had to fly back from Entebbe to Nairobi and he gave me my certificate and those of the Ugunja MCA nominees. That is Jakoyo. He thought that if he did not do so, it could create room for some mischief.

In the 11<sup>th</sup> Parliament, most of us in the CORD Coalition had wanted Jakoyo to be the Leader of the Minority Party, because we had seen the capacity in him. But because of the dynamics of coalitions, it did not happen. He became Deputy Leader of the Minority Party instead. Even as a deputy, he performed exemplarily well. His leadership in this House was exemplary and it was a lesson to most of us who were new.

Fast forward, as I conclude, when Jakoyo did not make it back to this House in 2017, I must confirm and confess that I was among the few people who remained close to him. In fact, the period between that time and now that he has left us, he has been to my constituency countless number of times. I remember speaking to Jakoyo on phone last Saturday evening, one or two days before he passed on, about the demise of his elder sister. I did not know that I was speaking with him for the last time. He was still very confident as a man who was always sure of himself.

Finally, we all know that Jakoyo ran as an independent candidate in Gem in the 2017 election. When the elections were concluded, I took it upon myself to initiate the process of bringing him back to ODM in my other capacity in the party. I must say that I was successful in organising his comeback and a ceremony to be received back by *Baba* at Chungwa House, of course, an initiative that did not please very many people. To cut the story short, I want us to give our departed brother the most befitting send-off and to take home the lessons we have learnt from his life as a politician, a father, brother and a son.

There are very many people who have passed through this Parliament and others who will pass through this Parliament will never leave the mark of the magnitude that Jakoyo has left. There are people who have been in this Parliament even for more terms, but they have not left the kind of legacy that Jakoyo has left. May God the Almighty rest his soul in eternal peace.

Thank you.

**Hon. Speaker:** Hon. Ochieng.

**Hon. David Ochieng'** (Ugenya, MDG): Thank you so much, Hon. Speaker. With a very heavy heart, I cannot believe I stand here this afternoon to talk about Hon. Jakoyo Midiwo aka Otada. In the last campaigns I used to call him 'Otada times four'. It is so saddening that he is now being called the late Jakoyo Midiwo. I believe that one day even death will die.

Jakoyo was so friendly, so honest and so forthright. In 2012 when I was running to be Member of Parliament for Ugenya, he met me at the airport. I was fighting with my current Senator on whether I should run for Member of Parliament or not because we both come from the same ward. Jakoyo said, "This young man has been fighting for so long to be Member of Parliament and he has done so many things. Why are you fighting him?" He even left a glass of wine at the table at the Intercontinental Hotel when it was apparent that I had won the nomination and rushed to pick my ODM ticket. He then advised me to go to court after the ticket was given to somebody else. I got the ticket. Jakoyo was so generous, not just with what he had but with words and advice.

Hon. Speaker, he was such a good mentor. He would tell you: "I know you are hard-headed but this is the right thing to do". If I may joke about it, he told me: "David, you are a young man. You are going to have many girls around you. When you are in the constituency, if you want to keep your dignity and record straight, never allow any woman to enter your car."

Hon. Speaker, I have never allowed any lady in my constituency to enter my car.

*(Loud consultations)*

My wife is not any other woman.

*(Laughter)*

He would advise us on how to navigate the way through as we serve in this House. My joining of the SACCO was because of him. He told me that I was going to spend money around here but when the day for election comes, I will not have much. He cared.

Three weeks ago, on Sunday 30<sup>th</sup> May, in his constituency, when the President came to Siaya County, I shed a tear. A former Member of Parliament who had served for three terms - not just an ordinary Member but a Minority Whip - was being blocked from entering where the President was. He was told he could not because he was a former Member of Parliament. The President came to launch projects that I am sure he was part of. Some police officers and guards refused him entry. It was disheartening. As we discuss this example, we must also discuss how to ensure that former Prime Ministers, Speakers and Ministers who have served... If a Member serves here for three terms consecutively, there must be a way to deal with it. We must make laws that will ensure that we... You cannot leave Parliament after three terms and then they just play with you willy-nilly. I was disheartened.

A person of Hon. Jakoyo's stature...I was in this House during last term and I know that whenever he rose to speak, everybody else would keep quite because they knew he would speak

sense. He knew how to navigate his way across the aisle. He taught us how to navigate life in Parliament.

As the Deputy Speaker said, he would tell you that the reason for joining sports is not that you are a good player or you are going to be a good footballer; you did not come here to do football but you must ensure you go to sports so that you socialise. He advised that you would get to know people and understand how Members react to different situations.

He was such a loyal human being to his friends. When he lost in the last election - I am a friend to Hon. Elisha here - I was certain that had he not supported Hon. Gumbo for governorship of Siaya, he would have been a Member of Parliament now. He said that if ODM was not going to give Hon. Gumbo the ticket, he would not take theirs. He was loyal to his friends.

As we mourn him, I would like this Parliament to have one thing in mind: that even as we do our things, let us mentor people who are going to come to this Parliament because we are not going to be here forever. Let us give them hope. Let us tell them that Parliament is the best place to be in terms of getting to this House. He believed in the authority and independence of Parliament to solve people's problems. There is nothing he saw that he would not bring to the Floor of this House.

I say sorry to the family. They are fellow friends to us. We will pray with them and we hope that God will give them peace, courage and comfort.

May the Lord rest his soul in eternal peace.

**Hon. Speaker:** Could you try to be a bit brief? There are so many of us who have had a moment or so with the late Hon. Member. It is only fair and befitting that we allow many of us to say something. Hon. Kimunya, kindly, have the Floor.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Speaker.

On behalf of my family and the people of Kipipiri, I would like to convey my condolences to the family of the late Hon. Jakoyo Midiwo and the people of Gem whom he represented for the 10 years that I served with him here. He continued to serve when I was out.

I joined Parliament with him in December 2002 and we got to know one another. In 2007, we got into the Grand Coalition together and I got to work with him far much more. We got to the tail end of that term, with him as a Whip and I as the Deputy Leader of Government Business. We then got conjoined into working together especially as we brought in legislation to actualise the new Constitution. He became a useful ally to me. There is a team he had with Hon. Millie Odhiambo and Hon. Mungatana. There is a young team that used to sit around the corner. They were five of them and they would poke holes in every Bill that we brought. However, using the late Hon. Jakoyo, I was able to get their thinking behind issues so as to eliminate mischief and, at least, identify that the changes being brought to the law are for the better. I was in Party of National Unity (PNU) side and him in ODM, but it was easier for me to work with him than our own Whip then because he was always in the House. We were very weak in terms of representation. He is somebody I got to trust, work with and got things moving in this House. We became great friends. We also appeared together on shows on television and radio. His thinking and commitment was more about Parliament: what we talked about, why we needed people to be educated, and dedication of time to Parliament rather than just thinking of coming to sign up and dash out. He dedicated his time here and people got to like him. We will miss this good leader. It is unfortunate that he passed on at the age of 54, which is quite a tender age, but we leave that to God. We will miss him. He has died at the prime of his life. We will miss what he would have done to the people of Gem and Kenya given his experience. At this point, we can only pray for his family to have the comfort to go through this situation that has befallen them rather suddenly.



I would ask that Members, in our traditional way, I do not know if it is Hon. Elisha who will be mobilising that, in our compassionate way, we can see how to join the family in giving a befitting send-off. I am looking at the current Member of Parliament working with the Leader of the Minority Party. He would guide us into how Members can participate in helping the family to overcome the financial burden as we pray for them to overcome the grief. It will be our contribution to send off our colleague in a befitting manner.

His death is a loss to all of us and especially for the family, people of Gem and Kenyans in general. These are people who used to listen to him every Monday. He used to appear on television shows every Monday and almost, every day as part of participating in bringing up issues to the Kenyan people.

We will miss him and may the Lord keep his soul in eternal peace with eternal light shining upon him.

Thank you.

**Hon. Speaker:** Hon. Eseli. Hon. Members, I am aware that Members from Siaya have all indicated that they are either aunties, uncles, grandfathers or grandchildren to the late, but please allow the voice of Kenya to be heard. Hon. Jakoyo Midiwo was a nationalist. Those of you who may not know, I personally would wish to appreciate the role that Hon. Midiwo played in the revision of our Standing Orders. The current Standing Orders have a lot of input from Hon. Jakoyo Midiwo. I appreciate those concerns, but let us also allow other Members from other parts of the country to eulogise our late brother.

*(Applause)*

Let us have Hon. (Dr.) Eseli.

**Hon. (Dr.) Eseli Simiyu** (Tongaren, FORD-K): Thank you, Hon. Speaker. On my own behalf and that of the people of Tongaren Constituency, I wish to extend my deep felt condolences to the family of the late Washington Jakoyo Midiwo.

I first met him when I came to Parliament in 2007. That time he was the Chief Whip for the Orange Democratic Movement. I must say at the outset that Jakoyo struck terror to PNU side because of his organisational skills. That time I sort of detached because on the PNU side I was the only FORD-Kenya Member. So, I was able to masquerade on both sides. I observed that Hon. Jakoyo's organisational skills made the ODM team so formidable that to counter them effectively, the PNU side had to go an extra mile. He was so persistent and so insistent about what he believed in. This made it so difficult for the other side to counter what he was doing.

That said, he was also a very friendly person. In the evening in the Members' Lounge, you could have a drink and chat with him. We got a lot of advice for those of us who had just come into Parliament. He guided us as to how to make your mark in Parliament and how to read and research about Bills. At one point, he held my hand as I brought the Bill that eventually came out to be the Human Resource Management Act that is being used now. He took me through the phases before that Act was enacted.

He was a good debater. In fact, his being a good debater extended even after he did not make it back to Parliament. We met on a television show that you are saying, *Am Live on NTV* and he was always very jovial, but one thing he never did was to say "Yes" when he meant "No". He said it as it is, whether you felt offended or not, but eventually you would find that what he had told you is what he had seen. So, he did not mince words. If he was displeased, he would tell you so, but in a friendly way that in the end you would still remain friends.

He was also jovial in a way. There is one joke he kept telling us about the time he was accused of having frequented Koinange Street. He went for the campaign in his constituency and knew that his days were over because that was the main accusation flying around. Then somebody just stood up and said, “Jakoyo is the man because he is not running after men, he is running after women, so he is not a gay”. That changed the mood and he made it back to Parliament. He kept on telling that joke. He had his own way of making the joke and in the process, he would make us laugh in the Members’ Lounge.

After he left Parliament, I interacted with him several times and he had remained hopeful and always encouraging those of us who were his friends.

May his soul rest in eternal peace.

**Hon. Speaker:** Hon. (Dr.) Pukose.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Speaker. On behalf of the great people of Endebess and my family, I send my message of condolences to the family and the people of Gem following the death of Hon. Washington Jakoyo Midiwo.

He used to sit on that other side in the last Parliament. I was with him in the Departmental Committee in charge of catering. He contributed to the changing of the name to that of Facilities and Services. He is the one who contributed a lot when we met, discussed and agreed that this is supposed to be a committee for facilities and services for Members. This Committee was supposed to oversee the Parliamentary Service Commission (PSC) because there is no committee that oversees the commission. The PSC presents its budget to it. That is the Jakoyo that I know.

Hon. Speaker, it was a very sad moment when the President visited Siaya and I read in the newspapers that Hon. Jakoyo was denied entry into the Bondo Water Services which the President was opening. Those who did that should be ashamed of themselves because as long as you have been here in Parliament, you have served your term and you must be respected.

Hon. Speaker, another point which I feel should be looked into by PSC is the medical insurance cover for Members who have retired from this House or those on pension. You find that there are Members who have not used their medical cover for all the period they were here in Parliament, but once they are on pension, they become sick and are unable to access any medical cover. It is high time we looked into the issue of medical cover for retired Members to help them access good medical care out there. Not just Members alone, but even retired Kenyans.

I thank you, Hon. Speaker.

May his soul rest in eternal peace.

**Hon. Speaker:** Very well. Let us have the Member for Alego Usonga.

**Hon. Samuel Atandi** (Alego-Usonga, ODM): Thank you, Hon. Speaker. I take this opportunity on behalf of my family and the people of Alego Usonga to pass our sincere condolences to the family of Hon. Jakoyo Midiwo. I met Jakoyo when I was still in the banking industry where I used to work. When I developed interest to join politics, I looked for him and had a meeting with him. I wanted him to guide me on how to maneuver the field of politics.

He asked me a few questions and I answered him then he told me: “I think you can be a good politician.” So, running to 2017 when we were out looking for votes, I was aligned to him in the political matrix of Siaya County. Unfortunately, in our camp, I was the only one who was lucky to win with the ODM ticket. Our gubernatorial candidate and the whole team lost. So, he moved to be an independent candidate and I campaigned as an ODM candidate and only met after the elections after I was sworn in at the airport and he was happy to see me. We had a very good conversation. He told me that since I was elected, he had observed a few things which I did which were not going to help me.

He said that I walked a lot with the youth, the body builders, and asked me to stop that. He said that there are many mistakes that politicians make and one of them is that when they are elected, they do not pick calls. He asked me to pick all calls that came my way and never switch off my phones. This is something that Hon. Mbadi alluded to. Those two lessons that he gave me have really helped me in my political journey. I do not switch off my phones and I dropped the idea of walking around with a lot of youths like I am walking in my enemy territory. This is one thing I want to thank Jakoyo for because I learnt from him.

Hon. Jakoyo was somebody who never held any grudge with anyone. I remember in the recent past in our Siaya County politics, we were not reading from the same script. In many occasions when we met with Jakoyo, he never talked about our political differences. He would talk about the current issues, never held grudge and treated me like his friend. Yesterday, when we received the news of his demise, I said as a county, we have lost a progressive and formidable leader.

The politics in Siaya will change. For a long time and up to the most recent time, even when Jakoyo was not in this Parliament, Siaya politics always revolved around him. You were either with or against Jakoyo. I think for us as young leaders, there is a lot we have learnt from Jakoyo on his political life, the way he handled his issues, his boldness and the fact that he was somebody who always took a position, irrespective of whether it was against the party or establishment. This is something we will not have for a long time in our region because we do not have politicians like Jakoyo.

Even as we mourn, I want to call upon our people to learn something about Jakoyo. As the Member who represents his uncles because, his mother comes from my constituency, the family has gone through a lot. Recently, we lost his uncle, his sister who was also married in my constituency and now we have lost Hon. Jakoyo Midiwo. We know many deaths have come in a span of just two weeks and it is very painful. I want to thank Hon. Kimunya for urging Members to stand with the family of the late. May the Almighty God rest the soul of Hon. Jakoyo Midiwo in eternal peace.

**Hon. Speaker:** As I give another Member, I want to remind the House and Kenyans in general who enjoy Consumer Protection Laws that Hon. Jakoyo Midiwo was the architect of that law. In fact, there are provisions in our Standing Orders requiring that when a Member is being discharged, he or she should be given an opportunity. You must warn the Member that you are about to discharge them and give him or her an opportunity to present his or her case. It is important we say some of these things as we mourn our late brother. Hon. Duale, I know you worked a lot with Hon. Midiwo.

**Hon. Aden Duale** (Garissa Township, ODM): Thank you, Hon. Speaker. It is not only me, because I think you worked with Hon. Jakoyo more than anybody else. He was with you in the 9<sup>th</sup> Parliament when you were the Whip of the Opposition, KANU Party, and he was in Government, through NARC. I came to know Hon. Midiwo between 2004 and 2005 when we were together in the Liberal Democratic Party (LDP). I worked with him in the 11<sup>th</sup> Parliament when CORD, The National Alliance (TNA) and the United Republican Party (URP) had a lot of commotion. I am sure you have seen the video going round and it is very interesting.

Hon. Jakoyo Midiwo was a very fearless and courageous leader. This showed he was the only man who could stand up to the Orange Democratic Movement Party and its leadership. I remember in the 10<sup>th</sup> Parliament after we joined ODM and became Members in 2007, somewhere along the way, I was an Assistant Minister and I was in the Government side. Then around 2009, I was sacked as an Assistant Minister because of politics. When I became a backbencher, I had no

committee. Hon. Speaker, that is why you are different from other Speakers and Members must know. I stayed in this House for about three months as a backbencher, sacked from the Government and with no committee. So, I went to Speaker Marende and he did not listen to me. This is one of the reasons why I did not vote for him in the 11<sup>th</sup> Parliament because he was not kind. I told him I was the Member for Dujis. I met Hon. Jakoyo, a good man, and he was the Whip working together with Johnson Muthama from the PNU. I sat with him in the bar and told him: “My friend, even if I have been sacked and am not in good books with ODM, I am entitled to be in a committee.” Hon. Jakoyo went out of his way and ensured that I joined the Committee of Energy at that time.

Finally, I want to indulge you under your leadership that the Parliamentary Service Commission must recognise outstanding leaders since independence and not only Jakoyo. This is by doing what happens in the House of Commons in the Australian Parliament by naming certain facilities and rooms after those leaders. Instead of having Room 7 and 9, we can have Jakoyo Midiwo Room, Speaker Marende’s Room, Hon. Shikuku or Hon. Ahmed Khalif, so that these great leaders are remembered. You find this in other jurisdictions. Even the floors in the new building, cafeteria and library should be named after somebody like Former Deputy Speaker, Jean-Marie Seroney Library, so that these leaders are recognised. I think we can start with Jakoyo and the PSC can do this.

Hon. Elisha is a beneficiary of the fearless and courageous nature of Hon. Jakoyo in the last election. Jakoyo was in a team and I am not sure Hon. Atandi was in it. With a lot of respect, I do not think he fits in Jakoyo’s team. He said he was with him, but the problem is we cannot verify. But Hon. Ochieng was with Jakoyo and at one time during the elections as I conclude, I sat with Jakoyo because we were very good friends particularly in the 11<sup>th</sup> Parliament. He would say no and we agree with him by the time we were entering the Chamber. I would tell him because he was the Opposition and Minority Leader with Hon. Nyenze, to take his position and I would take mine and we would see the numbers. At times, we would agree: This is of national interest, let us do a bipartisan. So, by the time I would be coming to the Chamber, I would know the position of Jakoyo and he would know mine.

During the last general election, I sat with him and told him: “My friend, I have been with you in ODM since 2007 and in LDP, you cannot fight *Baba*”, because I saw he was pushing and wanted Hon. Gumbo, another man I have a lot of respect for. He is one of the very few independent minded leaders from the lake together with people like Shakeel Shabbir. I told him to stop pushing a lot and investing in the candidature of Hon. Gumbo. It would cost him his seat. That is what happened and in his place Hon. Elisha joined this House.

I think we will ask Hon. Elisha and John Mbadi to start collecting money. I think we need to stand with the family of our colleague because he was one of the few leaders under the new Constitution in our own parliamentary jurisdiction. He was the Deputy Minority Leader, the first of its kind in this House. So, I think we will sit as leaders and friends and ensure we support the family left behind. We say in our religion in Chapter 3:185 of the Holy *Quran* that every soul will taste death. So, death is eminent and will come. The only question is when. When he meets his creator, all that he will be asked is what he has done for the Almighty God when he was in this world.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, I am now between a rock and a hard place. Those of you who understand parliamentary procedures know that today is the third and final Allotted Day. This session goes on up to 6.30 p.m., unless we prepare a Supplementary Order Paper to push the third Allotted Day to the period between 7.00 p.m. and 9.30 p.m., which I do not know whether it is

possible. It will not be possible because even that was slotted to be the first Allotted Day for supply. Hon. Members, I can see there is a lot of interest to eulogise our brother. There is a problem. I know Hon. Wamalwa worked with Hon. Jakoyo Midiwo very closely in the last Parliament. He could take a minute.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Speaker. I stand here with a very heavy heart. On behalf of my family, the people of Kiminini Constituency and Trans Nzoia County at large, we send our message of condolence to the family of the late Washington Jakoyo Midiwo. The Bible in the book of Ecclesiastes says there is time for everything. There is time to be born and there is time to die. Jakoyo Midiwo has gone very early. I worked with Jakoyo Midiwo. We used to sit next to each other. He was our team leader. He was a fearless and astute legislator. He was very charismatic and a team player. William Shakespeare said all of us are in this earth just like performers in a play. It is like a stage where we are acting, but we will eventually exit, but as you exit, what legacy do you leave behind? Jakoyo Midiwo leaves behind a strong legacy of teamwork. He leaves behind a strong legacy of charisma. He used to lead us here. He was a Deputy Leader of the Minority Party, but every time people confused that he was the Deputy Leader of the Minority Party. The late Hon. Nyenze was the Leader of the Minority Party and he was the deputy.

When I joined Parliament, he told me: “If you want to be a good legislator, you must learn by attending parliamentary sittings.” That is what he told me and that is the same message I have been giving my other colleagues who are joining for the first time, like Hon. Milemba and Hon. Kavinga that, if they want to learn and become good legislators, they must regularly attend Parliament. He told me I should not miss two books - the Standing Orders and the Constitution. That was Jakoyo Midiwo. I served with him in the House Business Committee, and in the Committee on Appointments. I was also with him in the Departmental Committee on Defence and Foreign Relations. He used to lead us very well. At that time, temperatures were very high and before any matter came on the Floor of the House, there was consultation between Hon. Midiwo and Hon. Duale. I also thank Hon. Duale. He has been a good leader. He is one person who has very good interpersonal skills. Give to Caesar what belongs to Caesar. He was kicked out of leadership and I was also kicked out. Midiwo called me and told me: “My brother, you are still young. You still have a better future. Let life continue.” I was kicked out and you can see I am strong. I was encouraged by Midiwo and he also told me what had been done in the backyard.

About last week, we were discussing with Hon. Elisha. I thank Hon. Elisha because he is not among the people who blocked Midiwo from accessing the President. We were discussing last week and I told him: “You have done well in the constituency, but you have not done well in legislation like Jakoyo Midiwo.” I told him he should increase his contact hours on the Floor of the House. You can see he is seated here. For you who wants to learn parliamentary matters, you must learn by attending. If you come and sign in and out, you will not learn. I learnt this from Jakoyo Midiwo.

I pray to the Almighty God to give his family fortitude at this difficult time. He was also a prayerful person because I used to be with him in the national prayer breakfast. We have lost a great friend. May his soul rest in peace.

**Hon. Speaker:** Hon. Members, because there are so many of you who have made requests, I now have to balance the need between you having to eulogise our late brother and the need for us to go to the third and final Allotted Day for the business appearing in Order No.11. I will have to balance. Therefore, we will strike a balance. You have one minute and it will be timed here. When you see the yellow light you know you have 30 seconds.

Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker. I will take one minute. On behalf of the people of Navakholo and on my own behalf, allow me to send my sincere condolences to the family of the late Washington Jakoyo Midiwo. Hon. Jakoyo made a statement here which I would want to remember during the Security Laws (Amendment) Bill. He did caution us. I was a first time Member and he did caution us and said: "Make laws that are for posterity. Make laws that will favour you when you are out of the Government and when you are in the Government." That statement lives with me today. When I am the Whip of the Majority Party, I am able to extend my service to those on the minority side without considering that they are the minority side and this is the majority side. We serve one Government and we are in one Parliament.

May God rest his soul in eternity.

**Hon. Speaker:** Member for Migori County.

**Hon. (Ms.) Pamela Ochieng** (Migori CWR, ODM): Thank you very much, Hon. Speaker, for giving me this opportunity. On behalf of myself, the people of Suna West and the entire Migori County, I rise to say *pole* to the family of Jakoyo Midiwo. I was not a Member of Parliament then, but a board chair of some very small school which had only one classroom and my husband was a board chair in another school. These two schools in my local community, Machicha and Kitabaye, were in need and so Hon. Ndiege introduced me to Jakoyo Midiwo and I was amused with his humility and generosity. He came and supported me and we raised the first Kshs3.6 million in a *harambee* that was held in that region.

May God rest his soul in peace.

**Hon. Speaker:** Member for Igembe Central.

**Hon. Kubai Iringo** (Igembe Central, JP): Thank you, Hon. Speaker. On behalf of my family, the great people of Igembe Central and on my own behalf, I pass my condolences to the family of Jakoyo Midiwo who happened to be my colleague in the last Parliament. He was an astute debater. He had a lot of interpersonal capacities. He was one of the few Members of Parliament who would really challenge Hon. Duale in this House. He was very sincere in his debate. Also, when he meant to oppose something, he opposed it with a lot of reason and caution. If he had to appreciate anything, he did so in the same measure.

May his soul rest in eternal peace.

**Hon. Speaker:** Member for Yatta, Hon. Kilonzo. He is not there. Let us have the Member for Emuhaya.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Speaker. I take this opportunity to also pass my condolences as Omboko Milemba and the people of Emuhaya. We are his neighbours and I call him uncle because my mother came from where his home is. We had a chance of visiting him and I agree with Hon. Wamalwa. He told me to sit in Parliament. He told me not to be walking out and bouncing. He told me that that is the most important thing when you are in Parliament. We wanted to cross over from ODM to ANC during that time. I went with my partly leader. We were unable, but that was it.

May the Lord rest his soul in peace.

**Hon. Speaker:** Member for Murang'a County.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Speaker. I join my colleagues in eulogising my friend, the late Hon. Jakoyo Midiwo. He was my friend and also a person who I met in this House with a clean heart and a good debater. Today, Hon. Aden Duale has confirmed my worries because I used to see that they used to collude, although they were on different sides. He was a great leader.

It is sad that when the issue of somebody who was conning me came up, the late Hon. Jakoyo Midiwo is the one who helped me to arrest the guy. I was in court this afternoon, three years down the line, the hearing was today and unfortunately, he will not give his evidence because the hearing started today. I have lost a friend and a great leader.

May he rest in peace.

**Hon. Speaker:** Member for Siaya County.

**Hon. (Dr.) Christine Ombaka** (Siaya CWR, ODM): Thank you, Hon. Speaker. I take this opportunity to convey my condolences to the family of the late Hon. Jakoyo Midiwo. The late Midiwo is somebody I have known since childhood. We grew up together even though I am much older. The late Hon. Midiwo performed marvelously as a politician. The Gem people and the people of Siaya have a lot of respect for the late Hon. Jakoyo Midiwo for the debate he had in here, the way he was very eloquent, forceful and determined. He has remained a history for the people of Gem. The late Hon. Jakoyo is one of the best politician that Gem people have produced alongside my late brother-in-law, Hon. Oki Ooko-Ombaka, Mama Grace Ogot, and Hon. Argwings Kodhek. That is where they have rated Hon. Jakoyo Midiwo. I take this opportunity to tell you that...

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

**Hon. Chachu Ganya** (North Horr, FAP): Thank you, Hon. Speaker. I eulogise the passing on of a great friend and a colleague, Hon. Jakoyo Midiwo. We met many years ago in the United States of America (USA). Later, we met in this House. He was a great man, a great leader, and a very fine gentleman.

When we were in the Orange Democratic Movement (ODM), he was always a voice of reason. He was able to go beyond regions and entities to see us as Kenyans. He was a great leader. I pray God to rest his soul in eternal peace and also to give his family fortitude to overcome these challenging times.

May his soul rest in peace.

**Hon. Speaker:** Hon. (Prof.) Jacqueline Oduol.

**Hon. (Prof.) Jacqueline Oduol** (Nominated, ODM): Thank you, Hon. Speaker. As I eulogise the Hon. Jakoyo Midiwo, I want to say that he had not just charisma, but hindsight. Hon. Jakoyo Otada was times four solid, bold and courageous. Kenya needs not just politicians, but leaders right now. The late Hon. Jakoyo Midiwo was a clear example. As we listen not only to what is being said here, but to what has been said before, Hon. Jakoyo Midiwo spoke the truth, spoke for Kenyans, and spoke boldly right from the referendum, through to the Constitution, even on the Building Bridges Initiative (BBI).

May his soul rest in peace.

**Hon. Speaker:** Let us hear Hon. David Gikaria.

**Hon. David Gikaria** (Nakuru Town East, JP): Nashukuru sana, Mhe. Spika. Ninaongea kwa niaba yangu, familia yangu, na watu wa Nakuru Town East Constituency, na ninaleta rambirambi kwa familia na jamaa za ndugu yangu marehemu Mhe. Jakoyo Midiwo ambaye tulijuana katika Bunge la Kumi na Moja.

Mwendazake Mhe. Jakoyo, kwa yale mambo alifanya wakati ule, alitufunza mengi sana wakati alipokuwa akifanya *debate* sana sana. Marehemu Mhe. Jakoyo alikuwa ni mtu aliyekuwa *informed* sana. Tulikuwa tunamheshimu Mhe. Aden Duale lakini ile *information* Mhe. Duale alikuwa nayo, *he had always an answer for that. I respected* the late Hon. Jakoyo Midiwo kwa yale mambo alikuwa akitoa wakati ule ya kuweza kutupatia, kama wageni katika Bunge hili,

kuweza kuweka Miswada. Hasa alikuwa akiniambia vile alishiriki katika kupitisha *Constitution* ya 2010...

**Hon. Speaker:** Hon. Shakeel Shabbir, it is your chance.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Thank you, Hon. Speaker. I eulogise my dear brother the late Hon. Jakoyo Midiwo. He was a very strong person and a great supporter. As the Chairman of APNEC, he was one of our strongest fighters against corruption. I remember that the late Hon. Jakoyo Midiwo, Hon. Isaac Mwaura, and I stopped the Prime Minister of Malaysia, in 2015, from opening the anti-corruption workshop. Up-to-date, the Malaysians still remember that particular event. The late Hon. Jakoyo was fearless and he was a fighter against corruption.

I thank you.

**Hon. Speaker:** Let us have Hon. John Waluke.

**Hon. John Waluke** (Sirisia, JP): Thank you, Hon. Speaker, for giving me a chance to also pass my condolences to the family of the late Hon. Jakoyo Midiwo. I knew the Hon. Jakoyo Midiwo in the 11<sup>th</sup> Parliament. He was a forthright Member of Parliament. He was very versatile when he was on the Floor of the House. Hon. Jakoyo was friendly to all Members of Parliament during his time as a Member of Parliament. He was a team player and he would share his thoughts with others like us during that time when we were still young in this House. So, this nation has lost a great politician, a leader who we will remember forever.

I thank you.

**Hon. Speaker:** Hon. Richard Tong'i, you have the Floor.

**Hon. Richard Tong'i** (Nyaribari Chache, JP): Thank you, Hon. Speaker. I take this opportunity on my own behalf and on behalf of the people of Nyaribari Chache, which I represent, to share my condolences with the rest of Kenyans for losing such a great leader.

A couple of months before, the late Hon. Jakoyo Midiwo trained us in Malindi where he told me he had just cleared his Masters in Diplomacy. He gave us a very good training in matters diplomacy. Little did I know that he was going to pass on in such a short time. We will remember him as one of the peacemakers, a man who stood for the common good of the country, just like you Hon. Speaker. He meant well for the country and he never cared where you came from.

May his soul rest in peace.

**Hon. Speaker:** Thank you, Hon. Members. I have finished the interventions. We say, may his soul rest in eternal peace.

Hon. Members, I am only looking at what is on the... You are putting now. Surely. You are beginning to press the intervention button at this hour. Hon. Members, they were not showing. There was nothing. I am sure many of you who might not have gotten the opportunity, can also find time to go and condole with the family. You are very many. I am telling you that we have less than one hour fifteen minutes to do the last final allotted day. Some of you may not have... I also needed to eulogise my brother and my friend the late Hon. Jakoyo Midiwo. Some of you have not been able to even internalise Business. That is why sometimes you really wish that the late Hon. Jakoyo Midiwo would be in the Chamber to explain to some of you who have momentary lapses of memory. I think you just forget.

The reason why I said one minute is so as to balance. Since you had not placed your interventions at that time, please, let us just be content with that so that we can move on to the next Order. I am sure even one minute has not been sufficient. Many of you had much more to say about the late Hon. Jakoyo Midiwo, but there is just so much that we can do. Let us be contented with what has been said. Since we are still around, let us find time. Hon. Elisha Odhiambo has just



informed me that he was going to his home to find out what arrangements and perhaps tomorrow he can give us some information so that, maybe, many of us can also go there and condole with the family. Let us just be content with what has been said.

Let us move on to the next Order.

## BILLS

### *First Readings*

THE TRUSTEES (PERPETUAL SUCCESSION) (AMENDMENT) BILL

THE PERPETUITIES AND ACCUMULATIONS (AMENDMENT) BILL

THE CERTIFIED MANAGERS BILL

*(Orders for First Readings read - Read the First Time and ordered to be referred to the relevant Departmental Committees)*

## MOTION

CONSIDERATION OF BUDGET ESTIMATES FOR FINANCIAL YEAR 2021/2022

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Budget Estimates for the National Government, the Judiciary and Parliament for the Financial Year 2021/2022, laid on the Table of the House on Tuesday, 8<sup>th</sup> June 2021, and pursuant to the provisions of Article 221 of the Constitution, Section 39 of the Public Finance Management Act, 2012 and Standing Order 239-

(a) approves the issuance of a sum of Kshs1,945,671,474,883 from the Consolidated Fund to meet the expenditure during the year ending 30<sup>th</sup> June, 2022 in respect of the Votes contained in the First Schedule to the Order Paper, subject to paragraph (c) (Committee of Supply);

(b) makes the Policy and Financial Resolutions contained in the Second Schedule to the Order Paper; and,

(c) Orders that “The Speaker do now leave the Chair” to facilitate the consideration of the said Budget Estimates with respect to each Vote and Programme in the Committee of Supply as contemplated under Standing Order 240 (Consideration of Estimates in the Committee of Supply).

*(Hon. Kanini Kega on 9.6.2021)*

*(Resumption of Debate interrupted on 9.6.2021)*

**Hon. Speaker:** Hon. Shinali was on the Floor. He had a balance of eight minutes.

**Hon. Bernard Shinali** (Ikolomani, JP): Thank you, Hon. Speaker. I support the Motion on the Budget Estimates for the 2021/2022 Financial Year. My first take will be looking at the

areas which the Budget might have left out completely or given low funds, yet if supported, they would generate revenue for the country.

The sugar industry in the western region is an area which the National Treasury has left out completely. There was a taskforce which was put in place chaired by the Chairman of the Council of Governors and the Cabinet Secretary for Agriculture which proposed that the sugar industry should be privatised. Surprisingly, the Privatisation Commission has only a Chair. It does not have any other members. Nothing has been done on that front, yet farmers are suffering and cannot see their factories helping them. They are just white elephants lying there.

Another area is mining. There has been some mining along the western region to Nyanza. There are some rich minerals there including gold and copper. There have been no allocations to the Ministry of Petroleum and Mining. When we came here in 2017, mining had a full-fledged Ministry. It was reduced to a State Department. Right now, it is just a desk. There was a proposal to have a gold refinery in Kakamega County and a granite factory in Vihiga County. Looking at the allocations, to start us off, as seed finance, we only have Kshs13 million. What would Kshs13 million do?

On education, those Estimates have allocated funds to the employment of teachers. We know that currently, there is the COVID-19 pandemic which has come with other requirements. We need to employ teachers. The teacher-student ratio is very poor. These Estimates have suggested the employment of 5,000 teachers. Five thousand teachers are not enough although they are trying. It could be because the revenues are not behaving well. We need to employ more teachers. There should be an addition through the supplementary estimates so that we employ more teachers to cater for our young ones.

Another area in which I feel funds should be enhanced, should the revenue collection behave well or increase, is those that go directly to the grassroots. There is the Women Enterprise Fund which has only been allocated Kshs120 million. This is a fund which reaches the *mama mboga* on the ground and the small business people. They borrow money from the Government because they cannot access funds through the banks which have stringent regulations or requirements to borrow money.

The Youth Enterprise Development Fund is an area where funds should be enhanced. It has been allocated Kshs435 million countrywide. Those particular areas which would stir economic growth should receive more funding.

Touching on agriculture, we know very well that Kenya is a signatory to international declarations like the Maputo and Colombo Declarations. Despite the fact that agriculture is devolved, we need a policy to ensure that we adhere to those declarations that we are signatory to, to ensure that at least 10 per cent of our budget is allocated to agriculture.

There is an area where there should be some guidance. There are resolutions which are made by Parliament and nothing is done about them when it comes to the budget. There are former councilors who have served this country. Once you have been a politician, whether elected or nominated, your chances of getting a job out there become limited. The Senate resolved that those ex-councilors be paid a one-off honorarium of Kshs1.5 million and Kshs30,000 monthly. Our ex-councilors are languishing in poverty and there is no one to hold their hand. This is an issue this House should resolve to see to it that our colleagues are cared for because this becomes a hindrance when you want to become a politician. They need to be helped.

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

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

Lastly, I wish to speak on the issue of stalled projects and pending bills. We have too many stalled projects in which the Government has put money countrywide. There are stalled projects like Mtihani House where the Government is pumping in money. It is 35 years old. There are some Members in this House who had not been born 35 years ago. Mtihani House is still there. The Kenya National Examinations Council is paying rent to business people. We also have our own office block which we are still constructing. It has been ongoing since I came to Parliament. Up to now, every year we are putting in money. It is not over yet. We are given timelines every time, when we will occupy it, but up to date nothing has happened. This Parliament spends approximately Kshs300 million every year on rent. They will spend Kshs3 billion for 10 years. That is a cost of another building.

I also want to comment on pending bills which is an issue. The President gave a directive on the same. Whenever we make our Budget in this House, we give our recommendations. However, the National Treasury does not take them seriously. The pending bills both in the county government and national Government are monies that our Kenyan business people borrowed to do business. They trusted the Government. They thought that the best partner to do business was the Government. However, to their surprise or dismay, the money has stuck. The county governments have made people poor. These are the ones who were trying out to make a living. They include the youth who have sold their properties. They are languishing in poverty. The pending bills need to be addressed once and for all. They must be put as the first charge. When the CS for the National Treasury comes here, that is what he pronounces. We need to verify and make sure that pending bills are paid. Once that money goes to our people on the ground, you will find a lot of money in Kenya.

I also want to take this opportunity to join my colleagues to pass my condolences to the family of the late Hon. Jakoyo Midiwo, on behalf of my family and the people of Ikolomani Constituency. He was my friend. I interacted with him the first time, when I was vying as a Member of Parliament for Ikolomani during a by-election in 2010. He supported me. I vied on an Orange Democratic Movement (ODM) ticket. It was a brilliant party at that time. He helped me to get the ticket.

Thank you very much, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Top on the list here is Hon. Wamalwa. Please note that the Chairs of the Departmental Committee on Energy and Departmental Committee on Health are here by virtue of being Chairs. They will get a chance to contribute. The Leader of the Majority Party will also get a chance to contribute.

Let us hear Hon. Wamalwa Chris.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute. This is the first time that the Budget Policy Statement (BPS) is consistent with the Budget Estimates. I served in the Budget and Appropriations Committee in the last Parliament. We realised that there was a big discrepancy between the BPS and the Budget Estimates. We can see some improvements now in the sense that the variation is statistically insignificant.

We are under a presidential system. Ordinarily, Parliament is supposed to be a

Budget-making House. This matter has not yet been realised. Any amendment that you want to make in this Budget Estimates must be done in concurrence with the Executive through the Cabinet Secretary for the National Treasury. Under the presidential system in many other jurisdictions, Parliament is a budget-making House. However, we still have the hangovers of the parliamentary system where the Executive still has a lot of say as far as the budget-making process is concerned.

I examined this Report. There are some key concerns which I thought that I should bring out. One of the issues is the public debt which is an emotive issue in this country. Sometimes back in this Parliament, we passed a Motion on debt ceiling. I remember very well that we put a debt ceiling of Kshs9 trillion. This was supposed to go up to 2024. We have not even moved two or three years. When you look at this proposal in this Report right now, we have the Budget deficit of around Kshs950 billion which will be funded through borrowing. As legislators, do we legislate in vain or for the sake of it? When my question will be answered, I will listen carefully. I am happy because the Leader of the Majority Party is here. Does it mean automatically that if we pass the Budget Estimates, we will extend or remove the debt ceiling or will he come back with a Motion? We increased the debt ceiling, so that we could borrow money from the International Monetary Fund (IMF) and get low interest rates. Once the National Treasury got that money, they would handle the expensive loans which had arisen through domestic borrowing. We have not stayed for long. We have the Budget deficit again.

Will we increase the debt ceiling from Kshs9 trillion to Kshs12 trillion? We were told that we have a debt of almost Kshs8.4 trillion. That means that we only have a shortage of Kshs600 billion. We want to pass the Budget Estimates that have the deficit of Kshs950 billion. We must borrow money carefully. Let us not have an ambitious Budget that we cannot fund. Let us have the key priority projects only. During President Kibaki's tenure, we did not borrow 50 per cent of the Gross Domestic Product (GDP). His Minister for Finance is here. As we speak right now, we have borrowed more than 70 per cent of the GDP. The rule of thumb in growing democracies like in Kenya is that you borrow at least 50 per cent of the GDP. We have seen many other advanced countries which borrow 100 per cent of the GDP. However, we are not yet there. Let us borrow money wisely. A lot of money is borrowed in this country but we have a problem of corruption. There was a Report which was here in Parliament that stated that 30 per cent of the GDP goes to wastages through corruption.

I am also happy to note that at least we can see a bit of funding in the institutions that will help to fight graft like the office of the Director of Public Prosecutions (DPP) and the Auditor-General. We should have timely reports from these institutions. Many a time, the report of the Auditor-General comes here. However, it is mostly historical in nature. Let us have a timely one. Let us have continuous monitoring that can help in the fight against corruption. The DPP is underfunded. We hope that this amount that has been allocated will increase the number of qualified prosecutors who will dispense their work timely. These two institutions are very critical as far as the fight against corruption is concerned.

Another issue is about the stalled or incomplete projects, particularly in the Judiciary. We passed a Motion in the last Parliament on the Floor of this House that we should have a High Court in every county. The Report from the Departmental Committee on Justice and Legal Affairs shows that we have a lot of courts which are incomplete in this country. They are 80 per cent to completion.

However, when it comes to allocation of funds in the Judiciary, they are given money for Recurrent Expenditure. When will these projects be completed? I wish that the 20 per cent of these projects which are 80 per cent complete should be funded, so that they can be completed. This will

help us have easy access to justice in this country. That has been a big problem. The Judiciary complained before that it was underfunded. However, we cannot see any difference here. Do you want it to continue operating or come to a standstill? There is also the issue of the independence of the Judiciary. How I wish that the Judicial Service Fund is operationalised so that, as we move forward, the independence of the Judiciary is enhanced.

Let me talk about pending bills. Pending bills have been a nightmare in this country. His Excellency the President gave a directive that pending bills should be prioritised and cleared within six months. We want to know their status. Pending bills are critical. If a pending bill has been audited and verified, it should be paid. As county governments threaten to shut down, we ask, about the pending bills because a lot of them are at the county level. The local entrepreneurs and local investors are owed. If pending bills are paid, the money will go to circulation and benefit *mama mboga*. Part of the pending bills is part of the money that is supposed to be paid to the Kenya Revenue Authority (KRA).

As I look at this report, I do not think, at this difficult time, it is going to be actualised. It is overambitious. We wonder where the money is going to come from for the revenue projection. Many businesses, as we speak, because of the COVID-19 Pandemic, have closed. I used to run a consultancy firm which used to do very well, but we closed down because of the challenges we have now. As businesses close, there is lack of employment. This is the case and yet employed people pay PAYE under the Income Tax. So, the Government needs to put a strategy in place of the economic recovery strategy. The economic recovery strategy that has been put in place for the post COVID-19 Pandemic period is not realistic. I remember the very first days when I was still a lecturer at the university we used to hear about Kibaki's Economic Recovery Strategies (ERS) of creation of wealth and employment, which led to the Vision 2030. It was realistic. People like Kimunya who were there during the time, should be listened to so that they can know if the economy will change. I am not sure that the projected GDP growth of 6.3 per cent is realistic.

I know that time is not on my side, but I just want to mention in one minute as I move on the issue of corruption. Corruption is a big problem in this country. When projects are costed, they must be costed within the range. That is where the problem is. Corruption starts from the budget-making process.

As I conclude, our economy largely depends on agriculture. We are part of the Maputo Declaration which talks about 10 per cent of the GDP allocated to agriculture. But here, we are not even 2 per cent. How I wish as we move forward, and as we domesticate the treaties, we must operationalise them so that we are able to fund them accordingly.

Thank you, Hon. Temporary Deputy Speaker. I also thank the Budget and Appropriations Committee for the work it has done within the shortest time.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Chair, Departmental Committee on Health, Hon. Sabina.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you very much Hon. Temporary Deputy Speaker. At the outset, I support this Motion. I also take this opportunity to thank Members of the Departmental Committee on Health and also the Budget and Appropriations Committee for the work we have done to go through the budget making process. Lessons have been learnt. Hon. Wamalwa has talked about the 10 per cent prescribed by the Maputo Declaration, the Abuja Declaration prescribed 15 per cent of money to be allocated health. It is important also for this House to know that there is a lot of money that goes to counties. So, when we say agriculture and health are devolved, how are we able to tell how much goes to agriculture or to health in our counties.

Part of the issue the Committee made its observation on the EAT Scheme that has been identified to cover 1 million households of vulnerable or indigent and we allocated Ksh6 billion has been allocated this time. Unfortunately, I have just seen that in the Supplementary Budget this money will go and this has been caused by delay. Governors have taken one year to give means of indigent for just one million households in this Republic. We allocated the money but unfortunately we have people who cannot benefit.

As a Committee, we also made an observation that there are other many small projects that are run by the National Hospital Insurance Fund (NHIF) starting with Linda Mama, insurance for high school students and for the elderly. If all this money is brought together, and that is part of our recommendation as a Committee, we will be able to cover four million households and that means more than 20 million Kenyans and make UHC a reality. We have tasked the ministry of Health and the Ministry of Social Services to come together and collapse the small insurances out there to one that can cover and be beneficial to Kenyans. We do not need to add more money.

The Ministry of Health has unpaid court awards amounting to Ksh39 billion. As Members have indicated here, it is important, because these were suppliers, that we know how we can settle that. This House needs to come up with a permanent solution in the coming days. I know His Excellency the President has talked about pending bills and given a deadline but when the ministries present their budgets they do not seem to take the pending bills as part of urgent matters. They are quick to start new projects or even ask for more money but the pending bills they owe many Kenyans and some of them have gone bankrupt, are not settled. It is important we come up with a policy on how to settle them.

The Ministry of Health through the county governments has also done the vaccination because of COVID-19 Pandemic. The target was around 1.2 million Kenyans. In this year's Budget there is allocation for COVID-19 vaccines. I know the majority of Kenyans have not even managed to get even the first dose of the vaccine. The allocation of money for the COVID-19 vaccine will make sure that more Kenyan are covered and we get the vaccine though the challenge is that we have to rely on other countries and donors that are now producing the vaccine. Therefore, we took it upon ourselves as a Committee to add more money to Kenya Medical Research Institute (KEMRI) so that we enhance our research because the trials of the vaccine are done in this country. We believe we have great men and women, our scientists, who can come up with a vaccine in Kenya. If South Africa has its vaccine, why not Kenya? So, we have put a lot of effort to get some little money to KEMRI when the Ministry had not considered them.

On our referral facilities, currently we have the Kenyatta National Hospital, the new Kenyatta University Hospital, Mathari Hospital and Spinal Injury. We had made a recommendation in this House that the Mathari Hospital becomes a semi-autonomous body together with the Spinal Injury. They have taken baby steps and finally the Mathari Hospital has actually become a Semi-Autonomous Government Agency (SAGA) with a budget. So, in this year's Budget, we are looking at how we can improve the facility. A lot has to be done on the Mathari Hospital so that it can render services at the county level.

Currently, mental health is not given the serious attention it requires in this country. We recommend to increase some money for Mathari Hospital, and we also recommend that we need to sort out the Ministry of Interior and Coordination of National Government on the remandees who are normally taken to Mathari Hospital due to their mental status. This House even independent Members need to visit the Hospital to see how the remandees stay in Mathari Hospital. It is quite a pathetic situation. So, we recommend the Ministry of Interior and Coordination of National Government to take up the matter and start funding. The remandees are damped there.

They are not under the Ministry of Health because they come from the courts. We have an old nurse who takes care of two hundred and more. These are mental patients who have come from our courts. It is unfair and inhuman. We have recommended that we improve the state of Mathari Hospital to make sure that the lives of the people who are there become better and not worse. There is mention that the Mathari Teaching and Referral Hospital caters for a huge number of capital offenders and so we hope there will be an agreement between the Ministry of Health and the Ministry of the Interior and Coordination of National Government on how to manage them.

The issue of alternative space to be given to that mental health also came up as we did the budget. We hope that the Ministry of Lands will issue Mathari Hospital with a title deed so that they are able to plan on expanding the hospital. The National Hospital Insurance Fund (NHIF) is also expanding payments to Mathari and other facilities. We are hoping that as we give money to the NHIF, they can also make sure that they pay those facilities. One of the challenges with the counties and devolved government is that when money is reimbursed to the facilities; that money is not directly reimbursed even if it is a Linda Mama money or the NHIF reimbursement. This money goes to the county coffers. The governors can decide to do anything else with that money. So, one of our recommendations is that we should look at the Public Finance Management (PFM) Act so that the money that is meant for health goes back to the facilities. An example is in my county. I have Maragwa Hospital that is very good with maternal health, but once they attend to these mothers and they give them services, the money does not come back to them. Then they are not able to give good services. That is why you find somebody has Linda Mama and we are telling our ladies that it is free to deliver, then you find that basic things like cotton wools are not available in these facilities. This is only because the money does not go directly to these facilities. Part of our recommendation is that this money can go straight to these facilities.

Another challenge that we have faced on which we have done some policy recommendations and it is part of this Budget is that we have a solution for the doctors who go for training at master's level and come to the national facilities and leave counties. Our counties are struggling because they continue paying doctors who come for training yet they are not able to give services to that county. So, part of our policy recommendation is that we have money for training. It is going to be given to the Kenyatta National Hospital, the Moi Teaching and Referral Hospital (MTRH) and the Kenyatta University Hospital, and even Mathari Hospital. That is so that when doctors come for training here, the national Government can take care of them because they will be serving their facilities. Governors can have a chance to employ new doctors who can replace them and give services. Currently, if one county has two or three doctors doing their master's degrees, services are below what is expected. As we talk about the Universal Health Care (UHC), how will we achieve it if we do not even have enough doctors within our facilities?

We have also noted a trend amongst Members, in almost all constituencies. Every constituency wants to have a Kenya Medical Training College (KMTC). We have recommended to the ministry to give us a policy on where to establish KMTCs. With the current budget, we cannot sustain that. If each of the 290 constituencies has a KMTC, where will we get teachers to teach these students? Will we even have enough? That is so that we are able to know the numbers and also facilitate them accordingly.

As I conclude, I just want to say that this year's Budget has really looked at many things. We also urge the National Treasury that the requests and the amendments that are done by the Committees be taken seriously because we take time to interact with them.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Your space is gone, Hon. Chege. Look at it this way, you know this is the final day. Time is quite tight for everyone. We have Chairs

who, as a matter of the resolution of this House, must take priority. The Chair for Energy has not spoken. The Chair for ICT has not spoken. The Leader of the Majority Party has not spoken. The other Members have not spoken. So, we shall start with the Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I will try to take less time than the one I have. I rise to support the Report of the Committee and thank everyone for the effort they put on this general debate on the Estimates.

This House is bestowed with a very sacred mandate. Among other things is considering and approving public expenditure every Financial Year. This is a pivotal responsibility when you look at the very root of the architecture of constitutional democracy which was based on “no taxation without representation”. This House apportions the money to the Executive and all that.

It is pursuant to this that, under Article 221 of the Constitution, the Treasury submitted its Budget Estimates, which was followed closely by the Judiciary submitting its Estimates. Parliament also submitted its Estimates in accordance with Articles 127 and 173 of the Constitution. Those Estimates were then committed to the Budget and Appropriations Committee, in accordance with Article 221 of the Constitution to consolidate them together and report back to the House.

At the outset, I want to commend the Committee. I know they have been working hard; they are still trying to consult on some issues. They had about 14 sittings before they reported back to the House, two with the Treasury, we had one yesterday and another one this morning, hence there is a lot of work going on even as we continue with this debate.

This year’s Budget also comes in at a time when we, obviously, have the COVID-19 challenge. The focus is on how to get back to the situation before COVID-19 and even better. The operating words are ‘building back better’. And it was captured very well within the Budget theme: Building Back Better—Strategy for Resilient and Sustainable Economic Recovery and Inclusive Growth. I just want to speak to those words, because it is so easy to put down most of these clichés in speeches and paperwork. We need to internalise what we exactly mean when we say building back better. What are we talking of, knowing that COVID-19 has been with us and it has cost us quite a bit?

When we talk of building back better, we basically call for a certain introspection. Building back better means we have understood and appreciated that we are not building to where we were before. Certain people have looked at the call—it has become a scholarly issue. Examples have been given, for instance, within the health sector, especially in developing countries. We have been investing in health, but when COVID-19 hit us we realised that, because we in the political class could afford to fly out of the country for treatment, we abandoned and neglected our health facilities in the country. Thanks to COVID-19, planes were grounded. There was no travel to other countries, even for those people who could afford it. Hence, people have had to get treatment in the local facilities that had been abandoned. So, COVID-19 has brought a new way of thinking in that if we do not build back better, if we do not invest in our health facilities, a global lockdown would mean everyone would have to use the facilities we have. If we do not build back better our manufacturing base, like we are now doing with personal protective equipment (PPEs), it will mean, because we cannot get PPEs from other countries, we will suffer if we do not have the manufacturing capacity. I believe that when the CS for Treasury talks of building back better as the theme for this Budget, the people in Government are thinking the same way. They are not just thinking of waiting for COVID-19 to end so that people can fly out to seek medical treatment or to buy things instead of building local capacity.



On sustainable inclusive growth, if we continue having inequalities—and this has been experienced even in Singapore, where you have migrant workers that were put in very chaotic living conditions—when the rest of the country had sorted out the COVID-19 situation, the poor had not received the same access. Hence, when COVID-19 hit the poor, it went back even to the rich. So, if we do not sort out some of these inequalities, the disease does not respect social status. It will hurt those who have and those who do not have. However, if we sort out the inequalities within the country, we will grow together as an economy.

Another thing that has been highlighted within this COVID-19 Pandemic, on which we are doing better, is the issue of transparency and the war on graft. If China had become more transparent upfront on the transmission of this disease, if the doctors who wanted to say that there was a new virus in Wuhan were not silenced; estimates show that if the exposure of this information came out three weeks before, we would have saved about 95 per cent of the casualties. So, the whole issue of transparency in Government is being highlighted with this, and I see that coming out within the theme. As Parliament, we shall insist on getting it. We are not just giving out money. There is a commitment to building it better. It is not doing business as usual, but rather doing business in a way that will build our manufacturing capacity to ring-fence ourselves from global lockdowns. That will help us to make sure that we help our health facilities to ensure that we have equitable distribution.

A time will come when we will start rethinking our politics of division, exclusion and competition for resources so that we focus on an economic agenda that will prepare our country to move forward. Even as I talk about this competition, I have in mind the fact that we are competing with other fund users. We keep hearing people say: “If you do not provide for the National Government Constituencies Development Fund (NG-CDF), we will not pass the Budget”, but we are small. We are only one of the users. I appeal to Members because we have done very well in terms of achieving our NG-CDF targets, let us continue to develop the country as we unlock the future potential by facilitating the Budget process for everyone else.

As we talk, I believe we have enough money to continue. I am trying to cut short most of the things so that I can give Members opportunity to also speak.

I want to briefly speak on the issue of trilemma that is now facing Finance Ministers across developing countries. The COVID-19 Pandemic has brought in extra demands for spending to stimulate the economies as they respond to the pandemic and thus extra money is required. It also means that, because businesses are down, the revenues are depressed or at best they are stagnant.

There is a disclaimer that people are against borrowing. Trying to reconcile these three issues is difficult. More spending is required. There is less money available through revenues and restrictions on spending. As Parliament, we need to open our minds and stop listening to civil societies who think that borrowing is evil. We need to encourage students when they are going to university to borrow loans from the Higher Education Loans Board (HELB) to finance their education. We should be encouraging the country to borrow to finance the 27 per cent that we are spending on the education of our children. We should not feel that borrowing is just for capital projects. We should even borrow for all the Article 43 commitments that we have to give to the people of Kenya. It is something that our Parliament will start thinking of. We are soon going to hit and exceed our debt ceiling. Straight-jacketing ourselves and saying that we are not going to borrow beyond the Kshs9 trillion debt ceiling would mean that we are not going to spend anymore, yet we are not going to raise revenues. That way, we will get this country into a stagnation mode. Reviving a stagnant economy is more expensive than what we need to do. We need to focus on the cost of that debt and not the amount.

I am not in any way suggesting, but we will soon be coming to that, and when that happens, for purposes of raving up this economy so that we can grow at more than 6 per cent, it is important that we start preparing our minds that yes, so long as we know that we are borrowing this money to put in this and not that, we have closed the doors. If we stop wastage then it makes sense to borrow especially now when the rates are so low and so long as the rate of economic growth is higher than the rate of interest we are paying, we are advised to borrow even at personal level. Those are some of the things we need to start thinking of. I want to encourage Members to look at this Budget. Let us also start thinking of the future as we implement it.

I have looked at what the Committee has come up with. I have also listened to what the Minister read out to us in terms of the figures he proposed and what the Committee proposed. I do not know, but there is a difference of over Kshs3 billion plus that has not been financed. I want to encourage the Chairperson of the Budget and Appropriations Committee and the various departmental chairpersons who have sat together and increased expenditures beyond the fiscal framework. They should go back and expedite the discussion they are having with the National Treasury. This is so that we do not have any expenditure coming into this House that has not been funded. We are the same ones who insist that the budget must be balanced and we cannot be the House that adds on expenditure that does not have matching revenue.

So, I ask them to expedite and harmonise the two figures. I am aware from my own engagement with them that the Chairperson is contemplating bringing some amendments, but I will let him speak to that and give the necessary notices so that much as we are approving that figure today, it is likely to change by the time we come to the individual votes in the Committee of Supply. This is so that we do not end up approving a budget here that is not supported. That will mean that because we have exhausted our debt limit in terms of the commitments we made to the International Monetary Fund (IMF), that when we now discuss the Finance Bill, the only option will be to ask our people to pay more taxes to finance the extra expenditure. It is easier that we first of all live within our means, that has been committed and a framework has been negotiated. It is unlocking some grants and low cost loans through the international institutions. If we do not get this balance right, we could end up jeopardising some of the negotiations that we made as a country or jeopardising the financial power of our people through having higher taxation.

Hon. Speaker, in the interest of having a few Members to speak, I want to thank the Committee for a wonderful job and ask them to expedite that process so that as we go through the next phase in the Committee of Supply, we will tidy up all this. The National Treasury and Government should stick to the real meaning of building back better and not business as usual.

I thank you, Hon. Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have the Chairperson of the Departmental Committee on Energy, Hon. Gikaria.

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity.

As I support this Motion, it is important for us to realise that the budget-making process is a constitutional right and this House has been mandated by the Constitution to go through the process under Article 221. It is very important that this House does recognise its mandate.

We must adhere to the Constitution. It has given us a directive as to how we should proceed with the budget-making process. It is sometimes very unfortunate that as part of our constitutional right as Parliament and as enshrined in our Standing Orders, we find it very difficult that what we raise is not taken seriously. The Committees have an opportunity of interacting deeply with the respective ministries and departments. So, whenever they are giving a recommendation, it is not

out of the blues, but is informed by what is happening. Sometimes you find a department gives you some information which you totally believe is correct, but when used to make a recommendation or decision, the same department comes back saying it was misinformation. This is unfortunate because at that level we need to make decisions.

In the budget-making process we requested the Chair of the Budget and Appropriations Committee and more so the Parliamentary Budget Office (PBO) to second very senior fiscal analysts to our Committees. I am saying this because a fiscal analyst is a staff of the department and has a know-how of the budget-making process. Sometimes the recommendations or decisions the Committee makes are not properly informed. So, we need the PBO to give us qualified fiscal analysts to advise the Committees on various aspects. So, as we make decisions, they will advise on the consequences or pros and cons of the decisions made so that the Committee is properly informed on recommendations supposed to be made.

Talking of the Budget Policy Statement (BPS) that was brought before the Committee and we went through it, we would want to agree that for the first time in many years, there is consistency, concurrence and merging of the estimates and BPS. I want to agree that in as much as we are given ceilings, when these estimates are brought on the Floor of the House; it is important to note the role a ministry plays in achieving its goals and objectives. For example, let us take energy which is one of the biggest enablers of the Big four Agenda or some other important agendas, not only in Kenya but worldwide. The National Treasury should note that the departments which are enablers should be considered particularly when these estimates are being done.

When you look at the Budget and see deficits sometimes it hurts because you can only imagine that if you have a deficit, it means one or two things. We will either have to tax Kenyans more or borrow. Of course, it has been said by many speakers that the debt ceilings of this country are worrying. In as much as the Leader of the Majority Party has said, it is good to borrow but we must borrow for purposes of production and not consumption. When we see a Budget with a deficit then it is important for us as we approve to understand where this money will come from. If it will come from excessive and unbearable taxes which will be carried by our constituents then as Parliament we should try and stick within our means and reduce the deficits so as not to encourage a lot of taxation, foreign or local borrowing which attracts a lot of interest.

The budget-making process as the Constitution requires should have public participation element. It is important for the Budget and Appropriations Committee to consider when going round for public participation that it is not right to go to two or three constituencies. We need, at least, a third of them so that we can get the feeling of the country and what is required. Some places may require road infrastructure and others electricity. We have different requirements. I think it is important, under the public participation, that the Budget and Appropriations Committee should visit more constituencies or counties as they are doing right now.

Hon. Temporary Deputy Speaker, let me talk about absorption. It is very unfortunate that most of the times when we get the supplementary budget estimates, the reason that is normally given for the reduction of some of the expenditures is that the absorption is low. Much as the Treasury collects, it must also be able to give as it is in the PFM Act on a quarterly basis. They should disburse what is required. So, when the absorption is so low, then it means even the targets and outputs... Even as departmental committees, sometimes we want to evaluate and monitor but when the absorption is that low, respective ministries and departments will always use a scapegoat that they have not received this or that amount of money and that is why they cannot attain targets as indicated. So, again it is important for us to look at the Treasury. As they collect, they must also

be able to give respective ministries and departments their money so that they can actualise their budgets.

There is something that is now becoming a trend. Ministries are basically supposed to deal with policy matters. They should have nothing to do with the actual implementation of the ministry's activities because we have various departments. However, you find ministries now doing tendering. If you have a department that has by law been mandated to do a specific job, allow that department to undertake that mandate. We were given a few departments under the Energy Act 2019. We bestowed the responsibility of renewable energy to a certain department called the Rural Electrification and Renewable Energy Corporation (REREC) but you find the ministry still sticking with some of these very critical functions.

One of the other critical issues that we see in our Budget is litigation. Huge sums of money are going to lawyers and sometimes they are not even budgeted for. You wonder how a certain contractor is engaged and then all of a sudden there is some litigation. Huge sums of money are going towards litigation. As Parliament, we should make the respective Cabinet Secretaries or CEOs to take responsibility of the litigation that ends up in losses. Many projects have been terminated. In one case where only Ksh600 million was supposed to be paid, they went to court and they were awarded more than Ksh4 billion with only a balance of Ksh600 million. So, how can we continue with this? There are quite a number of issues but we are going...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): The final person to speak as chairperson is Hon. Mark Nyamita who is representing the Departmental Committee on Information, Communication and Innovation. You have the Floor.

**Hon. Mark Nyamita** (Uriri, ODM): Thank you, Hon. Temporary Deputy Speaker, for the opportunity. I will speak on behalf of the Departmental Committee on Information, Communication and Innovation and also maybe on my own behalf to give my thoughts on this budget-making process.

Let me begin by thanking my colleagues in the Budget and Appropriations Committee for the long hours that they actually took to listen to the departmental committees and finally come up with recommendations that have since been tabled on the Floor of this House. Some of those deliberations went late into the night. In fact on one particular day, I think we sat late until midnight but I think it is for the greater good not only of this House but for the country.

With regard to the Ministry of ICT, one of the things that stood out for me is the pending bills. In the State Department of Information, Communication and Technology (ICT) and State Department of Broadcasting we have pending bills of about Ksh1 billion and Ksh1.9 billion, respectively. Part of these pending bills relate to local suppliers. In this particular Budget there is no provision. This is extremely dangerous because these are the people that the same Government is hoping to collect taxes from. If we do not pay them for services that they have rendered, we are killing ourselves.

Within this Ministry, there has been extreme and high expenditure in the Ministry of Information, Communication and Technology, specifically in the State Department of Information, Communication and Technology under the National Optic Fibre Backbone Infrastructure (NOFBI) project. However, the output of this project has not been quite something tangible. One of the things that we have noted is that we need a robust...

*(Technical hitch)*

There is a bit of noise here. There is a system problem behind here.

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The Committee has set out to develop a proper monitoring and evaluation team that will see whether we are getting true value for this money. You will find that the original cost that was put for NOFBI when you compare it with the money that has been used for maintenance, the maintenance cost is higher when we have not quite utilised it. Today, the last mile connectivity of NOFBI has gone into county and sub-county headquarters. Some of those legs within various parts of the country, we are unable to utilise them because they are not in use but we continue to spend very huge amounts of money. You will remember that this is a project that was single sourced.

The recommendation of the Departmental Committee on Budget and Appropriations is that by 1<sup>st</sup> December 2021, within the end of the first quarter, the Committee has been challenged to present a report to this House in that regard.

Hon. Temporary Deputy Speaker, there is...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order! What is out of order, Hon. Omboko Milemba?

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Temporary Deputy Speaker. I rise on a motion of privilege. There is some noise behind us and it is like a gas leakage. Could you, through your office, establish exactly what is going on for the safety of the Members?

I thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): In fact, I have directed the Serjeant-at-Arms and the technical people to sort it out. I can hear it even from where I am seated. So, the technical people pick up that so that Members are comfortable. Hon. Milemba Omboko that is being picked up.

**Hon. Mark Nyamita** (Uriri, ODM): Hon. Temporary Deputy Speaker, actually, the voice is right behind me and the colleague next to me is saying that it might be a bomb. I hope I am safe.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): No, it cannot be but the technical people should pick it up immediately.

**Hon. Mark Nyamita** (Uriri, ODM): Hon. Temporary Deputy Speaker, one of the other issues is that there are many state-owned enterprises within the Ministry that are getting to moribund status. One of them is the Postal Corporation of Kenya. Within the Supplementary Budget II, due to COVID-19 and other issues, this particular House approved an additional Ksh810 million for Postal Corporation of Kenya to help them pay for salaries. However, the total amount that the Postal Corporation of Kenya still owes, including to Government, is well up to about Ksh4 billion. So, we need to, as a Government, decide what is the rightful way that we are going to go so that we ensure that some of the state-owned enterprises that are no longer trading or are no longer viable can be restructured so that we get true value for taxpayers' money.

Hon. Temporary Deputy Speaker, one of the things that is affecting the State corporations under this particular Ministry, and I will start with the Postal Corporation of Kenya, when the Government started putting up Huduma Centres a number of Huduma Centres are in post offices across the country. To date, Huduma Centre which is domiciled under the Ministry of Interior and Coordination of National Government, owes the Postal Corporation of Kenya in excess of Ksh1.2 billion. We have pushed and we hope that this House can help us, we have agreed together with the National Treasury that within the Budget for the Ministry of Interior and Coordination of National Government, the said amount of Ksh1.2 billion can be directly deducted at source and be remitted to Postal Corporation of Kenya so that they can get back to business.

The same applies to Kenya Broadcasting Corporation (KBC). During this pandemic, KBC received instruction from the Communications Authority of Kenya (CAK) to air educational content for free. There is nothing for free. They have to pay for the signals, electricity and the

workers. They estimated that the airtime they gave to the Ministry of Education was up to about Kshs512 million. As the amendments come in, I think the State Department will try to seek authority from the House so that the said amounts can be deducted directly from the respective ministries and then be sent to the Semi-Autonomous Government Agencies (SAGAs) themselves.

We also realised during the course of the budget process and interaction with the ministries that some of the targets, including some of those state-owned enterprises, are not realistic. For example, with regard to the KBC, we realised that within their targets, they only had the number of bulletins they have produced and the amount of airtime they have spent. However, the real thing that they need to commercialise, which is viewership, was not captured as a target. We challenged them to include that.

Within this particular Ministry, there are only two new projects. One of them is the Horn of Africa Gateway Development Project which will enable broadband connectivity along the Northern Corridor. There is another connectivity project which was signed by the President when he travelled to Djibouti. However, there was no funding that was provided in this particular Budget.

Proceeding to the general Budget, we must appreciate that it was done within the context of the COVID-19 Pandemic. I can see my time is over, but you will give me a few more minutes because of the interruption when they were trying to put off the bomb that was behind me.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): There was no bomb, Hon. Member. Proceed.

**Hon. Mark Nyamita** (Uriri, ODM): This Budget has been done within the context of COVID-19. We are currently in the third wave and are almost moving into the fourth. We must ask ourselves if it will be the last. If we get into a fifth or sixth wave, even if we have budgeted for them, they will disrupt our budgeting process. We need to ask ourselves as a country if we will be able to sustain ourselves within the tight fiscal framework that we are in.

You will also note that the IMF is already within. It has come in with its conditions on revenue, expenditure and restructuring. As we oversee the Executive, we need to be aware of the new conditions that will happen.

Public participation has not been very effective due to the pandemic. During the last three years we had been going round the country, we had done about 12 counties every year. We would ask all the members of that county to come to one city. That has not been possible over the last two years for obvious reasons. We have relied on written submissions. Because of the challenges of education and the different literacy levels, providing written submissions becomes a bit of a problem.

One of the biggest things which I have alluded to is the issue of pending bills. Without provision for pending bills and our tendency to continue abandoning ongoing projects while providing for new projects, we are not helping the common man. In as much as we say that pending bills will be a first charge, we have done programme budgeting and there is a budget for every single project. If you have not factored in pending bills, there is a problem. Even within the overall framework that we are talking about, pending bills also qualify as debt because it is debt that is taken from local suppliers. It needs to be captured. The National Treasury needs to develop a framework. We asked them to provide us with the total amount of pending bills but they only gave us the figures in the mainstream ministries. It was totaling to about...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well. Hon. Member, your time is over. Hon. Members, we have 30 seconds before 6.30 p.m. The House must rise. I can tell from my screen that quite a number of Members wanted to speak to this. I want to remind you of the House resolution on 10<sup>th</sup> February 2021 and Standing Order Nos. 239 and 240 that debate on

the Report of the Budget and Appropriations Committee shall take a maximum of three sittings. Those three sittings are over. Therefore, that brings a closure to this part of the budget process.

I want to remind Members that we are still on the budget-making process. We will engage in the Committee of Supply, when it is slotted in the Order Paper. We are done with the Report of the Budget and Appropriations Committee on the Budget Estimates. In the circumstances, I direct that the Mover of the Motion will reply tomorrow in the afternoon, so that the Question will be put.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, the time being 6.30 p.m, this House stands adjourned until today, Tuesday, 15<sup>th</sup> June 2021 at 7.00 p.m for the Evening Sitting.

The House rose at 6.30 p.m.