

PARLIAMENT OF KENYA**THE NATIONAL ASSEMBLY****THE HANSARD****Tuesday, 10th August 2021**

The House met at 2.30 p.m.

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

PRAYERS

COMMUNICATION FROM THE CHAIR

ADHERENCE TO COVID-19 GUIDELINES

Hon. Speaker: Hon. Members, as you may be aware, reports from the Ministry of Health indicate an escalation of severe cases of COVID-19, exacerbated by the emergence of the Delta Variant in the country. In this regard, I wish to remind you all to adhere strictly to the guidelines that are already in place as we continue to enhance measures to protect ourselves and our families from the effects of the pandemic.

Hon. Members, to prevent the transmission of the disease within the precincts of Parliament, I wish to remind all Members and Parliamentary Staff that—

- (i) The sitting capacity in the National Assembly Chamber remains 112 Members and occupancy is on first-come, first-admitted basis, save for the few reserved seats.
- (ii) All persons in Parliament, including Hon. Members, should wear face masks at all times even when they are speaking in the plenary Chamber and Committee meetings; and,
- (iii) The Catering Department is directed to ensure that no unauthorised person is admitted in the Members dining areas and other lounges and that no more than two Members occupy one table in the Dining areas.

Hon. Members, the Sergeant-at-Arms Department is directed to enforce wearing of face masks at all times, hand-washing or use of hand sanitisers, and observance of strict social distancing, amongst other measures within the precincts of Parliament, as well as ensuring adherence to all other protocols by the Ministry of Health on the prevention of transmission of this deadly Pandemic.

Lastly, I direct the Clerk of the National Assembly to continue making arrangements for Members of Parliament and Staff to undergo voluntary COVID-19 testing and complete vaccination process in a phased manner.

The House is accordingly guided. I thank you.

PETITIONS

Hon. Speaker: The Member for Garsen, Hon. Ali Wario. Can you press your intervention button?

DE-GAZETTEMET OF SPECIFIED ADC LAND IN GARSEN CONSTITUENCY

Hon. Ali Guyo (Garsen, JP): Thank you, Hon. Speaker. I rise to read Petition No. 031 of 2021, regarding the de-gazettement of specified Agricultural Development Corporation Land in Garsen Constituency.

I, the UNDERSIGNED, on behalf of residents of Garsen Constituency in Tana River County, DRAW the attention of the House to the following:

THAT, the Galana Ranch Scheme spans over 1.75 million acres and was established in 1968 as a game and trading company, before being acquired by the National Government through the Agricultural Development Corporation (ADC) to provide a buffer zone between Tsavo East National Park and surrounding communities to undertake beef ranching and off-take management during drought as well as for production of biogas;

THAT, through the intervention of His Excellency President Mwai Kibaki in 2006 and His Excellency President Uhuru Kenyatta in 2013, the Agricultural Development Corporation was directed to release 250,000 acres to residents of Assa and Kone Locations near Tsavo East National Park, with pastoralists being granted access to the River Galana Watering Corridor to water their livestock;

THAT, the proposed sub-division involves 100-acre blocks totalling 200,000 acres categorized as small scale, 10-acre blocks totalling 300,000 acres categorized as settlement schemes, 10,000-acre blocks totalling 400,000 acres categorized as large scale, 5,000-acre blocks totalling 200,000 acres categorized as medium scale one and 1,000-acre blocks totalling 200,000 acres categorized as medium scale two under the Galana Ranch Scheme;

THAT, the proposed sub-divisions will adversely affect the entire community which primarily depends on the land to graze the large number of livestock that includes herds of cattle, sheep, goats and camels, thereby creating potential for protracted conflicts in future due to inadequate size of grazing land particularly in view of the fact that the land in question is currently occupied by the community, with the ADC occupying less than 10 per cent of the entire acreage;

THAT, the 250,000 acres earmarked for the community is extremely inadequate, and ought to be increased to a minimum of 600,000 acres in view of the current demand for grazing land;

THAT, efforts to have these proposed sub-divisions revised by the relevant authorities have not yielded any fruit; and,

THAT, the issues in respect of which this Petition is made are not pending before any court of law, or other constitutional or legal body.

THEREFORE, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Lands:

- (i) Intervenes to facilitate timely de-gazettement of the said land to convert it to community land for grazing and related communal use by residents of Assa and Kone Locations of Garsen Constituency, as well as de-gazettement of the River Galana Watering Corridor on both sides of the Tsavo East National Park and the ADC land;

- (ii) Intervenes to facilitate the increment of the Galana Community Group Ranch from the proposed 250,000 acres to 600,000 acres, and to guarantee that, at least, 25 per cent of beneficiaries in all land block categories are local residents from communities in Garsen Constituency; and,
- (iii) Makes any further order(s) deemed fit in the circumstances of the Petition.

And your Petitioners will ever pray.

Hon. Speaker: I am sorry! To which Committee did you direct it?

Hon. Ali Guyo (Garsen, JP): The Departmental Committee on Lands.

Hon. Speaker: I know the Chair is...

Hon. Ali Guyo (Garsen, JP): But the ADC is under the Agricultural Ministry.

Hon. Speaker: Do you want the Petition to go to the Departmental Committee on Lands?

Hon. Ali Guyo (Garsen, JP): Yeah! I wanted it to be...

Hon. Speaker: For now?

Hon. Ali Guyo (Garsen, JP): Yeah, Hon. Speaker.

Hon. Speaker: Very well. I do not know whether everybody who has pressed the intervention button here wants to comment on this Petition.

Hon. Ali Guyo (Garsen, JP): Hon. Speaker, I kindly request the Members of Parliament from Tana River to contribute because they know the magnitude of this matter.

Hon. Speaker: No! You cannot ask me. If they are there and they have not pressed any requests for intervention, you let the sleeping dogs lie. Is it not what it is said? We cannot force people to intervene. I can see that the Member for Kwanza, who has some background in that field, wants to say something.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Thank you, Hon. Speaker. I am in the Departmental Committee on Agriculture and Livestock. Galana Kulalu is in the Departmental Committee on Agriculture and Livestock. Referring this Petition to the Ministry of Land is misplacing it when the Member is talking about development of Galana Kulalu. So, I think he should direct it to the Departmental Committee on Agriculture and Livestock, where I sit. I have even visited Galana Kulalu...

Hon. Speaker: Hon. Ferdinand Wanyonyi, the Member is praying for de-gazettement. De-gazettement is not a function of the Departmental Committee on Agriculture and Livestock. Is it?

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Hon. Speaker, whatever he is talking about are things to do with agriculture.

Hon. Speaker: Yeah! But before it can go to the Departmental Committee on Agriculture and Livestock, and before you can go to farm, it has to be de-gazetted. The Member desires that that the matter be handled by the Departmental Committee on Lands.

Hon. Didmus Barasa, is it a comment on the Petition?

Hon. Didmus Barasa (Kimilili, JP): Thank you, Hon. Speaker. I support this Petition. It is very important. I hope the Government is going to prioritize resolving issues that affect the *mwananchi* directly. This is a matter that, even as we speak here, the relevant Government authority should pick up so that we do not allow the citizens to continue suffering.

I support this Petition.

Hon. Speaker: Member for Mwea.

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Speaker. The issue of the management of public and community land, as it may, needs to be looked into by the Government. I say this because, number one, I am not sure we have a complete system or database where one

can go and search for public land, say, in my constituency. Lack of that has caused anxiety. People continue to practice grabbing that was in the past. I have a case in Mwea in a place...

Hon. Speaker: Now, this is the problem! Comment and seek clarification on this specific Petition. Maybe, the Member had a point when he said that his colleagues from Tana River County should speak. But because they do not know how to use the gadgets because they are from Tana River, they have not requested. We will try to look for them. I suspect some of those raising their hands are from there. It is not done that way. Do not raise hands.

Hon. Josphat Kabinga (Mwea, JP): Hon. Speaker, the issue is on management of public and community land that needs to be looked into more seriously than, probably, it is currently. It is an issue out there that the Government needs to concentrate on and come up with a database that one can get into and know the size and description of a public land in this country.

I thank you.

Hon. Speaker: Member for Lamu.

Hon. (Ms.) Ruweida Obo (Lamu (CWR), JP): Ahsante, Mhe. Spika. Naunga mkono ombi la Mhe. Ali Wario. Hili tatizo linafaa lisuluhishwe maana likisuluhishwa, hata sisi watu wa Lamu tutafaidi.

Ahsante.

Hon. Speaker: Member for Ugunja.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Speaker, this is, indeed, a very important Petition. I just pray that the Departmental Committee on Lands, under the Chairmanship of my friend, Hon. (Ms.) Rachael Nyamai, would expedite this matter so that the people of Tana River, especially those in the constituency of my good friend, Hon. Ali Wario, will get justice.

The issue of land, as has been pointed out, remains very controversial. It was the expectation of Kenyans that with the promulgation of the 2010 Constitution, and with the creation of a whole commission in charge of land matters, such matters would be addressed with finality. I hope this Committee will deal with this matter expeditiously.

I thank you.

Hon. Speaker: Member for Saku.

Hon. Ali Rasso (Saku, JP): Thank you, Hon. Speaker. I support the Petition. Initially, Galana Kulalu was set aside for agriculture. It is also the most productive land in Garsen Constituency. However, over the years, nothing has happened on that land. The land is left fallow and the community does not use it. It is high time the land reverts back to the community. I believe the Member is saying that it should be de-gazetted. Indeed, that should have been done a long time ago when the land became unusable for agriculture.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Kiminini.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Thank you, Hon. Speaker. Land is a factor of production. I support the Petition that if the land is not utilised, it should be de-gazetted. As that is done, we know very well that the land is under the Agricultural Development Corporation (ADC) which is under the Ministry of Agriculture. So, this Petition will involve both the Ministry of Agriculture and the Ministry of Lands. As we move forward, ADC owns a lot of land country-wide even in Trans Nzoia, but some of the land is fallow. We had done a Petition from Trans Nzoia that part of the ADC land should be de-gazetted to build a university. Up to now, it has never been done. So, as the Departmental Committee on Lands looks into this matter, let them expedite it because there are many Petitions under the Committee. I humbly request Hon.

Nyamai as she looks into the Petition, not to forget the Trans Nzoia issue on the ADC land to be given to a university.

Thank you, Hon. Speaker.

Hon. Speaker: Nominee 001.

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

As Hon. Wamalwa has said, land is a factor of production. When land is held in Government custody but does not produce, it is a loss to this country and a loss to all of us. If the agriculture and irrigation failed, it is common sense for the Government to de-gazette the parcel of land and revert it back to the people of Tana River so that they can use it as a factor of production. That way, we can have food security. They are pastoralists and the land should be de-gazetted - and the Hon. Chair of the Committee is here - and she should look into all the land that is lying idle in the hands of ADC and de-gazette it so that we can use it to produce food. We have an acute shortage of food in this country.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Mvita.

Hon. Abdullswamad Nassir (Mvita, ODM): Hon. Speaker, there is something that may be correlated. In the 23rd Report of the Public Investments Committee (PIC), we tabled something in regard to the National Irrigation Board. I provided a disclaimer that there was an issue at Galana Kulalu that we were going to table as a special report on its own because of how detailed it was with your indulgence and your guidance, Hon. Speaker.

We do not want to come up with something else because the National Irrigation Board (NIB) who took part of the land from ADC for purposes of this project has indicated otherwise. I agree and sympathize with the Hon. Member who has raised this Petition. With your permission, Hon. Speaker, you could also allow him to share it with us so that we can look at it holistically.

Hon. Speaker: Who do I allow to share?

Hon. Abdullswamad Nassir (Mvita, ODM): The Member, Hon. Speaker, so that when we call the NIB, we can also formally request him to be present.

Hon. Speaker: This is a Petition, which is specific. Member for Kajiado North.

Hon. Joseph Manje (Kajiado North, JP): Thank you, Hon. Speaker. I see things differently. Those pieces of land were gazetted in the past because our fore-fathers had foresight on how they could be used. There are many Petitions that urge the Government to de-gazette parcels of lands in Kenya. In other places, we find that land that was set aside for veterinarian purposes, but people want it de-gazetted and shared. It should be used for the purpose for which it was set aside. I know there are many pieces of land that have been de-gazetted and people are agitating for that. If we see the bigger picture of the country, we should not de-gazette what was gazetted for a particular purpose unless the purpose is no longer viable to us. If it is not viable now, future generations will make better use of that particular parcel of land for all Kenyans and not for one particular community.

I oppose.

Hon. Speaker: Member for Kilifi North.

Hon. Owen Baya (Kilifi North, ODM): Thank you very much, Hon. Speaker. The Galana Kulalu, if left the way it is, will be another big land problem in this country. It will be like the problem we have, especially in the Coast. We have had very many problems relating to land in the Coast. If we do not solve the Galana Kulalu now, we will have another problem.

The Petition by Hon. Wario is that Galana Kulalu should be de-gazetted for one very valid reason: Government mandarins are actually sub-dividing the land and giving it to themselves

without the consent of Parliament as required by the law. That is what is happening. There are people who occupied the land even before the ADC took it, but they live in that land as squatters. One way of solving the problem of squatters is to de-gazette the land so that the people who were there get the land because the ADC is not using it. The land for the big farm that the Government wants is there. Even the Chairman of the ADC said that 300,000 acres of the land have been taken by people. That is what the Chairman said and yet, the land has not been de-gazetted while the squatters currently living there cannot have access to that land. Why do we not follow this Petition; de-gazette the land, allow the squatters to get title deeds then whoever wants to give to whomever, can give? Let us save the people and save the land by letting the correct thing to be done. Right now, people are sub-dividing the ADC Galana Kulalu. We lost the ADC Sabaki in Malindi the same way. It was given to around 2,000 people but the indigenous missed. The other ADC land at the Coast which part of it is in Kilifi and the other in Tana River is going the same way.

I urge the Committee, which I am a member of, that let us push for the land to be de-gazetted and due process followed. The people who have benefitted from ADC land in this country are many because they are mandarins in the Government. We want to stop it this time and ensure the right thing is done at the Coast by giving land to the people of the Coast. De-gazette it! The land must be de-gazetted.

Hon. Speaker: I encourage every one of us, please, whenever a Petition is presented, very quickly go to Standing Order No.226 to understand what you are supposed to do. You are supposed to make comments, observations and/or seek clarifications. Time allocated for the comments, clarifications and observations is only 30 minutes. When you make it an opportunity for debate, we lose the plot!

(Several Hon. Members raised their hands)

Those raising hands, I do not operate that way. Use your machines. I am following. Do not bother raising hands. Even you! Do not raise your hand. This is the National Assembly; not Garsen.

Member for Kabuchai.

Hon. Majimbo Kalasinga (Kabuchai, FORD-K): Thank you, Hon. Speaker. I also want to support this Petition from Hon. Wario.

In the first place, if the land that is meant for ADC is already being utilised by people, it means that the ADC has failed to carry out its duties; the purpose for which it got the land. So, I support the de-gazettement.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Sirisia.

Hon. John Waluke (Sirisia, JP): Thank you Hon. Speaker, for giving me a chance to contribute to this Petition.

There is a reason the Government keeps huge chunks of land. It is always for the future generations. For some time, people have been misusing land that the Government had set aside for future use. In the near future, we are going to lack land for the coming generation. We will then start to look at some place that may not have land.

The Government must be very keen on the de-gazettement because in some places like Western, there is no land. So, in future, we might migrate from Western to Galana because the population there is not as large as the one in our area. It is for future use.

Thank you, Hon. Speaker.

Hon. Speaker: Let us have the Member for Tana River.

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Hon. (Ms.) Rehema Hassan (Tana River CWR, MCCC): Thank you, Hon. Speaker. I also rise to support the Petition. I come from Tana River and I know how sensitive the issue of land is there, particularly in Garsen. People believe that we have plenty of land, but it is not enough for us. It is scarce. Because the purpose that was set for that land is not what we are seeing, I also support that the land should be de-gazetted. People are being transported from other areas to that place and the land is being sub-divided among them.

I support the Petition. Thank you.

Hon. Speaker: Let us have the Member for Migori.

Hon. (Ms.) Pamela Ochieng (Migori CWR, ODM): Thank you, Hon. Speaker. I rise to support this Petition. My observation has been that we have had very ugly incidents in Tana River over the past years because of land issues. If that land is lying idle, it should be de-gazetted to solve the problem of land in the community. It is unfair that there is land that should serve the people, but it is not doing so in a proper manner. So, let it be de-gazetted and procedurally allocated to the people.

Thank you.

Hon. Speaker: Let us have the Member for Soy.

Hon. Caleb Kositany (Soy, JP): Thank you, Hon. Speaker. I rise to support this Petition. It is very important that wherever there is land, the first persons to be considered should be the residents of that area. We know that the Coast region is one area that has suffered heavily because of land injustices.

I support the Petition.

Hon. Speaker: Let us have the Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Speaker. It is also important that such a matter has been brought to the attention of the nation because land issues are very emotive. The Constitution and the National Land Commission Act have very specific timelines and mechanisms of addressing the matter at hand. I believe that the Departmental Committee on Lands is well-equipped to deal with the matter.

Secondly, because gazetted land is public land, its conversion to private land or any other form of land ownership is dictated by the provisions of the Land Act No. 6 of 2012. I believe it should provide guidance.

Finally, for any land that remains idle and un-productive, a means must be found to put it into productive use unless there is justifiable cause for land banking.

With those few remarks, I support the Petition.

Hon. Speaker: Let us have the Member for Kamukunji.

Hon. Yusuf Hassan (Kamukunji, JP): Thank you, Hon. Speaker for giving me this opportunity. I stand to support the Petition by Hon. Wario.

The Tana River Delta is one of the major wetlands of our region and yet, if you look at the plight of the people in that neighbourhood, they are not able to efficiently use that land. Many of them live in poverty because of land scarcity or access to land. If this particular land that had been gazetted is no longer being used for the purpose that it had been allocated, it is just right that we get it back so that it can be used by the community. Those are communities that are under pressure of resource limitations and scarcity of resources. As you know, scarcity of resources is a major source of conflict. This will be an opportunity for them to utilise that land and ease some of the tension and problems that exist in that particular part of our country.

The other worrying element of this gazettelement is that there are regular reports in our media that indicate that the land has been gobbled up and grabbed by individuals and parcelled out. That

is not right and should be controlled. One of the ways of, perhaps, dealing with that issue is by de-gazetting it and giving control of the allocation and distribution of that land to the local authorities in the community. That is the best way to create fairness, equity and justice. Therefore, I support the Petition.

Hon. Speaker: Let us have the Member for Taita Taveta.

Hon. (Ms.) Haika Mizighi (Taita Taveta CWR, JP): Thank you, Hon. Speaker. I start by supporting this Petition because land matters are weighty in Kenya, especially in the Coast region. Kenyans and people from the Coast had very high hopes in the agricultural project that the Government set up at Galana Kulalu. If the project does not exist and the land is no longer serving the intended purpose, I support its de-gazettement.

Thank you for giving me the opportunity.

Hon. Speaker: Let us have the Member for Kangundo.

Hon. Fabian Muli (Kangundo, Muungano): Thank you, Hon. Speaker for giving me the opportunity to comment on this Petition.

Land management and registration in this country is very poorly undertaken by the Ministry of Lands and Physical Planning. The activities done within the Ministry are very peculiar. It is not only the issue of Tana River, but there are also other cases within the jurisdiction of this country where people are crying. For example, people even came with the mother titles with regard to the Kenya Broadcasting Corporation (KBC) land in Joska Kamulu. When the mother title has been segmented, it is taken to the archives. People sneak into the archives to get the mother titles and start to divide the land belonging to the people again. If you go to Drumvale, people are also crying. You already have your five acres and yet, somebody comes with a title of 1,000 acres. So, it is high time that we arrested the people in the Ministry of Lands and Physical Planning. If we move to arrest those people, they will respect their work.

Currently, in my Kangundo Constituency, we cannot build a court because somebody is already using the land. We have been telling the Ministry of Lands and Physical Planning to issue the title deed to build the court and the police post, but the officers managing the land still do not care. Kenyans are crying because they are losing their land due to poor management by the Ministry of Lands and Physical Planning.

I support the Petition and urge that we move faster to arrest the officers at the Ministry of Lands and Physical Planning, so that they take their work seriously.

Thank you.

Hon. Speaker: I do not know whether the Chairperson wants to comment or she will deal with the matter at the Committee. I can see you have an intervention.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Thank you very much, Hon. Speaker, for giving me a chance to comment on this Petition. First of all, I agree with Hon. Members who have spoken that this is a very important Petition that needs to be handled.

Hon. Speaker, I would like to seek your guidance. Another Petition by Hon. Wario is alive before the Departmental Committee on Lands. We have already met all the stakeholders and the Petitioners twice about two weeks ago. They attended the Committee meeting to give more information on the said matter. We have met the Ministry of Lands and Physical Planning, the National Land Commission and the Agricultural Development Corporation (ADC). Last week, we spoke to the Principal Secretary (PS) as a stakeholder.

When I listened to Hon. Wario, I understood the heat on the ground concerning this matter. However, I realised that what he is asking for is exactly what this Committee is likely to recommend. So, I would like to seek your guidance on whether there is a possibility of merging

the matters that he has raised now with the Petition that we are just about to conclude. When we engaged him last time, along with the Petitioners, we informed him that the only matters the Committee could not deal with were the issues of access to water points and insecurity because they lie with a different Committee. So, I would like to seek guidance on whether there is a possibility of merging the issues that he has raised right now together with the existing Petition. We are currently at the tail-end of a Petition that is more or less the same. I believe that our time is very valuable and the Hon. Members of the Departmental Committee on Lands who are here can bear me witness that we have many petitions on our desk. About five are pending.

Three, I am going to table Reports today. Guide us on whether there is a possibility of merging the matters that he has raised with what we already have on our desk.

Thank you, Hon. Speaker.

Hon. Speaker: Well, I am aware that, indeed, there was a Petition that is more or less similar. It may not be seeking the same but it touches on the same area. Therefore, the best thing would be to consolidate the consideration. Of course, you know it is a mandatory requirement of the Constitution that we engage the public. It will not be a useful way of spending public resources to go because of the other Petition, and then go again to the same public. I think it would be good to consolidate, Hon. Nyamai. Please, your Committee is allowed to proceed.

Thank you, Hon. Members. We will move to the next Order.

PAPERS LAID

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

Legal Notice No.114 relating to the Public Service Performance Management Regulations of 2021 and the explanatory Memorandum from the Public Service Commission.

Annual Report and financial statements of the TIVET Curriculum Development Assessment and Certification Council for the year ended 30th June 2020.

Reports of the Auditor General and financial statements in respect of the following institutions for the year ended 30th June 2019, and the certificates therein:

- (a) National Biosafety Authority.
- (b) Jomo Kenyatta Foundation.
- (c) Kenya Water Institute.
- (d) Kenya Education Management Institute.
- (e) Commission for University Education.

Thank you, Hon. Speaker.

Hon. Speaker: Next is the Chairperson of the Departmental Committee on Education and Research, Hon. Florence Mutua.

Hon. (Ms.) Florence Mutua (Busia CWR, ODM): Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House:

Reports of the Departmental Committee on Education and Research on its consideration of:

- (a) The Higher Education Loans Board (Amendment) Bill (National Assembly Bill No.29 of 2020); and,
- (b) The Higher Education Loans Board (Amendment) Bill (National Assembly Bill No.37 of 2020.

Hon. Speaker: Next is the Chairperson or the Vice-Chairperson of the Departmental Committee on Lands.

Hon. Khatib Mwashetani (Lungalunga, JP): Thank you, Hon. Speaker. I would like to table the Report of the Departmental Committee on Lands on its consideration of:

(a) Public Petition of Residents of Tetu Sub-County regarding resettlement of squatters of Tucha Kiandangoro Forest on Solio Ranch Village.

(b) Public Petition by residents of Ndindiri, Makata and Kaole Village in Chasimba Ward, Kilifi South Constituency, regarding disposition of land belonging to residents of Ndindiri and Kaole villages.

(c) Public Petition by residents of Chidondo, Junju, Mrima and Bodio villages of Kilifi South Constituency regarding resettlement of the residents.

Thank you, Hon. Speaker.

Hon. Speaker: Next Order.

NOTICES OF MOTION

ROLL-OUT OF COVID-19 RELIEF MEASURES FOR NATIONAL GROWTH

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

THAT, aware that the COVID-19 pandemic continues to devastate the Kenyan economy as exemplified by its staggering effects on economic growth that have led to massive losses of jobs and unprecedented layoffs, an under-performing financial market, distortion of monetary and fiscal policies, instability of the Kenyan shilling, fluctuating global trade, and general strain on medical facilities countrywide; concerned that reports from the Kenya National Bureau of Statistics reveal a substantial decline in the number of employed Kenyans as well as reduced employment opportunities; deeply concerned that the frequent lockdowns instituted by the Executive with the objective of countering the spread of the pandemic are a key cause of the under-performing economy despite the noble intention behind their implementation; further aware that the current unprecedented challenges call for extraordinary but necessary solutions, this House therefore urges the National Government to roll out a Covid-19 Economic Stimulus Programme that incorporates an enhanced *Kazi Mtaani* concept in urban areas and a new *Kazi Mashambani* concept in rural areas, enhances cash transfer packages to the elderly, orphans, the vulnerable and the destitute, eliminates all forms of lockdowns, curfews and travel restrictions and replace them with less stringent yet equally effective and economy-friendly containment measures, including provision of Personal Protective Equipment and sanitisation protocols and rolls out a mass vaccination campaign that includes restriction of access to work premises by non-vaccinated employees, among other similarly effective interventions to stimulate economic recovery and national growth.

Hon. Speaker, I wish to state that this has been signed by me and the Leader of the Minority Party, Hon. John Mbadi. As such, it is a party-sponsored Motion.

Thank you very much.

(Applause)

Hon. Speaker: Well, sometimes, there are certain small things that happen on the Order Paper that may not be known to some Members. When you see a star, two stars and things like those, they have some meaning. That is a party-sponsored Motion which has been discussed by the House Business Committee and has been given some slot on Thursday Afternoon. Thursday is reserved for Government business but it will share with that party-sponsored Motion so as to allow Private Members business tomorrow morning to continue uninterrupted by the Motion.

Next is a notice by the Member for Isiolo, the Hon. Rehema Jaldesa.

MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO. 33

DROUGHT CRISIS IN THE COUNTRY

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Hon. Speaker, pursuant to Standing Order No. 33 (1), I rise to seek leave for adjournment of the House in order to discuss a definite matter of urgent national importance regarding the ravaging drought situation in most parts of the country.

The performance of both the 2020 short rains and the 2021 long rains was poor across the country, resulting in a severe drought in the arid and semi-arid counties of Turkana, Kilifi, Mandera, Garissa, Wajir, Kwale, Marsabit, Kitui, Baringo, Tharaka-Nithi, Embu, Makueni, Isiolo, Tana River, West Pokot, Samburu, Meru, Laikipia, Lamu, Taita-Taveta, Kajiado, Nyeri and Narok.

The drought situation is likely to worsen in the second half of 2021, with negative consequences for household food scarcity, crop and livestock production, access to water, the nutritional status of children and local coping strategies. Livestock deaths have been reported in most parts of those counties and over 2 million people are in dire need of food assistance.

It is against this background that I seek your indulgence to seek leave of the House to discuss this matter of national concern, with a view to exploring possible lasting solutions to this perennial disaster in arid and semi-arid counties.

Thank you, Hon. Speaker.

Hon. Speaker: Do you have the numbers?

(Several hon. Members stood up in their places)

Very well. You have the numbers, Hon. Rehema. You may resume your seat. You have the numbers and, therefore, I direct that you will move your Motion at 6.00 p.m. for one hour. The House will adjourn at 6.00 p.m. to enable Hon. Rehema Jaldesa to move that Motion at exactly 6.00 p.m.

Next Order.

ORDINARY QUESTIONS

Hon. Speaker: The first Question is by the Member for Loima. The Member has indicated his inability to be present today and has requested that the Question be deferred to Thursday, 12th August. His request has been acceded to. Therefore, the Question is taken out of the Order Paper.

Question No.109/2021

DISTRIBUTION OF RELIEF FOOD IN TURKANA COUNTY

(Question deferred)

Next Question is by the Member for Eldama Ravine, Hon. Moses Lessonet. Next Question is by the Member for Kisii County, Hon. Janet Ong'era.

Question No.274/2021

STATUS OF CASES OF GENDER-BASED VIOLENCE IN KISII COUNTY

Hon. (Ms.) Janet Ong'era (Kisii CWR, ODM): Thank you, Hon. Speaker. I rise under Standing Order No. 42(a)(5) to ask the Cabinet Secretary for the Interior and Coordination of National Government the following:

- (i) Could the Cabinet Secretary provide a list of all reported cases of gender-based violence, rape and murder affecting children and women in Kisii County from July 2018 to date?
- (ii) Could the Cabinet Secretary also provide details on the status of investigations into the said cases in Kisii County and indicate whether any arrests have been made and suspects charged and explain the steps the Ministry is taking to ensure that the rampant cases of gender-based violence, rape and murder in Kisii County are put to an end?
- (iii) What measures is the Ministry putting in place to ensure that affected families are duly compensated for the pain and suffering as well as the lives of their loved ones?
- (iv) On what basis does the Government, through chiefs, compel victims to settle cases of gender-based violence out of court and mostly by way of Kangaroo courts, despite there being a well-defined legal process on gender-based violence?

Thank you, Hon. Speaker.

Hon. Speaker: Question will be replied to before the Departmental Committee on Administration and National Security. The next Question is by the Member for Butula, Hon. Oyula.

Question No.281/2021

STALLING OF CONSTRUCTION OF BUTULA SUB-COUNTY HEADQUARTERS

Hon. Joseph Oyula (Butula, ODM): Thank you, Hon. Speaker for giving me this opportunity. I rise to ask Question No. 281 of 2021 to the Cabinet Secretary for Interior and Coordination of National Government.

- (i) Could the Cabinet Secretary explain why the construction of Butula Sub-County Headquarters, which commenced in 2015, has stalled in spite of about Kshs16.85 million having been disbursed and utilized on the project, being 55 per cent of the project budget?

- (ii) Could the Cabinet Secretary explain why the Ministry has not made any budgetary allocation to complete the project despite having made the commitment to do so in 2018?
- (iii) Could the Cabinet Secretary provide a reasonable timeline within which the Ministry intends to complete the project, given the five-year delay, so as to enhance service delivery at the Sub-County headquarters?

Thank you, Hon. Speaker.

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

Question No.282/2021

REGISTRATION OF VOTERS IN THE DIASPORA

Hon. Caleb Kositany (Soy, JP): Thank you, Hon. Speaker. I rise to ask Question No.282 of 2021.

- (i) Could the Independent Electoral and Boundaries Commission (IEBC) outline measures it has put in place to ensure that Kenyans in the Diaspora register as voters?
- (ii) Could the Commission provide guidelines and other measures, if any, that have been put in place to facilitate voting by Kenyans living in the Diaspora, particularly in the United States of America during the next General Election?

Hon. Speaker: Question is for a written answer from the Independent Electoral and Boundaries Commission. Since you do not want the answer to be in public, I hope it will suffice the purpose. The next Question is by Hon. Godfrey Osotsi.

Question No.290/2021

IMPLEMENTATION OF THE WORLD BANK-FUNDED SEQIP

Hon. Godfrey Osotsi (Nominated, ANC): Thank you, Hon. Speaker. I wish to ask Question No. 290 of 2021 directed to the Cabinet Secretary for Education:

- (i) Could the Cabinet Secretary provide details on the status of implementation of the World Bank-funded Secondary Education Quality Improvement Project (SEQIP) whose objective was to improve the learning environment through provision of appropriate school infrastructure to support 100 per cent transition from primary to secondary school in the 30 counties which recorded the lowest poverty levels?
- (ii) Could the Cabinet Secretary provide information on the circumstances that led to the stoppage of disbursement of resources committed by the Government under SEQIP?
- (iii) What specific steps is the Ministry taking to ensure timely achievement of the project's objective and mitigate potential risk of termination of the project?
- (iv) Could the Cabinet Secretary explain when the Ministry expects to finalize and execute the contract for the project known as the MOE/SEQIP/NCB/14/2019-2020, noting that 26 contractors who participated in the bids have performance bonds

amounting to Kshs598.705 million, which shall expire soon, occasioning massive losses in terms of interests and advance procurement of building materials?

- (v) What urgent steps is the Cabinet Secretary taking to ensure that the necessary processes under the project are finalised, noting that, under the procurement law, about 26 contractors have valid contracts?

Thank you, Hon. Speaker.

Hon. Speaker: Question will be replied to before the Departmental Committee on Education and Research. The last Question is by the Member for Dagoretti North, Hon. Simba Arati.

Question No.291/2021

MEASURES TO MITIGATE MOTOR VEHICLE POLLUTION IN URBAN AREAS

Hon. Simba Arati (Dagoretti North, ODM): Thank you, Hon. Speaker. I rise to ask Question No. 291 of 2021 to the Cabinet Secretary for Environment and Forestry.

- (i) Could the Cabinet Secretary explain the measures put in place to deal with environmental pollution as a result of motor vehicle exhaust emissions in the country, particularly in urban areas?
- (ii) Could the Cabinet Secretary outline the measures that have been put in place to address both environmental and personal health concerns occasioned by motor vehicle emissions?
- (iii) Could the Cabinet Secretary also explain what measures the Ministry has put in place to address the release of toxic effluent along major rivers in the country?

I thank you, Hon. Speaker.

Hon. Speaker: Question will be replied to before the Departmental Committee on Environment and Natural Resources.

For a second time, Question by the Member for Eldama Ravine, Hon. Mosses Lessonet? The Member is absent, not desiring to be present. The Question is dropped.

Question No. 291/2021

DELAY OF MZEE KAMULWO CHEPKURGAT'S NSSF BENEFITS

(Question dropped)

Let us have Hon. Junet.

Hon. Junet Nuh (Suna East, ODM): Thank you, Hon. Speaker. I rise under Standing Order 210 on Committee on Delegated Legislation. The Standing orders are very clear. Yesterday, I saw the Chairman of the Independent Elections and Boundaries Commission (IEBC) talking about the issue of campaign financing. This matter is now before the Committee on Delegated Legislation.

Standing Order 210 (3) (a) states:

“(a) in accordance with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written law;

- (i) appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made;

(j) appears to have had an unjustifiable delay in its publication or laying before Parliament;...

Hon. Speaker, the IEBC has been in existence for many years. The Campaign Finance Act is very clear that the regulations on campaign financing should be brought to Parliament 12 months before the general elections. They say delay is the enemy of progress. The IEBC was aware that the next General Elections are going to be held on 9th August, 2022. The IEBC knew that campaigns for the next General Elections will require financing. It knows that they are required by law to present draft regulations to this House on financing of campaigns for approval before they take effect. The IEBC knows that the law requires them to make these regulations at least 12 months before the General Elections and yet it has failed to make any campaign finance regulations, including for all the by-elections that have been held in the last four years. It has now purported to forward a draft regulation for the next General Elections, less than a week before the absolute deadline for consideration and approval by both Houses.

Hon. Speaker, why am I reading this pattern is because I do not want Kenyans to blame Parliament for not doing its work in terms of putting up the required regime of laws that will make the next General Elections not to be conducted in a proper manner. As I said earlier, the IEBC know very well that the Campaign Financing Act required them to bring those regulations 12 months before the General Elections.

Secondly, the Statute Instruments Act requires IEBC to have done public participation before they bring the regulations to Parliament. That is a requirement of law. When we donated as Parliament to those institutions power to do the regulations, one requirement was to do public participation. I have not seen anywhere where the IEBC has done any public participation before they brought those regulations to the House.

More importantly, how do you expect the National Assembly to pass those regulations when you have brought them a week to the deadline and then you go and tell Kenyans: "The matter now is in Parliament and is no longer with us!" You had four years to bring those regulations. Remember in the last Parliament, we passed the Campaign Finance Act but we said it would take effect in the year 2016. But we deferred it to take effect in the year 2022. So, IEBC was fully aware that that Act is in place and would take effect in 2022. They should have brought regulations way before last week on Thursday. I have even seen that the IEBC has gone further ahead and published the list of how much money you can use in every constituency, ward, county, president or governor race. All that were published yesterday in a gazette notice.

Hon. Speaker, we must follow what the Constitution dictates. For example, when those regulations are before the Committee on Delegated Legislation, the Committee in a secondary measure is required to do public participation by asking for public views. They have to follow the way a regulation should be handled in Parliament. That will take us into the 12 months that the law has prescribed for those regulations to be in place.

So, I want to seek your indulgence under Standing Order 210, first whether the IEBC is in order to ambush Parliament by bringing regulations at the 11th hour.

Secondly, whether the Committee on Delegated Legislation as they are now, will be operating within the law and the Campaign Finance Act, because the Committee requires time to process those regulations; in order to agree or to annul, and then they will bring them to the House. Is the Committee in its rightful place to analyse these regulations as per Standing Order 210, which is very clear about the delay? It talks about delay of presentation of instruments to this House.

Hon. Speaker, without further ado, I want to bring to the attention of the House that, through you, these regulations are not before this House in a proper manner. The House cannot sit

back and listen to the IEBC giving views outside there saying that they have taken the Campaign Finance Bill to the House. Why should we finance? After all, those finances should be regulated. They should be done the way the Campaign Financing Act has stipulated.

So, with those few remarks, I need your guidance whether those regulations are before the House in a proper manner.

I thank you, Hon. Speaker.

Hon. Speaker: It looks like somebody may have touched some raw nerve?

Hon. John Mbadi?

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Speaker. This issue that has been brought by the Minority Whip is very important. It is engaging the national debate. Already, there is a serious national debate on this matter.

There are a few things that I want to bring for your consideration. First, it is clear and evident that the IEBC has the Kenyan fashion of waiting until the last minute to do what ought to have been done way before. We did our elections in 2017 and the IEBC knew very well that the last day that Parliament should have finalised with these regulations should have been 8th of this month, which was on Sunday.

However, the fact that regulations are brought here does not mean that the House will approve them. In the event they are not approved, the IEBC should have provided enough time even for re-consideration of the issues that are contained therein.

Hon. Speaker, this is power that this House has delegated to the IEBC, but it appears that the IEBC is not executing its mandate within the law. There are two things that I would be interested to understand. First, Hon. Junet asked for your guidance on whether the Committee on Delegated Legislation could still go ahead and process the Rules and Regulations that have been presented to the House even though we know very well that it is an exercise in futility because the deadline has already passed.

The second one is the issue of undermining the authority and powers of Parliament. Can a matter that is before Parliament be discussed by the IEBC as if it is a *fait accompli*? The IEBC is proceeding like once they have forwarded the Regulations to the House, they are already accepted. The pronouncement by the IEBC is such that they brought the Regulations to this House as a ceremony. They regard this House a conveyor belt, that there is nothing we will change. I know we cannot change, but we can reject the Regulations and have them done afresh.

The IEBC should respect Parliament just like we respect the courts. When a matter is active and is being dealt with by the Judiciary, it is never discussed out there in terms of its merits and demerits. The IEBC is talking about the core issues contained in the Regulations they have submitted to this House yet we have not concluded with them. This House needs to send a message to the IEBC, that they are in violation of our Standing Orders and they are interfering with the people's sovereign power that is being exercised in this House. They should keep quiet until we communicate back to them, so that they know whether we will have these Campaign Financing Regulations or not. I do not foresee it. I am waiting for your guidance but really, if you strictly follow the law, it is clear that we may not have these Regulations in place.

Hon. Speaker, those are the two issues I wanted to add unto what Hon. Junet mentioned. I want to thank him for bringing out the matter, but it should also clearly come out that we are not against the Campaign Financing Regulations. In fact, many of us would want a cap to be put. We are not so rich and we want to campaign within our means. Some of us are facing people who have amassed wealth, which we do not know from where although we suspect them. So, we are very

cautious. Actually, some of the beneficiaries would be me. I would want a cap to be put, but it must be done within the law.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Makali Mulu.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Speaker. I must thank Hon. Junet for raising this matter. I am saying this because yesterday, as the Chair of the IEBC addressed the media, he said things which disappointed me. What he said amounts to undermining Parliament.

Facts are very stubborn. When you say the truth, it will always remain the truth. The truth of the matter is that the Regulations were brought to this House last Thursday. Between Thursday and today, there is no working day for Parliament because it does not sit on Friday and Monday. The only sitting day is today. As Hon. Junet has said, these Regulations are supposed to be in place a year before the general elections. Yesterday was 9th August. The next general elections will be held on 9th August 2022. This implies that even as we discuss these Regulations before they have even been discussed by the relevant Departmental Committee, we are already past the timelines required by the Constitution. There is a bit of dishonesty. If this is what we are experiencing in relation to Campaign Financing Regulations, what are we going to experience in the real elections come next year? That is why we need your guidance.

When the IEBC Chair was making his presentation, he said that the Regulations were tabled in this House in 2016 and what they have sent to this House is just a letter requesting Parliament to approve them. The law is very clear. The reason as to why the Regulations were here in 2016 is because there was supposed to be a general election in 2017. There is a record confirming that this House suspended the Election Campaign Financing Act on the same basis. The fact that it was suspended in 2017 means between 2017 to date, we have not been having any Regulations as a House.

Hon. Speaker, I got surprised when the IEBC Chair claimed or purported that he had submitted the Regulations. I even remember when they were submitted. You have even raised the issue of timing yourself and you have been quoted in the media on the same. I would want you, even as you consider what Hon. Junet has requested, to confirm to this House whether the draft Regulations before this House read: “Campaign Financing Regulations, 2016” or “Campaign Financing Regulations, 2021.” That will sort out the matter. If the draft reads “Campaign Financing Regulations, 2021” then, Mr. Chebukati would have no business talking about 2016 Regulations because doing so would be misleading Kenyans. The worst thing is when a person at the level of Mr. Chebukati, a respected lawyer, misinforms the country in terms of facts.

Hon. Speaker, I look forward to your guidance in terms of how we move forward. If this House spends its time to approve this draft Regulations and then somebody goes to court to raise issues of public participation, will we not have acted in vain as a House? We have many Omtatah’s in this country. Even if Parliament approves these draft Regulations, a court of law can rule that they are not applicable. This is not the first time such a thing has happened. The courts in this country have in the past nullified Acts of Parliament on the basis of lack of public participation.

The other issue is that even if we reject this draft Regulations, Mr. Chebukati has already told the public the campaign financing caps for the various categories. How will we retract that information from Kenyans? These are serious issues on which we need your guidance, so that we know how to proceed as a House.

Thank you, Hon. Speaker.

Hon. Speaker: Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Speaker. I rise to weigh in on the same. The issue here is not whether the IEBC has sent the draft Regulations to this House a bit late, but rather the attempt to cover up their inefficiencies. Since the last general election to-date, apart from a few by-elections that the IEBC has conducted, they have largely been lying idle. There is very little that has been happening. They could not even undertake a boundaries review exercise yet we allocate them billions of shillings every year. They could not even undertake the simple task of updating their Campaign Financing Regulations that were suspended in 2016 as a result of the suspension of the relevant Act by this House then. The other day, they came up with a very elaborate programme of what they are going to do. Even within our programme, they did their own responsibilities in terms of submitting the draft Campaign Financing Regulations. They eventually woke up to the reality that they needed to bring the draft Regulations to Parliament. What concerns me is that the Chairman of the IEBC wants to shun their responsibility by saying that they have done their job as IEBC and the problem lies with Parliament, thus setting us up for conflict with the electorate. They are saying that they have done their bit and it is up to Parliament to pass the draft Regulations not knowing that they have brought them to basically fail.

I do not even know under what framework the Committee on Delegated Legislation is considering the Regulations because when they come here, they will be out of time anyway. I think we need to send a very clear signal to the IEBC and others who are expected to submit proposals here for ratification that if they do not do so in time, they have themselves to blame. They cannot go out there and start telling the media that they have sent the proposals to Parliament and that we have refused to pass them because we are stakeholders in the election. It is something for which we need to send a very strong signal. If they do not bring those proposals here, let them not then go telling the republic that it is Parliament that has failed.

In the same discussions, they are out there talking of a budget of over Kshs40 billion. India conducts election that involves millions of voters and if you look at the cost per vote in this country, you can tell that we are being taken for a ride. You cannot spend Kshs40 billion every five years to conduct an election. Something is fundamentally wrong. There is certainly no way you can spend so much money to just conduct an election. This is something that people have decided because they are there. They want to go for the most expensive paper and layout of the process yet to conduct an election, given the technology in this country, you can even do a poll on *WhatsApp* and see how much it would cost. With the technology in this country, it should not cost more than Kshs10 billion to conduct an election, but the IEBC tells us that they want to spend Kshs40 billion to conduct an election basically to start creating a situation for people to start procurement-based issues. Between now and 2022, they can start telling people about the much money they have lined up for A, B, C, D, and start looking for tenders and all the other things that go to waste in the procurement system.

Let the IEBC wake up to reality. They have one year to conduct an election. I doubt if the Election Campaign Financing Regulations will see the light of day. I am not even sure under what framework the Committee on Delegated Legislation is looking at them because they are already time-barred. The IEBC must take full blame for that. On the other things, let them come to this House as you advised them, Hon. Speaker. We just finished the budget process and I am not sure whether they included the Kshs40 billion in the Budget that we passed two months ago. These are all part of cry-baby tactics of trying to show that unless they are given a certain amount of money, they are not going to guarantee a free and fair election. This does not give confidence to the Kenyan people that we have an IEBC that can be relied upon to deliver credible elections. If you cannot submit Regulations in time after so many years and you cannot come up with a realistic budget,

you are basically sending the message that you are not prepared to conduct free and fair elections. The IEBC Chairman, Mr. Chebukati, must now be called upon to account and be responsible for their own mistakes and delays and stop blaming Parliament or anybody else for their own failures. If you did not submit the Regulations to Parliament in good time, take full responsibility. Let him explain to Kenyans why they did not submit the Regulations unless they have people they would want to allow to spend massive amounts and then try to blame Parliament. There is a reason why the Election Campaign Financing Act was passed by Parliament. It was to limit the amount of money that people spend. Apart from shocks to the economy, you also want to know where all the money comes from. Now the IEBC, in their wisdom or lack thereof, have decided to sit on the Regulations and bring them when they cannot apply and start blaming Parliament. They must take responsibility. I think you need to give us guidance, so that we do not waste taxpayers' money with the Committee on Delegated Legislation doing a lot of work in nullity. We do not legislate in vain.

Thank you, Hon. Speaker.

Hon. Speaker: The Member for Nyando.

Hon. Jared Okello (Nyando, ODM): I thank you very much, Hon. Speaker. My political persuasion, ODM, and its defunct NASA Coalition, have always held the view that we are dealing with a very inept and rudderless IEBC. Our opponents across the aisle have always believed that this is the best electoral umpire we have ever got in this country. Today, they are confronted with the same ineptitude and we are increasingly getting vindicated.

I was very keen on petitions, especially election petitions, in 2013, during the first election after the new constitutional order, and during the 2017 elections. Whereas one could have presented cogent and incontrovertible evidence, the mere fact that you file outside the constitutional timeline means you lose that petition. The IEBC has always been a respondent in all election petitions and here they are shooting themselves on the foot by the same thing that our courts have always held. Anything with a constitutional timeline must be respected even if it is a Sunday or Saturday. They have always known that after one year, all Regulations ought to be in place, but they wait until the tail-end of this process and they want to confront Parliament with their own ineptitude, so that we help them resolve their own mischief. This is a matter that when you retreat to give your traditionally good ruling, the timeline will form a basis.

Hon. Speaker, allow me to digress a little bit by thanking you. Last week, I raised a matter here concerning secondary schools. Today, a circular is already out barring any principal from charging additional levies outside those which are prescribed within the Government fee structure. So, I wanted to thank you so much for that. Again, I am told the NG-CDF Board is working on a circular allowing us to present project proposals in good time courtesy of your intervention. I also wanted to ask you to intervene, now that we are dealing with money matters, concerning the Departmental Committee on Transport, Public Works and Housing that is also charged with the responsibility of overseeing funds at Kenya Rural Roads Authority (KeRRA). We usually have a very protracted procurement process. It takes forever for a contractor to be found to do our local roads. Even as we look at the NG-CDF component, let the Committee fast-track the process with KeRRA, so that we do the procurement process in good time, funding is done in good time and we go to elections with our roads already taken care of.

I thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, because some of the issues you raise may require a Committee to look at, you could just comment on this matter without taking too much time. Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Speaker. As we point fingers at the IEBC, remember the remaining four fingers point at us. When did we allocate itemised funds to enable the IEBC to carry out such duties? When I saw the Election Campaign Financing Regulations, I knew there would be opposers. The opposers are the usual culprits who do not want to account for public funds. Coming from Hon. Junet, he is a very good friend of mine. I respect him very much, but campaign funds must be published and accounted for. This includes campaign funds that were raised by the usual culprits who used Pay Bill No.991444 for the purported repeat general elections. Unfortunately, they boycotted the same elections. They never said how the funds they raised were used after they boycotted the elections. I know some people are not ready to account for public funds.

When it comes to capping of campaign funds, it will first make sure that hustlers in their large numbers...

Hon. Speaker: Order, there is a point of order by Hon. Junet.

Hon. Junet Nuh (Suna East, ODM): Hon. Speaker, I do not know whether the Member understands what we are discussing here today. We are discussing the Regulations presented to the House by the IEBC. We are not discussing how to raise funds or Safaricom and such kind of things. The Standing Order is very clear on relevance. This is a House of dignity. We cannot reduce it to this level that this Hon. Member is trying to. We know what the Regulations are asking us to do. The Regulations have procedures and processes to follow. That is what we are discussing, Hon. Sankok. We are not discussing how we are going to raise funds.

Hon. David ole Sankok (Nominated, JP): We cannot throw the baby out with the bathwater. They delayed. I am saying that this is a very important Regulation. If you do not cap campaign funds, it means the richer you are, the higher the possibility of you being elected. That will lock out many hustlers who are very good leaders, but since they do not have means and the money, they may not be elected. So, as much as we discuss about them coming in late, already, they were tabled one year before the election. They were brought in last Thursday, and it was the duty of this House to call for a special sitting. We have called for special sittings on Sunday or Saturday. This would ensure that the Regulations arrive on time, one year and several days before the elections. It was our duty to ensure that since they are a bit late, as a responsible House, we do not delay, but fast-track them, so that we can meet the 9th August deadline. We are pointing a finger at the IEBC, but the remaining four are pointing at us.

Hon. Speaker, as you give us your guidance, please, let us not throw the baby out with the bathwater because the baby is very important.

Hon. Speaker: Now, before I give a chance to the Member for Emuhaya to comment, please, Hon. Members, from the very basics, remember under Article 118, we are obligated as a House to undertake public participation in whatever we do, either in our committees or as plenary. In our rules, we are provided with mechanisms of doing that, so that whenever Bills and Papers are laid here, we refer them to the committees after which the committees sit and agree on when it is they will invite the public to appear before them. It is a constitutional requirement that we cannot run away from. Ordinarily, you do not also receive documents on Thursday and the deadline is Monday. When do you do public participation? You must give the public reasonable time, not less than seven days, to appear because they must also appear prepared. So, some of these things are not very complicated, but if we make them very complex... Member for Emuhaya.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Speaker, for giving me this chance. I also watched and followed everything. I thought what the IEBC Chair wanted to come out is almost what has come out from the speaker before me. He wanted to create a grey lacuna

within the country and the mindset of Kenyans, that finally, Parliament will be resisting these Regulations. You can see if the debate will take that kind of route, then we will be blamed for having refused to deal with the Regulations.

I thank Hon. Junet for pointing out that these Regulations came late. So, finally, the Hon. Members who are here will be looked upon as people who did not want this to happen, and as they reach the ground, they will be having a certain tint on them that they were against these Regulations. So, he is laundering himself at the expense of Parliament and the Members of Parliament. I thought this is something that should come out clear and I want to add this even as you do your ruling.

Further, I want to indicate that I also saw the idea of political parties being given a certain task that may not have been regularised in Parliament. Later on, I also heard Hon. Duale speak about this that there is no legal framework that binds us. That is what people will speak on national media and go away with. Actually, they will incite the public that Parliament is not doing this. The truth is that these Regulations should have come on time and, therefore, dealt with on time and we should not be blamed. The Chairman of the IEBC said the matter has left his desk, it is now with Parliament. So, he is clean. Could you also take notice of the budget that he wants! Street economists, like ourselves, have already done it and it is bigger than what the NG-CDF takes in a year. Those are issues that need to be considered.

Thank you, Hon. Speaker.

Hon. Speaker: Member for North Horr.

Hon. Chachu Ganya (North Horr, FAP): Hon. Speaker, I share the concerns of my colleagues about the submission of Election Campaign Financing Regulations. The law is very clear and this House cannot be taken for a ride. The IEBC had five years to prepare for this. We did not pass that law in this Parliament. It was passed in the last Parliament. They had all the time they needed for this. I hope you will send very clear message and set very clear precedent for the future that when such Regulations are submitted to the House, they are dealt with within the law and within a clear legal framework, in terms of timelines. I hope you will give us good guidance on this.

I thank you.

Hon. Speaker: Hon. Chris Wamalwa.

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Thank you, Hon. Speaker for this opportunity. Hon. Junet has raised a very fundamental matter pertaining to election campaign financing. The Election Campaign Financing Act was passed and for this law to be operationalised, we expect the Regulations developed by the IEBC to be brought to this House on time. In line with the Statutory Instruments Act, the Committee on Delegated Legislation has to look at this matter and give us a report. As you clearly said, Article 118(1)(b) is very clear. It says that Parliament shall facilitate public participation in matters of legislation. The word is “shall”. It is mandatory. In line with our Standing Orders, it must be given a notice. It must be put on newspapers for the likeminded and relevant people to bring their memoranda so that the committee in charge can look into the submissions before they do a report. The Committee on Delegated Legislation is not obligated to approve. It can as well annul looking at the issues of constitutionality and the timeframe.

Our Standing Orders are clear that the Regulations must have been approved at least 12 months to elections. To approve is different from submissions. You must first submit, go through the process before approval is done. On average, it will take about three months. It is like you are going to Mombasa and you are told that the flight takes off at 7.00 pm. You should be at the airport

at 5.00 p.m. and not at 7.00 p.m., so that you can go through the security process and the check-in. At 7.00 pm., the pilot will be taking off. So, if you arrive at the airport at 7.00 p.m., the doors will be closed. It goes without saying that this is dead on arrival. The Constitution is clear that time is up. The aeroplane is taking off. There is no way we can expect the Committee on Delegated Legislation to table a report without public participation as outlined in Article 118 of the Constitution. That is the reality. I do not know whether it was done by design or by mistake. This is dead on arrival.

I call upon the Members not to cast aspersions on the budget of the IEBC. The relevant Committee needs to call them to give justification and say how they arrived at the Kshs40 billion. They should itemise their needs. If last year it was this amount, we know the population has gone up.

You are aware that the last presidential elections were nullified. Their servers were not open. Does it mean that there will be many servers? At that time, we were told that the servers were in Paris and people were sleeping at that particular time. If we will have many servers in Nairobi and others in Paris or wherever, for purposes of accuracy, the IEBC should come before the relevant Committee to give justification. Let us not cast aspersions as far as the budget of the IEBC is concerned. Call them to give justification.

Thank you, Hon. Speaker.

Hon. Speaker: Let us have the Member for Westlands.

Hon. Tim Wanyonyi (Westlands, ODM): Thank you, Hon. Speaker. First, I declare that I am a Member of the Committee on Delegated Legislation. This matter is coming before the Committee tomorrow for our deliberation. Maybe we will bring the report back to the House for debate.

As usual, the IEBC is becoming mischievous by trying to set Parliament up. They allege that Parliament refused to approve these Regulations when they know very well that they have not followed the right procedure. They are rushing and know that time is not on their side. I believe that this matter will be well-processed by the Committee and then we shall bring the report to the House.

Thank you, Hon. Speaker.

Hon. Speaker: Let us have the Member for Mathare.

Hon. Anthony Oluoch (Mathare, ODM): Thank you, Hon. Speaker. I thank Hon. Junet Nuh, my Whip, for bringing up this important matter.

Under Article 88(4) of the Constitution, the IEBC has a number of functions that run from (a) to (j). In Article 88(4)(i), they have the power and the duty to regulate campaign financing. One of the things that we must ask the IEBC to account for is what they have done with the duties clearly delineated under Article 88(4)(a), (b) and (c). These deal with issues of continuous voter registration, regular revision of the voter register and the delimitations of boundaries, things that are very crucial for the exercise of Article 38 of the Constitution that deals with universal suffrage and the issue of one man, one vote. So, even as they mischievously attempt to bring the issue of campaign financing and throw Parliament and the Committee on Delegated Legislation under the bus, we must also ask them what they have done about Article 88(4)(a), (b) and (c).

Secondly, the IEBC has attempted to gazette the spending limits for political candidates during campaigns. We must question the propriety of the actions they have taken because Article 94(5) of the Constitution states very clearly that no person other than Parliament has the power to make any provision that has the force of law. So, when they gazette, ask us to retrospectively

sanitise and attempt to tell us that if we have any grievance we can go and negotiate the figures with them, the IEBC is taking this House for granted.

Thirdly, which is my final point, the issue of public participation has clearly been demonstrated and delineated. If the IEBC had a problem with bringing these draft Regulations and the Committee on Delegated Legislation delayed with them, they could have raised it. I sit in the Departmental Committee on Justice and Legal Affairs which oversees the IEBC. I also sit in the Constitutional Implementation Oversight Committee (CIOC). We have had very many interactions with the IEBC and can confirm that they have not raised a single question on delayed processing of these Regulations. So, I support. The plane has taken off and it is too late in the day to ask Parliament to deal with those issues.

Thank you, Hon. Speaker.

Hon. Speaker: We can try to wind up with the comments on the IEBC. Let us have Hon. Aden Duale.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, from the outset, as we discuss this very critical matter, let us not injure the credibility of the election body. As we approach one year to the general elections, it is upon us as leaders to make sure that we give a fair judgement of the body. That includes you, Hon. Speaker, as a front-runner in the next election. That is the referee that will decide for us.

I had two issues with Chairman, Mr. Chebukati. I really want the womenfolk to forgive me. From experience, this House has not implemented Articles 27 and 81 of the Constitution on the two-thirds gender principle. We have tried, but have not attained it. The only thing that this House has passed, which is in the Senate, is the Representation of Special Interest Groups Laws (Amendment) Bill, which was to cure that issue. The IEBC and its chairman will only conduct their affairs based on existing legislation and laws, whether it is the Elections Act of 2011, the Independent Electoral and Boundaries Commission Act that governs them and the Constitution or the Political Parties Act. The chairman is purporting to use an advisory opinion from the High Court in Petition No.17 of 2017 between the Katiba Institute and the IEBC. I will quote the judgement, which says that the IEBC to use administrative methods in implementing the gender principle.

So, the IEBC cannot enforce and ask parties to present a nomination list based on a law that does not exist. If the Orange Democratic Movement (ODM), the United Democratic Alliance (UDA) or the Jubilee Party conduct nominations in Garissa Township and the followers of those parties decide to elect a man, so be it. If they elect a woman, so be it. Mr. Chebukati cannot force the two genders on political parties as far as party nominations are concerned. He was wrong on that.

Secondly, I want Members to read the Election Campaign Financing Act that this House passed, more so sections 12 and 13. As the Speaker makes a determination, the submission and gazettelement of the Election Campaign Financing Regulations, which are given one year before the elections, are only binding on the IEBC. They are not binding on this House. We have the Committee on Delegated Legislation in this House. They will sit tomorrow, bring us a report and we can decide to agree with them or not. The Chairman of the IEBC complied with the Election Campaign Financing Act to make sure that he gazetted the Regulations just before midnight on 9th August 2021.

Hon. Amos Kimunya (Kipipiri, JP): (*Spoke off-record*)

Hon. Aden Duale (Garissa Township, JP): No, my predecessor. That is not how you talk when a Member is on his feet. Hon. Junet Nuh is right. He is asking for a point of order. You can

read Section 29. I am on the Floor. The matter is before us and we will deal with it. The IEBC has many other regulations they must bring to this House in preparation for the 2022 elections.

Hon. Speaker, when a ranking Member and the Leader of the Majority Party emeritus in on...

Hon. Junet Nuh (Suna East, ODM): On a point of order, Hon. Speaker.

Hon. Speaker: Hon. Junet, what is your point of order?

Hon. Junet Nuh (Suna East, ODM) Hon. Speaker, with due respect to the former Leader of the Majority Party, it was not my intention to interrupt him, but he came late. When you get into a debate mid-way, you may lose some issues. He has said in this House on record that the 12 months is only binding to the IEBC to gazette the Regulations. No. They did, but in presentation to Parliament, the 12 months bind. We should make it to Kenyans because we are legislating on their behalf. The Regulations to be gazetted by the IEBC 12 months to the elections can only be enforced in terms of law when they are brought to Parliament. Gazettement of the Regulations by the IEBC is just like gazettement of any other thing, but if it is supposed have the force of law, it can only be done by this House and it should have been brought to this House 12 months to the elections. I wanted to make that clear.

Hon. Aden Duale (Garissa Township, JP): I totally agree with Hon. Junet that the final powers lie with this House, whether he gazettes 10 times, it is null and void. That is what the Statutory Instruments Act says. In fact, it is not just for the Chairman, Mr. Chebukati, but it is for anybody bringing statutory instruments or Regulations to this House. First, they must gazette, but the power lies with the Committee on Delegated Legislation. That is why the Committee on Delegated Legislation brings some of the Regulations to the House for approval like the Value Added Tax, and there are some they do not need to. They can annul and go away. Because I had the benefit of going on air on television last night and I do not go on television unless I research, I read to the House that the Election Campaign Financing Act No. 42 of 2013 in Section 12 provides that the IEBC shall, at least, 12 months before the general elections, by notice in Gazette prescribe the limit as follows: Total contribution; contribution from a single source; paid up media coverage and loan forming part of the contribution.

In as far as Section 12 of the Election Campaign Financing Act is concerned, the Chair of the IEBC has not committed a crime. Whether this House will agree with him or not, the House can say that he got it late and it can even reduce the figure. Let me finish. In fact, Hon. Junet provided information.

Secondly, it is notable that the 12 months' timeline is on the IEBC to gazette. That is what the Act says. Let us not talk out of ignorance. If someone wants to challenge, challenge me on a section of law. If the IEBC was wrong, why did the Leader of the Majority Party table the Regulations? He should not have agreed to table the Regulations. He tabled them on Thursday. The moment the Regulations were tabled and the Speaker submitted them to the Committee on Delegated Legislation, the train left the station, Hon. Leader of the Majority Party. The next course we are waiting for is for the Committee on Delegated Legislation, led by the Chair, Hon. Kamket, to come and tell the House whether there was an illegality or whether there was a procedural hitch. I agree with Hon. Junet and the rest that they were given one year, but they brought the Regulations at midnight of the last day of the year. That is mischievous. Let us say it was even one year or he could have even brought them last year in August, which was the time given to him.

On the matter of the Kshs40 billion, democracy is expensive. If this country can get a credible, free, fair and peaceful elections out of a budget of Kshs3.3 trillion, what is Kshs40 billion if that can give us a credible, free, fair and peaceful elections? This money is not thrown away.

The money is audited by the Office of the Auditor-General, an independent office in accordance with the Constitution and the Public Audit Act. So, again, the Committee that oversees the IEBC, the Departmental Committee on Justice and Legal Affairs...

Hon. Speaker: You have one minute.

Hon. Aden Duale (Garissa Township, JP): They can call the IEBC and ask them to give them an itemised budget and from there, the Committee can send a report to the Budget and Appropriations Committee. I ask not only us, but also all the stakeholders, as we get to the countdown to the general elections, the players, the financiers and the citizens not to cast aspersions on the credibility of a person whom we want to be the referee. This House is seized of four names. Let us deal with that matter. We have three commissioners led by the chair. Let us give them the four commissioners, so that they can get quorum.

I urge the Committee on Delegate legislation; this House must be ready to receive more Regulations from the IEBC and other sectors in the Government as we go to the countdown to the general election.

I rest my case.

Hon. Speaker: Hon. Members, let us try to put this matter to rest. As rightly pointed out by the Member for Mathare, it is the prerogative and constitutional mandate of the IEBC under Article 88(4)(1) of the Constitution to set spending limits for political parties and candidates. That is a constitutional mandate given to the IEBC among other mandates including but not limited to what Hon. Oluoch spoke about; continuous voter registration, education and revision of voters' register.

On the other hand also, of importance is the fact that they brought to us some documents. Let me give a chronology of what has happened before I make my final pronouncement on what is going to happen. Just to be fair to all of us, this is what Section 5 of the Election Campaigning Financing Act, No.42 of 2013, provides. It provides election campaign financing rules, that the Commission shall make rules to regulate election campaign financing: In the case of general election, at least, 12 months before the election.

Section 12 of the Act provides that the Commission shall, at least, 12 months before a general election by notice in the gazette prescribe limits on total contributions, contributions from a single source, paid media coverage, loan forming part of a contribution which a candidate, political party or referendum committee may receive during the expenditure period.

I do not need to go to the other details. I am quite familiar with this law. I had occasion to benchmark with other jurisdictions before the Bill was even drafted to be debated in the House, but more importantly, the IEBC is required to gazette even the spending limits. However, Section 29 is a clincher because it provides that "the Commission may make regulations for the better performance of its functions under this Act, and such Regulations shall be laid before the National Assembly for approval before they are published in the Gazette." Note that the emphasis is on the "National Assembly" and "before they are published in the Gazette".

(Applause)

Hon. Members, I am reading this because, as you know, when you are making laws, sometimes you provide that certain regulation-making bodies and/or authorities may come up with proposed Regulations and gazette them. However, there is a requirement in the Statutory Instruments Act that if you gazette, then you must table before the National Assembly within seven

days. In other laws, once gazetted, they have the force of law until they are annulled through our own processes.

(Applause)

That is the general application of that process as provided for in the Statutory Instruments Act. However, for avoidance of doubt, we took a different path when enacting the Election Campaign Financing Act and the Finance Bills. They do not take effect until approved. So, this is specific.

(Applause)

I believe that, in the Independent Electoral and Boundary Commission, there are quite a number of lawyers and other legal experts. So, they should know that.

Again, Hon. Members, I go by what Hon. Tim Wanyonyi has said that, his Committee - I can see another very active Member of that Committee, Hon. Murugara is here - will be looking at these instruments notwithstanding what we are saying here. This is because in keeping with good practice, it is not generally good practice for the Speaker to withdraw business that has been referred to a Committee of the House. It is good that the Committee looks at whatever business has been referred to it and makes its report before the House, so that the House makes a determination one way or the other by either agreeing or disagreeing with the Committee or proposing amendments to what the Committee has come up with because the Committee is a creature of the House. Therefore, Hon. Members, it is not my intention to remove from the Committee on Delegated Legislation, the instruments which came from the IEBC on Thursday last week.

Having said so, let me also revisit this history. There is something that they brought here which was referred to as the Election Campaign Financing Regulations, 2016. The Report of the Committee on Delegated Legislation on its Consideration of the Election Campaign Financing Regulations, 2016 was laid on the Table of the House on Tuesday, 20th December 2016, during the Morning Sitting, and a notice of Motion was given as follows:

“THAT, pursuant to the provisions of Sections 18 and 19 of the Statutory Instruments Act, 2013 and Standing Order No.210(4)(b):

(i) the House rejects the draft Election Campaign Financing Regulations, 2016, as they contravene Section 5 of the Election Campaign Financing Act, 2013 and Section 13(a) of the Statutory Instruments Act, 2013; and,

(ii) the House resolves that the Justice and Legal Affairs Committee introduces relevant legislation to amend appropriate sections of the Election Campaign Financing Act, 2013, particularly sections 5 and 18, to give suitable timelines for compliance to enable the IEBC submit fresh Regulations for approval.”

Hon. Members, remember that I have just read out to you Section 5, which is about the 12 months' period.

The Committee on Delegated Legislation of the last Parliament, in making this recommendation, had in mind that if the timelines in Section 5 could be reduced, then the IEBC could be given a chance to resuscitate or bring back to life what came to Parliament as a corpse.

(Laughter)

The record shows that on Tuesday, 20th December 2016, during the Afternoon Sitting, the Chairperson of the Committee on Delegated Legislation withdrew the Motion, pursuant to Standing Order No.51. So, the Motion was never debated.

With regard to the Election Campaign Financing Regulations, which were titled “2020”, the chronology of events is as follows:

(i) The House resumed its sittings on Tuesday, 3rd August 2021, having been on a short recess from Thursday, 8th July 2021 as per the Calendar of the House.

(ii) A letter from the Independent Electoral and Boundaries Commission dated Wednesday, 27th July 2021, on the subject of the submission of Election Campaign Financing Regulations was received in the Office of the Clerk on Wednesday, 28th July 2021.

(iii) However, the Regulations were not attached as indicated in the letter and instead what was attached was the Election Campaign Financing (Amendment) Bill, 2020.

(iv) On Wednesday, 4th August 2021, that is a day after we resumed last week, the Director, Legal Services, wrote an email to the IEBC communicating the error and asking that they send the Regulations to enable the National Assembly process the same as required by law.

(v) On the same day, Wednesday, 4th August 2021, through an email, the IEBC sent the Regulations reading “2016” instead of “2020”. This error was brought to the attention of the IEBC and they were requested to send the correct copy.

(vi) On Thursday, 5th August 2021, through an email, the IEBC sent the correct copy of the Regulations. On the same day, Thursday last week, the draft Election Campaign Financing Regulations, 2020 and the accompanying explanatory memorandum were laid on the Table of the House by the Majority Party Chief Whip, on behalf of the Leader of the Majority Party, and they were referred to the Committee on Delegated Legislation.

(vii) Immediately after the Regulations were tabled, the Speaker issued a Communication on the same and urged the Committee to expedite the process of consideration of the draft Regulations and Table its report.

Of course, taking into account that it is fair that the Committee, also in keeping with what Hon. (Dr.) Chris Wamalwa said, engages with the public through public participation, the same draft Regulations were referred to the Committee on the same day. As we have heard from Hon. Tim Wanyonyi, the Committee is due to have its sitting tomorrow and consider the draft Regulations.

Hon. Members, in accordance with Standing Order No.210(3)(j), which one of you made reference to, there is a requirement that a Committee must consider, whether there has been unreasonable delay in tabling of any instruments before the Committee, and make an appropriate recommendation to the House. It is not fair for anybody out there to suggest that this House has sat on any Regulations meant to provide for expenditure or campaign financing for the next general elections.

(Applause)

Should they feel that there is need to shorten the period, they are at liberty to approach the Committee where Hon. Oluoch and Hon. Murugara sit, to propose an amendment to Section 5 and Section 12 of the Election Campaign Financing Act to reduce the period. Remember this requirement for 12 months is with regard to a general election. Therefore, this is a matter that has been with the IEBC for the longest time anybody can imagine. I do not think they have concluded

it, unless they have been holding night sessions to do other things. Coming up with the Regulations should have been easy. Again, remember there is a requirement within the Election Campaign Financing Act that even in coming up with the Regulations, they must show our Committee on Delegated Legislation that they have engaged the public. Even they themselves are required to engage the public.

Therefore, it is not right for any of them or any other person to try to hold the House as the one delaying the formulation and approval of the Regulations. So, in keeping with good practice as I said earlier, let our Committee on Delegated Legislation consider those instruments and make whatever recommendations they find appropriate in the circumstance. The House will also be at liberty to debate the recommendations of the Committee and resolve as necessary.

I thank you, Hon. Members.

(Applause)

Next Order.

BILLS

First Readings

THE PUBLIC SERVICE INTERNSHIP BILL

THE ASIAN WIDOWS' AND ORPHANS' PENSIONS (REPEAL) BILL

THE PROVIDENT FUND (REPEAL) BILL

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

Second Reading

THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL

(Hon. Emmanuel Wangwe on 4.8.2021)

(Resumption of Debate interrupted on 5.8.2021)

Hon. Speaker: Now, Hon. Members, by the time the House adjourned, Hon. Janet Nangabo was the 24th Member. She was on the Floor and has a balance of five minutes. I heard the person who was on the Chair explain to you that you have five minutes as balance. Hon. Janet Nangabo, if she is in the House. She is absent. It is debate on the National Hospital Insurance Fund (Amendment) Bill.

Hon. Members, it is also fair that we note the Members who have spoken. I can see some of those who had spoken like 001 are number one on the request list. Those who have spoken are the Whip of the Majority Party, Hon. Wangwe, who was seconded by Hon. Martin Owino, Hon. Sankok, Hon. Oundo, Hon. Koskei Kimutai, Hon. (Ms.) Sabina Chege, Hon. Mohamed Sheikh, Hon. Wilson Sossion, Hon. Omboko Milemba, Hon. (Ms.) Gladys Wanga, Hon. Ali Rasso, Hon.

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(Ms.) Kahai Adagala, Hon. (Dr.) Robert Pukose, Hon. (Dr.) James Nyikal, Hon. Wathigo Manje, Hon. (Ms.) Millie Odhiambo, Hon. Garane Hire, Hon. (Dr.) Oduor Ombaka, Hon. Mutunga Kanyuithia, Hon. Robert Mbui, Hon. Ferdinand Wanyonyi, Hon. Jared Okello, Hon. Kihara Kimaru and Hon. (Ms.) Janet Nangabo was on the Floor.

So, I will now look for those whose names do not appear there. The Member for Garissa Township appears high on the list.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Speaker. I rise to contribute to the Second Reading of the National Hospital Insurance Fund (Amendment) Bill of 2020.

I had a chance to go through this Bill and from the face of it, the Bill narrates and seeks to amend the National Hospital Insurance Fund Act in order to enhance the mandate and the capacity of the National Hospital Insurance Fund (NHIF) and specifically to facilitate and deliver one of the legacies of President Uhuru Kenyatta, which is the universal health coverage. However, let me be very honest, I really do not like critiquing Government Bills because I had been moving Government Bills for a long time. A critical reading of the Bill reveals otherwise, contrary to promoting universal healthcare. Why do I say so? In fact, in my opinion, it inhibits the thing which it is trying to achieve which is universal healthcare coverage for every citizen of our country. Why do I say so? Article 43 of the Constitution provides that every person has the right to the highest attainable standard of healthcare. However, despite this constitutional provision, this Bill, in my view, is either not cognisant of that provision of the Constitution or the people who drafted it are not aware of the socio-economic terrain of our country.

So, I will just pick on three clauses of the Amendment Bill. A case in point is Clause 17(e) which provides that a beneficiary who has a private health insurance cover shall first exhaust the private cover before accessing the NHIF. The question that I need to ask is how many of our people have private insurance covers? They are very few. It is a fact and every Member in this House knows that many of our people rely on public health facilities to access medical treatment. How will universal health coverage be achieved when this same Bill makes it a priority for persons with private insurance to use their cover first before accessing the NHIF? Should the NHIF not be the first cover to apply to cover basic and essential health package at public health facilities? The *Wanjiku* of this country go to public health facilities to seek medical services. Is this Bill not telling *Wanjiku* “sorry, go get a private insurance cover first and use it before you access your NHIF cover”? This is what we need to deal with when we come to the Committee of the whole House. How many Kenyans can afford to get private insurance covers? I think we need to tell Kenyans the truth that this Bill clearly negates the right of every Kenyan to access universal healthcare.

Hon. Speaker, the second point which is still worse is that this Bill has given power and discretion to the National Hospital Insurance Fund (NHIF) Board to prescribe the number of beneficiaries that may access the NHIF cover. Therefore, the question that I asked was what parameters the Board is using to guide and determine the number of beneficiaries. The Bill does not have prescribed factors to be considered by the Board in prescribing the limits of people in a family who can access that cover. In my view, that gives room for discretion and may leave many innocent beneficiaries out of the NHIF and the proposed universal health coverage, which is a good thing and a legacy of our President.

Lastly, the drafters of the Bill may also possibly not have appreciated its economic effects if enacted. Clause 10 of the Bill provides for employers to match the contributions of their employees. Therefore, everybody will contribute. There is no exception. In my opinion, there should be an exception for the small and medium enterprises, namely, the people running cottage

industries. The moment you tell them that they have to make a matching contribution for the people they employ, because they work with small profit margins, they will lay off their employees. They will reduce the numbers.

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

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

For a person who speaks and believes in the hustler nation, this Bill is not in tandem with the philosophy of the hustler nation, which I believe in of late. The Bill ought to have provided incentives for employers to reasonably contribute to the fund.

I had to read and discuss the Bill. I am sure that in consultation with the Leader of the Majority Party, we will look at those clauses.

Clause 13 is creating a punitive penalty both for Wanjiku and the employer who fails to contribute to the fund. That is very unfair to Wanjiku who is basically on survival mode due to the COVID-19 pandemic. When I say Wanjiku, I am speaking of the ordinary person in this country. In Clause 13, Wanjiku is required to pay 25 per cent of her contribution and if she delays, I want Hon. Members to listen to me...

(Loud consultations)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Order, Hon. Members. Hon. Duale, just hold on. Hon. Onyango from Muhoroni, what is out of order?

Hon. Onyango Oyoo (Muhoroni, ODM): Hon. Temporary Deputy Speaker, I wanted to remind him that Wanjiku is no longer the name of an ordinary person. Wanjiku is a Member of Parliament. Therefore, we must remotely assess her.

(Laughter)

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, the Hon. Member is a good friend of mine. I will not pick a fight with him because he has a history. He was a politician during Moi's time. Therefore, he is my resource person.

However, Wanjiku is now being required to pay 25 per cent of her contribution if she delays in paying as the required penalty. It is very important for Members to listen to me. For instance, if her contribution is Kshs500 and she delays in paying, she will be required to pay Kshs125 for every delay in remittance. During these hard economic times of COVID-19, why should Wanjiku be told to pay a penalty?

Hon. Temporary Deputy Speaker, let me go on record that this Bill fails far below facilitating the attainment of universal healthcare. In consultation with the Leader of the Majority Party, we will bring amendments to ensure that we achieve one of the key legacies of President Uhuru Kenyatta, which is universal health coverage.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Oyoo, it is now your opportunity you contribute.

Hon. Onyango Oyoo (Muhoroni, ODM): Thank you very much, Hon. Temporary Deputy Speaker for giving me this opportunity. The intention of the Bill is good because it is aimed at enabling the common person, the real Wanjiku before, to access medical facilities everywhere in

this country. That was the noble intention of the crafters of this concept of the NHIF. Those are accolades that we give to the fallen doyen, Thomas Joseph Mboya.

After the handshake, His Excellency the President came to inaugurate what we call universal health care. We received him very well and thought that after that, we would get relief in the medical facilities. Soon thereafter, came the COVID-19 pandemic and we are yet to see the serious solution that the universal health care offers. Apart from medical practitioners who have facilities and are benefiting from the NHIF, the public gets very little benefit. We should take this Bill seriously, ensure that we factor in issues that can really put a smile on the face of the common person and not just those enabling the owners of medical facilities to benefit all the way.

We should also not give the Board a lot of teeth. All the returns we have seen and any manner of audits that have been done at the NHIF have left bad feelings among many Kenyans. A lot of corruption has been in existence simply because the Board has been given a lot of teeth. I have seen in the Bill that we still want to give the Board more teeth. The ultimate intention is to use the opportunity to remove the people standing in for the donors. I do not know how one can be a donor and you do not have representation in an organisation you donate to. The ultimate intention is very good, but we need to put in more teeth. I believe that Members need to scrutinise the Bill and bring on board issues and concepts that will benefit the ultimate intended person, who is the real Wanjiku, before she became a Member of Parliament.

Otherwise, I support the Bill.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Let us have Hon. Iringo Kubai, Member for Igembe Central.

Hon. Kubai Iringo (Igembe Central, JP): Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to contribute to this important Bill.

From the outset, I support the Bill, albeit I will suggest some amendments when it comes to the Committee of the whole House. In essence, this Bill is good in that it is trying to encompass or have as many people as possible registered, more so, even having the employers assist in registering members.

Currently, we have a very big problem when it comes to medical issues because most of our citizens are either ignorant or cannot pay for the services. Even those that can pay are not near registered hospitals which offer the services. This Bill is trying to cure and cover that gap which has already been created. We will have as many health providers as possible who are inside the bracket or are already captured, so that more citizens who really need medical services can get them as near to them as possible.

Currently, if you look across the country, we are in the dangerous time of COVID-19. Hospitals have started refusing some insurance and the NHIF is not assisting people with the required finances.

Hon. Temporary Deputy Speaker, hospitals have started refusing some insurance covers and the NHIF is not assisting people with the required finances to cater for these many diseases. This Bill will cure this problem and it will be a relief to families who undergo a lot of torture when their loved ones have huge hospital bills and are unable to pay. They end up fundraising and at the end of the day you find that as the person is ailing, the resources of the family are depleted, and unfortunately when these people die, they leave their families poor.

The NHIF is a very important Government tool which should be guarded religiously. Of late there have been gaps in the same NHIF. Recently we had senior staff relieved of their duties because of misappropriation of funds. There is a trend in the NHIF where there is a skewed way of dealing with beneficiaries. You will find that there are those who get assistance for certain

ailments and when you go to the others, you find it is not happening and they say it is not in the Act. This Bill has captured exactly who should benefit from treatment of each and every ailment. This is so that we do not have people going behind doors and having others getting relief but not others. A case in mind is a patient I had who was sick and was supposed to go to India for some treatment. I was informed that the NHIF can cover up to Ksh500,000 for that particular ailment. It became very difficult to get a straight answer from that office saying that they do not do it. However, when I went and used another person, it became easy and the patient got money. Those are the double standards which need to be cured by this Bill. Every citizen, irrespective of where they come from or their status, must get their services as stipulated.

Secondly, like one of the speakers said, penalising people for failure to pay will be a dangerous move. This is because, people do not fail to pay because they do not want to; sometimes they do not have money. They have even approached us as their Members of Parliament (MPs). Personally, I have been approached by many whose covers had elapsed for three months and they wanted assistance so that they could be treated. These penalties will be something that will backfire on the Government side and cause outcry. They should consider that if one fails to pay, at least there must have been a reason. Therefore, one ought to be asked to update his records without penalties. This is not profit making; it is not a place where we want to make money from our citizens who are suffering or who are constrained financially. We should cushion citizens so that at least they feel comfortable having those cards when they fall ill and go to hospital.

Once they find that the services are provided as required and in the correct system, then it will be an encouragement for others to join the fund. This fund should be guarded religiously as I said. When it comes to the Committee of the whole House when we bring in amendments, I will also come with my amendments so that we polish it as much as possible and have it enacted. It will be a document which can serve this country for many years to come.

I thank you, Hon. Speaker and support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Rosanna Passaris. Member for Nairobi.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Thank you, Hon. Temporary Deputy Speaker. When we think of the agenda of the President in terms of Universal Health Care (UHC) and we look at the NHIF, we have to realise that it is meant for the very vulnerable citizens of this country - the ones who really need medical attention and cannot afford high premiums. We as MPs can afford high premiums. Many people in the private sector can afford high premiums. Unfortunately, the NHIF has made certain covers available to civil servants but they have not made covers available to other private entities that want to pay higher premiums to get higher covers. Giving them a Bill is not enough. There has to be creativity also on their part in terms of how they will recruit more members and how they can get the rich to cushion the very vulnerable citizens.

It is unfair for somebody, for instance of my stature, to be paying the same NHIF premium as my driver. So, when the rich say that the people who have alternative private sector insurance covers should not utilise the NHIF, I think that is trying to tilt and change the system completely. NHIF covers a certain aspect even when we go to the private hospitals and not the entire bill which is mostly picked up by the private entity. I think we have to recognise that the NHIF is for the most vulnerable and ensure that this Bill has huge penalties for the various corrupt acts that we see in the NHIF. This is because you cannot attain the UHC without an affordable premium.

Secondly, ensure that every citizen in this country feels the need and the desire to have that cover, even the ones that cannot access it. For instance, we came up with the NHIF for secondary school children and it has helped a number of them. However, when they leave school, there is no

follow up to ensure that there is transition after the school cover. What happens to the old people? There is an old woman who recently got hospitalised and was detained by the hospital because of a big bill. NHIF is supposed to cover for this old woman who is over 70 years. It is a Government program that ensures that everybody over 70 years that is vulnerable gets the cover. However, they are not aware of it, even the chiefs especially in the remote areas. So, we can have the Bill but at the end of the day, it is how we are going to implement it.

What exactly do we want to achieve? When we come up with laws, we want to help our citizens and this should be the case with the NHIF when it is licensing facilities. Many facilities are paralysed today because the NHIF does not pay them the money that is due. There is a lot of corruption.

I was talking to a previous MP, Hon. John Mututho, regarding a facility that he has in Naivasha and he told me that he had to go to court to compel the NHIF to pay him. For you to be paid your money, you have to part with money. So, that corruption in itself deters medical covers because anybody on drug rehabilitation and requires assistance will not get it. When we are looking at the law, we have to also look at the measures and ensure that the entities that we are making laws for are in tune with the requirements on the ground. I have seen the NHIF give covers for people who go to India. However, to get that cover, I do not know what must happen for someone to go to India with an NHIF approval. What about the other Kenyans who need that treatment but do not know how to access that service?

I believe that there is a lot more that needs to be done than just having a law. We need to ensure that we are in tune with what is happening in our country in terms of deterring UHC. For UHC to happen, the rich have to pay higher premiums, the majority of Kenyans have to be convinced and have a premium that is affordable so that they can pay. If we have a premium that is not affordable, it will not happen. During this COVID-19 period, many people did not pay their premiums. We, as the National Government Affirmative Action Fund (NGAAF), took a number of cancer survivors who could not pay their premiums and ended up paying for their premiums so that they could remain in the cover. Can you imagine you are a cancer survivor, you have a cover but you cannot afford to pay a premium? When it comes to penalties, you cannot get water from a rock. At the end of the day, the law has to be in tune with the needs of the people. We have to understand where the people are and what their challenges are.

There is a pregnant woman who recently came and said she wanted to give birth at Pumwani but she was told she cannot be registered. Surely, the woman is there, she is pregnant, she knows her details, how can you say that because she does not have her Identity Card (ID), she cannot be registered and has to pay for delivery? Somewhere along the line, we need to have the human touch in the services we provide, through legislation. Legislation without a human touch will not help the citizens of this country.

I feel that the drafters of the Bill should make sure that every aspect that concerns the citizens of this country, elderly people, People with Disabilities (PWDs) and the youths have to be catered for. When it comes to premiums, we have to understand that certain families cannot afford to pay Kshs500. If they fail to pay and get sick, how can we ensure that they get help? What is the use of putting up all these facilities when people cannot access them? If we do not deal with corruption in these public entities, we will be making laws that will not serve our people. The big elephant in the room that needs to be tackled as we try to deliver universal health care, and implement other Government programmes, is corruption.

With those remarks, I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, allow me to welcome the youngest Member of this House, Hon. John Njuguna Wanjiku, the Member for Kiambaa, to make his maiden speech in the House. You are most welcome to the House.

(Applause)

The Member for Kiambaa (Hon. John Njuguna Wanjiku, UDA): Thank you, Hon. Temporary Deputy Speaker.

I rise to support...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. John, please, put on your face mask. You will not be interrupted during your speech. So, take your time.

The Member for Kiambaa (Hon. John Njuguna Wanjiku, UDA): Thank you. I rise to support the Second Reading of this Bill. I would like to make some contributions towards it.

The majority of low income Kenyans lack medical insurance, forcing them to pay hospital bills out of their pockets leaving families vulnerable to high treatment costs. It is from this background that I stand to support this Bill. Workers in the informal sector currently pay Kshs500 to the NHIF monthly. This amount will be reduced to Kshs300, making the scheme affordable to people in the low income cadres, who constitute a majority of the hustlers in this country. This move should help get as many people as possible in the category so as to accord them the opportunity to enjoy the aspirations of UHC.

I reckon that workers in the informal sector used to pay Kshs350 as monthly contribution before the rate was increased to Kshs500 six years ago – a move that was meant to boost NHIF collections from the informal sector. This move has been counterproductive due to affordability thus locking out this category from accessing NHIF cover. This is a group whose daily trouble includes access to food. So, they must not again be trapped by high monthly subscriptions. Therefore, I laud the intention of this Bill, which seeks to ensure that many Kenyans, particularly persons who are in the informal sector and those who are not working, afford to make contributions to the NHIF by reducing the rate from the current Kshs500 to Kshs300 per month. Lowering the monthly contribution will also help address the pain brought about by the CORONA-19 pandemic layoffs and salary cuts – which have forced more than half of NHIF active members to stop paying the premiums. I, therefore, support the Bill.

Hon. Temporary Deputy Speaker, today, being my first day, I would like to digress a little bit and take this opportunity to thank the great people of Kiambaa for believing in me, supporting me and entrusting me with their votes. There are quite a number of challenges we faced during the by-election. Apart from that, I also want to take this opportunity to thank so many people, especially people from Kiambaa Constituency all the way from Cianda, Karuri, Muchatha, Kiharu and Ndenderu wards. I, really, want to thank them for believing in me and entrusting me with their votes. I want to tell them categorically that I will work hard to ensure that I honour the promises that I made to them.

(Applause)

I also want to thank the people who came in to support us. I also want to take this opportunity to thank the Deputy President of the Republic of Kenya, the chief clerk hustler, for believing in a hustler like me; a chicken intestines vendor who did not have a father or a big name, but he believed in me. He gave me an opportunity to mentor and steer the course that we took. I

thank him for supporting me morally and ensuring that at the end of the day, we successfully did our campaigns and delivered the Kiambaa seat to the hustler nation. I sincerely appreciate and thank the Deputy President.

(Applause)

There are also other hustlers, generally, from the Republic of Kenya who are supporting the hustler nation and the hustler narrative. They are “generals” from this House. They include Hon. Ndindi Nyoro, Hon. Kimani Ichung’wah, Hon. Rigathi Gachagua, Hon. George Kariuki and Hon. Jane Kihara. I thank them for their support and for believing in me. They gave me an opportunity to market myself to the people of Kiambaa. With their support, I was able to sell my idea of ensuring that we give bursaries to the people of Kiambaa in a transparent manner which has never happened before. We are going to ensure that we increase, model and build schools in Kiambaa so that parents can take their kids to schools in good environments.

(Applause)

I also want to take this opportunity to thank the UDA Party for not asking me a million and one questions. I would want to thank Madam Secretary General, Veronicah Marina. When it turned out that there was going to be a by-election in Kiambaa, I went to her office and she gave me an opportunity to be heard. Today I am the Member of Parliament for Kiambaa, a constituency that has never had an opportunity to elect a young Parliamentarian before. I am the first and would like to thank them.

I also want to thank the women of Kenya, and especially those from Kiambaa. I want to tell the single mothers from Kiambaa Constituency that it does not matter the challenges they are facing today as they bring up those young kids. It does not matter who the fathers of those kids are and which families they come from. I want to encourage them wherever they are.

I also want to sincerely thank my late mother, Mrs. Philomena Wanjiku Karanja, even though she is not around, for believing in me, giving me an opportunity and also for bringing me up in a manner that other kids have been brought up. I thank the women of this great Republic and tell them that their children can still make it. If I made it to be the Member for Kiambaa, then it does not matter where you come from. As long as you have a dream, vision and faith in God, one day you will become what you believe in.

I also thank the Almighty God for keeping me alive and seeing me through the kind of by-election that we witnessed in Kiambaa. I take this opportunity to seriously condemn the Government for bringing machineries that we have never witnessed before in Kiambaa. Kiambaa is a peaceful area. We have never had violence before but during this particular by-election, some of the cars and chiefs in uniform, who went round bribing people... I would like to ask the Government of the Republic of Kenya to allow Kenyans to make their own decisions when it comes to exercising their democratic right to elect the leaders they want to represent them, be it in the National Assembly, the Senate or the Presidency. Let us give Kenyans an opportunity to exercise their democratic right without influencing. I sincerely thank the Kiambaa people because even after all the intimidation that happened on the election day, they did not bow down to pressure or victimisation. They decided and elected me as their Member of Parliament on a UDA ticket. I thank all the people of Kiambaa. I take this opportunity to also thank the ‘hustler nation’ in the whole Republic of Kenya. I want to tell them if they had any doubt that the ‘hustler nation’ is lean,

I am a good example. I was a chicken intestines vendor. I got an opportunity. I had a dream but I never thought that one day I would be a Member of Parliament. Today God has made it possible. When we talk about bottom-up economy, it is true that you can start from somewhere and you become something in this Republic of Kenya.

Thank you, Hon. Temporary Deputy Speaker. I stand to support.

(Applause)

The Temporary Deputy Speaker (Hon. Christopher Omulele): You are most welcome to the House, Hon. Wanjiku and I thank you for believing in the beauty of your dreams. I wish you well. I also wish the people of Kiambaa well as you lead them. May God bless you.

We shall now have contribution from Hon. Obo Mohamed, Member for Lamu. She is not in the House. Hon. Mizighi Mneni.

Hon. (Ms.) Haika Mizighi (Taita Taveta, JP): Thank you, Hon. Temporary Deputy Speaker. From the outset, I wish to take this opportunity to congratulate the newest kid on the block in Parliament for that very awesome support.

I want to support the amendments to the NHIF Bill. We have lost lives. The number of people dying is worrying. Burials have become the order of day. Nowadays when you travel back to the counties, every single day people bury the dead. If there was a time NHIF needed to come to Kenyans, it is now. Most of these deaths are caused by lack of good treatment or lack of the right medication. We have seen ourselves being added to several WhatsApp groups each and every day. A majority of the groups are for medical bills. At times, you are added to a WhatsApp group and you start making contributions. Before you are done, the group turns into a farewell group, meaning we have lost the person we were contributing money for. The person dies because he could not access treatment.

This cover is very important. NHIF should also do a lot of civic education and awareness, telling people how important this cover is. Everybody should be aware of this cover. A majority of people are not aware how important this cover can be. I have gone through the Bill and the situation is going to be better than it was before.

Thank you, Hon. Temporary Deputy Speaker, for this opportunity.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Koyi Waluke.

Hon. John Waluke (Sirisia, JP): Thank you very much, Hon. Temporary Deputy Speaker, for giving me a chance to also support the Bill. Out there, many of our parents, brothers and sisters are poor and cannot afford to pay for NHIF cover. As a House, I request that we come in to make sure that they pay for our people to get this cover. Very many people are dying. In one weekend, you can bury even 15 people in a constituency. Because of lack of money and poverty, our people go through very difficult times, especially during this COVID-19 period. Kenyan people operate below a dollar. Time and time again, the Government has talked of improving the lives of our people. The Government should start by paying for the people if it wants to save lives. It is difficult if you are sick and you cannot even afford food or medicine to make you feel like a Kenyan. Our people live like refugees in their own country. Fifty per cent of the population of this country is poor.

Therefore, as leaders, we should come in. The NHIF staff should also come out. These days we see even banks going out to do marketing. The NHIF staff are just sitting there. They do not even educate the community on what NHIF is. The NHIF Managing Director should come out with his people. The other day I saw the Cabinet Secretary for Interior, Matiang'i, doing marketing

for NHIF but I have never seen NHIF staff marketing this cover to Kenyans and telling them of the importance of the NHIF card.

All the same, I support the amendment. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Ombaki Machogu, Nyaribari Masaba.

Hon. Ezekiel Ombaki (Nyaribari Masaba, NAPK): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this very important Bill. I have gone through the entire Bill. It is going to provide a milestone in the health sector in this country. As per the NHIF Act which was enacted in 1998, that is 22 years ago, the people who have been enlisted compared to the population of the entire country are very few. The total number of people registered with NHIF does not even constitute 20 per cent of the population.

When you look at our workforce, the informal sector contributes over 83 per cent of the workforce. However, only 15 per cent of those in the informal sector are registered as NHIF members. This particular amendment Bill makes it compulsory and mandatory for each and every individual in Kenya, from the age of 18 years to register as a member of the fund. By so doing, we will be moving closer to Universal Health Coverage (UHC). You cannot attain UHC unless and until you are able to bring each and every person on board.

The other thing is that in totality, this Bill looks at how revenues can be increased. The major handicap that NHIF has had is lack of finances. NHIF does not generate enough revenue from the sources that it has been generating from. Now, if this amendment Bill is passed, it will enable them to cater for the wider mandate that they have been given. Indeed, the Bill has also expanded the mandate of NHIF.

The other very important area that the Bill looks at is matching the contributions of the employer with that of the employee. By so doing, it will also increase the premium. Additionally, the people insured with private insurance companies are those at the top in this country. The greater percentage of Kenyans do not fall in this category. That is why I support because the Bill states that the daily rebate on inpatient can be done by NHIF. However, the private insurance companies have to make other payments before NHIF comes in. So, in that particular area, the revenue by NHIF will not only triple but tremendously increase to cater for this particular need, because the Bill is not only looking at the financial ability of an individual but the healthcare. It is supposed to be provided to each and every individual because indeed, health as it were, is a basic need.

The other crucial issue that the Bill looks at is Clause 24 which proposes to repeal Section 34. This Bill proposes to empower the Board to acquire and procure equipment and hospital infrastructure. In this particular one, when we get to the Committee of the whole House, we will propose an amendment, particularly in the public hospitals because public hospitals lack essential equipment and infrastructure. By empowering the Board to do this, it will make sure that some of the facilities that are lagging behind in public hospitals, equipment and infrastructure will be made available because, public hospitals are motivated by service delivery as opposed to private hospitals which are motivated by profit making.

Finally, we should not be able to make payment punitive. This is one area that we will propose some adjustments to in the Committee of the whole House. If we so do, the first culprit is going to be none other than Parliament. I chair the Member Services and Facilities Committee, and we have noted that we are always late in paying NHIF contributions for our staff because of the late payments from the Treasury. We are therefore, not able to pay our workers on time. So these particular contributions always come late. It is not our fault but that of the Treasury which remits these monies late.

Hon. Speaker, I support this 100 per cent but with few adjustments and amendments that we will be proposing. It is good for this country. Members are always raising funds each and every time because our people cannot afford medical care. We can only be able to amend this Bill to mitigate the issue where we are forced to give our own contributions to our people who are not able to afford because the poverty level in this country is very high. Over 50 per cent of Kenyans live below the poverty line and, therefore, we should support this Bill.

I support this.

I thank, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Abdi Yusuf, Member for Kamukunji.

Hon. Yusuf Hassan (Kamukunji, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this important Bill, the National Hospital Insurance Fund (Amendment) Bill, 2021. I stand to reinforce the concept that health is a human right and health for all is the aspiration of any decent government and any people or community. This Bill also comes at a critical time when we are struggling with multiple effects of the COVID-19 pandemic, the economic problems as a result of that, the growing need to protect our community and people, as well as to provide healthcare support to the unfortunate victims of the pandemic.

I would like to say that two things stand out in this particular Bill. One, is the fact that now it becomes compulsory for every Kenyan to be a member. This particular fund can get the necessary contributions to be able to provide the kind of healthcare that is the aspiration of this particular country and international organisations.

The fund's mission for example says: "To contribute towards universal healthcare coverage by providing affordable, accessible, sustainable and quality health insurance." This is the challenge this Bill will be passing over to the fund, to ensure that our people; the people of Kenya, get the best support they can, in terms of being able to get the healthcare needs. You know that we will not be able to reach a level of development and get rid of poverty, diseases and illiteracy unless we are able to put into place the healthcare system that we need. I think the fund here is a major instrument for the Kenyan Government and the Kenyan people to be able to achieve UHC.

Another thing that I like about this particular Bill is that it will be able to contribute towards lowering the monthly contributions that members make to it. This is particularly so for people with low incomes or people from the informal sector. I note that this particular fund has now about eight million members which is considerably small if you look at the general adult population of this country that needs to get support in terms of healthcare. Out of that, about 5.7 million are from the informal sector. Workers in informal sector have been hit so hard by the hard economic times, as a consequence of the pandemic, that many of them have stopped making contributions to the NHIF.

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

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

Hopefully, this Bill is going to ensure that we increase the membership to cover almost all the adult population of our country to get the economy of scale that would allow the fund to provide what it intends to do in its mission, which is to provide sustainable and quality health insurance.

With those remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have the Member for Makueni, Hon. Daniel Maanzo.

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

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Leader of Majority Party, are you standing up to contribute? I can see you are having another audience.

Continue, Hon. Daniel Maanzo.

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to contribute to this very important debate. Health is everything. If there is no good health, the nation really suffers. A healthy population ensures that we have a working nation.

When people fall sick, the biggest challenge they face is paying hospital bills. In fact, Members of Parliament have become the insurance for many Kenyans. Many times you will have to fundraise to pay hospital bills. Sometimes Kenyatta National Hospital (KNH) waives the bills when the management is satisfied that the person is really stuck. Many times bodies are stuck in the morgue because bills have not been paid. It is very frustrating.

Many times, somebody passes away, leaving behind a big hospital bill. You cannot even get the paperwork done with National Health Insurance Fund (NHIF) and if they finally do it, the amount of money that is given is so small. It does not help the family. This is what has necessitated the amendment to the NHIF Act. I am planning to introduce a lot of amendments during the Committee of the whole House to make sure that this Bill fits what it was supposed to be from its public participation.

Hon. Temporary Deputy Speaker, people are not looking for a fund as it is today. They are looking forward to a social welfare scheme that will take care of everyone despite their class of living. The best example of this sort of fund is in Thailand. I thought the Ministry had benchmarked with Thailand and would give us something really palatable. Unfortunately, as it is now, it is still unclear. It is still being called National Health Insurance Fund. We are still using the word "Fund" yet if you go to the definition, where the Bill is being introduced, you find a different story. Other than the Fund, it captures the aspirations of Kenyans in the Memorandum of Objects. You can see that it is described in the Memorandum of Objects as "A Bill to amend the National Hospital Insurance Fund Act of 1998 to establish the National Health Scheme..." So, we should now be talking of a scheme and not a fund. The Memorandum of Objects continues to read: "...to enhance the mandate and the capacity of the National Hospital Insurance Fund and to facilitate and deliver the universal health coverage."

Hon. Temporary Deputy Speaker, the concept of a fund has given us trouble. I am sure the Leader of the Majority Party, who is an expert in this area, will expound on this when we bring amendments. We need to improve it to introduce a social aspect to it so that communities can insure even as a group. You can have a group insurance for people, cooperatives and *chamas* so that people can embrace this concept and donate so that when people, unfortunately, fall ill and go to hospital, they can be taken care of.

You can see what has happened with the COVID-19 situation. Today I fundraised for two people from Makueni who recovered from COVID-19 but are stuck in private hospitals because that is where they could find a bed and oxygen when things were so bad and you could not find these things in a normal hospital. That kind of situation gives us a challenge. What happens in an emergency situation? What happens when people find themselves in that situation? The COVID-

19 pandemic patients are not covered in whatever sense unless somebody has taken a special insurance.

I can assure you that Kenyans who are able to take personal insurance, and even those who understand the concept, are very few. Kenyans have to learn the concept of NHIF and that kind of insurance. Many Kenyans in the villages fall ill and end up in hospitals. They find themselves not belonging to any scheme and the only scheme becomes the Member of Parliament. It is real trouble, especially with the COVID-19 pandemic situation. I am thinking of a law that looks like a social fund, to deal with the social aspects whereby Kenyans are able to donate even from the grassroots and pay medical bills. The county governments, which are spearheading devolution, have tried in the area of healthcare. In some counties, each household pays Kshs500 per year but those schemes cannot function effectively simply because the amount of money that people have paid cannot cater for their expectations.

Hon. Temporary Deputy Speaker, one of the worst nightmares that we have not covered in this Bill are private hospitals. I have no problem with private hospitals. I have friends who own private hospitals and they have been very helpful. They have saved very many lives when the systems in the public hospitals failed and somebody needed urgent attention, especially after accidents. If one does not have a NHIF cover but his family proves that they can be able to fundraise or can make a deposit to the hospitals, he is assisted. However, when it comes to the scheme, sometimes there are very serious allegations of corruption where funds from these schemes are channelled to individual's pockets.

So, we must first promote Government health facilities so that this money can be paid into a Government facility because it has a system of monitoring the expenditure of the monies. When you channel this money to private hospitals, which we have no problem with and NHIF should recognise them because of saving lives, a lot of these investors who are doctors, instead of building more hospitals with these funds, put them into other businesses and the health system suffers. There should be a way of making sure that money that is contributed socially for the benefit of everyone continues to develop the health sector. We should have a way of ensuring that even private medical practitioners benefiting from this particular fund use the money to develop their health facilities. If the hospital does not have an Intensive Care Unit (ICU), it should use the money it receives from the NHIF to establish one. If the facility does not have specialised machines, the investor should use the funds to procure specialised machines. However, the case now is that when private sector health practitioners get paid by the NHIF, the money ends up in real estate and other investments and we begin losing the original purpose.

I am looking at a situation where we amend this law during the Committee of the whole House to capture what the President first thought when he decided to come up with Universal Health Coverage (UHC) and make sure that we have a good precedent and practice, which has worked very well in another country of a similar economic situation to ours, or in countries which have emerged from third world status where this concept has been applied. In the event we do not have such, then we should be the first ones to develop it in Africa so that we have a model which other countries can copy. That way, we can have a healthy nation where people recover from serious ailments by having their hospital bills paid.

The tragedy is when somebody is detained in a hospital and the bill cannot be covered by the health insurance scheme. This ends up complicating the matter for that family. The person is detained instead of them being useful. The more they are detained, the more the bills grow and the more the MP has to raise money to make sure that the constituent is discharged from hospital.

We need to capture what appears in the memorandum of objects and reasons that this is going to be universal health coverage for real and it must cover all Kenyans. I know the President of the Republic, Hon. Uhuru Kenyatta has been very keen on this. He asked counties which have been successful like Makueni to work on it. That is why even the former County Executive Committee member...

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): On top of my list is Hon. Sankok. If I recall very well, he spoke to the Bill. Let us have Hon. Ndindi Nyoro.

Hon. Ndindi Nyoro (Kiharu, JP): Thank you very much Hon. Temporary Deputy Speaker for giving me time to contribute. Because we are talking about a health Bill, I am just from Kiharu attending what we call *masakaya* for two families: *mama* Wanjiru and *Baba* Maina. I pass my condolences to the family.

This is a very important Bill from where we sit. I have been listening to the many contributions from my colleagues. At the outset, having perused the Bill, it is inhumane for us to penalise people who may not be able to contribute to the fund. As a majority of us know, our country is currently bedevilled economically. It will not be good for us as representatives of the people to pass a Bill that seeks to penalise especially the contributors when they fail to do so because we know and understand the times we are living in.

Something else that has been in my mind is the way we treat our funds: the National Hospital Insurance Fund (NHIF) and the mutual fund, the NSSF. It is far from proportional when it comes to contributions. There is no way a hustler out there or a hawker, for example, a matatu driver pays Ksh500 and you find other people with higher income capacities paying slightly the same or slightly higher. It is also not a good example that even in this House commensurate to our salaries, we do not seem to pay the rightful amount we should be paying to NHIF to support other families not just our families. When we talk about pooling resources for health, we do not do that for ourselves but for others out there.

I also suggest that we and civil servants should not be insured with other private entities. We should all trust NHIF so that we lead by example, and the fact that it is domiciled with the Government, it is capable and able to come in when we need an input in terms of health. Therefore, we should have a law in this country that directs all public servants to only be insured by the public fund, the NHIF.

There is something else we must borrow from other economies. When we talk about NHIF and mutual funds like the NSSF, such funds in a country like Japan have borrowed in excess of 200 per cent, whereas our country has borrowed in excess of 100 per cent to our GDP. We keep giving examples of countries and economies like Japan but what we fail to tell Kenyans and explain to them is that most of the debts that big economies have, are indebted to their own funds. A country like Japan has borrowed more than Kenya in terms of the debt to GDP ratio but such a country borrows from its equivalent of NHIF and NSSF because they have domestic money lying in their funds. This is because they have enhanced the collection of the fund that participates in the growth and development of these economies. If we look at the equivalent of the NHIF in the countries I have given examples like Singapore and Japan, these are funds that participate in infrastructure of the health sector within their economies and countries. The aim of such a fund should not just be dispensing hospital bills but also to look at the supply side of the patient. By the supply side, I mean they invest in areas like research, development and innovations that will lessen the pain of the patients and give reprieve.

Even beyond the funds, if we look at the innovations in countries like the US, actually No.2 from the Fintech is technology around the health sector that is trying to look for remedies to many

of the diseases ravaging and bedevilling our people. The NHIF should take a leading role in funding innovations that are in the health sector because, at the end of the day, the innovations help them especially through the many bills that they pay. When they have a solution, it is much better to establish preventive solutions.

I stand here as a Member of Parliament especially having been elected using our former party, Jubilee which made promises to Kenyans. The President himself promised the Big Four Agenda. In the Big Four Agenda, he told Kenyans about the Universal Health Care. I am just from Kiharu. That is a mirage. It collapsed immediately after he launched it. Something else, and I am voicing many of the issues that we get from the people we represent, is that this regime took details of the aged of the country: those above 70 years and put them on cash transfer. From that time, Kenyans are asking whether that was a political gimmick because this regime has never added even a single person aged over 70 years to that register after President Uhuru Kenyatta was elected. We ought to remind this Government that there are many people who have now reached 70 years and above and qualify for the cash transfer. These people who are good for our country should also be helped by the Government by it shouldering the burden of paying their NHIF contributions.

As I wind up, it is not just the Universal Health Care that collapsed. Whatever the President promised alongside it like manufacturing is moribund. On food security, we see Cabinet Secretary, Munya going round in the country in barazas after we passed laws in this country but the money is yet to reach the pockets of our farmers. I say all these things because they are intertwined because when one has money in his pocket, he can cater for his health needs. Unfortunately, following the collapse of this economy being administered by this regime, our people are poorer, especially farmers. They have criminalised enterprises and therefore manufacturing is moribund as I said before and our people can hardly afford to take care of their health. We want this regime to know that when they bring such a Bill, all these things are intertwined. They need to look at the economy and all the other things that are part and parcel of it.

Lastly, we have been seeing the Cabinet Secretary for Health giving us some statistics every evening. I want him to know that those statistics are about the people of Kenya who have been ravaged by the Coronavirus. Alongside the statistics he gives us, he ought to start giving us the statistics of Kenyans who are getting vaccinated every day.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Ndindi, your time is up. We are moving to... I will give you a minute to wind up. I am just warning you that we are moving to other business. So, wind up in a minute. Just wind up instead of carrying it forward. Give Hon. Ndindi the microphone.

(Hon. David ole Sankok consulted loudly)

Hon. Sankok, keep quiet. It is Hon. Ndindi's time.

Hon. Ndindi Nyoro (Kiharu, JP): Hon. Temporary Deputy Speaker, I was winding up with this point: at such a time when we are faced with a pandemic, every serious government and the leadership of that government should be engaged on how it can vaccinate as many people as possible. In the United States of America (USA), we saw people who were getting vaccinated actually being gifted US\$100. Unfortunately, in our country instead of the leadership concentrating on availing resources and importing technology and vaccines, they spend all the time they have planning for succession. Kenyans are angry. The leadership of this country should wake up and do what it ought to do, that is, provide vaccination to Kenyans.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, we will continue with this debate when it comes back to the Order Paper. For now, Hon. Jaldesa had given notice of a Motion for Adjournment. Hon. Jaldesa, it is your time. You have 10 minutes to move it. Each Member will have five minutes to contribute.

**MOTION FOR ADJOURNMENT UNDER
STANDING ORDER NO. 33**

DROUGHT CRISIS IN THE COUNTRY

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): That is well noted, Hon. Temporary Deputy Speaker.

Thank you, Hon. Temporary Deputy Speaker for allowing me an opportunity to highlight this issue of national importance. Drought has reached a very alarming level in 25 counties of this country. This is due to poor performance of both the 2020 short rains and the 2021 long rains across the 25 counties I mentioned. Due to the late onset of both seasons, low amount of rain and poor distribution of rainfall in time and space, we are now witnessing a cumulative impact.

Eighty-seven per cent of counties report a household return distance of between 20 kilometres and 23 kilometres to water sources, making it a total of 46 kilometres. The livestock distance to water points has generally worsened. It is now about 25 kilometres one way, making it 50 kilometres. That is an increase of close to 20 per cent from last year around this time.

Severe deficiency of vegetation is recorded in the entire Isiolo County and Lagdera Constituency of Garissa County. That is not to say that they are the only counties affected, but are the worst affected. I am sure that those Members who watched television yesterday and the day before saw the sorry state in those areas where our animals are now feeding on paper. The people of Nairobi and its environs are blessed because even this afternoon, we had heavy rainfall. How I hope we would receive the same soon. That is our prayer.

Poor condition of pastures has also been reported. The price of our cattle, sheep and goats has become so low compared to previous drought periods. The terms of trade have also changed. For example, when farmers from Wajir bring their animals to Nyeri to sell to the people there, the prices are not comparable. It is because the price of maize in Nyeri is high whereas the price of our livestock is low.

Several schools are on the verge of closing down. Already, in Tana River, two schools have closed. Many other schools in parts of Laikipia, Isiolo, Wajir and Garissa are likely to close down.

We have lost lives due to lack of water. I know water is a devolved function, but as national leaders, it is our duty to bring that matter to the attention of the nation. Just to give an example, three weeks ago in a place called Modogashe in Sericho Ward of Isiolo South Constituency, we lost a 25-year-old man when a shallow well collapsed on him. We are likely to lose more lives if an urgent intervention is not received. Two million persons are at risk of starvation in those 25 counties if something is not done very urgently.

Our livestock are dying and it will be a bit late if we do not start an offtake intervention by the Government to buy those animals from the farmers. If they wait for another month, they will end up buying carcasses which will not help the Government or the farmers. That is likely to negatively impact the economy of this country because the livestock sector contributes 12 per cent to the Gross Domestic Product (GDP).

Therefore, my proposal is for an urgent intervention, including declaring drought a national disaster. Secondly, we urgently plead for a collective intervention by the national Government, county governments, Non-Governmental Organisations (NGOs) and the private sector. The private sector has been doing some initiatives such as Kenyans for Kenya.

We ask this House to enhance the budget of the National Drought Management Authority (NDMA), so that they can increase the number of households that will benefit from the Cash Transfer Programme. The same organisation, the NDMA, can buy hay for our cattle. It can buy food for our people because I do not know the last time we received Government support. We have not received it almost the whole of this year. It is my prayer that this House will listen to our plea. When I was presenting this Motion, I know some Members, including the Leader of the Majority Party, were saying it has started raining. We appreciate that Nairobi and other areas have been blessed but I urge the Leader of the Majority Party to start touring this country so that he can appreciate what I am talking about. We do not have anything for our livestock to eat. They are dying. People will probably start eating stones.

With those few remarks, I move and request my brother, Hon. Sankok, to second.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon Jaldesa, you do not need a Secunder but Hon. Sankok was actually next on the list. Hon. Members, I understand the importance of the matter at hand. We have limitation of time because each Member has five minutes. I have a total of 26 requests. If you can mind the other Members, just take two minutes to speak to it so that everyone can say something.

Proceed, Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity. I appreciate. *Ashe oleng' entito ai naiborr illala; entito o'loiboni.*

(Laughter)

Where is the NDMA? They are supposed to take care of these areas. Where are the people we pay a lot of money at the weather forecast department? It is so that they forecast for us so that we can plan ahead. If we can plan in this House and allocate money so that we feed those who will eventually be affected by drought, why do we not instead empower the same communities so that they are already empowered come drought? If we can plan to buy them a sack of maize each, cooking oil and powder milk, why can we not buy for them maize seeds, *jembes* and fertilisers in advance so that we can empower them? If we can provide drinking water for them, why do we not provide irrigation water, noting that we have a lot of underground water in Kenya? There is Mount Kilimanjaro; there is Mount Kenya; there is the Aberdare Ranges and there is Mt. Elgon. They have water above. You only need a piping system to take water to most of the lowlands and we will have irrigation. Is the drought in Kajiado, Narok, northern Kenya, Isiolo, Moyale and Marsabit worse than the drought in Qatar and other such places? The answer is "No". It is because these areas have been marginalised for a long time through Sessional Paper 10 of 1965. It is high time we organised ourselves and declared this drought a national disaster. As we organise ourselves to feed them this year, let us also prepare ourselves in advance so that we do not end up with perennial droughts every now and then, with people facing starvation in future. We can easily turn our lowlands and drylands into areas like Libya and Israel if we put in place measures that will assist.

Our people and livestock are facing death. Hon. Temporary Deputy Speaker, you know because you come from Narok South, specifically a place called Loita, where there was that brave

moran - you are related to the *moran* who killed that white man who tried to take a bull from him. You know the story. You know that those cattle are now dying in large numbers. You have seen that we are migrating all the way to the Mau Forest, risking spread of diseases and people are losing their livestock. There are people who have lost 80 per cent of their livestock. Imagine losing, at once, 80 per cent of your livelihood. As a Member of Parliament, imagine if you are today told that your salary has been reduced by 80 per cent. This is what these people are facing.

I plead with this House that we support Hon. Jaldesa in this move and we declare it a national disaster. Jaldesa, congratulations for bringing such an important Motion to this House. She is the most powerful woman in this Republic, being the Secretary General of the Pastoralists Parliamentary Caucus, the only caucus with 105 Members of Parliament. Congratulations. We will support you. I hope the whole House, including non-pastoralists, will support us in this initiative.

I support.

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

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Thank you, Hon. Temporary Deputy Speaker, for the opportunity.

First, I thank Hon. Jaldesa for bringing this Motion to the House. The responsibility of a nation is to provide security and food to its citizens. It is, indeed, embarrassing that we cannot feed the citizens of this country. We have climate change. What Hon. Jaldesa has mentioned is not something new. We expect the Government to have planned. We have the Meteorological Department which is supposed to have forecast for this. There is an American philosopher called Benjamin Franklin who said failing to plan is planning to fail. The responsibility of planning belongs to Government. We would like to empathise with our colleagues the pastoralists, particularly those from the North Eastern Region. I had an opportunity to visit there. I did not know that the Leader of the Majority Party had not gone there. He was a Minister for Lands and Minister of Finance. I expected him to have gone there. You think you are not part of Kenya when you are in those regions. In fact, when they are travelling they say, "we are going to Kenya". I had an opportunity as a consultant for the European Union to travel to Mandera, Garissa and Wajir. You will think you are not in Kenya. Because they are part and parcel of us, the Government has a responsibility to allocate budgets to those areas, particularly when it comes to this NDMA. This authority is there but when it comes to the level of funding, it is given something very insignificant that cannot mitigate these issues of drought.

As we are here today, I call upon our colleagues. When you read the Constitution, Article 95 is very clear. It says the national Parliament, the National Assembly, can deliberate and resolve any matter of national importance, like what we are discussing today. So, we call upon our colleagues to expedite measures and declare drought a national disaster in this country. The import of doing this is to attract more funding. It will attract even the donors, even the NGOs. Wherever the NGOs are, they should move quickly to those areas so that they can save them and save their livelihood.

When you look at the livestock, which is their critical livelihood, some of them are dying. When you have a malnourished product and you go to the market, you will have to sell it at a throw-away price. This is something that our colleagues are facing. In this country, there was an element of livestock insurance. How far did the Government go with the livestock insurance programme? Farmers are losing their livelihoods. Insurance would have been a remedy to help in mitigating these risks. As we speak, we are here today and this Parliament is a budget-making House. This suffering must stop.

When you look at the issue of Sustainable Development Goals (SDGs), it includes issues such as feeding the hungry and matters food security in the country. When you look at the Jubilee Manifesto and the Big Four Agenda, you realise that the issue of food security was given a priority. You cannot preach water and drink wine. If you are talking about issues of food security, you must put in place mitigation strategies and give them heavy funding.

In Trans Nzoia where I come from, farmers are also suffering. The Government is supposed to provide subsidised inputs, if it is at all serious when it comes to matters food security. When it comes to emergencies like this one, the county government is the first line of defence. They are given monies for emergencies. The national Government also has an emergency kitty. We are calling upon the national Government and the county governments to move with speed, utilise the emergency funds and help our colleagues mitigate the risk of the current drought.

Thank you, Hon. Temporary Deputy Speaker. I support the Motion.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Well said, Members. I will again remind you that if you take a shorter time, so that we accommodate more people to speak to this, the better for everyone. Let us have Hon. Chachu Ganya.

Hon. Chachu Ganya (North Horr, FAP): Thank you, Hon. Temporary Deputy Speaker. I join my colleagues in highlighting this crisis that we are facing as a nation. Over 4 million pastoralists in a dozen counties are facing serious food insecurities. The condition of our livestock is deteriorating due to the increased distances they have to travel for water and pasture. The cost of water in most of those areas is increasing. There is serious tension and conflict over those shared grazing resources. Pastoralists are generally having a very challenging time at the moment. Even most of our boarding schools, which depend on water trucking, are being closed down in most of those areas. Thousands of children are really suffering from malnutrition due to food insecurity. Most water points in those areas have dried up and as a result, pastoralists are losing their lives and livelihoods. For this reason ...

(Hon. Dominic Koskei walked into the Chamber)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Order, Hon. Koskei. You are improperly dressed. You should not be in the vicinity of Parliament dressed like that! Go on, Hon. Chachu.

Hon. Chachu Ganya (North Horr, FAP): Thank you, Hon. Temporary Deputy Speaker. Drought is not a disaster. It only becomes a disaster and an emergency if we fail to plan for it. In the 10th Parliament, I sponsored the National Drought Management Authority Bill and today, it is an institution. I have been around these issues for some time now. When we fail to plan, fail to invest in drought management interventions, do not invest in good time in water resource management and do not make our food secure by providing the necessary interventions that we need to produce food, then drought becomes a disaster. Basically, failure to plan and intervene at the appropriate time is when drought becomes an emergency and causes a disaster. If, as a country, we invested in these arid and semi-arid counties in terms of water interventions and putting up the necessary water facilities and water points, whether they are pans, dams and strategic boreholes, drought would not be a disaster.

I heard Hon. Sankok questioning what the NDMA is doing. What can they do? They have no funds. As a House, we do not appropriate funds for them. They are willing to intervene. They are in all our counties. They have the necessary drought mitigation plans in place, but they cannot intervene simply because they have no funds. We have failed as a House and as a Government to

provide the necessary funds for this very critical entity tasked with the management of drought in this country.

We need to invest in our livestock. If we save the livestock, we save our livelihoods. If we invest in terms of animal feeds, hay, water provisions and veterinary services, we will save those animals and they will in turn save the livelihoods of the pastoralists even after the drought. Otherwise, there will be no point in saving the pastoralists if they will have no livelihood to support them anymore. They will become destitute living in town centres and depending on food aid or relief food.

We need to invest in animal offtake programmes. Some of those animals still have good body weight. The Kenya Meat Commission (KMC) should come in and invest in animal offtake.

We need to invest in strategic water points and boreholes where there is pasture at the moment, but no water. We can do this by drilling and also water trucking where necessary. It is about saving lives and livelihoods.

We should invest in cash transfers for the elderly and other vulnerable members of our communities. If these strategies are done in a timely manner, we can save the lives and livelihoods of those pastoralists. We can save the lives of four million Kenyans who are food insecure and facing a serious crisis in their lives at the moment.

We also need our county governments to come in, invest and make drought management a priority. Drought management is not a priority at the moment. If you cannot save your own people, there is no development you will plan for them going forward.

We also want the international community, the donor community and other stakeholders to strongly come in and coordinate with the National Drought Management Authority, so that they can intervene in all the required sectors.

I support the Motion, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have Hon. Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker. Let me congratulate my colleague from Isiolo for bringing this special Motion to discuss the issue of drought in this country.

It has been a predictable cycle that after a certain number of years, we have drought; some severe, some mild and some manageable. However, in all cases, it is untenable. It is inconceivable that in the 21st Century, with advanced technology in prediction and trending methods, we are unable to predict when drought will hit and which parts of the country it will hit so that we prepare and have mitigation measures in place to alleviate such situations.

I have been lucky to have travelled the entire North Eastern Kenya in various capacities as a consultant. I have come face-to-face with the hardships they face. I have not been there since I came to Parliament in 2017. I hope devolution has brought some change.

There are many things that developed governments can do to mitigate those measures. Each financial year, we give county governments a lot of money. We hope they can account for it. In this particular day and time, we should not be talking about water scarcity in North Eastern Kenya. We should not be talking about lack of mitigation measures. Agriculture and livestock are devolved functions. County governments have a lot of money. Those counties exclusively benefit from the Equalisation Fund to the exclusion of other parts of the country. This is the time where leadership is called upon. We will complain and blame the national Government, but at the end of the day we, the people on the ground, with a devolved function, must start questioning the achievements of devolution in so far as disaster management is concerned.

There has been rain failure all over the country. My constituency has lost many crops and has failed crops. This is a matter that now requires urgent attention. I sincerely believe that with time, we should resolve those issues. We are suffering. We are paying for the sins of false promises and lies that the Jubilee Government has told us since 2013. They proposed that they would develop irrigation-fed agriculture, but up to now, there is nothing. They promised us a bumper harvest at Galana Kulalu, but up to now, there is nothing. The best they can do is make calls to Equity Bank and give Kshs15 billion to investors to go and invest abroad instead of using that money to invest in this country and help solve some of these disasters. Some of these lies will not take us anywhere. Kenya must confront the situation.

Hon. Temporary Deputy Speaker, this House makes budgets and appropriates funds. It is a call to us all that when it comes to the budget-making process, we should not cede our power to the National Treasury but do budgets that allow us to predict such kind of disasters and prepare for them. It is a shame that countries that have no arable land can feed themselves: you never hear them calling for food supplies and donations. This is an indictment of the leadership of this country since independence.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have Hon. Paulata.

Hon. (Ms.) Sara Korere (Laikipia North, JP): Thank you, Hon. Temporary Deputy Speaker. I take this opportunity to thank my sister and neighbour. It is high time we called a spade a spade and not a big spoon. Just like what other speakers have alluded to, failing to plan is planning to fail. It is true that Northern Kenya, parts of the Rift Valley and Central Kenya, including Laikipia North and Kieni, are ravaged by serious drought. We have had 13 straight months without a drop of rain in those areas. Also, going by what is happening, especially in Laikipia and parts of Isiolo, it is true there is a lot of resource-based conflict.

Today, the people of Laikipia are suffering. People are being killed, our livestock is being pushed out of Laikipia simply because Isiolo and Samburu have failed to plan. The ecological zone of Laikipia North, Samburu and Isiolo is more or less the same. However, because there is planning in Laikipia such as range management and range rehabilitation, those who have failed to plan their rangelands are causing havoc in Laikipia. I thought devolution was meant to address these very unique problems that are unique to every county.

I do not think in this time and era it makes any sense to say that pastoralists are killing each other because of scarcity of resources. The much I understand is that there is nobody's cow that eats dead bodies. Therefore, people cannot be killing each other so that the cows can feed on their dead bodies. It is very painful. Where I come from, my people can neither plan nor till their land. They cannot manage their livestock simply because those who have failed to plan are causing havoc.

Secondly, on emergencies and drought, it is true that schools are being closed because children cannot concentrate. We are told in this country that there is a feeding programme in schools. However, some schools in Laikipia North, which is classified under Arid and Semi-Arid Lands (ASALs), have not seen a coin of the school feeding programme for the last 12 months. It begs for an answer where this money is going to. I know this money has been allocated to the Ministry of Education. Some counties somewhere are enjoying that food. Most of the pastoralists went to schools during the Moi era because of the Nyayo milk and even now some children are going to school because of that one meal they get in a day in school. So, even as we urge the Government to declare drought a national disaster, they should take bold steps to ensure that there is food in schools.

It is high time counties planned according to their uniqueness. Water, for example, is a very unique and important thing among the pastoralists. I know many Kenyans love *nyama choma*, but this meat does not grow from coffee trees. It can only be got from the pastoralists' cows. If pastoralism is neglected and there is no infrastructure to ensure that pastoralists look after their cows in a profitable manner, then this resource-based conflict will become a vicious cycle among the pastoralists.

Sometimes I wonder if there are beneficiaries of this so-called resource-based conflict because it is also very interesting. I do not know who is conspiring with who among the pastoralists. It is because drought and all the hullaballos that come with it always happen a year to the general election. It is high time the Government stopped giving excuses as to why there is conflict among the pastoralists. It must address the problem by taking the bull by its horns.

I thank you and beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have the Member for Wajir East, Hon. Kassim. Use whichever microphone is near to you.

Hon. Rashid Kassim (Wajir East, WDM-K): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to give my observations on and articulate about this matter. It is of great significance to the pastoral communities and is affecting the people of Northern Kenya. The drought that is ravaging the people of Northern Kenya is equally affecting nearly 25 counties. It is a problem that is affecting the livelihoods of about 8 million people.

Children are not going to schools because the schools do not have water. There is livestock movement from where they are domiciled. They are crossing the border to as far as Somalia, causing disputes among communities. It is important that the NDMA, which is mandated to provide technical information, plans so that it can give the necessary information for prediction purposes. It needs to do its work.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Kassim you need to wear your mask properly.

Hon. Rashid Kassim (Wajir East, WDM-K): Okay. Drought is predictable and has timelines. Even the vegetation cover can give indicators of drought, but if there is no proper information sharing on drought weather, then whatever we do as a nation is insignificant. Around 8 million people and their livelihood are being affected. Children are not going to school. Movement of livestock from our boundary to Somalia is huge. My constituency has a number of wells which provide water but there is a high population density in those places. They are staying there for nearly 24 hours before they can get water and some of them have crossed to Somalia. Schools have been closed in areas that have been affected by drought. A place called Handaki which is towards Somalia is hosting the entire livestock population because it borders Somalia. Others which are in Wajir County have moved to Isiolo. Yesterday as we were talking about this matter, we were arbitrating between the pastoral communities of Isiolo and Wajir West. This has been attributed to movement of people and livestock and failure to accept the norms and culture of resource utilisation which are available between communities. All those have been in place.

I request the Executive to declare the situation an emergency. Some of these interventions can be undertaken quickly as emergencies. For example, the offtake plan. You all know that the Executive has taken over the KMC, luckily. It is under the supervision of the Kenya Defence Forces (KDF). It may not have been its mandate but the idea was to support it so that we can have a definite market for pastoral communities in Kenya.

We urge the Government to remunerate properly and give adequate finances to the KDF to man KMC so that we can have adequate uptake of people in Northern Kenya and they can have cash so that they can pay school fees and purchase food for their livestock.

Hon. Temporary Speaker, the other intervention that has been there is through the NDMA that is purely remunerated through the budgetary allocations to discharge its functions. They do not have any money. We urge the Executive, through the National Treasury, to create a drought contingency fund to be rolled out so that they can intervene on issues of drought.

Hon. Temporary Deputy Speaker, emergency boreholes can also be sunk in strategic areas so that livestock can access water. School feeding programmes should also be initiated so that children can access food. Water tanks are significant things that should also be made available.

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

Hon. (Ms.) Haika Mizighi (Taita Taveta CWR, JP): Asante sana Naibu Spika wa Muda kwa kunipatia fursa hii ili nichangie Mswada huu ulio muhimu sana.

Ninampongeza Mhe. Rehema Jaldesa kwa kulifikiria hili jambo na kulileta hapa ili tulijadili. Ni kweli, kumekuwa na ukame. Hata tunahofia kwamba tutaanza kupoteza watu wetu na mifugo kwa ajili ya njaa. Katika kaunti yangu ya Taita Taveta pia kuna ukame sampuli mbili. Sampuli ya kwanza inasababishwa na ukosefu wa mvua na maji. Sampuli ya pili inasababishwa na wanyamapori. Hii ni kwa sababu tumezungukwa na mbuga ya wanyama pori. Katika zile sehemu chache ambako mvua imenyeshwa na watu wamepanda mimea, wanyamapori wanavamia na kula kila kitu na wananchi wanabaki bila. Swala hilo linatupa hofu kubwa kwa sababu ikiendelea hivyo, basi wanyama pori watatoka porini na wakikuta kumekauka namna hiyo watawavamia binadamu na watu watapoteza maisha. Tayari tushaona ndovu wakitoka na kuelekea mahali wananchi wako. Wameanza tabia ya kupasua matangi ya maji. Hii ni kwa sababu ya ukame. Wakikosa chakula na maji kwenye mbuga wanavamia makazi ya binadamu na kupasua matangi ili wapate maji ya kunywa.

Itakuwa vyema nikiwaunga mkono wenzangu waliotangulia kuongea ili tulitaje hili kama janga la kitaifa ili liweze kuchukuliwa kwa uzito unaostahili na liweze kushughulikiwa ili tusiendeele kupoteza maisha. Tayari tumeshapoteza wapendwa wetu wengi kupitia hili janga la Korona na hatutaki kuwapoteza watu zaidi kwa sababu ya mambo ambayo tunaweza kuyafanyia kazi.

Asante.

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

Hon. Wilson Sossion (Nominated, ODM): Hon. Temporary Deputy Speaker, thank you. I rise to support the Motion and thank Hon. Jaldesa for placing it before this House on time.

There are a lot of happenings that the Government should predict. Looking at the trend of climate change, Kenya is a signatory to the same. Looking at the sustainable development goals agenda about climate change, there is adequate information about climate change; that, in case of rains, it is going to be extreme and there would be floods. We have seen Europe experiencing floods that they have never seen before. In case of drought, it is going to be extreme. Drought will be in Kenya to stay. It will expand beyond the 25 counties that have been mentioned. Scientists have predicted that by 2050, Kenya will not be able to produce any food. That should tell us empirically and scientifically, the direction we are headed to.

I rise to support that without any delay, Government should declare drought a national disaster so that the relevant agencies, including NGOs, can direct their efforts towards mitigating the effects of the drought. The existing data about the devastating effects in the already affected counties is very disturbing. Even the social life and education cannot go on, and livestock are

dying. These are very unsightly activities that should not be witnessed in this country. We do not need the meteorological department anymore. What is the disaster preparedness of the Government to intervene in this? The Government, both devolved and national, should intervene.

Livestock is the greatest victim in terms of drought. We are witnessing a lot of livestock dying. We are talking of poverty and lack of resources yet we have the resources in livestock. This is the time that the right Government agencies should guide pastoral communities so that they sell off the livestock that they have at the moment and reduce their numbers so that the funds accrued from such sales can be used to mitigate other effects of drought like purchase of foodstuffs. The Ministry of Defence has taken up the management of KMC. We have no reason to talk about livestock dying when we have a whole KMC under the military. This is the time that the President and Commander-In-Chief of the Armed Forces should be able to direct and ensure that no livestock dies in this country because of drought. It is possible to mop up excess livestock even in regions that have not been affected by drought. It is also possible to begin mopping up excess livestock and translate them into cash.

Even after declaring the prevailing drought a national disaster, it is possible for this House to take it up on its own accord through the Departmental Committee on Agriculture and Livestock, the Departmental Committee on Administration and National Security, and the Departmental Committee on Defence and Foreign Relations. Let us not wait for disaster to happen. Let us begin work to develop the framework of mitigation measures. We should be able to see the Government taking the lead in initiating measures to mitigate the effects of drought to save Kenyans from starvation as we also save livestock from dying.

With those remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Member for Lagdera, Hon. Garane.

Hon. Mohamed Hire (Lagdera, KANU): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to contribute to this important Adjournment Motion regarding the drought situation in the affected countries.

The drought situation in the 25 counties that have been mentioned is very serious. Unless some quick intervention measures are put in place, we are likely to see a humanitarian crisis. I would say “humanitarian” because the situation is so bad. I just returned from the constituency. I know the story has not been covered in the media but livestock has started dying. The major sources of water in these counties are water pans. Almost 95 per cent of these water pans have dried up. Animals trek for long distances of 50 kilometres and more to get water. The situation in northern Kenya is really bad.

The failure of the December 2020 and April-May 2021 rains has worsened the situation. But the sad thing is that agencies that have been mandated to look at these issues knew that rains failed, but up to now there is nothing that has been done. There is no response. These agencies know about the situation. The National Drought Management Authority monitors and gives early warnings. They have the data, but there is no response at all from these agencies. That is why if immediate intervention is not made, then we will have a large population of livestock depleted. There is no pasture. Schools have closed. There is serious malnutrition among children. These people depend on livestock. The livestock cannot be taken to the market because there are no livestock markets. All of them have very weak bodies, so you cannot take them to the market. These are very serious issues. The Ministry in charge of devolution and the Ministry in charge of Water have serious blames on these issues.

People always talk about water services being devolved. Yes, they are devolved, but the county governments share only 15 per cent of the Budget. The 85 per cent of resources remain here at the Ministry. In fact, they do not do much. At least they should be responsible enough to do something in emergency situations like these. They should do water trucking. The Ministry of Agriculture and Livestock should come up with some offtake plans so that the livestock can be sold now and when the situation gets better, the owners can have some income to repurchase the livestock. The cry has become a cycle. We always complain about drought every season but there are no long-term plans put in place. You can imagine around November we will have rains. The rains will destroy homesteads. There will be floods. All the water will be wasted. That means we need to have some serious plans. These agencies need to come up with a proper way of harvesting rain water. That is the only way we can resolve the water problem in these counties. What we seriously need now is to provide emergency feeds for the livestock, water trucking and offtake plans. They need to save lives because the situation is dire.

Hon. Temporary Deputy Speaker, with those few remarks, I support this Motion. Thank you very much.

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

Hon. (Ms.) Rozaah Buyu (Kisumu CWR, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. At the outset, I would like to thank Hon. Jaldesa for bringing to the attention of the National Assembly, and the country at large, this impending problem of drought. I come from Kisumu County, which obviously is not one of the 25 counties, but I know that with the climate change and erratic rainfall, the rest of the country is also going to suffer from drought.

When you speak about drought, my mind goes to one man in this country who stood out about eight years ago and sent out a cry and warning to the country so that we would all pay attention to the little things that would help us save this country from drought and excessive flooding. That man is none other than Hon. Raila Amolo Odinga. When we talk about climate change, we talk about what we see now. Today we see rains in Nairobi in August. We know that under normal circumstances, August is not supposed to be a rainy month. Because of climate change, we now see rains. Because of erratic changes in climate, farmers are not able to plan and yet Kenya is a predominantly agricultural country. Farmers heavily depend on rain. When there is no rainfall, obviously what we are discussing today is bound to happen.

When there is drought like is being experienced in the 25 counties, many other sectors are affected. Education is affected because children cannot go to school. The health sector is affected because with hunger and malnutrition, there is bound to be more diseases. The security sector is affected because people begin to compete and fight for the few water pans available. So, this is indeed an important issue we are discussing. I support Hon. Jaldesa and call on the Government to declare this issue a national disaster and pay more attention to and put more effort in curbing this disaster before it spreads countrywide.

Thank you, Hon. Temporary Deputy Speaker.

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

Hon. Jackson Lekumontare (Samburu East, KANU): Thank you, Hon. Temporary Deputy Speaker. I want to add my voice to this issue. Drought is severe in some parts of this country. In Samburu County, livestock are not there. They have migrated to far places. Even the conflicts we have in Laikipia and some parts of Isiolo are because of drought. The Government should move with speed because the situation is dire. If no steps are taken, people will die, leave alone the livestock that have already died. Even students are not able to go to school in the affected

areas. The Government is already aware of this. There are Government representatives in every county, sub-county and location. The Government should wake up and do the necessary for the people to be safe.

In parts of Samburu, the situation is worse. Even CS Dr. Matiang'i went to Laikipia, but to my surprise, the same Government destroys the economic livelihoods of our people. Livestock are being killed. The Government does not understand that there is a problem. We want to urge the Government to understand that there is a serious problem they have to solve, and not killing livestock of pastoralists. That is our economy and the Government should not destroy it. It should help the people and save their lives. I support and thank Hon. Jaldesa for bringing up this issue. It is a very serious issue. We want the Government to take serious and urgent measures.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Members, unfortunately we have got to the end of the debate. It is the nature of special Motions that there are no Questions put. I believe the authorities have heard the issues raised by Members. With that we can now adjourn.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, the time being 7.00 p.m., this House now stands adjourned until Wednesday, 11th August 2021, at 9.30 a.m.

The House rose at 7.00 p.m.