

**PARLIAMENT OF KENYA****THE NATIONAL ASSEMBLY****THE HANSARD****Wednesday, 11<sup>th</sup> August 2021**

The House met at 2.30 p.m.

*[The Speaker (Hon. Justin Muturi) in the Chair]***PRAYERS****PETITION****SPREAD OF INDIAN VARIANT OF COVID-19 IN LAKE REGION**

**Hon. Speaker:** Hon. Members, Standing Order No.225 (2)(a) requires the Speaker to report to the House any Petition other than those presented by a Member and further Article 119 of the Constitution provides for the right of any person to petition Parliament to consider any matter within its authority including petitioning the House to enact, amend or repeal any legislation. In this regard, Hon. Members, I wish to report to the House that my office has received a Petition from a Mr. Charles Ochieng' of ID No.11154191 and 91 other residents of Miwani, in Kisumu County.

The petitioners claim that in May 2021, the Ministry of Health reported the first five cases of the Indian COVID-19 variant in the country. The result of those cases were from samples obtained from returning workers who had travelled to India and working in Kisumu. The petitioners aver that the five persons were employees of Kibos Sugar Factory who continued to work at the factory despite the danger they posed to their colleagues and community at large. The Petitioners believe that the failure to enforce the laid down COVID-19 Protocols contributed to the exponential rise in infections within counties in the Lake Region.

The petitioners say that in the recent past several cases of COVID-19 continue to be reported in Kayulu and Chiga areas within Kisumu East Constituency which are home to the majority of the employees of Kibos Sugar Factory. Despite being aware of the containment measures put in place by the national Government on 17<sup>th</sup> of June 2021, the company has not taken measures to address the matter.

The petitioners therefore pray that the National Assembly intervenes by conducting an inquiry into the allegations that negligence on the part of the Department of Immigration resulted in the rise of COVID-19 cases and that the management of Kibos Sugar Factory should be held responsible for contributing to the spread of COVID-19 in the Western Region.

Hon. Members, pursuant to the provisions of Standing Order No.227(1), this Petition stands committed to the Departmental Committee on Health. The Committee is requested to consider it and report its findings to the House and the Petitioners in accordance with Standing Order No.227(2).

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Thank you.

Hon. Mutua Barasa.

**Hon. Didmus Barasa** (Kimilili, JP): Thank you, Hon. Speaker. While the petitioners have a right to bring the Petition before this House, I do not think that the immigration officers are to blame because they always act on the existing law and regulations. I hope the Committee will try to find out and direct the matter to the Ministry of Health because they are responsible for reviewing the protocols including blacklisting countries that have serious cases of COVID-19.

I support the Petition but I do not think it is the immigration officers to be blamed but the Ministry of Health.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Sankok.

**Hon. David ole Sankok** (Nominated, JP): Hon. Speaker, I support the Petition and the petitioners.

It is imperative that the Committee also co-opts the Ministry of Health because the protocols are squarely under the Ministry of Health so that they can deal with it together.

Thank you very much Hon. Speaker. I support.

**Hon. Speaker:** Hon. Chris Wamalwa.

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

Article 119 of the Constitution is clear on matters of Petitions. Any Kenyan has a right to petition. Looking at the seriousness of this matter of the Indian variant of COVID-19, if there is a positive correlation, that is the most important thing they must look at. As my colleagues have said, it touches two Committees both the Departmental Committee on Health, and on the Departmental Committee on Administration and National Security.

Before one travels it is now a requirement, and it is the international protocol now, that first you must get a negative test of COVID-19. Once you get it and if you are travelling, they post your results there. Of course, the State Department of Immigration is liable because anybody that travels must have a negative COVID-19 test result which must be 48 hours old. Other jurisdictions are talking of 72 hours. In case there was any professional negligence and anybody went contrary to the Ministry of Health COVID-19 protocols, it is a serious matter for which action must be taken. That can only be done if you have ascertained that there is a positive correlation that existed. Again, Trans Nzoia and Bungoma were closed down. Siaya and Kisumu were also closed down. When you look at the risk that these people went through....

**Hon. Speaker:** It is supposed to be comments, observations and clarifications.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Yes, Hon. Speaker. I am finalising. We request the Committee to move with speed. This matter is serious and action should be taken accordingly. I thank you.

**Hon. Speaker:** Hon. Members, because it is a Petition, the 30 minutes which are provided for in the Standing Orders will apply. Even if you have 10 Petitions, you only have those 30 minutes. I do not know that we have some Petitions whose Reports are going to be tabled here. We will have to apply the same 30 minutes' rule. I can see Members who are trying to raise their hands. We do not do that. I will never see hands up.

Hon. Pukose.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Speaker.

Facing this pandemic that is global, it is important that we have inter-ministerial correlation and cooperation. I am hoping that the Committee will look at the best measures that we can put, especially when we are rolling out the vaccination. I think vaccination has been established to be

key in the fight against this pandemic. So, as you look into this Report, let us also assess how much of the vaccine roll out is being done. That is a very key area that we need to pay a lot of attention to. That is so that we can bring this pandemic to a closure.

**Hon. Speaker:** Hon. Passaris.

**Hon. (Ms.) Esther Passaris** (Nairobi CWR, ODM): Thank you, Hon. Speaker.

The first thing I will say is that the variant is not called the Indian variant. It is called the Delta variant. The next thing is that I arrived on the last flight from India on 29<sup>th</sup> and I was at the airport. In spite of the fact that we were mandated by the Government to have a PCR test before we boarded the flight, when we landed here we were isolated at the airport because it was the last flight coming from India. We were tested again in Kenya. So, they did not just take the results that we came with from India. They tested us again in Kenya. When they tested us at the airport, they found a few people who tested positive. We were actually being put aside even in the airport. Those who were positive were kept away from those who were negative. So, I believe the Immigration and health officials at the airport did a good job. Where the problem could have occurred is the person who tested negative with the PCR at the airport. We were told that we have to do a mandatory quarantine of 14 days. I never came to Parliament. I never left my house for 14 days. I isolated because it was mandatory to do so, knowing where I came from. One could test negative today and be positive tomorrow. So, the Petitioner is right in the sense that if these people actually went to work, they did not adhere to the protocol of staying at home for 14 days, irrespective of whether they tested negative. I think they are culpable and have committed a criminal offence because they have spread it and many people have lost their lives.

It is important that the Petitioner gets the necessary action taken and investigations done. This is because if they had stayed at home for 14 days, they would not have spread the infection even if they had still tested negative at both points.

**Hon. Speaker:** Hon. (Dr.) Chebet Tum.

**Hon. (Dr.) Tecla Tum** (Nandi CWR, JP): Hon. Speaker, I stand to support the Petition.

The five people who came from India should have been quarantined for 14 days. The Indian or Delta variant is dangerous. I do not know why the people of Kibos Sugar Factory just left those people to roam about. That variant was transferred to Nandi County by somebody who is a tailor. He went to Nandi Hills and he was sick there. Sixteen or fifteen people from Nandi County, where I come from, got the variant from Kisumu.

We really need to take care of our people when go outside the country. There are some countries you cannot go to. You will have to stay for 14 days. So I do not know why we are so reluctant in Kenya. We just allow people to come to the country anyhow. I was the first person to give a Statement on COVID-19 in this House. It is my opportune time to let the people of Nandi Hills know that I speak so that those who are used by my opponents know I am an active Member of this House.

*(Applause)*

They should not only discuss about Magufuli. I made a mistake and said Magubuli instead of Magufuli. Let them see my positive contributions here. Let them know that I moved a Motion on cervical cancer which the Government has taken over.

Hon. Speaker, we need to educate people who do not watch television so that they watch what we do here and know the serious Members of this Parliament.

Thank you.

(Applause)

**Hon. Speaker:** Member for Emuhaya.

**Hon. Omboko Milemba** (Emuhaya, ANC): Hon. Speaker, thank you. Despite the other connotation got into this Petition, I want to say that I support it.

We, the people of Western Kenya and especially around Luanda to Emuhaya towards the other side, really suffered. I am telling you we have been losing people in the tune of 36 per week or even more. This was exacerbated by the meeting that was in Kisumu. Was it Madaraka Day celebrations or whatever it was? We have suffered because of the Delta variant. Originally, our areas had been fairly safe but we were finally attacked by the Delta variant. So, let the Immigration Department or Ministry of Health or whoever it was, be investigated and held liable for allowing this Delta variant to arrive right from Kisumu. We have suffered collateral damage as neighbours.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Makueni.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Thank you, Hon. Speaker.

I support the Petition and also wish to say that, as the Committee on Delegated Legislation, we approved the laws or Regulations which were to be followed on COVID-19. The question is who is implementing. The Ministry of Interior and Coordination of National Government is involved. The police and the Ministry of Health are involved. Is there really a way the Departmental Committee on Health which is going to consider this Petition can find so that there is proper implementation? This matter also affects the counties and the Council of Governors (CoG). Now they want to have a devolution conference in Makueni when cases of COVID-19 are very high and we know its consequences.

Once the Committee considers this, we need to have a way. The Ministry of Health is able to be fully in charge. We have seen how the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works has allowed the matatus to carry at full capacity. Those Regulations have not been brought to this House. We have not considered them and you can see the damage they are likely to cause because of the Delta variant.

I thank you. I think this House must really take charge of the situation. The Departmental Committee on Health must be firm so that the regulations are followed and proper ones are implemented. That is so that they are not made every day by Government and then they are not brought to this House.

**Hon. Speaker:** Member for Wajir South.

**Hon. Mohamed Mohamud** (Wajir South, JP): Thank you very much, Hon. Speaker.

The Petition is valid as far as I am concerned. It is an issue that has put us into a serious situation. Wajir South, particularly Habaswein sub-county, last week lost about seven elders because of this variant. Many others are currently in the ICU. It is a challenge. It is an issue that we really need to address head on. The Petitioner has validly argued the case that this is an issue that must be taken as a national matter. Therefore, as we mourn the people we lost throughout the years when COVID-19 has been here, the variants are getting more serious. I would have gone into a scientific matter but this is just a matter of comments. The variant or the genome in itself is something that is changing quite rapidly. It is moving fast across the country. So, this pandemic situation is becoming a serious matter. The Ministry of Health needs to get its act right. Many people are dying.

**Hon. Speaker:** Leader of the Minority Party.

**Hon. John Mbadi** (Suba South, ODM): Hon. Speaker, thank you. Let me also support the Petitioner.

What should concern us, as a country, is why we are so generous in allowing our space to other people even when it is very clear that there are certain countries which should be marked red. Like when this variant erupted in India, this country should have put in place stringent measures to deter or stop the possibility of people travelling from India and bringing this dangerous variant to our country. Listening to my sister Hon. Passaris, you realise that those who are positive were being put on one side and those who are negative on another side yet you travelled in the same plane and this virus takes about 14 days. It can hide in your body for many days. So, what measures did the officers who are concerned take to ensure that those who had not shown those symptoms or had tested positive are put under some kind of surveillance?

Finally, something really interested me and allow me to say it and not really to cheapen the debate on this. It is true that when this variant hit Kisumu, the other counties which were very affected were Vihiga and Kakamega. Clearly, I have been telling my brother and neighbour here, Hon. Omboko Milemba, that that demonstrates how close Vihiga and Kakamega are to Kisumu more than Homa Bay and Migori. When any project is carried out in Kisumu, it is evident that it benefits Vihiga and Kakamega more than Homa Bay and Migori. That is why when there is a disaster like this, they equally share in that disaster more than Homa Bay and Migori. I want to advise my colleague to tell his party members that are always complaining when projects are implemented in Kisumu, that the projects benefit Vihiga and Kakamega more than they benefit Homa Bay and Migori.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Kabuchai.

**Hon. James Mukwe** (Kabuchai, FORD-K): Thank you, Hon. Speaker. I want to take my time and support this Petition. I want this country to know that a man cannot step in a river twice. If he does, he is a different man in different waters. We know very well that the first strain came from India. How did it spread in this country? We did not take much concern. We also know that the second one — the Delta Variant — was still in India. We have taken no steps and the variant is here with us. The relevant department which should have acted on this should be investigated very well and action taken.

Thank you.

**Hon. Speaker:** The Petition is committed to the Departmental Committee on Health to deal as appropriate.

Hon. Members, you must have a card and know how to use the gadgets. You know what intervention buttons are. If you do not know, just take some few minutes. You will be educated by the staff or you ask your colleagues. Do not just keep raising your hand up since we do not operate through hands here. Just press the intervention button if you want to speak. Unless you want to do other things.

Next Order.

## PAPERS LAID

**Hon Speaker:** Majority Whip.

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

Report of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2019 and the certificates therein —

- (a) Kenya Copyright Board.
- (b) Kenya European Union Partnership for the implementation of the National Strategy to Counter Violent Extremism in Kenya.
- (c) National Crime Research Centre.
- (d) Kenyatta University.

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

- (a) Masinde Muliro University of Science and Technology.
- (b) Kenyatta University.

Thank you, hon. Speaker.

**Hon. Speaker:** Chairperson of the Departmental Committee on Finance and National Planning.

**Hon. (Ms) Gladys Wanga** (Homa Bay, ODM): Thank you, Hon. Speaker. I beg to lay the following Papers on the Table of the House:

Reports of the Departmental Committee and Finance and National Planning on its consideration of—

- (a) The Poverty Eradication Authority Bill.
- (b) The Tax Appeals Tribunal (Amendment) Bill.

Thank you, Hon. Speaker.

**Hon. Speaker:** Next is the Chairman of the Departmental Committee on Administration and National Security.

**Hon. Peter Mwathi** (Limuru, JP): Thank you, Hon. Speaker. I beg to lay the following Papers on the Table of the House:

Reports of the Departmental Committee on Administration on National Security on its consideration of—

- (a) Public petition regarding insecurity in Saku Constituency and the larger Marsabit County.
- (b) Public petition by residents of Wajir and Garissa counties regarding lack of access to citizen registration services.
- (c) Public petition regarding recognition of the Pemba people of Kenya as citizens of the Republic of Kenya.
- (d) Public petition regarding the amendment of the Fire Arms Act, Cap 114.

Thank you.

**Hon. Speaker:** Hon. Members, I want to give this direction given the peculiar nature of those three public petitions. I have seen the reports and the recommendations. Some of them are weighty. I think it will be fair that the House gets a chance to debate them and appropriate resolutions be made so that implementation can take place after the House resolves one way or the other as recommended by the Committee.

They are too weighty to be left as just reports. We will not deal with them here by way of comments, observations and clarifications. If we do, we will not get to the bottom of the prayers. I would like Members to look at the three reports. They are important. In the course of next week, I will allocate some days when they should be debated. The first one should be on the Order Paper on Wednesday, next week. The public petition regarding the amendment to the Fire Arms Act can be forwarded in the usual manner.

The next is a report by the Chairperson of the Select Committee on Members Services and Facilities, Hon. Machogu.

**Hon. Ezekiel Ombaki** (Nyaribari Masaba, NAPK): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Select Committee on Members Services and Facilities on Establishment of the Parliamentary Health Services Unit.

Thank you.

**Hon. Speaker:** Next Order.

### NOTICES OF MOTION

#### ESTABLISHMENT OF PARLIAMENTARY HEALTH SERVICES UNIT

**Hon. Ezekiel Ombaki** (Nyaribari Masaba, NAPK): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Select Committee on Members' Services and Facilities on the establishment of a Parliamentary Health Services Unit, laid on the Table of the House on Wednesday, 11<sup>th</sup> August 2021.

Thank you.

**Hon. Speaker:** Next Order.

### QUESTIONS AND STATEMENTS

**Hon. Speaker:** The first segment being Questions, the first one is by the Member for Endebess.

#### *Question No.287/2021*

#### FORMATION/GAZETTEMMENT OF TASK FORCE BY TRANS NZOIA COUNTY GOVERNMENT

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Hon. Speaker, I stand to ask the Cabinet Secretary for Lands and Physical Planning the following Question:

- (i) Could the Cabinet Secretary explain the circumstances that led to the formation and gazettement of a task force by Trans Nzoia County Government to look into issues affecting public land, and was the action carried out in accordance with the provisions of the National Land Commission Act?
- (ii) Could the Cabinet Secretary also explain the criteria used in the appointment of members of the said task force and confirm whether factors including regional, gender and persons living with disabilities were taken into account as required by the Constitution of Kenya?
- (iii) Could the Cabinet Secretary clarify whether effective public participation was conducted during the formulation of the county task force?
- (iv) Could the Cabinet Secretary explain whether the procedure and conditions set out in the National Land Commission Act for formation of such task forces were adhered to, and if not, could the National Government consider nullifying the exercise with a view to ensuring that the correct procedure and criteria are followed by the relevant Government institutions in formulation of future task forces?

Thank you.

**Hon. Speaker:** That Question is to be replied to before the Departmental Committee on Lands.

The next Question is by the Member for Bomachoge Chache, Hon. Alfah Miruka.

*Question No.296/2021*

STATUS OF OMORINGAMU-KENYINYA-IBHICHO-MOGAMBI-NYAMASEGA-  
OGOMBO-OKOBA-MISESI-OTONTO-OGIMBO ROAD PROJECT

**Hon. Alfah Ondieki** (Bomachoge Chache, KNC): Hon. Speaker, I stand to ask the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works the following Question:

- (i) Could the Cabinet Secretary provide the status of construction of the 75 kilometres long Omoriningamu-Kenyinya-Ibhicho-Mogambi-Nyamasega-Ogombo-Okoba-Misesi-Otonto-Ogimbo Road in Bomachoge Constituency and indicate when the said road is expected to be completed?
- (ii) Could the Cabinet Secretary provide details of the contractor awarded the said contract and indicate the amount of money that has been paid for the project to date?
- (iii) Could the Cabinet Secretary explain action taken against foreign companies who are awarded contracts of such huge projects but fail to deliver?

Thank you.

**Hon. Speaker:** That Question is to be replied to before the Departmental Committee on Transport, Public Works and Housing.

*Question No.297/2021*

CLOSURE OF POLICE POSTS IN SUBUKIA

**Hon. Kinuthia Gachobe** (Subukia, JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Interior and Coordination of National Government the following Question:

- (i) Could the Cabinet Secretary explain why four police posts in Subukia Constituency, namely, Mbogoini Police Post, Kwa Gitao Police Post, Sidai Police Post and Magomano Police Post were closed down?
- (ii) What measures has the Ministry put in place to curb insecurity and guarantee security to the residents of Subukia Constituency considering that cases of insecurity are on the rise since the closure of the said police posts?
- (iii) Could the Cabinet Secretary provide timelines for the re-opening of the said police posts?

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

The next Question is by the Member for Embakasi Central, Hon. Benjamin Mwangi.

*Question No.315/2021*

## KOMAROCK ESTATE LAND DEVELOPMENT PROJECT

**Hon. Benjamin Mwangi** (Embakasi Central, JP): Hon. Speaker, I beg to ask the Cabinet Secretary for Lands and Physical Planning the following Question:

- (i) Could the Cabinet Secretary explain the procedure that was employed by the Government to allocate Komarock Estate Land Development Project to the then Kenya Building Society, which was later transformed to the Housing Finance Company (Kenya) Ltd (HFCK) in 1996 in Komarock Ward, Embakasi Central Constituency and further provide the current status of the project?
- (ii) Could the Cabinet Secretary confirm the total acreage of the land that was allocated to the said company considering that approximately three quarters of the total land in Komarock Ward in Embakasi Central Constituency is occupied by the HFCK?
- (iii) Could the Cabinet Secretary further confirm the total size of part of the said land that was reserved for public use and social amenities such as schools, playgrounds, health centres, police stations and social halls, amongst others and provide details of such land indicating actual locations, total acreages, Land Reference Numbers and Title Deeds, if any?

**Hon. Speaker:** That Question to be replied to before the Departmental Committee on Lands.

The next Question is by the Member for Mwea, Hon. Kabinga Wachira.

*Question No.317/2021*OWNERSHIP STATUS OF LAND RESERVED FOR  
CATTLE DIP AT DIFFATHAS TOWNSHIP

**Hon. Josphat Kabinga** (Mwea, JP): Hon. Speaker, I stand to ask the Cabinet Secretary for Lands and Physical Planning:

- (i) What is the status of ownership of a parcel of land measuring approximately 1.75 acres originally preserved for construction of a Cattle Dip at Diffathas Township in Mwea Constituency, Kirinyaga County, which has allegedly been illegally acquired by private developers?
- (ii) Could the Cabinet Secretary clarify whether the original acreage of the said land has been altered and provide the current acreage on the ground?
- (iii) Could the Cabinet Secretary also clarify whether there has been any attempt to subdivide the said parcel of land, and if so, who are the intended or actual beneficiaries?
- (iv) What steps is the Ministry taking to ensure that the said public parcel of land is preserved for the community and utilised for the intended purposes and further, a Title Deed of the land is issued?

Thank you.

**Hon. Speaker:** That Question is to be replied to before the Departmental Committee on Lands.

Thank you.

**Hon. Speaker:** The next Question is by the Member for Kamukunji, who has written to request that it be deferred to some later date, which request has been acceded to.

*Question No.319/2021*

MEASURES TO ENSURE TEACHERS BENEFIT FROM FULBRIGHT  
DISTINGUISHED AWARD TEACHING PROGRAMME

*(Question deferred)*

Hon. Members, that brings us to the end of the Questions segment. The next segment is on Responses to Statement Requests. We have Responses to various Statements.

Hon. Duale, you seem to have a point of order.

**Hon. A.B. Duale** (Garissa Township, JP): Thank you, Hon. Speaker for indulging me. I want to thank the Chair of the Departmental Committee on Administration and National Security. He has tabled a Report on my Petition on double registration.

I also want to apologise for coming late. You have given direction that the matter be discussed this Wednesday. Before Wednesday, there was a taskforce which I sought in my Statement, which led to this matter. Could we have the taskforce report before then so that as we debate this matter, we can also get what the Government has recommended that must be adopted? The taskforce that included the National Bureau for Registration, the National Government Administrative Officers, the elders, the Immigration Department and the National Intelligence Service (NIS). It was a public taskforce which used tax payers' money. I will be very happy if that can be made available to the House, but I thank you for that direction.

**Hon. Speaker:** Very well. Fortunately, the Chairperson of the Departmental Committee on Administration and National Security is the one who is going to make responses to all the statements. Maybe he could also address that statement.

**Hon. Peter Mwathi** (Limuru, JP): Thank you, Hon. Speaker. With regard to that request, I will seek your guidance as to whether I can submit that report as an annex to the petition that was brought by Hon. Duale. If you guide so, then I will.

**Hon. Speaker:** Yes, during debate you will be perfectly in order to do so as the Chairperson of the Committee.

## RESPONSES TO STATEMENTS

**Hon. Peter Mwathi** (Limuru, JP): Thank you, Hon. Speaker. I am guided. I have responses to four statements, so if you indulge me I could start.

The first one is the Response to a Statement sought by Hon. Paul Mwirigi MP, Igembe South Constituency who requested among other things the following:

- (i) The Cabinet Secretary (CS) to explain why drivers are asked to pay police officers to provide security escort along the way especially those from Tarbaj Police Station all the way to Mandera.
- (ii) To explain why the Kenya Police Reservists (KPRs) are allowed to erect road blocks along Maua-Wajir-Mandera Road.
- (iii) To explain what measures have been put in place to ensure that drivers are offered police escort on the way to Mandera and back.

- (iv) To explain whether the Government can consider licensing miraa traders and drivers to hold guns for their safety since they pass through sections that are prone to attacks from terror groups such as *Al-Shabaab*.
- (v) To explain why there is a slow response from the police whenever they are called upon to attend to an emergency along the mentioned routes and,
- (vi) To explain why miraa transporters are asked to surrender their vehicles together with their commodities to the local drivers without any formal agreement.

The response is as follows:

- (i) That the National Police Service officers provide security along roads through mobile patrol from Kotulo to Mandera and Takaba on the way back. Officers are not paid to provide security since this is the core mandate of the police.
- (ii) All road barriers within Mandera are manned by National Police Service officers under supervision by their respective commanders and appropriate strategies have been put in place to ensure the movement and security of all traders including miraa traders are well secured all the way from Kotulo to Mandera and Takaba to Mandera and back.
- (iii) The police officers provide convoy escorts for drivers on their way to Mandera. However, we noted that miraa drivers most often than not do not seek police escort and prefer to operate on their own.
- (iv) Kenyans who meet the legal requirements to possess firearms are allowed to apply for licenses to acquire civilian firearms as per the Fire Arms Act Cap 114, Section 51 of the Laws of Kenya.
- (v) Whenever an incident is reported, police officers act on the same promptly despite the communication challenges in the area. It is also advisable that all traders including miraa ones report to authorities any form of intimidation and enable investigations to be carried.

I thank you Hon. Speaker. That is the response.

**Hon. Speaker:** Hon. John Paul Mwirigi.

**Hon. John Paul Mwirigi** (Igembe South, Independent): Hon. Speaker, first and foremost, I thank the Chairperson for the response, but after going through it, it is not satisfactory because these are obvious duties of police officers but the CS did not address in detail the questions I had raised. They have not responded the way I had asked. For example, in question No.1, I asked why the drivers are asked to pay the police officers in order to be provided with escort. In response, they have just told us the way the police provide escort. So, I would seek your indulgence, Hon. Speaker, to request the CS to respond to my questions satisfactorily. The last question No.6 is not addressed. I wanted him to explain why miraa transporters are asked to surrender their vehicles together with the commodities. There is no response regarding that to explain why they are asked to surrender.

Remember in this request for a statement that I was seeking here, three people have been killed on the way. There is no explanation as to the measures the Ministry is taking to ensure that these people get justice. So, through you, I request the Chairperson to go back to the CS and be given a satisfactory response.

I thank you, Hon. Speaker.

*(Applause)*

**Hon. Speaker:** I can see the Deputy Majority Whip also wants to weigh in.

**Hon. Maoka Maore** (Igembe North, JP): Hon. Speaker, if you listened to the response by the Chairperson, you will find there is a serious discrepancy between what was sought and what he has responded to. He is just giving a routine of what should happen but not what happens because, what happens is that the police are paid to provide those services.

Secondly, on this specific incident, when we were raising the Statement that time, we explained that one of the survivors disappeared when the attack happened and this fellow who disappeared had come all the way from Maua in the same lorry. He is the one who is purported to have coordinated the attack, but now we are told it was an *Al-Shabaab* attack. This incident was not an *Al-Shabaab* attack. It was business rivalry.

So, the CS for Interior and Coordination of National Government, while responding to this, wants to behave just like another *Mzee wa Baraza*. When you hear gunshots, you think it is *Al-Shabaab*. No! Can we seek your indulgence for the Chairperson to take one week just to tell us that what he has brought is an orange when we are asking for a mango. Can he go and bring an answer about the killing and this investigation because I have never heard another fellow being asked to go back and forth? We are talking about murders of three people.

**Hon. Speaker:** I can see another one who has an interest; Hon. Iringo.

**Hon. Kubai Iringo** (Igembe Central, JP): Hon. Speaker, I thank the Chairman for having reported exactly what he was given but let me confess that that was just a very superficial answer. We all know that is what the police do but the facts on the ground are that there are myriads of roadblocks on the road. Those roadblocks are manned by policemen and they wait for these miraa lorries to extort money from them and these people just proceed to drive to their traps to be killed.

Hon. Speaker, on this particular incident, the fellow who was in the same lorry with the deceased is the one who coordinated with the attackers and told them that they were at such and such a spot. When they got there, they put him on a motorbike and ran away with him. When the police got hold of that person, they just told him to be reporting to the police station after every one week. They have not arrested him and yet he is the one who was coordinating with the attackers.

Ms. Kawiria, the lady who survived, was trapped in the vehicle from midnight to 9:00 a.m. when the others were already rotting outside there after being shot and the police had not come. Ms. Kawiria confessed to me that when those people came, they started looking for that man who was in the vehicle and put him on a motorbike. She saw it and reported that matter at Maua Police Station. What has the CS done to follow those leads to do justice to our people who were killed?

Hon. Speaker, the policemen never agree to go with these vehicles. They charge Kshs10,000 for a trip to Moyale and if you take two or three of them, you will have to pay Kshs30,000. So, how can you tell us that policemen are supposed to give us services and yet they are selling these services there?

Hon. Speaker, I disagree with the Report.

**Hon. Speaker:** Hon. Members, sometimes these matters are best addressed by way of Questions as opposed to Statements. You are putting Hon. Mwathi in a very difficult position. This is because you are giving him details and graphics which I am sure if the CS himself was present in a meeting chaired by him, he would give you the chance to pin him down on the supplementary questions so that you can go to the root cause. Hon. John Paul Mwirigi sought a Statement and it is not Hon. Mwathi who was going to give the details, he just forwarded a response. I think Hon. Mwathi wants to say something.

**Hon. Peter Mwathi** (Limuru, JP): Thank you, Hon. Speaker, for the chance. I have heard the frustrations of the Members but the manner in which the Statement was sought, the six questions asked did not refer to anybody who was killed. Probably, in the body or background information before the questions were put across, they may have alluded to that fact. In which case, I asked the CS if he had any supplementary information to give regarding those who died. He did so and I have forwarded this to the Member as an attachment to the Statement.

On question no.1, as to whether the drivers are paid, the response is there. The CS has stated clearly and I am not defending him that officers are not paid to provide security since this is their core mandate. On the last question on why the transporters are asked to surrender their vehicles, the CS has said it is advisable that all traders including miraa traders report to the authorities any form of intimidation to enable investigations. So, he has attempted to answer in the manner written there. He has also alluded to the fact that he is not aware that police officers are paid to provide escort.

I totally agree with you that if this happens, we have it in the form of a question. The Members will come and ask supplementary questions, like we did in one of the committees by submitting evidence on information. For example, those who have paid police officers probably have been given receipts or any evidence we can use to pin them down. However, indeed they are paid to offer those services. Away from that, I can only submit this as it is and explain in the manner I have. Thank you.

**Hon. Speaker:** You know that is the best. Hon. Mwirigi it appears like your two colleagues, Hon. Maore and Hon. Iringo have some details which are not necessarily connected to this particular request. I recall you raised something different and there is another one which I think must be pending and could have the details like those Hon. Iringo has raised. Let me give you a chance because you are the one who raised the issue.

**Hon. John Paul Mwirigi** (Igembe South, Independent): Thank you, Hon. Speaker. The body of the Petition has all those details.

**Hon. Speaker:** Petition?

**Hon. John Paul Mwirigi** (Igembe South, Independent): Sorry, Statement. If the details were not responded to, the Chairperson would not have brought the supplementary information because it is more detailed than answers to the questions. That is why I am requesting him to return this Statement to the CS, so that he can give satisfactory answers.

**Hon. Speaker:** Hon. John Paul, this is the direction. Hon. Mwathi should convert this into a Question, invite the CS, the Hon. Member and all other Members with information. That is the best way you can get to the details. This back and forth between the Member seeking the Statement and the Chairperson will not get us anywhere. So, it is better to convert it into a Question, refer it to the CS and invite him to come and respond in person. That is the best way and we leave it at that. The Statement request will be converted into a Question and then the CS will come. Is that not satisfactory?

**Hon. John Paul Mwirigi** (Igembe South, Independent): Hon. Speaker, it is good to hear from the Chairperson when the Question will be ready because it should not take long. The people who we are discussing here are deceased and their families want a quick response from the Ministry of Interior and Coordination of National Government. Thank you.

**Hon. Speaker:** Let the Chairperson schedule a meeting for Wednesday next week. Hon. Members, you know there is so much and this is not business. That is why we have to dispose of this very quickly. If this becomes business, then the core mandate of the House is lost. Hon. Mwathi, you have another response.

**Hon. Peter Mwathi** (Limuru, JP): Yes, Hon. Speaker. Thank you, very much. On Wednesday, 12<sup>th</sup> May 2021, Hon. Samuel Atandi, MP of Alego Usonga Constituency requested for a Statement on insecurity in Dond Koki Market, Alego Usonga Constituency and particularly he sought the following:

Whether any investigations had been carried out into persistent insecurity and theft of goods and breaking into shops at Dond Koki Market in Alego Usonga Constituency that had led to brutal killings of several security guards employed by traders and businessmen in the area?

When the culprits will be apprehended and what measures have been put in place by Government to curb insecurity in the area among them ensure that security officers work with the community to help them identify the criminals terrorising the community?

Could the Government consider enhancing security personnel at Karemo Assistant County Commissioner's Office, which is the nearest police base and ensure the officers embark on night patrol?

Finally, to explain whether there is any role played by the local administration officers in these insecurity incidences and if any, what action will be taken against the officers involved?

The response is as follows:

On the night of 27<sup>th</sup> or 28<sup>th</sup> November 2020, at an unknown time in Bondi Baraguu Market, one watchman by the name Amos Rezier, a Maasai male adult aged 25 years from Tanzania, was murdered inside an incomplete building structure by unknown attackers. Police visited the scene and confirmed that the deceased had sustained a deep cut on the head and had a temporary permit to be in Kenya. Investigations were commenced vide Police File No.638/64/2020. No arrest has been made. The case is under investigation.

On the night of 29<sup>th</sup> and 30<sup>th</sup> April 2021, within Bondi Market, a watchman named Kennedy Moret, a Teso male adult aged 55 years who was guarding a wholesale shop owned by Fred Oyia, was hit on the head by unknown people and died on the spot. The attackers broke into the shop and stole iron sheets and other commodities of unknown value. Police visited the scene and investigations were commenced vide Police File No.634/110/2021. The case is pending under investigations. Investigations are at an advanced stage and appropriate action will be taken against any person found culpable. To ensure security for all, foot and mobile patrols have been enhanced to curb insecurity in the area. Similarly, the community living in the area has been working and supporting police officers to curb crime through sharing of information. The incidences so far reported in the area are isolated and all efforts are being put in place to ensure the security of all people in the area.

Hon. Speaker, the staff at Karemo Assistant County Commissioner's office has been increased and has the capability to deal with any crimes in the area. There is no information as of now suggesting that the local administrators have played any role in insecurity in that area. Hon. Speaker, I beg to submit the response.

**Hon. Speaker:** Hon. Atandi, press the intervention button.

**Hon. Samuel Atandi** (Alego Usonga, ODM): Thank you, Hon. Speaker. Let me begin by thanking the Chairperson of the Departmental Committee on Administration and National Security for the answer that we have received. However, I want to say that immediately this issue was raised, the Ministry of Interior and Coordination of National Government attempted to answer to some of these concerns by putting a few police officers to undertake patrols in the area but I was surprised that in July – because this response was given to me in June – the arsonists, again, attacked the area and burnt about six homes. That is another issue which has happened in the area.

So, I want to challenge the Chair that even though the answer says that this issue was isolated, it was not so because in the month of July that has happened.

Secondly, it has become fashionable for the Cabinet Secretary for Interior and Coordination of National Government to say that there are investigations which are going on but when you look at it, once answers are read here, the story dies and we have not even been told to date who are the people who are involved in this initial case which is being answered here.

So, Hon. Speaker, I think you need to help us so that the Cabinet Secretary for Interior and Coordination of National Government is really answerable and is able to give us answers. We cannot have police officers who do not investigate and arrest criminals when these issues occur. This is because there is nobody who has been arraigned in court. There is nobody who has been arrested. It appears that the police are investigating these matters forever as the criminals re-emerge and continue to cause more harm and damage to our people. This has been one of the most vibrant trading centres in that sub-location. Right now there is no business and no person is interested in opening even a shop in that area. So, the insecurity in that area is going to make that area become a ghost centre.

**Hon. Speaker:** Unfortunately, you are making this a debate. I still find a number of you still hesitant. That is why the former system which used to allocate only one hour, 2.30 p.m. to 3.30 p.m., then you go to business was better. This is because the people responsible would be here in the House to respond. What you are saying Hon. Atandi, you can lecture the rest of us here that nobody is willing. What do you expect the Chairperson of the Committee to say in response? You chose the route of a Statement. Now you are saying the Chairperson should do this or the other but you know since it is a Request for Statement, the only thing that the Chairperson will do is to take it back to the sender – the person to whom it is tied and say “can you respond?” So, Hon. Atandi, this lengthy discourse is not helpful at all because you chose the route of a Statement. You should just say that you are not satisfied with the Statement. You can now leave the rest to your maker. This is just jazz. It is not helping. I can understand that what you are doing is addressing your constituents but now are we going to sit here, and we are not the constituents, to listen to you address us that nobody wants to invest there now? You know on a weekend what you are saying could make a lot of sense out there in the village in this market. Say the Statement is not satisfactory and then we move on. If you want, you can request that a better one be brought but it will come from the same source.

**Hon. Samuel Atandi** (Alego Usonga, ODM): Hon. Speaker, what I am saying is that the response is inadequate and I am just trying to explain that even though in the response it is very clear that the Cabinet Secretary is saying that the investigations were being done, it is now 2 or 3 months and nobody has been arrested. So, I do not think that is really something which is out of context. Anyway, I want to say that I agree with your direction and I want to say that the Statement is not satisfactory because it is actually a complete lie. There is nothing that has been done to this effect on the ground.

**Hon. Speaker:** Chairperson, you have heard. It is a complete lie. It is a complete untruth. Where do we go from there? This House and the other House are fully seized of authority constitutionally to address this problem by looking at Article 152 of the Constitution. Sort out this problem you Members. If Hon. Mwathi was the Cabinet Secretary for Internal Security and you challenged him in the manner that you have, everybody would hear. I would also be available to direct that you go and bring a more satisfactory answer. But now what do I tell him? I tell him to go and bring a more satisfactory answer? From where? He will still go to the same Cabinet

Secretary because he does not sit in the Executive. Let us now hear from Hon. Mwathi, the Chairperson of the Committee.

**Hon. Peter Mwathi** (Limuru, JP): Hon. Speaker, I do not know what the honourable Member is saying is a complete lie. I do not know whether he is saying I did not read what I was given by the Cabinet Secretary. However, what I want to confirm is that I read word for word, comma for comma and full stop for full stop what I was given or what was submitted by the Cabinet Secretary. If there is any lie on the ground, I do not lie there on the ground. I do not know where the ground is but I have brought it as it is.

Hon. Speaker, you are guiding this House properly. This is not the time we should be asking for Statements. We should bring matters in form of Questions so that we can invite Cabinet Secretaries to have a one on one with them, together with any other interested friends of the Committee to address the issues comprehensively. So, I can only state what has been given to me. I have no facts on the ground. I am not in charge of the police officers or the county commissioners on the ground. There is a system, through the Executive, which is in charge. What I have done is to convey the answer as given to me by the Cabinet Secretary.

Thank you, Hon. Speaker.

**Hon. Speaker:** Let me listen to the point of order by the Member for Emuhaya.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Speaker. I want to thank you for the direction you are giving. We have seen severally, good requests for Statements made here. I remember vividly one that I was so passionate about by Hon. Malulu Injendi, but it could not be pursued further. We are now changing by asking Questions. However, I also want to inform you, Hon. Speaker, that even when we ask Questions, that Cabinet Secretary does not answer them. Last week, this document was read here. Remember, I had complained about the same scenario the other time. This time we were given a paper which showed the time the MP should come for the answer to the Question. I came much earlier at about 9.00 a.m., and I was told my Question would be answered at 2.00 p.m. I went to do my business, came back at 2.00 p.m. and no person was available to answer the Question. I called the Clerk because the number of the Clerk is on this paper which I am holding here. The Clerk said they had received information just an hour to 2.00 p.m., that the Cabinet Secretary was not coming. So, there is a much deeper problem with that particular department; the Ministry of Interior and Coordination of National Government. It is high time you directed the Cabinet Secretary to come and answer those Questions even as we take the direction of Questions.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, you know, there is nothing to debate. The problem is, you want to begin venting on this matter. It is not done that way. Now, you will be like cry-babies. Who will you be crying to? Hon. Mwathi has told you that he does not know what is on the ground, which is the truth. The person who knows what is on the ground has given that response. It is unfortunate that there are several others from the same... Let us hear this other response to the statement requested by the Member for Turkana East.

#### MILITIA ATTACKS AND KILLINGS IN SAKU AND ISIOLO COUNTIES

**Hon. Peter Mwathi** (Limuru, JP): Hon. Speaker, I have two more Statements. You will realise that I have several others. I read two of them in the morning. I am trying to clear the backlog which has been in the Committee. That is why I am bringing them in these numbers. I

have two more, one which was sought by Hon. Dido Rasso and the one by the Member for Turkana East Constituency.

Hon. Speaker, on Thursday 8<sup>th</sup> July 2021, Hon. Dido Rasso, MP Saku, requested for a Statement on the militia attacks and killings in Saku and Isiolo counties and in particular sought to be informed on the following:

1. The powerful individuals cited to be involved in mobilising, funding and sustaining the militia attacks and what efforts were being made to bring them to justice;
2. What measures the Government was undertaking to eliminate the militia and restore security in Saku Constituency, Moyale and Isiolo and how many of these perpetrators have been arrested and successfully prosecuted since 2018; and
3. What efforts were being made to recover the stolen livestock which were raided in the full glare of security forces and what efforts have been made to compensate and support families for the loss of their livelihood.

As I give a response to this particular request for Statement and the one that will follow, both touching on security issues, it is also good to let the House know that I have scheduled a meeting with the Cabinet Secretary to be held on Friday this week. He is to address us on the general state of containment of insecurity in the country given the number of petitions, Questions and issues of insecurity that have been raised by Members. During that meeting, we also expect to get the county report on peace building from the National Peace Building Secretariat, which is domiciled in the State Department of Interior and Coordination of National Government. We will also be told of the state of preparedness of the country in terms of security in the forthcoming general election. It will be a two days' engagement out of which I will then generate a Report and bring to this House.

**Hon. Speaker:** It will be good if a number of the Members who have raised issues know when it is the Cabinet Secretary is going to be present as he will be addressing the issue of insecurity in the country. This is what Hon. Atandi, Hon. John Paul Mwirigi and several other Members are raising. After he gives his general statement, Members can raise these concerns with him so that they do not keep bothering you by saying what you have given is unsatisfactory.

**Hon. Peter Mwathi (Limuru, JP):** That is okay. We will get all Members informed on the venue and the time that the Cabinet Secretary will be there. He has scheduled the engagement for two days; that is Friday and Saturday for those who will be available.

Hon. Speaker, the response to this Statement is as follows:

Saku Constituency is in Marsabit Central. It borders North Horr to the North and Laisamis to the South. The dominant tribes are the Gabbra and Borana who are in constant tribal conflicts, which date back to the 1990s. This has immensely contributed to the high levels of social disintegration, malicious damage of property and loss of innocent lives among other things.

The two warring communities have their own militia who were tasked to protect their electoral leadership, and business community. There are others in political power who are directly involved in the funding and sustaining of the militia by purchasing firearms and ammunitions for them. Police efforts to restore peace and bring to book perpetrators of violence have been a challenge due to lack of direct evidence linking them. In addition, the local community is unwilling to betray their leaders. In a bid to eliminate the militia and restore security in Marsabit, the Government, through the police and other security stakeholders, has constantly employed the following measures:

1. Deployment of additional officers in volatile areas and outposts.
2. Enhanced police patrols within towns and their outskirts.

3. Peace-making initiatives through the local administrators, elders and other key stakeholders.
4. Erecting barriers and roadblocks to curb trafficking of small arms and other weapons.

However, there is an urgent need to conduct a disarmament exercise in Marsabit County to flush out militia who are in possession of illegal firearms. There are plans to deploy a detachment of special forces at the county level. Similarly, consideration should be made for the allocation of adequate resources and deployment of specialised equipment like armoured personnel carriers. The local leadership, through chiefs and assistant chiefs, have been engaged in peace negotiations within the warring communities with the aim of returning the stolen livestock to the keepers. A policy has been developed that every chief takes responsibility in case the footsteps of stolen stock reach their area or jurisdiction. I beg to submit.

**Hon. Speaker:** Hon. Rasso.

**Hon. Ali Rasso** (Saku, JP): Thank you, Hon. Speaker. I also wish to thank the Chairman. I do not want to shoot the messenger, but what is clearly coming out is the failure of our security systems and paralysis of Government. We are being told that politicians have militias and yet nothing is being done.

Hon. Speaker, I thank you for your immediate ruling that we need to debate the petition that I presented on the Floor of the House. During that debate, many issues will come out. I also want to thank the Members of this Committee who travelled to Marsabit and were able to listen to the issues that were raised by different communities who live in Marsabit. At the end of the day, the responsibility must lie somewhere. Kenya is not Somalia or any other failed state.

I worked in the Kenya Defence Forces (KDF) for 30 years. I know the capacity of this country to bring any issue under control, fast and viciously. However, in this particular instance, my people have been failed by my Government. I will contribute on that after the report has been tabled. We will bring forth issues so that the Government apparatus can see where things have failed and what should be done.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Chachu Ganya, Hon. Ali Rasso is the one who sought the Statement. Is it because of proximity?

**Hon. Chachu Ganya** (North Horr, FAP): Thank you, Hon. Speaker, for the opportunity. I join Hon. Ali Rasso in thanking *Mheshimiwa* Peter Mwathi for the response.

As you and the nation very well know, there is a serious insecurity problem in Marsabit. I totally concur with my colleague, Hon. Rasso, that it is because our Government has failed to provide leadership and deal with the issue of insecurity that it has come to this level. Now that the House is seized of this matter, I really hope that during that debate, we will come to the bottom of this problem.

Hon. Speaker, I also want to thank the President who took leadership on this issue and actually convened a meeting with all the elected leadership of Marsabit County at State House to enable us to deal with this issue once and for all. I strongly believe that the decision of this House will bring lasting peace to Marsabit.

I thank you.

**Hon. Speaker:** I hope as many Members as possible will have an opportunity to look at that detailed report on the petition, so that as you debate it, you do so objectively. This is so that the resolutions that the House passes will be implemented, failing which the House can take necessary action against whomever it is that is bound to implement the resolutions.

Hon. Peter Mwathi, give us the next response.

**Hon. Peter Mwathi** (Limuru, JP): Thank you, Hon. Speaker. I am sure that during debate on the petition, we will be able to pick most of the issues. Again, I request Members, especially those who have issues of serious insecurity, to get in touch with our secretariat for information on the location and timings of our meeting with the Cabinet Secretary.

#### RESURGENCE OF CATTLE RAIDS AND KILLINGS IN TURKANA EAST CONSTITUENCY

**Hon. Peter Mwathi** (Limuru, JP): The next request for a Statement was made on Tuesday, 8<sup>th</sup> June 2021, by Hon. Lokiru Ali, Member of Parliament for Turkana East Constituency, regarding the resurgence of cattle raids and killings in Turkana East. In particular, he requested to be informed on the following:

- (1) What measures the Government was taking to address the resurgence of raids or conflicts among communities in Baringo East, West Pokot and Turkana East constituencies;
- (2) the measures the Government had put in place to stop further raids;
- (3) what efforts were put in place to recover the stolen animals and arrest the perpetrators of such raids; and,
- (4) urgent steps put in place to assist communities in those areas to manage and utilise the available resources and address the conflict arising from the boundaries.

The response is as follows:

The Turkana East Sub-County is generally a vast area covering 11,396 square kilometres. It borders Turkana South Constituency to the west, Sigor Constituency to the south west, Tiaty Constituency to the south east and Samburu North Constituency to the east.

The chronology of events that occurred is as follows:

- (i) On 12<sup>th</sup> May 2021 and not 12<sup>th</sup> March 2021, as put by the Hon. Member, gunmen believed to be Pokot bandits attacked Turkana herdsmen at Riet, a newly established *manyatta* situated about 120 kilometres north of Lokori Police Station, where there is no single security road, either as an entry or an exit point. Police officers from the station visited the scene which was established to be a *manyatta* called Napak Areng'an. The attackers allegedly drove away 90 head of cattle belonging to Mr. Ekatapan. There was no clear indication that the bandits killed any Turkana herdsman since no body was found, either at the scene or within the neighbourhood. Concerted efforts by police officers to return to the same area on 13<sup>th</sup> May 2021 and on 14<sup>th</sup> May 2021 to trace witnesses bore no fruit. Even the local people who would have been eyewitnesses failed to verify whether there was any body. Additionally, there were no registration or identification documents bearing the names of Ekatapan Yolelel, Lowoi Loyelel and Etelek Loyelel contrary to what is being claimed;
- (ii) On 30<sup>th</sup> April 2021, there was no report made to the police station of any banditry attack at Ngilukia Manyatta;
- (iii) On 4<sup>th</sup> May 2021 at around 1640 hours at Kapedo Village, about two kilometres from the General Service Unit (GSU) camp, gunmen believed to be Pokot bandits attacked Turkana herdsmen while grazing their livestock and made away with 40 goats. A joint security operation team immediately responded and managed to repulse the bandits towards Tiaty Hills. No one was injured during the incident;

- (iv) On 15<sup>th</sup> May 2021, there was no incident that took place. However, on 21<sup>st</sup> May 2021 at around 1520 hours, gunmen believed to be Pokot bandits attacked Turkana herdsmen in the grazing fields at Riet area situated around 120 kilometres north of Lokori Police Station, a remote village with no entry or exit route. A joint security team from Lokori Police Station immediately responded. The team managed to recover 620 goats and 470 head of cattle from the bandits, which were later handed back to the Turkana herdsmen.
- (v) On 3<sup>rd</sup> June 2021 at around 0930 hours, Pokot bandits indiscriminately shot at the residents of Lomelo Village who were erecting a fence between the densely-populated village and Silale Primary School injuring three people as follows:
- (a) Arupe Naidokwang, a Turkana male adult aged 30 years, was shot on the left shoulder;
  - (b) Musa Namaire, a Turkana male adult aged 25 years, was shot on the right shoulder; and
  - (c) Robert Askol, a Turkana male adult aged 29 years, was shot on the right knee.

The bandits exchanged fire with the Rapid Deployment Unit (RDU) personnel based at Lomelo who repulsed them towards Silale Hills. Unfortunately, the bandits shot dead Lomoi Longor, a Turkana male adult aged 45 years and Ebonu Longor, a Turkana male adult aged 52 years. There was also a Turkana male adult aged 52 years who was getting fencing materials from the village on the bandit's escape route. Nothing was stolen during the attack. The security team repulsed the bandits towards the direction of Tiaty West and overpowered them. The security did not see the livestock that were initially reported stolen during the fire exchange. However, the children who were allegedly abducted by the bandits were later traced and found unhurt since they had run away from Katamanak Manyatta to hide in the bushes.

Hon. Speaker, the recovery efforts in place to recover stolen animals include:

1. Liaising with the neighbouring communities by sharing criminal intelligence reports.
2. Building the capacity of the security teams with communication tracing gadgets in conjunction with mobile service providers to assist in easy tracing of perpetrators.
3. Digital branding of livestock is being introduced.
4. Cessation of livestock transportation within and outside the hotspot areas.
5. Closure of all livestock markets within the affected areas and introduction of stringent livestock movement regulations by the relevant authorities.
6. Putting in place quick response teams and security officers.
7. Encouraging the community leaders in peace forums in mentoring and advising the local population to embrace modern means of growing their economy and doing away with retrogressive culture of cattle rustling.
8. Thorough investigations into any reported incident on attacks.

The measures the Government is taking to address the resurgence of raids or conflicts among communities in Turkana East include the following:

1. Sharing of criminal intelligence reports with communities through the national government administrative officers.
2. Intensify security patrols and proactive policing along the common border with the neighbouring country.

3. Advising on the need to open up security roads by the Turkana County Government in order to reach inaccessible human settlements and grazing fields which are predisposed to bandit attacks.
4. Intensify patrols within affected and common boundaries by security personnel.
5. Conducting joint security operations to flash out bandits.
6. Conducting surveillance and early warning systems through situation reports and sharing of information about any impending attacks.
7. Endeavouring to recover stolen livestock with a view of handing them back to the rightful owners through community elders.
8. Engaging respective local leaders and elders in holding regular peace meetings to prevail upon communities to desist from retaliatory attacks, raids and embracing peaceful co-existence.
9. Posting of specialised units within the affected areas.
10. Holding joint county security and intelligence committee meetings.

Hon. Speaker, despite the recent bandit attacks and raids by suspected Pokot from the neighbouring county, Turkana East Sub-County has remained relatively calm as a result of intensified patrols conducted by uniformed units. Cases of cattle rustling in the recent past have drastically reduced due to increased patrols by security agents. The Turkana Community is not an innocent bystander in the security incidents. Some members of the community have also engaged in aggressive activities against their neighbours.

Thank you, Hon. Speaker. I beg to submit.

**Hon. Speaker:** Member for Turkana, Hon. Mohamed Lokiru. Is he not in? Hon. Members, if your request for a Statement is being read out and you are not in the Chamber, that is not very good. I wish we had known. He would have just tabled it so that we save time. We are quite many in this House. So, we need to save time. Anyhow, it has the same. ...

Member for Mvita.

**Hon. Abdullswamad Nassir** (Mvita, ODM): I had a word with the Chair through your indulgence. They informed me pretty late, last evening, that I was meant to be here in the morning at 9.30 a.m. I informed the Chair and his clerk, who in turn said they had notified the Table Office on the changes and that they were going to put my request for a Statement in the afternoon. I came hoping that that would have been done. Once again, Hon. Speaker, with your indulgence, I hope the Chair will be willing to do that right now.

**Hon. Speaker:** Hon. Mwathi, do you have his response?

**Hon. Peter Mwathi** (Limuru, JP): Yes I do, but what happened in the morning is that the Deputy Speaker told me to submit the response to the Clerk-at-the-Table, which I did. So, I do not have it now.

**Hon. Speaker:** So, the Statement was tabled.

**Hon. Peter Mwathi** (Limuru, JP): Yes.

**Hon. Speaker:** Have you read it? If you have you can say another lamentation. Is it...

*(Technical hitch)*

**Hon. Peter Mwathi** (Limuru, JP): What the Hon. Member did is that he asked that we table it. I could read it out so that we engage further.

**Hon. Speaker:** There is no point of reading it if he already has it. He is the one who can raise an issue, I believe in a form of further lamentation.

Hon. Members it is fair to look at the Constitution. Article 153(3) provides that the Cabinet Secretary shall not be a Member of Parliament. That is one of the easiest things to do to address this problem.

Hon. Abdullswamad.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Thank you very much, Hon. Speaker. I would like to express displeasure in the response. There is something I raised on 19<sup>th</sup> May 2021 and now we are in August. People have a constitutional right to demonstrate and picket. This is envisaged in the Constitution. The response that the CS in charge of security gave is that the Government has used the Public Order Act. There are measures outlined on how to handle peaceful demonstrations and allow freedom of expression. However, when you look at it, the Public Order Act, the position of Kenya... First of all, the rights in the Bill of Rights belong to an individual and are not granted by the State. That means that they are not a favour. Someone who wants to demonstrate and picket is not seeking favour from the State. It goes ahead to say that the Bill of Right applies to all and binds all State organs and all persons. Every person is equal before the law and has the right to equal protection and equal benefit of the said law.

There are no limitations when it comes to matters to do with demonstrations and picketing unless they were propagating war. There was no one who ever propagated war. Unless there was incitement to violence, no one has ever incited violence. Unless there was hate speech, there has never been hate speech. There has never been advocacy of any form of hatred. These rights of fundamental freedoms in the Bill of Rights shall not be limited, except by law. The Constitution even goes ahead to give, from (a) to (e) – I will not read each one for purposes of time – the reasons that are supposed to be in that law. I have looked at the Public Order Act and there is nowhere at all that it has given that. I am only saying this: that it is not about demonstrations that were being done in Mombasa alone. Every single one of us needs to question this because people will be aggrieved and people will need to demonstrate. Whether it is the people of Pokot, Lamu, Kisumu, or Nyeri. In this instance it was the people of Mombasa. I hope that the security organs will follow the supreme law of this country. That is the Constitution of this country.

**Hon. Speaker:** Well, I believe Hon. Mwathi may not have anything to say in response because the grounds for the derogation are already well provided for under Article 24, unless Hon. Abdullswamad is alleging derogation of rights. I have not heard you say that. You have just stated the law as it says in the Bill of Rights. I do not know whether you have alleged that it has been violated. I do not know. What is Hon. Mwathi supposed to respond to? How is he supposed to respond? Were you suggesting that the Public Order Act is in contravention of the Bill of Rights?

**Hon. Abdullswamad Nassir** (Mvita, ODM): Sorry, I had to shift.

I am not suggesting that the Public Order Act is in any way in contravention or has gone against the Constitution. What I am insinuating is that the security organs should not use the Public Order Act without quoting necessary provisions and necessary clauses that allow them to stop this. This is something which was being done in May. I do expect a further response from the Chair. I just wish to stand here and caution the House not to allow these excuses to be used continuously to deny Kenyans their rights.

**Hon. Speaker:** Very well. I see Hon. Mwathi wants to say something. I do not know whether you have addressed the issue of limitation of rights. Hon. Mwathi.

**Hon. Peter Mwathi** (Limuru, JP): Well, I remember the contents of the response. One of the contentions of the Cabinet Secretary (CS) is that, yes, that right is guaranteed by the supreme law, that is, the Constitution. But, again, it should not infringe on the rights of others as they also picket. They only needed to inform the Officer Commanding Station (OCS), security operators

and also choose the demonstration route so that they do not interfere with the others and infringe on their rights. That is the only word I got from the Cabinet Secretary. I thought that was convincing enough because that is in the law unless otherwise provided by the same law. That law provides that you liaise with the security organs so that you do not infringe upon the rights of others.

**Hon. Speaker:** I see Hon. Abdullswamad shaking his head. He may not agree but it is the truth. Everybody has a right to picket and demonstrate but they will not allow them to come beyond the gate here purporting to picket. They will picket out there or go to Uhuru Park. They can sleep there the whole day or night but we will not allow them to come and picket inside the Chamber. We have our own rules because the rights here are also equally protected. It is not absolute. I think there is need to debate because you are not giving any specifics, Hon. Abdullswamad.

**Hon. Abdullswamad Nassir (Mvita, ODM):** Hon. Speaker, I respect the Chair's views and you are very right. Indeed, the right to demonstrate and picket is defined. Actually, the Public Order Act and any necessary regulations that followed after are that the police need to be notified. In this instance, they were notified and informed. No rights were infringed upon. Nobody's rights were infringed upon. We want to do things based on law and the Constitution. Of course, we do not want to do something wrong. As you rightfully put it, you cannot expect people to start picketing inside the precincts of Parliament or go to State House to do the same. But, in this particular instance, I was part and parcel of it. I saw the police being informed in writing by the organisers. It is only that on the day people wanted to demonstrate, the police decided to use massive force.

So, I am in agreement. It is in the way it was done, even if you look at the response. I do not want us to engage too much on it. I am just giving caution and, probably, opening up the ears of every Member here. I hope this is not going to be used as an excuse for anyone else who would in future wish to demonstrate against anything.

**Hon. Speaker:** I appreciate what you have, Hon. Abdullswamad. Hon. Mwathi, since taking over as the Chair of this Committee, has really been addressing the issue of the backlog. Your request was made in May. The others were made in June. You can see he is moving with speed to try as much as possible to bring up all of them so that we are up to date. If this incident was responded to, maybe, a week or two after you raised it, it would have been fresh. You say you were part of the demonstrators. Perhaps, you would have told us how much tear gas you were inhaling or how much was still inside you. But now I am sure you are quite safe. You may not quite remember what else happened that you would have told us at that time and whether you took off in a particular direction, fell down or tripped. It would have been fresh in the minds of everybody. But now, three months down the road, the *bonga points* are not there. I am sure that is why you do not want to pursue it.

Hon. Sankok, you also were part of the demonstration?

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

You are very right in guiding us that your rights stop where mine begin. What I am worried about is that Hon. Abdullswamad is the one complaining about the police and yet they are now in Government. You know, Hon. Speaker, your presidential candidature has caused jitters in all quarters. Even the ones whom we think are in Government are almost getting out because they know they now have to handle your candidature. Even after declaring your candidature, you are still very fair to this House. So, we thank you very much.

I think Hon. Peter Mwathi is just a postmaster. He has come with the response. I think it is in order for him to accept the response and, maybe, attend the scheduled meeting with the Cabinet

Secretary for the Ministry of Interior and Coordination of National Government so that they can answer each other one on one. But that coming from him, I do not know whether this Handshake is now causing some problems. They are now the ones complaining and crying the loudest. It is just like when Kwanjiku won. It was my party, a ruling party that was going to court to say their votes had been stolen. It has never happened anywhere in the world.

Thank you, Hon. Speaker.

**Hon. Speaker:** Okay. Now let us go to business. Next Order. Let us have the Chairman of the Public Accounts Committee (PAC), Hon. Wandayi. Before we continue, the Member for Yatta was rising on a point of order.

## POINT OF ORDER

### TRIBUTE TO LATE HON. GEORGE GREGORY NTHENGE

**Hon. Charles Kilonzo** (Yatta, Independent): Thank you, Hon. Speaker, for granting me this opportunity. In the morning, the Member for Kamkunji, Hon. Yusuf, did alert the House of the passing on of Hon. George Gregory Nthenge who was a Member of this House for very many years. We had requested you to afford this House more time to enable us to recognise the role Hon. George played in this country.

First, I want to pass my condolences and those of my constituents to the family. Hon. George Nthenge was judged an icon of Kenya's Independence struggle. He was in the league of the founding fathers of this country and the league of the people who fought for democracy in this country. He was the last surviving Lancaster House politician after the passing on of our second President, Mzee Daniel Toroitich arap Moi. He was one of the authors of Kenya's first Constitution and part of the Lancaster team that fought for Kenya's freedom. He served as a member of the Legislative Council of Kenya (LEGCO) between 1907 and 1963 and this represented the larger area of the then Machakos District, which includes the current Machakos and Makueni counties. He also served as a Member of Parliament representing what used to be called Imenti South Constituency in the 1960s, 1970s and 1980s.

During the era of multi-party politics, this is the time you could tell who the real men were, very few men had the guts to stand against the Kenya African National Union (KANU). He was among those leaders because he was a democrat. He was elected in 1992 to represent Kamukunji Constituency. He was an architect of the second liberation. He was a founding member of the Forum for the Restoration of Democracy (FORD). This *Mzee* is a respected elder, a statesman, a true democrat, a man who loved his country. During that time, Members of Parliament were basically paid allowances. It is a lesson for us to know that there is life after Parliament. At the age of 80s, Hon. *Mzee* Nthenge was still doing business because he needed to survive. He was a visitor and a commoner once in a while in our restaurant. One strange thing about Hon. Nthenge is that he would not accept any Member to buy him lunch or a cup of tea. I had the opportunity to know him because he was my dad's and also my clansman. On a few occasions he would accept to take lunch from me.

Those who were there will remember one of the worst accidents in this country on 9<sup>th</sup> November 1978. This *Mzee* lost nine children plus his wife in a single accident. It has been the worst accident involving a family to date. And there is something which he did. Because he could not attend the funeral of his children, he said, "There is no point of keeping them long, bury my family within two days." Nowadays we have made funerals a commercial enterprise. He was not

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able to attend the funeral of his children. I have known him for long. Even at that advanced age, I have seen him attend functions in my constituency, more so functions where he had friends and clansmen.

Mr. Speaker, this country has lost a great man. If there are people we need to consider when naming places, it is those people who fought for independence and the second liberation.

May his soul rest in peace.

**Hon. Speaker:** I will give opportunity to a few Members. Hon. Makali Mulu.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Speaker. Let me also join my colleague, Hon. Kilonzo, in mourning this great man. On my own behalf, on behalf of my family and on behalf of the good people of Kitui Central, who have sent me to this House, I want to convey my condolences to the family and friends of Hon. *Mzee* Nthenge. As it has been said, *Mzee* Nthenge was actually common in this compound. He would come visiting. I would say he was really an excellent role model for some of us who are young politicians. This is an honourable Member who, in addition to fighting for the liberation of this country, also fought for the second liberation of democracy through FORD.

As *Mzee* Nthenge rests, I think we have a lot of lessons to learn from his life. This is an old man who even after retiring from this honourable House went out there and continued doing business to take care of his family. After losing nine members of his family, he started a new chapter in life and he had another family. So, we have some lessons we have learnt. I will urge my colleagues to really look at the life of this *Mzee* and pick the positives and run away with them in terms of the way we live, and how we conduct our business. May his soul rest in eternal peace.

**Hon. Speaker:** Hon. Sankok.

**Hon. David ole Sankok:** Thank you for giving me this opportunity. Let me start by sending my heartfelt sincere condolences on my own behalf, on behalf of my family and on behalf of the 6.5 million Kenyans living with disabilities who I represent in this House. May his soul rest in eternal peace.

He is an independent former Member of this House. He fought for Independence. He is a freedom fighter and he also participated in the second liberation. If there are people we need to honour in this country in naming streets, and stadiums after them, it is him and not the likes of Atwoli. It was so shameful to name a road after some octogenarian who has refused to retire from the trade union yet we cap term limits for president and governors. This is a man that we can name a street or a road in his honour. We need to honour such heroes. May his soul rest in peace.

Thank you.

**Hon. Speaker:** Member for Funyula.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Speaker. On my behalf and on behalf of my family and the people of Funyula Constituency, I send my condolences to the family of *Mzee* George Nthenge. I came to learn about George Nthenge during the clamour for multi-party democracy when he joined the other political icons who have shaped the history of this country. After that I heard of him concerning the accident that wiped out his family. I admired his resilience to start a new family and forge on. As my colleagues have said about the role he played in this country, he needs recognition and we need to learn to recognise our people before they die.

Of course, my colleague, Hon. ole Sankok, has never contested and won anything and so he might not understand. We wish one day he stops hiding behind his physical disability. He keeps on insulting everybody he does not like.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Makueni.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Thank you, Hon. Speaker. On behalf of the people of Makueni, who were at one time represented by Hon. Nthenge, my family and the political party of his association at some point, we wish to pass our condolences to his family and say he has been a good role model to many politicians.

He participated in the second restoration and he ran under FORD-ASILI after the split of the original FORD and was elected as the Member for Kamukunji. He decided not to vie anymore because he thought he was no longer useful to the new style of politics which had come up. When he found out that he was not being useful to the people, he decided to call it quits. He went to business in retirement and kept mentoring politicians.

He loved his family very much. He lost them through a tragic road accident. He used to commute from Machakos to bring his children to school in Nairobi early in the morning. One misty day, the accident happened. He still carried his wife's passport up to recently. He would boast about his family and say how great his wife was. He kept on missing his family despite moving on and having another family. However, the best thing he ever did in this country is to fight for first and second liberation.

Let me join the others who are calling upon the county governments of Makueni, Machakos, and Nairobi, or even the national Government that we name a university, a road or a monument in honour of Hon. George Nthenge.

Thank you.

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

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, if you may allow me, because of my glasses, to temporarily remove my mask. I want to refer to my notes here which are very weighty.

**Hon. Speaker:** On this one?

**Hon. Opiyo Wandayi** (Ugunja, ODM): I am sorry. Let me express my condolences to the family, friends and some of my colleagues of the late Hon. George Nthenge. Everybody who was of age in the early 1990s cannot forget the immense contribution and sacrifices Hon. George Nthenge made in the liberation of our country from the neo-communalists. Despite his advanced age even then, he was so courageous that you could not believe. This country has lost a gallant son whose contribution shall remain in the records of this nation's history.

Hon. Nthenge was also a nationalist to the core. That is why in 1992, despite having his background in Ukambani, he chose to vie for the seat of Kamukunji and won overwhelmingly. Some of us who were very young then got inspiration from this old man.

May God rest his soul in eternal peace?

**Hon. Speaker:** Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker. On behalf of the great people of Navakholo, my family, and I, allow me to pass my condolences to the family and friends of the late Hon. Nthenge.

History can never be rewritten and it will always remain history. This is a great man who enabled us to be where we are. He perfected his art in pushing the agenda of the people of Kenya. This man was part of the journey that resulted in what happened in 1992 – the changes to the previous Constitution that included the repeal of Section 2A. That is why today we can stand here and talk freely. Previously, if you said anything against the system, you would find yourself behind bars. Courtesy of this great man, and others, today we are free politicians. We can speak our minds.

This is one man we can celebrate. I pass my sincere condolences to the family and may God bless him in eternity.

**Hon. Speaker:** We are going to limit our time so that we go to the business of the day. However, let me hear the Member for Nairobi County.

**Hon. (Ms.) Esther Passaris** (Nairobi CWR, ODM): Thank you, Hon. Speaker. I want to convey my condolences to the family of the late *Mzee* George Nthenge. When I heard his story on how he lost his family – wife and nine children – I was really touched. We have a merciful God because he ended up having other children and family members. He has a son called Edward. He is an example of the Kenya we want. He started his politics in Machakos in the 1960s through the 1970s and 1980s as a Member of Parliament. He then moved to Nairobi County and became the Member for Kamukunji. That is the Kenya we want. A Kenya where any Kenyan can go anywhere in this country and be able to represent people without feeling that he does not belong there or he is not of that community or tribe.

Nairobi is a home away from home, but the fact that he started his politics in Machakos then ventured into politics in Nairobi is commendable. As I said, we have a merciful God and now, he has been reunited with his family.

May his soul rest in peace.

**Hon. Speaker:** Also, for his role and participation in the meeting held on 16<sup>th</sup> November 1991 at Kamukunji, the late George Gregory Wilson Nthenge found himself arraigned in a court not in Nairobi where the meeting took place, but in Machakos. The rest is history. We are talking about a great man. No wonder he subsequently ran for and won the Kamukunji seat because he was still set free where he appeared. The person dealing with him found it absolute nonsense having been himself at the meeting of 16<sup>th</sup> November, 1991.

May his soul rest in eternal peace.

*(Applause)*

Hon. Wanyonyi.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Hon. Speaker, thank you for the chance. I want to take this opportunity, on my own behalf and on behalf of the people of Trans Nzoia and Kwanza in general, to send my heartfelt condolences to the family of the late *Mzee* George Nthenge, a founder Member of the party which up to today, I still belong to, FORD-K. It was FORD at that time but after some time, it became FORD-K.

I knew *Mzee* as somebody who was a naturalist. At one time I saw him driving with Hon. James Orengo in town fighting for the democracy of this country. I, therefore, take this opportunity to say thank you for the work he did. Let him go and rest. I think he is a man who has worked for the democracy of this country. He will go down in history as someone who restored democracy in this country.

May his soul rest in peace.

**Hon. Speaker:** Member for Mwingi West.

**Hon. Charles Nguna** (Mwingi West, WDM-K): Thank you, Hon. Speaker for giving me this opportunity. On behalf of my people, the people of Mwingi West and friends, I mourn the passing on of Hon. George Nthenge. This man was born the same year with my grandfather. I recall an incident in 1978 when his children passed away. My mum is the one who told me.

The late Hon. Nthenge went through very difficult time then and this takes a special heart for any man to survive losing nine Members of the family.

The late Hon. Nthenge will be remembered by many of the people he interacted with as a courageous, humble and very generous person. I recall in 2017 when I came to this House when I first met him physically, he looked very composed and was very helpful to young legislators. We recall that the cause of his death was due to COVID-19. Let me take this opportunity to tell Kenyans that this disease is real and we need to take extra steps of protecting our elderly from it.

With those few remarks, may the late Hon. George Nthenge rest in peace. I thank you.

**Hon. Speaker:** Hon. Kaluma.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Thank you, Hon. Speaker. Around the time of Kamukunji meeting in 1991, I was in Form One at St. Joseph's School Rapogi. What I saw in Hon. George Nthenge, Hon. Martin Shikuku, Hon. James Orengo and Jaramogi Oginga Odinga is an imprint in my mind about what a patriotic Kenyan should do for political and civil liberties in their country and for democracy to prosper. The image of those leaders I have mentioned together with others on a bare pick up tells us and reminds us as leaders today that possibly when we are just thinking about our ethnic origins and belonging to political parties, we could be underperforming and doing a disservice to this country. In his death we owe it to him and the spirit of those who have believed in Kenya that we be united and we follow up the vision under our Constitution as we currently are.

I wish his family God's comfort and may he rest in eternal peace.

I thank you, Hon. Speaker.

**Hon. Speaker:** Finally, let us have Hon. Millie Odhiambo.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Speaker for giving me this opportunity. On my own behalf and that of the people of Suba North, I wish to give my condolences to the family, friends and Kenya in general for the death of Hon. George Nthenge. This was a real democrat in the days when democracy had any meaning. Unfortunately, we now have people who purport to be democrats while they are not. Democracy has become insane. We wear it and remove it like a petticoat. We do not take it seriously because we have a very short memory like that of a Warthog. We forget where we have come from as a country and we have made democracy a very cheap issue.

Hon. Speaker, I am listening to Members talk about their own memories of 1991. I remember during the Saba Saba Day I was on my way to visit a friend of mine in Nyahururu. It was a great day in this country. That time I did not know that I would be a leader in this House, but we stood outside as the great leaders were passing and we were shouting and screaming. In that entourage there were Kikuyus, Luos, Luhyas and the common agenda was democracy. Unfortunately, right now we have moved to "tumbocracy" (selfish interests) and have forgotten democracy. Even when we are talking about democracy, it is basically to further the agenda of making ourselves richer and pushing other people down. We only change the language, make it flowery, change the terminology but we have forgotten about Kenyans.

Hon. Speaker, how I pray that we go back to the height which we have fallen from and consider Kenyans first and not ourselves.

Finally, it is a tragedy that in this country, when we lose great heroes, we come and eulogise them for one or two minutes, go to their funerals, play politics and they are long forgotten. We need to take it more seriously, for those who fought for the democracy of this country, we need to do something more serious for them when they are alive. Even if they have already died, we need to remember their own families so that people can know that it pays to fight for this country. I know there were days when I was in the university that if you had to read an article you had to hide in the toilet. I think there was "Beyond Magazine". Now when I look at the things for which

we were being made to hide in the toilet...I know there was a Member of Parliament who was jailed for saying: “One of these days you will be surprised to see Mwai Kibaki as the President of Kenya.”

Hon. Speaker, may we never forget that democracy came at a price and let us not play “*tumbocracy*” with it. I wish yet again to reiterate my condolences to the late Hon. Nthenge’s family

**Hon. Speaker:** Very well.

Next Order.

We had already moved to Oder No. 8, Hon. Wandayi?

### MOTION

#### PROCUREMENT OF EXTERNAL AUDIT SERVICES FOR AUDITOR-GENERAL FOR 2018/2019 AND 2019/2020

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Public Accounts Committee on procurement of external audit services for the Office of the Auditor-General for the Financial Years 2018/2019 and 2019/2020, laid on the Table of the House on Thursday, 5<sup>th</sup> August 2021, and pursuant to the provisions of Article 226(4) of the Constitution and section 43 of the Public Audit Act (No. 35 of 2015), approves the appointment of M/s. Ronalds Limited Liability Partnership (LLP) to audit the accounts of the Office of the Auditor-General for the Financial Years 2018/2019 and 2019/2020.

Hon. Speaker, in moving this Motion, I wish to thank my Committee Members led by the Vice Chair Hon. Jessica Mbalu for the immense contribution they have put in to make this Report a reality.

Article 226 (4) of the Constitution of course provides that the National Assembly is required from time to time to appoint a professionally qualified accountant to audit the financial statements of the Office of the Auditor General. It should be remembered that this is the second of such an appointment that we are asking this House to make. The first appointment that this House made was in respect of the PKF Kenya Limited which was procured to audit financial statements of the Office of the Auditor General for the Financial Years 2014/2015, 2015/2016, 2016/2017 and 2017/2018.

This time round we are simply asking this House to approve the appointment of this other firm M/s Ronalds Limited to undertake the audit of the statements for just two Financial Years 2018/2019 and 2019/2020. The Committee received a report and indeed evidence from none other than the Clerk of the National Assembly which evidence entailed the process that was undertaken by the Procurement Department of the National Assembly to procure these services. The Committee was satisfied with the manner in which the procurement process was undertaken. It was indeed satisfied that it was above board and fulfilled the requirements of not only the Public Procurement and Assets Disposal Act 2015, but also the Constitution. Therefore, the Committee is confident enough that this House could be doing the right thing, if indeed, in its wisdom proceeds to approve the appointment of this firm.

The tendering process was above board in the sense that it was an open tender by way of request for proposals which were sent out and the tender was advertised in February 2021 in

leading media outlets. A pre-bid meeting was held on 17<sup>th</sup> April in the same year and the bidding response was such that eight firms in total responded. An evaluation exercise was undertaken in the normal manner and this evaluation of course included preliminary, technical and financial evaluations and eventually a determination of the highest combined score. Through this elaborate process, the firm of M/s. Ronalds Limited was identified.

The evaluation committee recommended this firm having been ranked highest on account of all the aspects of evaluation as I have already indicated. Also, through its opinion which was tendered on 11<sup>th</sup> May this year, the accounting officer considered and approved the award to M/s Ronalds Limited at a total consultancy fee of Kshs18,469,520. A notification of intention to enter into a contract was therefore issued to this firm and duly accepted on 25<sup>th</sup> May 2021. There was no appeal from any of the other bidders within the prescribed period.

Therefore, PAC is putting a request to the House to consider approving the appointment of this firm. It must be understood that PAC of course oversees all ministries, state departments, Constitution Commissions and Independent Offices, including the Office of the Auditor-General, the Judiciary and other arms of the Government. The Office of the Auditor-General plays a very important role in putting scrutiny in the management of public resources. Under Article 229(4) of the Constitution this office has only six months from the end of a financial year to undertake its audit work and submit its report to the National Assembly or Parliament for that matter.

The National Assembly on the other hand under Article 229(4) has only three months upon submission of the Audit Reports to examine them and take appropriate action. Therefore, this means the office is one of the busiest offices you can ever think of in this country, under the Constitution of Kenya. It therefore follows that this office just like any other state agency or entity in the exercise of its mandate also utilises public funds which are appropriated by the National Assembly. Since it cannot audit itself that is why the framers of the Constitution in their wisdom under Article 226(4) decreed that an external auditor be appointed by this House to audit the accounts of the Office of the Auditor-General.

I am pleased to report that the first audit ever undertaken under Article 226(4) by PKF Kenya Limited in respect of four financial years, which I have mentioned earlier has been concluded. Indeed, the House is seized of the Report by PKF Kenya limited on the accounts of the Office of the Auditor-General for four Financial Years 2014/15, 2015/16, 2016/17 and 2017/18. Shortly, PAC will be commencing examination of that Report with a view of tabling its own findings and recommendations before this House. So, it is a whole cycle as we appropriate funds to state agencies, departments and ministries to also do the same to the office of the Auditor-General, which uses those funds to audit other agencies. Again, proceeds to appoint an auditor to audit the accounts of the Office of the Auditor-General, so that, in the final analysis issues of accountability are addressed in a holistic manner.

As I conclude, it is worth noting that under Article 203(3) of the Constitution, the equitable sharing of revenues collected nationally between the two levels of Government, can only be based on the last audited accounts as approved by this House. Therefore, the works of this House and that of the Office of the Auditor-General are so much intertwined that you cannot separate the two. That is why we must continue to encourage the spirit of cooperation between this House and the Office of the Auditor-General. I must say that this office has not disappointed us as a country. I say so with a lot of confidence and without any fear or contradiction, that this office since its inception within the context of the Constitution has not disappointed Kenyans. Right from the tenure of the previous office holder and the current Auditor-General, Madam Nancy Gathungu.

It is also important to note that for that office to function effectively, it needs to be resourced adequately. That office requires to be provided with adequate budgetary resources for it to undertake its mandate in an effective and efficient manner. It is for that reason that in the report of the PAC for the Financial Year 2017/2018, the Committee recommended, and this House agreed with it because that Report was approved by this House and adopted in totality, I think in March last year. The Committee recommended that in future when it comes to the matter of budgeting for the Office of the Auditor-General, the PAC must be involved from the very beginning to the end. Even as the relevant committees including the Budget and Appropriations Committee, undertake their normal work in terms of budget preparations and approval, when it comes to the budget for the Office of the Auditor-General, PAC must be involved for obvious reason. This is because PAC has the nexus between this House and the Office of the Auditor-General and PAC understands better the functioning and the challenges of that office.

As I conclude, I also want to say that in our task of examining these reports that come from the Office of the Auditor-General, we continue again to work closely with officers from that office.

Hon. Speaker, I must also thank you most profusely for having stood firm in defence of the authority of this House and the authority of the PAC in undertaking its mandate to oversee government agencies and departments, in so far as the utilisation of public funds is concerned. We are pleased to note that we made it clear to all and sundry that under Article 125(1) and (2) of the Constitution, this House and its committees is at liberty to invite any person under the sun and within the territories of Kenya. The Constitution does not make an exemption. It says any person.

In your advisory released three or so weeks ago, hon. Speaker, you are not in any way trying to abrogate or interfere with the independence of any independent institution or organ of state. You are simply saying even as we respect the independence of these institutions and organs of state, we must hold them accountable on matters of expenditure of public funds because that is our mandate that the Constitution has granted us as a Parliament.

Therefore, without further ado, I wish to move that this House adopts this Report and allows the formal appointment of this firm to undertake this very noble task. I wish to ask Hon. Aden Duale, who is a ranking Member of that Committee and a ranking Member of this House, to second the Motion.

Thank you, Hon. Speaker.

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Speaker. My chairman has ably moved this Motion. This Report was presented to the PAC after thorough due diligence carried out by the competent office of the Clerk of the National Assembly and his officers through a transparent, free and fair, competitive procurement process. This matter is before this House in line with Article 226(4) of the Constitution that gives powers and requires the National Assembly of the Republic of Kenya to appoint a professionally qualified accountant to audit and report on the financial statements of the Office of the Auditor-General, an independent office that the architecture of the Constitution 2010 felt in addressing the old age question of who audits the auditor through this provision.

So, the framers of the Constitution, both in letter and spirit – in the old system, nobody was auditing the Auditor-General. That is why many people in Kenya do not know that the hunter himself must be audited because the hunter receives resources appropriated by this House. The Auditor-General is given just like the way the Director of Public Prosecutions (DPP) and the Controller of Budget get money. So, as the Auditor-General hunts down those who misuse public resources within the ambit of the three arms of Government and independent institutions and commissions, he himself will be accountable to the people of Kenya.

Hon. Speaker, I really want to thank you because another arm of Government that is supposed to protect and interpret the Constitution decided to blatantly and arrogantly write to you that they do not want to be accountable to the resources appropriated. When we got that letter that was sent to you by the Chief Justice – I do not blame the Chief Justice. I think some people within the corridors of the Judiciary misadvised the new Chief Justice. In fact, I feel that they wrote for her that letter and she just signed. For about a week, I told the chairman “let us wait for the response from our Speaker and a leader of another arm of Government”. Hon. Speaker, when we got that letter in the Committee, I told the chairman “let us have about 30 minutes”. I was seated next to Hon. Otiende Amollo, Senior Counsel. I told him, let us first read this letter that you wrote. Hon. Speaker, if you compare the two letters, it is basically what the function of the Auditor-General is. The primary role of the Auditor-General in Kenya is to oversee or play the assurance role of ensuring accountability within the three...

*(Hon. (Ms.) Rehema Hassan walked into the Chamber with her phone's flashlight on)*

**Hon. Speaker:** Sorry, Hon. Duale. This is a Member walking in. What is that you are flashing? Hon. Member, you have bought something you do not know how to handle. You just bought it or collected somewhere.

Hon. Duale, continue.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Rehema is my neighbour in Tana River and in most parts of her county, there is no electricity. She is used to using the torch in her mobile phone. So, I would like us to forgive her.

Hon. Speaker, you are a ranking Member, and have been the Chair of the Public Investment Committee (PIC) in the 9<sup>th</sup> Parliament. It is in the Constitution that the Auditor-General brings Reports into this House. Unlike other departmental committees, we do not call anybody. Our secretariat and the Chair do not invite people; it is the Report of the Auditor-General that invites people to the Public Accounts Committee (PAC). If you have accounted for every penny, the Auditor-General will say he has no issues in the book. If for instance, the money paid by Kenyan litigants to the people who serve in Machakos Law Courts and Eldoret Law Courts cannot be accounted for, you will be indicted by the Auditor-General and you will find yourself before Room 9 of the National Assembly. Hon. Speaker, we want to thank you. You gave a good direction.

The Constitution requires the National Assembly to appoint this person. The appointment of the external auditor is to provide an external audit service for the financial statements and Report of the Auditor-General, which is a fundamental pillar in promoting an assurance and independence of the office of the Auditor-General. This Report provides an audit service for the financial Statement for the Financial Years 2018/2019 and 2019/2020. In fact, for the Auditor-General to be audited by an external auditor appointed by the National Assembly, a House of the people's representative; more credence and powers is given that the office of the Auditor-General is indeed an independent office. That independence is given more credibility by what we are doing this afternoon.

Finally, the selected firm and the Clerk of the National Assembly and his technical team appeared before the committee. They were interrogated, they presented all the trail papers of how this company was selected among other competitors in the field for the audit of the Auditor-Generals' office for the years under review.

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I have been around in this House and served under four clerks. In 2008, when I took the oath of office, the late Ndindiri was the Clerk. I served under Mr. Ndindiri, Mr. Gichohi, Mr. Bundi, and now Mr. Michael Sialai. I want to go on record that the men and the women that run the various directorates of the National Assembly under your leadership and I worked with them when I was the Leader of the Majority, are the most competent citizens of this country. I have said a number of times that this is one place I would recommend my children to come and learn.

The winner is M/s. Ronalds Limited Liability Partnership (LLP) and if approved by this House, this external auditor must provide assurance to this House and Kenyan public that the financial operations of the office of the Auditor-General in the selected Financial Years are above board. That the audits are in compliance with the PFM Act, the Constitution, Public Finance Chapter.

Two, this firm must express an audit opinion. They must express an audit opinion of qualified, unqualified and the rest, on the financial statements giving us an assurance as a House and the people, that the Auditor-General followed the laid down procedures in financial reporting and financial standards, statements and accounts provide a true and a fair view of a financial position of that office.

Third, these external auditors must undertake a performance audit to assure this House and the people of Kenya that the auditing services offered by the office of the Auditor-General even to the PAC, the PIC of the Senate, Special Accounts Fund Committee and the PIC are professional and adhere to the standards of international supreme audit institutions. These are some of the institutions the Leader of the Majority as a renowned accountant knows better than I.

Finally, that they provide a systematic review of the adequacy of the information systems and the ICT infrastructure in the office of the Auditor-General. What are the gaps?

Finally, I really want to concur with what my chairman has said. This House must allocate more resources to the independent institutions created by the Constitution. The EACC, the DPP, the Judiciary and the office of the Auditor-General, in order to protect the billions and the trillions that his House allocates to various Arms of Government. You cannot have an institution to look for those who misuse public resources, the corrupt and the evil men and women within our public sector and then fail to provide adequate resources to it. Therefore, the outcome of the selected audit firms with enormous task, is to boost the confidence of Kenyans in the operations of the office of the Auditor-General.

Therefore, I second and ask the House to approve.

*(Question proposed)*

**Hon. Speaker:** The Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Speaker. I rise to support the Auditor-Generals' Report of PAC which has very well been executed by the Chair and my predecessor in seconding. He has explained everything that needed to be explained. I would almost take the opportunity to congratulate the Auditors M/s. Ronald LLP for having made it. I have no doubt the House will do what it has to in terms of formalising the appointment because all the screening has been done and there is nothing untoward that has been brought forward. There is really not much to be said because we are playing our role on behalf of the shareholders of Kenya this afternoon.

In ordinary companies, at every Annual General Meeting (AGM), one of the very critical agenda items is to appoint an auditor who would then look at what the directors have been doing

in the course of the year and report the same to the shareholders to assure them that their money has been applied in furtherance to the objectives of the company. That all stems from the old practice of Agency Theory where the shareholders will have certain expectations of what they want to do. They then appoint their agents who become the directors and who then hire managers. The two are usually at variance in terms of their expectations. The shareholders may want one thing done, the directors one and the managers another. You now need the auditor to come, look and assure the principals that their agents behaved in exactly the same way as they would have wished and provided them with value for money.

In our situation, the principals are the people of Kenya. The people of Kenya have elected an Executive headed by the President, given them certain mandates and monies and asked them to go ahead and execute and account back to them. Since Kenyans cannot receive those audit reports or be called to an annual general meeting to receive the reports of the auditors, they have appointed the National Assembly which represents them in that AGM on a continuous basis. We represent all those people and receive their reports in terms of what the Executive has done.

Hon. Members, you will recall that we are actually the ones who appoint the Auditor-General. However, the Auditor-General himself needs to be audited and hence, we, on behalf of the people, we are being called upon again this afternoon to also get an auditor to audit our auditor who we appointed to audit the Executive and all the other independent institutions. Hon Aden Duale has enumerated the issues that we need covered. I do not want to go through that.

Most importantly, has the money that we have given to the Office of the Auditor-General been applied to the right purposes? That is the standard. The independent auditor will also be expected to test and verify that the Auditor-General has applied auditing standards and performed work in accordance with the highest possible standards in carrying out the audits of the Executive. So, it is a two-way thing: value for money and quality control. I expect that when we receive the reports for the 2018/2019, as well as the 2019/2020 financial years, we will make them our responsibility.

I know the Chairman of the Public Accounts Committee (PAC) has stepped out, but I know there are still some Members here. I would like to emphasise that when M/s Ronalds LLP gives their report and appears before PAC - which I hope they will, so as to present that report to you on our behalf – some of the things that you will expect them to take you through are what the Auditor-General has been doing, how they have been applying the monies and why we are having issues in the counties. You visit the counties and do not need to be told who owns what. Everyone is saying how that building is now owned by the chief officer of the county, yet the local bank manager does not tell you that the so-called person has applied for a loan. You can see the lifestyle changes within the counties.

We would like to see what the Auditor-General is doing, particularly at the county level, so that even as we see development and people becoming development-conscious courtesy of the devolved funds at the personal level, we also want to be sure that it is not our money that is getting personalised. Those are the things that we want to hear from the Auditor-General. If the Auditor-General has not told us that, we would want to hear from M/s Ronalds LLP that they also went back to those areas where the Auditor-General has given very clean audits and have also concurred with the Auditor-General. This is so that those lifestyle issues that are basically like sore thumbs that show that things could be wrong up there can actually be done at the second level. M/s Ronalds LLP should not just look at their job as going to look at the books of the Auditor-General. We want them to give us quality control and quality assurance that the Auditor-General has done everything possible to uncover how our money is being used, not just at the national level, but

especially at the county level. We give more money out there with the hope that it will stimulate economies at that micro-level and ensure that suppliers are paid on time. So, if money is flowing and people are not being paid, we need to be told why that is happening, so that we can, at least, arrest poverty at the grassroots level.

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

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

I just really wanted to emphasise that. I do not want to belabour the point.

This is the third independent auditor. Initially, there was Baker Tilly Merali's and then we had PKF. This is the third auditor that we are approving for different periods. Hence, there is now enough experience in terms of what the other two have provided.

I expect that this will come from the Chairman. I know that we are appointing this auditor for the 2018/2019 and 2019/2020 financial years, yet as of now, the Auditor-General is looking at the 2019/2020 Financial Year for the Government. However, the Auditor-General should be one step ahead. They should have had their issues properly sorted and we should not be talking of the 2018/2019 Financial Year because that should have been audited. It is something that we need to look at, so that even as we appoint the next auditor, we will be looking at appointing somebody for the 2021 to 2025 period. This is so that we do not end up appointing an auditor at the end leaving our Auditor-General exposed because the audits of the 2018/2019 Financial Year have not been completed since we could not hire an auditor to do it.

I would like to encourage the Chairman of PAC to look into this matter. At what point do we appoint the auditor for the 2020/2021 and 2021/2022 financial years? We should do it now, rather than appointing them after the years have passed. You appoint an auditor for the ensuing year not for the year that has just passed. Right now, we should be receiving the reports for last year. We should be discussing what M/s Ronalds LLP has told us. That is a minor point. I am sure there was a reason why there was that oversight, but now that we are here and we do not know what the 13<sup>th</sup> Parliament will do, we might as well take advantage of our presence to start the process of appointing the auditor for the future.

We can have the issue resolved so that the next appointment will take place two years from now. I congratulate M/s Ronalds LLP. It is one of the young and emerging partnerships. I believe they have about six partners. They are growing. It is good to see a Kenyan firm. At some point we were worried.

Hon. Temporary Deputy Speaker, and Chair of Public Accounts Committee, there was a time when there was contemplation of having an international auditor because the Kenyan auditors did not want to audit this public Office because of potential of conflict of interest. If you wanted to have an opportunity of being appointed by the Auditor-General to do some of the work, you are supposed to disqualify yourself from being the auditor of the Auditor-General. So, people did not want to be appointed auditor for the Auditor-General because they did not want to disqualify themselves from being given work by the Auditor-General. It is good to see some of these guys now coming up and taking up the work. At some point, in future when the roles change, it will free them. They could as well assist in doing some of the audits. I am happy that we have a Kenyan firm that will be doing it and reporting to this House.

Let me stop there and congratulate M/s Ronalds for making it this far. We should not be spending a lot of time on this matter. It is rather straightforward, hence we support the Chair of the Public Accounts Committee so that the auditor can be appointed and start doing the job. We start receiving reports and see whether our Auditor-General is doing what she ought to be doing.

With those few remarks, I beg to support.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Oundo.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker. Let me take this opportunity to commend my Chair and the entire Committee for the wonderful job we did to get to the point of appointing an auditor of the Auditor-General. It sounds funny that the Auditor-General has to be audited, but it sends a very clear message that nobody is above the law. Whatever funds allocated from public coffers must be accounted for. The people of Kenya must be told the amount of money allocated and how much was used and how it was used. We must also make sure that there are adequate safeguards to ensure that there is no loss of public funds.

I sat in the meeting where the Clerk of the National Assembly came and explained to us and took us through the process that led to the appointment to the auditor of the Auditor-General, M/s Ronalds LLP. It was presented in such a clear manner and I would wish that all public entities adheres to the most transparent and open tendering system where each and every Kenyan has an equal opportunity to compete for all public services public tenders. There was no tinge at all of any form of tender fixing and any form of big boys. Whoever was selected beat the renown and old names in the auditing field in this country. It gives a lot of pleasure and a lot of hope for the young and upcoming professional firms that all they need to do is get records right, get things right and they should get jobs anywhere in this country.

There is an ingrained mentality in the minds of many young people and Kenyans that unless you know who is who, you can never get a public tender. One of the things that we need to focus on as a country is to open the space so that if it is an open tender it is truly so with each person having an equal opportunity to win it.

The Office of the Auditor-General has a chequered history in this country. Since the promulgation of the Constitution, we have had a semblance of order and professionalism in the national audit office. However, much more needs to be done because it is important that at the time of preparing the Budget, the Budget and Appropriations Committee can dare or be courteous enough to consult the Public Accounts Committee. We would offer them a lot of information and details that will allow us to enhance the Budget allocated the Office of the Auditor-General.

There is much loss of public funds in this country. There is evidence everywhere whether documented or not of wanton theft of public funds. As we always say, currently, corruption left Nairobi and was devolved to the counties and villages. Unless we continue to strengthen the Office of the Auditor-General so that they are able to track and make everybody who holds and uses public funds to account for them, this country will never achieve its development goals.

I do not want to belabour the point, but I conclude that any state organ and anybody that is given public funds must account for them. The only two bodies authorised to oversee are the Office of the Auditor-General and Parliament, through its audit Committees: the Public Accounts Committee and the Public Investments Committee. The Judiciary was ill advised to decline to account for public funds because that is unconstitutional and was mere rhetoric that will not take them anywhere. We sincerely thank the Office of the Hon. Speaker for putting its foot down and telling them, as it is, that they must account for their funds.

With those few remarks, I support.

**Hon. David ole Sankok** (Nominated, JP): On a point of order, Hon. Temporary Deputy Speaker.

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

**Hon. David ole Sankok** (Nominated, JP): Hon. Temporary Deputy Speaker, I rise under Standing Order No.95. Having listened to most of the Members who have contributed, we are doing repetition and there is nobody opposing. All of us have supported. Therefore, I request that the Mover be now called upon to reply.

Thank you.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Is that the mood of the House?

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

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Temporary Deputy Speaker ...

*(Hon. Makali Mulu stood in his place)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Makali, you know the rules of the House. Hon. Makali, you are out of order.

*(Hon. Makali Mulu spoke off-record)*

Hon. Makali, you are out of order. You know the rules of the House.

**An Hon. Member:** On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Makali, you are out of order. Hon. Makali, resume your seat. Hon. Makali, resume your seat. Resume your seat, Hon. Makali.

Hon. Opiyo, proceed.

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

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Akoth, Member for Suba North, what is out of order?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I agree with you that we know the rules of the House. When the Mover is called upon to reply and the "Ayes" have it, we have to proceed that way. I note with concern that even sometimes when we call upon the Mover to reply, we say we are assessing the mood of the House. Really, Members want to speak on this Motion. Only two people have spoken. What mood are we assessing when only two people have spoken? Let us also not abuse the processes of this House. Members have sat here for a very long time. Some of us were waiting to speak to this Motion. I am not saying that it is the Hon. Member who has moved.

I just want to tell and urge Members that even when we are using Standing Orders, let us also remember that Members are getting increasingly busy. If I sit until this point to contribute on a matter, next time you will want me to sit on something you will not find us and we will have quorum issues. Let us be sensitive.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): That is correct. Hon. Wandayi, proceed.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Thank you, Hon. Temporary Deputy Speaker, for allowing me to reply.

I thank all the Members who have contributed to this Motion for their invaluable contribution. Even for those who had wished to contribute but never got a chance to contribute, there is always another time in this Parliament, the next and the other Parliaments. I know there are Members from my Committee who would have really wished to speak on this, especially Hon. Dr. Eve Obara, the gracious lady from Kabondo Kasipul. I would imagine that I have captured her sentiments. I do not know if I can be allowed to allow her to say a word and go on record. The Hon. Temporary Deputy Speaker has declined my invitation, therefore, I wish to reply.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well. Hon. Members for good reason, that we do not have the requisite quorum, I will defer the putting of the question to such time when this matter will be set down again on the Order Paper.

I direct that we move to the next business.

*(Putting of Question deferred)*

## BILL

### *Second Reading*

#### THE CENTRAL BANK OF KENYA (AMENDMENT) BILL

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I beg to move that the Central Bank of Kenya (Amendment) Bill (National Assembly Bill No. 10 of 2021) be now read a Second Time.

It is important to give a brief background on the genesis of this Bill. As you may recall, this Bill was initially sponsored by the late Hon. John Oloo Oyioka. It was then the Central Bank of Kenya (Amendment) Bill (National Assembly Bill No.21 of 2020). At the time of the demise of the late John Oloo Oyioka, and may the Lord rest his soul in eternal peace, he was the Member for Bonchari. The Departmental Committee on Finance and National Planning had already engaged with various stakeholders. We had conducted public participation on this amendment Bill. But then, he passed on. After consultations with the Speaker, the Central Bank of Kenya and other stakeholders, we agreed that in his honour, we would re-publish the Bill as a Committee Bill carried by myself as the Chair. That is when it was re-published as the Central Bank (Amendment) Bill (National Assembly Bill No. 10 of 2021). So, I just wanted to recognise the amount of work and the passion that the late Hon. John Oloo Oyioka put into this Bill. It was his baby. It was a matter for which he was extremely passionate. I am sure that, wherever he is, he is happy that the Departmental Committee on Finance and National Planning has since taken up this amendment Bill.

This amendment Bill broadly speaks to regulation of the digital lending sector. This is a nascent sector. It is new. It is serving the unreached and underserved. As the digital lending space is growing, there is need to begin to regulate the sector. People are happy to borrow. Right now if you look at the phones of many young people and even older people, they have up to 10 or 15 borrowing apps. They borrow from one to pay the other. When the other one is due, they borrow

from a newer one to pay the older one. Therefore, there is a crisis of over indebtedness that has emerged, especially among our younger population. It is because of the availability of this credit.

Over and above that, there also has been public concern around the issue of the pricing of these products. The issue of pricing is also a key issue. As we were conducting public participation, it emerged that some of these lenders charge interests as high as 150 per cent. Therefore, when people are not able to cope with the interest rate, you just take your line, throw it away, buy a new line and begin to use that line. If you look at the interest rate that is charged on Fuliza and Fuliza is one of the regulated ones, it is high. I do not know whether you have Fuliza on your phones. I have *Fuliza* on my phone. Every time I want to send money to a funeral or another pressing matter and I do not have money on my *M-Pesa*, I just go to *Fuliza* and I send it. But if you look at the interest rates that are charged on that product, they are nowhere near the regular rates. There is even concern around, not just about the unregulated sector of digital lending but also the even the regulated sector lenders, that when they use the digital platform, the interest rates become much higher than when they are lending directly over the counter.

Those are some of the concerns. Then there is a big concern around the issue of data protection. Data protection is a major issue. Kenyans have the right to privacy of their data. But if you borrow from a digital lender, they mine the data. Once they mine the data, they can even access all numbers on your phonebook. Hon. Sankok here might be surprised. Because he has my number, they might send him a message that Hon. Gladys Wanga borrowed Kshs1,000 and three months have elapsed since she borrowed it. She has not paid it. Without my consent, that information will have gone to my brother, sister, boss and friends hence causing unnecessary embarrassment to the clients. Because of this data issue when Covid-19 struck, the Central Bank of Kenya disallowed digital lenders from listing the creditors at the Credit Reference Bureau (CRB). This listing was being abused. People were taking loans. You may have borrowed Kshs2,000 or Kshs3,000 shillings and you have not paid with interest that is at 100% or whatever very high percentage. It may have increased and it is now Kshs10,000. When you are unable to pay it, you are listed at the CRB.

When you are looking for a job as a young graduate with a degree or a diploma, you are told that one of the qualifications is to go and get clearance from the CRB. With a loan of Ksh2,000, you have already been listed and you are unable to get clearance from CRB. There is a very thin line there because digital lenders lend people they do not know. The only fall back is your listing. Without listing, a lot of digital lending businesses cannot survive because they have no other way of catching up with defaulters. Once they are regulated and the number of things within the sector is regulated, then the issue of listing can be allowed for those who are regulated.

Clause 2 of the Bill provides for definition of terms, such as digital channel, which is the channel that is used or the product that is used for purposes of that sale. Terms such as digital credit, business specified; digital credit provider are defined to make it easier for regulation, so that as Central Bank regulates. They know exactly what they are regulating. Clause 3 provides full powers to CBK to licence and supervise digital credit providers that are not regulated under any other written law. So just to be clear, this Bill does not regulate everybody. As I had mentioned earlier, there are digital lenders that are already regulated. For example, banks that use digital platforms to lend are already regulated under the CBK Act. Therefore, they do not fall under the ambit of this law. This law is for those that are not regulated under any other written law. I will discuss Clause 3 in detail when I speak to some of the feedback we received from the public with regard to the extent to which CBK should regulate. There was a concern emerging of whether we should regulate innovation to its death. So, the Committee was working within the line of making

sure we regulate the sector, but at the same time we do not kill innovation. We should not strangle sectors that are new through regulation. If you make the process too tedious and too tight, you can strangle innovation and kill a sector that is growing.

Clause 4 provides for powers of the Central Bank to make regulations among other issues such as licensing of digital credit providers. Clause 7 of the Bill provides for transition. It is important for the digital lenders to know how much time they have between the time of passing this law and the time of publishing of the regulations, how much time they have to comply and be licensed to move from the current regime to the next regime. Just some bit of data.

According to a report of the financial sector, it is estimated that since the launch of M-Shwari, which is one of the digital lending products, the number of digital lenders and loans disbursed has grown substantially. According to this survey, it is estimated that digital borrowers reported taking an estimated 25 million digital loans or eight loans per borrower in 2018 on average. However, the distribution of digital loans used is concentrated among a minority of digital borrowers. It is interesting to note that digital borrowers are more heavily concentrated in urban areas. Sixty seven per cent live in urban settings and 44 per cent are formal borrowers and 34 per cent are informal borrowers. All of those live in urban areas. A majority of formal non-digital borrowers derive most of their income from farming or employment.

Why are we moving to regulate? I have stated some of the reasons why we are moving to regulate. I just want to mention some of the issues that came up during the day of public participation that the Committee held. Some people will go to court and say the Committee or Parliament did not conduct public participation. The Committee received 11 memoranda from stakeholders. On 12th July and 13th of July 2021, the Committee met 10 stakeholders in Nairobi. The Committee met:

- i. The Office of the Data Protection Commissioner
- ii. The Communications Authority of Kenya
- iii. The Institute of Certified Public Accountants of Kenya
- iv. Digital lenders Association of Kenya
- v. The PAC Limited
- vi. Safaricom PLC
- vii. PriceWaterHouse Coopers Limited
- viii. The Lawyers Hub
- ix. ECM Consulting Group
- x. Angela and Company
- xi. Alternative Sacco Limited
- xii. Central Bank of Kenya

Most of the stakeholders were in support of regulation generally. They said they do not mind being regulated. Even the digital lenders themselves said they do not mind being regulated. The area of contention was that there was a feeling among a majority of stakeholders that the prudential requirements for regulation among digital lenders was unnecessary. What they said was in regards to Clause 3 of the Bill. If you look at the powers given to Central Bank within the Bill, it has powers to license digital credit providers, determine the capital adequacy requirements, and determine minimum liquidity requirements for digital credit providers, approved digital channels and business models through which digital credit businesses are provided, among other things.

The stakeholders were of the view that since digital lenders are not deposit taking, they do not take money from anybody. At no point does a digital lender owe anybody. The public owe the digital lenders at any given point. They were wondering why they would be given capital adequacy

requirements or why there would be minimum liquidity requirements for digital lenders as is the case for deposit-taking financial institutions such as banks. Therefore, you must have liquidity requirements so that the bank does not collapse with the money of their clients. The committee took note of some of these concerns by the stakeholders and when we move to Committee of the Whole House, we will be making suggestions as to how we can strike a balance between regulation and keeping innovation up. But the committee together with the data protection agencies were very concerned about measures to be taken to protect data of the clients. I am very concerned about measures taken to protect the Kenyans' data and avoid unnecessary listing of Kenyans with the Credit Reference Bureau (CRB) for very small loans or for short periods of time.

Allow me to express my special thanks to the Members of the Departmental Committee on Finance and National Planning and the staff of the Committee for their significant role towards the scrutiny of the Bill and the production of this Report. We are also grateful to the offices of the Speaker and the Clerk for providing us with logistical support. We thank our stakeholders, some of whom always appear before the Committee to give their views on various legislations. We look forward to engaging further during the Committee of the whole House on this Bill.

With those very many remarks, I beg to move and request Hon. Waihenya Ndirangu, Member of the royal suburbs, who is also my Vice-Chair, to second.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Member for Roysambu.

**Hon. Isaac Ndirangu** (Roysambu, JP): Thank you very much, Hon. Temporary Speaker for giving me this opportunity to second this important Bill and at the same time appreciate my Chair for moving the Bill competently.

Digital lending has grown exponentially in the recent few years. Of course, this is as a result of mobile phone penetration in urban and rural areas. It is also as a result of the adoption of mobile phone-based financial services. The reason it has grown fast is also because of its "if in use" and the convenience.

Digital lending is regulated by the Central Bank of Kenya, particularly for the established commercial banks, micro-finance banks and other institutions. However, there is that other area that is unregulated digital lending by other digital lending platforms. Regulated digital lending as at April 2021 stood at around 3.9 million accounts valued at about Kshs50 billion worth of loans while unregulated digital credit lending platform accounts for about Kshs4 billion, which is about one per cent of the gross loan portfolio of the banking sector.

Examples of digital money lending platforms include the very popular Tala, iPesa, Okash, Zidiwa, Zenka, Haraka, Kopakash, Berry, M-Shwari, Pesa Zone, Fuliza, Okolea, Utunzi and Fanikisha.

The unregulated digital credit has grown from 2,000 Kenyans in 2016 to about two million Kenyans today. About 62 per cent of the borrowers on the digital credit platforms are below the age of 35 years. Most of the borrowers are Small and Medium Enterprises (SMEs), *Jua Kali* people, *mama mboga*, and mechanics. This is a ready solution when you want cash. The Digital Lenders Association of Kenya (DLAK) appeared before us and pleaded with our Committee that even as CBK seeks to regulate this sector, we must not kill innovation. They pleaded that we allow the digital lenders platform to thrive because they offer platforms to many Kenyans who have no access to capital and quick cash. The DLAK has funded the *Jua Kali* sector and many SMEs. All the same, the DLAK agrees that there should be a prudential regime for regulation and were pleading with us that we should empower them by allowing a level playing ground legislation regime as opposed to the very stringent regulation by the Central Bank of Kenya.

The need for regulating this sector arises from the very reason that Kenyans are complaining that some of the platforms are charging exorbitant interest rates that get to as high as 200 per cent. This has caused distress among businessmen and families and the result has also been being caught by the CRB. Kenyans have opposed their names being registered on CRB when they are not able to repay the loans. The essence of this Bill is to regulate, but not to kill the digital lenders platform. When we get to the Committee of the whole House, our Committee will introduce several amendments that have been proposed by the stakeholders who appeared before us. We request the House to join us in working on the amendments in the interest and welfare of the digital lenders as well as that of Kenyans who have no other ways of raising capital except through the digital platforms for the reason that they may not have land or huge assets or added properties.

With those few remarks, I beg to second the Bill.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Ngugi Nduati, Member for Gatanga.

**Hon. Joseph Nduati** (Gatanga, JP): Thank you, Hon. Temporary Deputy Speaker. From the outset, I support the amendments. I have heard the Chair say that it is the young who are affected. However, it is not only the young who are affected by the digital lending, but even mature people and Members of Parliament here are also affected and cannot claim that we do not borrow from the platforms.

The digital lending has facilitated very easy borrowing at a very high cost and we are opening up very many applications where you can borrow from one platform to pay to the other. Credit lines are also open for you to buy credit. One of the challenges with the digital borrowing is that when you borrow, you have to pay whatever you have borrowed in total. I have found it very difficult. If for example I borrow Kshs20,000 from *Fuliza* and I want to send you Kshs20,000, it means that I must have Kshs40,000 making my life very difficult. From the records that I have, mobile money and digital lending has overtaken whatever the banks are lending.

The statistics which I have is that mobile money and digital lending total loan portfolio is about 57 per cent. Banks have now gone down to 22 per cent and SACCOs, which we have relied on are at 17 per cent. This means that because of making it very easy to borrow, we are trapping our poor people, putting them in debts which they cannot pay and allowing them even to borrow money that is not helping them. Fridays are known for betting. When you meet young people in offices on Friday afternoons, they are normally very busy not working, but betting. These platforms have facilitated ease access to money which is used for gambling.

We need to come up with a mechanism to control especially how many applications one can subscribe to. If you belong to *Fuliza*, let it be so. Let us not allow our young people to belong to 13 platforms. This will kill them. Also, the interest rates are very high if you were to work out yearly. It is very expensive, and so, we will need to come up with a way on how we can control the interests and I want to propose that one to the Chairman.

Sometimes, for you to be allowed to borrow money, the rating which is used by Safaricom is very unfair because they use your *M-Pesa* platform. We normally use some young people to send money, and if the platform is used to credit them and they are allowed to borrow even Kshs30,000, it is not fair. It is high time that as a country, we supported our young people.

Otherwise, if we continue with this, we will kill generations and put them in debts which they will not pay for a long time.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Koskei Kimutai, Member for Chepalungu. He is not in the House. Hon. ole Sankok David.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Deputy Speaker forgiving me this opportunity to contribute to this very important Bill that will save our generations.

I sincerely thank the originator of the Bill, the late Hon. Oroo Oyioka, may his soul rest in eternal peace. I am sure wherever he is, he must be very proud of the Departmental Committee on Finance and National Planning led by Hon. Gladys Wanga for not rubbishing his thoughts, but picking them up and bringing the Bill for us to discuss in the House. So, I urge the Members, in honour of our departed colleague, to support the Bill, so that it can see the light of the day, and his constituents can pride in him that there is a legacy that he left in this House before he flew with the angels to be with the Lord.

Hon. Temporary Deputy Speaker, digital lenders are worse than shylocks because they purport to make it easy for you to borrow while they know they are making life difficult for our youth. If I take *Fuliza*, for example, Kshs1,000 borrowed in a day will attract interest of Kshs50. If you are good in paying, borrow daily and pay daily, you will pay Kshs50 multiply by 365, which translates to Kshs18,250 on an initial Kshs1000 capital that you borrowed. Even if you are doing illicit business, you cannot make that profit margin. These people have made it easy for our youth to borrow and sometimes to steal, so that they can satisfy their urge in the betting industry. All of these characters are colluding and killing the future of our youth.

I said they are worse than shylocks because I was once a victim of one called Tala, before they were regulated. I rarely borrow loans. One day, when I went to produce my curriculum vitae somewhere, I was told I had been in the Credit Reference Bureau for the past nine years because of Kshs9,000. Imagine Kshs9,000 for a businessman of my calibre. I wondered. They had my telephone number, but they had never called me. They said that maybe somebody used my identity card number to get the loan. They never called me because they were colluding. They know that at one time, you may need to use the CRB certificate and so, they would pick your ID from *M-Pesa* shops, your phone number and then credit the money there. They know one day they will catch up with you even if you will stay for many years. I stayed for nine years because I do not borrow. For those who borrow probably after six months, they would have paid earlier. I had to pay so that I could be removed from CRB, yet this was money I never borrowed nor knew that it was borrowed.

So, this is a pyramid scheme perpetuated by corrupt individuals. We also have to ask ourselves who are the major shareholders of these digital lending companies including Safaricom? You cannot be a leader in this country, earn from taxpayers and steal from the same taxpayers. We can excuse you for stealing from the Kenya Medical Supplies Authority (KEMSA) or Afya House, but not coming down to steal from *boda boda* riders and *mama mbogas*; hustlers who live from hand to mouth using an elaborate scheme of lending money.

The shareholders of these big companies and regional lenders are known. It is high time we controlled them using the CBK, which should go a step further to name and shame some of the major shareholders of the lending companies. They have registered their companies, we know where their money goes to and we can easily track it up to their pockets. We know they are worse than the so-called corrupt individuals.

We have made it very possible for the youth to borrow because we have killed our economy and created an appetite for money. Do you know how we have killed our economy? We have done this using the trickle-down economic model where we facilitate in terms of laws and financing big corporates and put all our money, energies, policies and laws there as a Government. They are facilitated to grow with an aim of having them employ the youth. This has become a major avenue of corruption and money is put in institutions like the Kenya Airways (KQ), which is failing every year. They are declaring nil returns and, therefore, not paying taxes and no corporate social responsibility. They are laying-off workers and again coming to this House seeking to be resuscitated using the same taxpayers' money.

Money is hanging up there and the only cure is the bottom-up economy. When we leave the bottom of the pyramid with no money, we create an appetite for borrowing. But in the bottom-up kind of economic model, we will make laws, policies and put our finances at the bottom of the pyramid in SMEs, *mama mbogas* and *boda boda* riders. I am sure corrupt individual will not corrupt kiosks or access *boda boda* riders' money. Then the people at the bottom of the pyramid will have money and this will reduce the appetite for borrowing. This has made our youth to borrow and they are in a vicious cycle of poverty courtesy of the digital lenders.

I support the Bill and urge Members of this House to join us, the Departmental Committee on Finance and National Planning, and the late Hon. Oroo Oyioka, in supporting and ensuring that his dream comes true in terms of controlling the digital lenders.

With those many remarks, I support the Bill 100 per cent.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Obara Akinyi, Member for Kabondo Kasipul.

**Hon. (Ms.) Eve Obara** (Kabondo Kasipul, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Bill. First and foremost, let me appreciate the late Hon. Oyioka posthumously for coming up with this Bill and thank the Departmental Committee on Finance and National Planning for taking it up in its entirety.

We appreciate the innovators of the digital lending platforms and we know the role they have played in making business easier for our small businesspeople in Kenya. I support them because they have given opportunities to our small-time businesses, but we also know what they have done to our younger generation. It is important for us to regulate these platforms looking at how our people are continuously impoverished because of borrowing after borrowing. You want to send money to some people at home and they say: "Please, send it to my mother's or father's mobile number because I have *fuliza*. Every day, each one of them has *fuliza*. If you go to the bottom of why they borrowed the money, most of the times they did not need it and could have done without it.

So, it has impoverished Kenyans and we must regulate the platforms like what is happening in banks. I know banks are also on the digital platforms, and as has been said by the Committee, this regulation is geared towards those that are not currently regulated. Digital credit services have been abused by the owners themselves as has been clearly alluded to by some of my colleagues and I do not want to get into details. Looking at the interest rates they charge, this has impoverished Kenyans. Secondly, there are concerns on the security of our data which they have access to. We have seen cases our data has been misused. I am not talking about all of them, because some are doing well and are controlled and disciplined. I am talking about those that are not regulated.

Thank you, Hon. Temporary Deputy Speaker, once again. I support the Committee for upholding the late Hon. Oyioka's Bill.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Mwangi Mburu, Member for Lari. He is not in the House. Hon. Tuitoek Kamuren, Member for Mogotio.

**Hon. Daniel Tuitoek** (Mogotio, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to support this, which I think is long overdue given the situation right now among the youth.

As my colleagues have said, there are too many digital lending platforms purporting to give financial support to individuals. Looking at how people use the money, some of them gamble it. Of course, we know that the *mama mbogas* and *boda boda* riders could be using it properly, but others may not be using it properly because of the ease with which people are given loans which ruin the youth. This is an opportune time for the CBK to regulate the market so that people are not given too many loans with little benefits. The Bill looks at digital lending, issues of borrowing, the actors and controlling them from excessive interest rates which are in various platforms including *Fuliza*, *M-Shwari*, *Tala* and many others.

The Bill comes at the right time because almost everyone has access to a phone and easy money from the digital lending platforms, which need a properly regulated market. Otherwise, people will accumulate too many loans which they cannot repay. Sometimes, you find that there is a strong drive to bring in the Credit Reference Bureau so that even when you default a very little amount of money, you are listed at the CRB. I know during this time of COVID-19, especially the last one year, the CBK left out the non-formal lending institutions from the CRB and this was a good boom for the young people and those who had borrowed from the platforms.

I know this may be reinstated. I think it was reinstated and, therefore, it can still become a problem because you can be put on CRB for a little amount of money, which will prevent you from accessing loans from other institutions. So, this particular Bill is looking at regulating digital borrowing. I am also glad that the Chair of the Departmental Committee on Finance and National Planning said that they are not looking at an overkill in terms of reducing innovations or interfering with innovations in this area especially the digital industry, so that as we bring the regulations, we also allow innovations to continue. I know she talked of the issue of data protection because we also know how most of our data is exposed when we are dealing with digital platforms. We know some people tried to use it for not good intentions.

Therefore, this Bill should also look at that carefully, so that it protects our information which we also use elsewhere. I know most of the borrowers are maybe on the bottom of the pyramid. When I heard my colleague, Hon. ole Sankok, talk about the hustler nation and the hustler economy, I totally agree with him that most of the borrowers are those who are unemployed. Most of youth who are unemployed try to eke a living from one point to another and maybe also *mama mbogas*. So, we need to protect them because they are the people we need to support at this particular difficult time.

Hon. Temporary Deputy Speaker, I totally support.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Oyoo Onyango, Member for Muhoroni.

**Hon. Onyango Oyoo** (Muhoroni, ODM): Thank you very much, Hon. Temporary Deputy Speaker, for giving me an opportunity to add my voice to this noble Bill. First, I want to start by thanking the Departmental Committee on Finance and National Planning, chaired by the iron lady, Hon. Gladys Wanga, for remembering Hon. Oroo Oyioka's dream posthumously. Everything that happens in life, more so in this country, has good and bad sides. While digital and mobile lending has given ease in accessing money by various people, it has lots of side effects because the interest rate is very high. It has discouraged the young people from working hard. These days I go home

and young people tell me: “Tomorrow we will treat you uncle.” I start wondering this man is jobless, how is he going to treat me? The following day there is betting and when they come back, they have money and within a short time, when I want to get them employment elsewhere, I realise they are in CRB.

So, while I am saying that this should continue to make life a little bit easier for our boys, we call upon the CBK, after this amendment, to regulate them and not only the small mobile and digital lenders, but we want them to move even to Safaricom. With the convergence of the mobile and digital lending, Safaricom appears to have dropped its noble mandate of telecommunication. You want to make a call and find that you cannot reach your destination because of the interest that is put on M-Pesa business. They must be regulated and the money lenders must be checked. The CBK must do everything it can after we pass this Bill. How I wish Hon. Oroo Oyioka would have been here to find the overwhelming support the Bill has! We will support the Bill when it comes for the amendment and also float other amendments.

Thank you very much, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Ndindi Nyoro, Member for Kiharu.

**Hon. Ndindi Nyoro** (Kiharu, JP): Thank you very much, Hon. Temporary Deputy Speaker. First of all, I wanted to rise on a point of order because the Member referred to the borrowers as boys. It is not all the borrowers who are boys.

However, Hon. Temporary Deputy Speaker, allow me to ventilate on this matter of digital lending and start by saying that when we talk about digital lending, we are simply talking about fintech. Fintech is the convergence of finance and technology. This is a subsector within the larger technology sector. The second one from fintech, which is the number one currently in the world is biotech. That is research and technology based on health sciences. However, the Bill before us today is around fintech, the convergence between finances and technology. Actually, this is the highest growing subsector. This is the highest growing sector globally in many measures in terms of transactions made, the value and the absorption of money from investors, namely, venture capital and private equity fund. Therefore, it is good for us to keep on polishing the laws that we have in this country in so far as technology and specifically fintech is concerned.

Actually, the current fintech is valued around US\$324 billion. It is projected that between this year 2021 and 2026, the growth within fintech in terms of value will be around 24 per cent compounded per annum. Therefore, it is a very critical and important sector that should always be polished in terms of legislation. However, we also have to be mindful about where regulation meets innovation because many times, especially in archaic kind of economies, we find that regulation is used to stifle innovation. Therefore, it is good for us to find the line because we need innovation, but on the other side, we need regulation to protect the users of this technology.

Even before I come to our country Kenya, allow me to speak a little bit about the trends that are there. I just talked about the absorption of money, namely, investors’ money towards various sectors. Just this year, we saw a very young US-based fintech company called Stripe buying a Nigerian company called Paystack at around US\$200 million. A young company less than 10 years old being bought at a value in terms of Kshs20 billion. This just exemplifies the importance of fintech across. However, fintech generally is domiciled within tech and as we talk about regulation, it is also good for us to be mindful about the innovation side. If you look at an economy like the USA, we have many unicorns. Unicorns are start-ups that are valued in excess of US\$1 billion. You find that many of the unicorns in the USA are based on tech and there is a

convergence of issues that bring around the fostering of these kinds of companies that are young, highly valued and churning billionaires, who are young.

One of the convergence that we can borrow as a country is like the one that we have in the USA where you have Wall Street, which is the finance street converging with the Silicon Valley, which is the home of innovation. We must ask ourselves as the Kenyan leaders why the environment within the USA is so conducive for tech and especially fintech. One of the issues is a policy that was made in the last century by the USA policy makers called STEM; fostering of science, technology, engineering and mathematics. That is why you find many of the big companies that are young in the USA are not even founded by the initial citizens of the USA. Most of these companies are started by immigrants. I want to give an example that is relevant to the discussion before us today. One of the premier and original companies that were dealing with fintech is a company called PayPal. Out of the four who started PayPal, three were immigrants. One of them is from Africa called Elon Musk. Elon Musk is currently a billionaire, courtesy of tech.

Companies like Tesla Motors and Boring exist because of the policies that were made by the leaders in the USA, where they are now using immigrants' brains to grow their economy. These people were encouraged to go to the USA and, of course, the proximity of Stanford University around Silicon Valley also gave the environment for their success. Where they went to school was another factor. Even after schooling, whether you dropped out or you completed, there was a good market for your brain in the name of Silicon Valley. We should actually be talking about our Konza City, which currently is just on papers. These are the kind of things that make economies grow at a pace that we are seeing them grow.

If you looked at the current list of billionaires across the world, the only other sector rivalling tech is fashion. The current number one richest person in the world is the biggest shareholder of Moët Hennessy Louis Vuitton (LVMH), which is about fashion. Other than him, the other top 10 are based in technology. That includes Jeff Bezos, Amazon, and Microsoft, churning several billionaires among them Bill Gates, Steve Ballmer, down the line you will find Mark Zuckerberg. I am just trying to reinforce the fact and the importance of having a conducive environment and convergence of factors for us to foster technology because in the long-run, it is the one driving the economy of the world.

Let me come back home. I have to say there is a very worrying trend in this country. Fintech should bring about efficiency within the finance sector. However, in Kenya, we have fintech fostering slavery. The people who cannot pay are the ones being lent. Therefore, it perpetuates slavery. You find that many of the young people in this country have one loan or the other in these applications because the kind of borrowing that we are encouraging in this country is based on consumerism. People borrow to consume at the expense of borrowing to grow, to invest and promote industrialization. I think that is why we have many evils of borrowing.

Since my time is almost up, I want to say before this House that there is a company called Safaricom PLC, which is 35 per cent owned by the taxpayers including myself. Therefore, they are answerable to me as a taxpayer. They need to tell this House, as we encourage fintech, who is the beneficial owner of *Fuliza* and *M-Shwari*. Many Kenyans are lied to that most of these platforms belong to Safaricom PLC. To their dismay, the reality is that Safaricom markets these platforms, but some of them are owned by the people in the leadership positions in this country. The lending rates of these applications are astronomical. When a hustler borrows Kshs1,000 and they are told they need to pay back with Kshs50 per day, that is five per cent per day and it is not

just abnormal, but criminal that we continue to tie our citizens with debt. This is only beneficial to the owners of the lending applications.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): We will have Hon. Kiai Githiaka, Member for Mukurweini.

**Hon. Anthony Kiai** (Mukurweini, JP): Thank you, Hon. Temporary Deputy Speaker. From the outset, I support this amendment Bill. Digital credit providers is a new phenomenon in this country. We are not here to kill innovation, but to support innovation and make sure that borrowing that is funded by the digital lenders is brought under the ambit of the law. The law proposes to regulate the digital credit lenders by checking their minimum liquidity requirements, approving the business model that should be operated by the lenders and also to provide framework and structures for digital lenders. I need to say that there has been proliferation of digital lenders in this country and they basically target the young people, those who are desperate and, of course, the gullible. At this point, it is very important that we also look at the main Act that governs the banking industry to see why so many people are running to the digital lenders despite their prohibitive interest rates. Maybe that is where the problem is. Perhaps, it is the convenience or the ease or the fact that you do not have to present papers and collateral for you to get a loan.

Again, I am reminded of the *Merchant of Venice* where Antonio wanted to give a collateral on behalf of his friend by getting money from a shylock, and he was told that he was going to give security in terms of a pound of flesh. Meaning if he was unable to pay, then he was to surrender a pound of flesh to the shylock. We have a similar scenario happening in this country. Who are the biggest borrowers of this money? It is our young people, the unemployed and those who need quick fix in terms of finances. Time has come for us to regulate that. It is unknown that these lenders are giving their money and charging over 100 per cent interest. This is totally unsustainable. Even when you are doing legal or illegal business for that matter, it is very hard for one to pay 100 per cent interest rate. That is why you find that young people are operating many lines. It is not only young people, but those who are desperate. During the COVID-19 times, you would find many people had so many lines like Safaricom, Airtel and others, so that they can access the platforms. You just need your name and identity card and the next thing is you are eligible for some small loan. Borrowing Kshs100 to pay Kshs150, we need to regulate this industry.

I am aware that many of the young people, due to the rising unemployment rate in this country are borrowing from the money lenders, shylocks to go and bet. They place their bets on the many sporting and betting companies with a hope that if they win, they will repay the loan that they borrowed from the digital lenders. The vicious cycle continues. One of the reasons why you find there have been so many cases of suicide in this country is because young people, gullible Kenyans and those desperate Kenyans, have been trapped in that vicious debt cycle. The moment you realise that you will never get out of that, the best next alternative is to commit suicide. Cases of depression are on the rise and they are driven by loans and credits that cannot be sustained or repaid. I agree in a country like ours, we cannot have legally registered companies being unable to borrow from banks because of the high interest rates. We have that desperate Kenyan being charged over 150 per cent interest on money borrowed. Hon. Temporary Deputy Speaker, as Members of Parliament, we have come face-to-face with the reality on the ground. Many are the times when you are required to help somebody, maybe by sending him school fees or *pesa ya mazishi*, and the next thing he tells you is: "Do not send money to my line because it has *Fuliza*. Do not send money to my line because it has a debt on a certain platform." You have to send money to another person for him to access the same. That kind of vicious cycle is killing our

economy. We have to regulate that kind of borrowing. We need to have a platform that is well-structured. We have to make sure that the loans that are borrowed are meant to help the young people or borrowers. You do not borrow to bet or eat. However, that is the scenario that we are experiencing.

Under the current law, banks are prohibited from charging over 100 per cent interest on the principal amount. That is not applicable to the credit lenders. Why? Because there are no laws and regulations. Time has come to bring about a law that governs this. This piece of legislation is not only timely, but will save many of the desperate cases from being consumed by the digital lenders. I also note that quite a number of them are on this platform or the other. You borrow from this platform to repay the other. You borrow here to pay there. It is unsustainable.

Having said that, I support this piece of legislation. It is very timely.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Let us have Hon. Koskei Kipkoech, Member for Sotik.

**Hon. Dominic Koskei** (Sotik, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to also support this Bill.

First of all, I thank the late Hon. Oroo Oyioka because of this well-thought out proposal. I also thank Hon. Wanga, the Chairlady of the Committee, for bringing up this matter. This issue of mobile money-lending applications is a serious concern out there for the people we represent, especially the young people. If you look at it, most of us are on *Fuliza*. You want to send money, but do not have enough, so, you find yourself on *Fuliza*. However, when you get to know the real facts about *Fuliza*, it is a very expensive loan. I support the fact that the mobile money-lending applications should be regulated. It is a very timely Bill coming at this moment in time. We are ready to support it.

It is also important to note that we are also supporting the growth of technology and mobile applications all over, but it comes along with many pros and cons. So, it is important that we take our time to look at the Bill, support and concur where we can and make sure that our people are safe.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Let us have Hon. Oundo Ojiambo.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker. Chances are very high that I will close the Floor for the day. I support the Central Bank of Kenya (Amendment) Bill (National Assembly Bill No.10 of 2021) that is amending the Central Bank Act to provide for digital-lending and regulations for digital-lending.

Since time immemorial, people have had to borrow. In my life before I came here, we used to say that debt is cheaper than equity and that nobody has ever made money using their own money. So, borrowing has been with us over time. It has metamorphosed over time in different ways.

The need to settle some bills, invest and meet some urgent financial obligations will always arise. However, with the traditional way that banks operate, they are unable to respond to the changing needs of the typical borrower, human being and consumer in this new age. Typically, you require three to four weeks or months to get a loan from the bank. That is why digital-lending started shylocking to fill the gap that was created by the very bureaucratic banking procedures.

However, the emergence of digital-lending has dragged very many people into it with very severe negative consequences. As my colleagues have said, if you call 10 people in our

constituencies because you wanted to send them money, I can bet that about six to seven of them would say: “Do not send to this number because it has *Fuliza*. Do not send to this number because I have delayed paying *M-Shwari* and they will take everything.” Young people, as defined by the Constitution, are those below 35 years. Quite a number of us, most politicians, myself included, find *Fuliza* fairly convenient, and if I am called because there is an emergency in the constituency, I do not have to stop talking to rush to the bank to withdraw money and go to the M-Pesa agent. I just pull out my phone, send the money and sort it out when I go home.

However, as good and innovative as it is, there is probably a justifiable call to regulate the process. The interest rates are fairly high. Secondly, the danger and fear of violating privacy is forever with us. That is why any attempt to regulate is basically welcome.

However, I am a bit concerned by the provisions of Clause 4 of the Bill that seek to amend Section 33(r) of the Central Bank Act in respect to setting conditions. What is the issue of capital adequacy all about? Those are guys who do not receive anybody’s money. They operate like shylocks using their own money by generating it in one way or another. Some of the conditions that are being set for registration, licensing and regulation should be relaxed in view of the role they play and the people they serve. The moment you increase them, you make it onerous and cumbersome to register. The more expensive you make it to comply, the more they will pass over that cost to the end consumer and reduce the lending. As much as it might be good, it will affect capital flow. I call it capital flow because many times, many people who borrow do so to service an order or purchase a consumer good that they require.

Hon. Temporary Deputy Speaker, I know time is almost up. However, as I conclude, one danger that we must avoid in digital-lending is to create a situation where everybody thinks that whenever they have any need that is not necessary, they can always go for these loans. Obviously, the young people and the so-called *mama mboga* need to be very worried. Instead of us promoting technology fused with finance, some of us are going around singing them lullabies and telling them stories of bottom-up, whatever it is, promising them manna from heaven. With this kind of mentality, this group of people...

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Oundo, you will have four-and-a-half minutes when debate on this Bill resumes. You have been caught up by time.

## ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, the time being 7.00 p.m., this House stands adjourned until Thursday, 12<sup>th</sup> August 2021 at 2.30 p.m.

The House rose at 7.00 p.m.