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Thursday, 16th February 2023

The House met at 2.30 p.m.

[The Speaker (Hon. Moses Wetang'ula) in the Chair]

PRAYERS

QUORUM

Hon. Speaker: Serjeant-at-Arms, ring the Quorum Bell.

(The Quorum Bell was rung)

Where are the Whips today?

(The Quorum Bell was rung)

Order, Hon. Members! We have quorum to transact business.

PETITION

Hon. Speaker: Hon. Member for Sirisia, take your seat please. Hon. Members take the nearest seats.

(Hon. Members took their seats)

POOR IMPLEMENTATION OF EDU-AFYA
MEDICAL SCHEME IN SECONDARY SCHOOLS

Hon. Members, we have a Petition regarding poor implementation of Edu-Afya Medical Scheme in public secondary schools.

Hon. Members, Article 119 of the Constitution accords any person the right to petition Parliament to consider any matter within its authority. Further, Standing Order 225(2)(b) requires the Speaker to report to the House any Petition other than that presented by a Member.

In this regard, I wish to report to the House that my office is in receipt of a petition from one Ms. Joyce Cherono of National Identification Card Number 21702217, calling on this House to intervene on the matter of implementation of the Edu-Afya Medical Scheme for students in public secondary schools by the Ministry of Education.

The petitioner, a practising nurse who claims to be the brainchild behind the idea, claims that since the scheme was rolled out in 2018 to enable students in public schools to access affordable and quality healthcare under the National Hospital Insurance Fund (NHIF) cover, utility of the scheme is yet to be optimized. She associates poor implementation of the Edu-Afya Scheme

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to various challenges. First, the petitioner claims that technicalities with enrolment by the Ministry of Education of all students in the National Education Management Information System (NEMIS) database from which the Edu-Afya Medical Scheme obtains students' data has resulted in low uptake of the Fund.

The petitioner adds that the system which runs Edu-Afya patient identification and billing is often slow or non-responsive, thereby compelling parents or guardians of students under the scheme to meet the cost of treatment due to system failures. The petitioner is concerned that the Ministry of Education and other relevant stakeholders have not undertaken public awareness of the programme in order to encourage enrolment.

The petitioner further alludes that the Government rolled out the Scheme without putting in place adequate infrastructure and medical personnel in public schools to offer consultation and referral services. She also claims that there was no monitoring and evaluation framework in place to assess effectiveness of the Programme. The petitioner is afraid that if intervention is not made towards ensuring that the programme is optimally implemented, the gains envisaged from the scheme will be lost.

The petitioner therefore prays that the National Assembly, through its Public Petitions Committee:

1. Causes the relevant ministries to urgently review the framework for implementation of Edu-Afya Medical Scheme to provide regular monitoring and evaluation that addresses challenges facing the programme and ensures that students in all the public secondary schools equally benefit from the Edu-Afya Medical Scheme;
2. Causes the Government to support the establishment of clinics within public secondary schools and to initiate employment and deployment of qualified, registered, and licensed medical personnel in schools under the Fund to ensure that students optimally benefit from the scheme; and
3. Makes any other order that it deems fit in the circumstances of this Petition.

Having determined that the matters raised by the petitioner are well within the authority of this House, I order that, pursuant to the provisions of Standing Order 227(1), this Petition be committed to the Public Petitions Committee. The Committee is required to consider the Petition and report its findings to the House and the petitioner in accordance with Standing Order 227(2).

Thank you

Hon. Speaker: Hon. Makali Mulu.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you very much Hon. Speaker. I want to thank the petitioner for raising this Petition in the House. The petitioner raises very fundamental issues relating to that scheme. I think ...

Hon. Speaker: Sorry, Hon. Makali Mulu. Hon Members, in case you have forgotten your Standing Orders, you have 30 minutes in which you can make comments on this Petition if you wish to. The screen is full as usual. I am sure it was not because of this Petition. Those who will want to make comments probably go to interventions and if there is overwhelming interest, I will give three minutes to each intervener.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you, Hon. Speaker. I was just saying that even as our Committee looks at this Petition, there are two fundamental issues they need to look at. One of them is the issue of a monitoring and evaluation framework. The reason why the petitioner is claiming that there is underutilisation of the scheme is because nobody has been following up to find out what is happening. The proposal of a monitoring and evaluation framework must be given a bit of attention as the Committee looks at it.

The other issue is public participation. In a situation where we expect our students and parents to participate in this scheme and the whole issue of public participation is not properly conducted, then these gaps will always exist. Our Constitution has given us that provision that it is important that there is public participation where we involve our people. I still want to insist that as we undertake many of these activities and more so activities which are going to benefit the public, the issue of public participation must be taken very seriously.

Thank you very much, Hon. Speaker. I submit.

Hon. Speaker: Hon. Jared Okello you are not used to sitting where you are.

Hon. Jared Okello (Nyando, ODM): I hear this is the Government side. I only hear. I am feeling the warmth. Thank you, Hon. Speaker for the opportunity and I acknowledge that from where you sit you are expected to be blind. Therefore, let me bring it to your attention that the target group of the Edu-Afya Medical Scheme has occupied the Speaker's Gallery and they are here to listen very pensively to our contributions on what goes directly to their welfare.

Hon. Speaker: They are also in the Public Gallery.

Hon. Jared Okello (Nyando, ODM): Yes, both in the Speakers and Public Gallery. Article 43 of our Constitution pays great credence to access to healthcare and the Edu-Afya Medical Scheme was meant to address issues of health to the students who are in the secondary schools. At this point when digital platforms have percolated our systems and through globalisation, digitisation is the direction that the world is going to. That the Edu-Afya Medical Scheme still has inordinate delays and failures when it comes to addressing issues of health in our health facilities by students is something that needs to be properly looked into. The parents who take their children to school are already overstretched when it comes to family budgetary constraints. If this scheme was meant to address illnesses of students and then they use this privilege to go to health facilities and cannot get the intended help, then there is a problem that needs to be properly addressed.

Hon. Speaker: Your time is up, Hon. Jared.

Hon. Jared Okello (Nyando, ODM): I thank you for giving me the opportunity to contribute, Hon. Speaker.

Hon. Speaker: Hon. Didmus.

Hon. Didmus Barasa (Kimilili, UDA): Thank you, Hon. Speaker. I support this Petition. It speaks to very weighty issues. Any Government programme must be re-evaluated to identify areas of improvement because some of these policies are implemented without the input of each and every person who wants to improve them. Developing a monitoring and evaluation tool is not only important but also very necessary. The Government can only improve its programmes. We can only begin to change from situations where we just wake up in the morning and we want to scrap a programme or suggest other issues to improve it without first necessarily scanning through the operationalisation of the said policy. If we want to suggest further amendments in future, they must be informed by the challenges, bottlenecks, need to improve efficiency and ensure that the target group is expanded, and those who are targeted are the ones who benefit.

Without much ado, this is a good Petition. I ask the Committee to expedite the findings, so that they can be implemented for the benefit of the country.

I thank you.

Hon. Speaker: Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. I also rise to support this Petition by Ms. Cheron. The scheme, as envisaged, was to benefit our students. Some of them are seated in the Speaker's Gallery and Public Gallery. If this system is unable to identify students when they visit public hospitals, it is sad. We passed laws in this House with amendment

of the National Health Insurance Fund Act to even allow NHIF to have systems where they can use biometrics to identify patients when they attend hospitals. The Departmental Committee on Health or whichever other committee which will handle this matter should ensure that students can be identified biometrically.

We also made it compulsory for every Kenyan who attains the age of 18 to be registered under NHIF. The opportunity to register students when they are still in school is the best opportunity to take their biometrics when they are still in school. After school, they enjoy all the benefits of having a medical cover. Therefore, after high school, university and even in their working careers, they will have been socialised with idea of medical insurance. I really want to beg the Departmental Committee on Health under Hon. (Dr.) Pukose to look at how they can deal with the technicalities, especially of the biometric identification of students in conjunction with the Ministry of Education.

If the NEMIS captures students at the time they are sitting their Kenya Certificate of Primary Education (KCPE) examinations and even with the Competency Based Curriculum (CBC) at Grade Six, there is no reason that same NEMIS cannot be integrated with the NHIF system. They can take biometrics at the NHIF and use the two systems in an integrated manner, so that every student who is in a classroom can benefit. In every school, a teacher knows the number of students in the classroom. If they still do what we used to do when we were in school, by having a register that they call out every morning, then the question is: What is so difficult with the Ministry of Education getting the same data and ensuring every student within a school is registered in NEMIS and the biometrics are also registered with NHIF?

Thank you, Hon. Speaker. I beg to support the Petition.

Hon. Speaker: Hon. (Dr.) Nyikal.

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Speaker for giving me this opportunity to contribute. This is a very important scheme. Once you establish any scheme that touches on health, you should have a system of ensuring that every person who should get it, gets it and that it is monitored. Being a Member of the Departmental Committee on Health, we will look at it in a much broader way because it is the issue of scattering of all these schemes. We have one for the students, another one for pregnant mothers, old people and people with disabilities. We will look at it much more broadly and bring together all these social protection activities. Even if you look at school feeding programmes, they are all social protection programmes. So, we have to look at them and support them in a much broader way.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Robert Pukose. As Chair of the Departmental Committee on Health, this is a matter which you need no prompting to follow up.

Hon. (Dr) Robert Pukose (Endebess, UDA): Thank you, Hon. Speaker for both your guidance and allowing me to make my contribution.

When the Public Petitions Committee will look into this matter, it will be important to invite the Ministry of Health and NHIF. Right now, NHIF and the Ministry of Health are working on a product to consolidate all these schemes for the elderly, school children, indigents and everybody else. Those school children belong to families. Some of those families could be indigents. So, it is possible for them to be catered for under that programme. They should also invite Dr. Ndii and his team so that they can shed some more light on them, so that they bring well-thought-out recommendations to this House. If they require some bit of amendment to the law, then my Committee and team will be up to the task to make sure that we provide the legal framework which can operationalise provision of healthcare. When you look at our law, the

provision of healthcare is a constitutional mandate. It is the best quality healthcare that the country can provide.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Chairman. Hon. Ferdinand Wanyonyi. Those who want to contribute should press the intervention buttons.

Hon. Ferdinand Wanyonyi (Kwanza, FORD–K): Thank you, Hon. Speaker. At the outset, I want to thank the petitioner. She came up with a very good idea. Apart from having the Departmental Committee on Health, we should also involve the Departmental Committee on Education. I had cases where even the teachers do not know about this particular programme. In other cases, a student is sick and he or she is rushed to the Member of Parliament for assistance, when this project is there. At the same time, teachers out there say that when a student falls sick in secondary school, he or she goes to the nearest hospital where this programme is actually operationalised. Apart from the Departmental Committee on Health dealing with this Petition, we should also have the Departmental Committee on Education, so that the teachers are aware about this particular programme, so that they can implement it. It is a very good programme given the hard times this country is facing.

Finally, I want to thank this lady for coming up with this Petition. Thank you very much. I support it.

Hon. Speaker: Hon. David Gikaria.

Hon. David Gikaria (Nakuru Town East, UDA): Asante sana, Mhe. Spika. Mwanzo najua umesoma maombi haya. Sijajua utayaelekeza wapi. Nimesikia Mwenyekiti wa Kamati ya Afya akisema... Najua haya Maombi yanafaa kwenda katika Kamati ya Maombi ya Umma. Sisi kama Wajumbe, tunafaa tuangalie jambo hili kwa sababu Mwenyekiti wa Kamati ya Afya amesema Kamati ya Maombi ya Umma iwaalike wale ambao wanahusika.

Pili, nakubaliana na vile Kiongozi wa Wengi Bungeni amesema. Kiongozi wa Wengi Bungeni alisema kuwa ni muhimu kuwatambua hao watoto mapema kupitia ule mtandao wa kisasa wa kibayometriki. Mheshimiwa amesema kuwa wanahitaji kutambuliwa mapema wakiwa shuleni na hata baada ya kutimiza miaka kumi na minane, wataendelea vile tulivyosema baada ya kupitisha Mjadala ama Sheria katika Bunge la Kumi na Mbili kuwa mtoto yeyote atakayetimia miaka kumi na minane ni lazima asajiliwe na NHIF.

Ninakubaliana pia na Bw. Didmus Barasa kwamba ni muhimu mambo tunayoweka kwa Serikali yaweze kufanyiwa uchunguzi. Tukivumbua kitu fulani, kinafaa kufanyiwa uchunguzi fulani ndio tujue uzuri au ubaya wake kabla hatujaendelea.

Ninaunga Mkono hii Dua.

Asante sana Bw. Speaker.

Hon. Speaker: Hon. Emmanuel Wangwe.

Hon. Emmanuel Wangwe (Navakholo, ODM): Thank you, Hon. Speaker. Allow me also to add my voice to this Petition. I call upon my colleagues whom we were together in the last Parliament to remember that there was a Bill on the issue of public participation. It is our time and a wake-up call to look at the qualification of the words “public participation”.

If you may go to that Bill by Hon. Chrisantus Wamalwa, probably, we could ascertain whether there was quality public participation undertaken on the matter and it is only then that we can qualify the manner in which some regulations and rules have been implemented and how various ministries and state departments have performed.

It is also true that whenever our children go to hospitals – and I have heard of several cases in my constituency – especially Level 4 hospitals, they are not attended to because their identification is a challenge.

I, therefore, support the Petition. I would also like to say that it is a good Petition which is going to help our children to get a permanent solution on how they are attended to, once they are unwell.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Oku Kaunya.

Hon. Oku Kaunya (Teso North, ODM): Thank you very much, Hon. Speaker for this opportunity. I support this Petition. It is a very important Petition on two major points.

The key point is the question of public participation. I urge the Committee that will look at this to look at the overall performance of NHIF. This is the major body that does insurance undertaking as a public entity, and this should really be run efficiently.

Some of these improvements at the NHIF should bring on board, and ensure that not only is this Edu-Afya Scheme for our students and other schemes that are in operation modernised but they should be made more efficient and effective, especially with application of technology.

I support the Petition.

Hon. Speaker: Hon. John Gitonga, Manyatta Constituency.

Hon. Gitonga Mukunji (Manyatta, UDA): Thank you, Hon. Speaker. I want to support this Petition. The issue of the NHIF for our kids needs to be improved to ensure that it serves them better.

The NHIF is something that can help this country to do a lot on our health care. We have students in high school who are not aware that they are supposed to be treated for free in our public schools. If there is a good database that allows them to go to those institutions, they can be served right.

The NHIF should be able to serve us and ensure it serves even pharmacists who are at the dispensary levels. If we improve on the fact that these kids require health care every now and then, I think it can be a good thing.

Hon. Speaker, I support. Thank you.

Hon. Speaker: Lastly, Hon. Murumba John Chikati.

Hon. John Chikati (Tongaren, FORD-K): Hon. Speaker, let me contribute to this Petition by Ms. Joyce Cheron. Health care is extremely important to access education. It is critical because when you look at the number of students in hospitals, at any time, it is almost equal to the number of adult patients. We are undergoing this at a time when parents are in a very difficult position and are burdened with other needs and cannot meet the medical needs of their students or children.

It is therefore, extremely, important that this Petition goes through; that the Committee charged with this responsibility facilitates and tracks this so that we can help our children access medical services without strain.

I support.

Hon. Speaker: Thank you, Hon. Members. I can see one Member who wants to contribute to this Petition. Hon. Bisau Kakai will be the last to speak to this Petition.

Hon. Bisau Kakai (Kiminini, DAP-K): Thank you, Hon. Speaker for giving me this opportunity. First, I would like to thank Ms. Joyce Cheron for bringing up this Petition.

What is important is that these children are the actual owners of this country. In terms of numbers, they are the majority. What is important is for us, especially, as legislators to ensure they are well represented here.

To me, apart from the issue of public participation, we have seen a trend where issues are implemented very fast; and in the process of doing so without proper research of public participation, we have ended up trying to re-do or fix them again.

I stand here to support this Petition. It needs to be expedited so that our children can have proper medical coverage.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you. I can see that Hon. Edith Nyenze wants to speak to this. She will be the last one. You have two minutes. Proceed.

Hon. Edith Nyenze (Kitui West, WDM): Thank you, Hon. Speaker for giving me this opportunity. I support this noble idea of giving health care to our students. I, first, want to congratulate Ms. Joyce Cheron. I have taken note that the numbers involved in such a medical scheme are huge, and call for proper research.

Last term, in our county, we had a medical scheme which flopped because of the huge numbers involved. Money was put into the scheme but no service was realised. It is important to have proper systems in place, and proper research done before such a scheme is put in place.

Otherwise, this is a very noble idea. I support that it should be looked into so that it can help our students. This is so that parents are left to pay school fees which would then give them peace. Paying school fees and at the same time looking for money to take their children to hospitals is not easy and especially, during this time of famine when parents have no resources.

I support, and I hope that the Committee will do a good job. Thank you.

Hon. Speaker: Thank you, Hon. Members. Before I commit the Petition, I want to acknowledge the presence of the following schools in the Public Gallery: Chepareria Mixed Secondary School, West Pokot; St. Brigids Girls Litein, Konoin, Bomet; Njiiri School, Kigumo, Murang'a; Topline Secondary School, Embakasi South, Nairobi and Kanjalu Girls High School, Tigania West, Meru.

In the Speaker's Gallery, we have Tenwek High School from Bomet and Kapletundo School in Sotik, Bomet. On my behalf and that of the whole House, I welcome the schools to the Houses of Parliament and wish them well.

Hon. Members, we will now commit this Petition to the relevant Public Petitions Committee. Leader of the Majority Party, the lady who has brought this great Petition also claims to be the brainchild of this scheme. For her to invent such a thing and follow up on you to implement is an indictment of several players in our public affairs. You probably need to follow up on that as well.

Next Order.

PAPERS

Hon. Speaker: Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, I beg to lay the following Papers on the Table:

Information on Programmes Outputs, Performance Indicators and Targets for the FY 2023/2024 and the Medium-Term Strategy from the National Treasury and Economic Planning.

Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30th June 2021 and the certificates therein:

1. Kenya National Shipping Line Limited.
2. Orange Democratic Movement (ODM).
3. Kenya Copyright Board.

4. Kenya Maritime Authority Staff Mortgage and Car Loans Scheme.
5. Kenya Maritime Authority.
6. Kenya Medical Training College.
7. Turkana University College.
8. National Communications Secretariat.
9. Northern Water Works Development Agency.
10. Konza Technopolis Development Authority.
11. President's Awards – Kenya.
12. Kenya Institute of Mass Communication.
13. Kenya Film Classification Board.
14. Communications Authority of Kenya.
15. Kenya Tsetse Fly and Trypanosomiasis Eradication Council.
16. National Youth Council.
17. Anti-Female Genital Mutilation Board.
18. Communications Authority of Kenya-Universal Service Fund.
19. Sacco Societies Regulatory Authorities (SASRA).
20. Lake Victoria North Water Works Development Agency.
21. Gatanga Technical and Vocational College.
22. Nachu Technical and Vocational College.
23. Kipkabus Technical and Vocational College.
24. Rivatex East Africa Limited.
25. Kibabii University.
26. Kisiwa Technical Training Institute.
27. Runyenjes Technical and Vocational College.
28. Jeremiah Nyagah Technical Institute.
29. Turbo Technical and Vocational College.
30. Karumo Technical Training Institute.
31. National Construction Authority.
32. Kenya Literature Bureau.
33. Kenya National Qualifications Authority.
34. Kenya Education Management Institute.
35. Kenya Technical Trainers College.
36. Kabete National Polytechnic.
37. Jomo Kenyatta University of Agriculture and Technology Enterprises Limited.
38. Jomo Kenyatta University of Agriculture and Technology Noodles Limited.
39. Kenya Rural Roads Authority.
40. Kenya Urban Roads Authority-Road Maintenance Levy Fund.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you. Next Order. Is there a notice of Motion?

NOTICE OF MOTION

Hon. Speaker: Hon. Jane Kagiri, OGW, MP. Member for Laikipia County.

REDUCTION OF COST OF ELECTRICITY IN THE COUNTRY

Hon. Jane Kagiri (Laikipia County, UDA): Thank you, Hon. Speaker...

Hon. Speaker: Hon. Member, you start by saying “I beg to give notice of the following Motion”.

Hon. Jane Kagiri (Laikipia County, UDA): Thank you, Hon. Speaker for the guidance. Hon. Speaker, I beg to give notice of the following Motion:

THAT, aware that the cost of electricity has been at an all-time high affecting the cost of living and doing business; acknowledging that the Kenya Power and Lighting Company (Kenya Power), a public limited company procures electricity from the Kenya Electricity Generating Company (KenGen), another public limited company, a Government-owned company and from Independent Power Producers (IPPs); recognising that Kenya Power has entered into Power Purchase Agreements (PPAs) with both KenGen and IPPs and procures power from them at unregulated rates; noting that there is need to regulate all IPPs in the country and publicise their locations, stakeholders, directors, management and their addresses, and agreements entered into with Kenya Power; cognisant that recommendations from past task force reports relating to power purchase and rates have not been implemented; deeply concerned that Kenya Power has in the past procured a large quantity of power from the IPPs at a greater cost rather than from KenGen, leading to higher cost of power; cognisant of the fact that there is need to put in place policies, strategies and regulatory measures for better planning to moderate the cost of electricity and enable access to energy by all particularly in the manufacturing sector to ease the cost of production and doing business, this House, therefore, resolves that:

The Departmental Committee on Energy undertakes an inquiry into the operations of Kenya Power in relation to agreements entered with IPPs, factors affecting the cost of electricity including over-reliance on IPPs against available renewable and other energy sources and measures to reduce it and submit a report to the House within 120 days.

In the meantime, the Ministry of Energy and Petroleum and Kenya Power should not enter into new contracts with IPPs until the House makes a resolution of the matter.

Informed by the reports of previous task-forces on the matter, the Ministry of Energy and Petroleum engages in negotiations with power producers with a view to reducing the cost of power.

The Ministry of Energy and Petroleum and Kenya Power develops suitable strategies for engagement with the IPPs in order to provide relief for electricity consumers and ensure the long-term viability and sustainability of the energy sector.

Thank you, Hon. Speaker:

Hon. Speaker: Thank you, Hon. Member. Next Order.

QUESTIONS AND STATEMENTS

Hon. Speaker: Leader of the Majority Party.

STATEMENT

BUSINESS FOR THE WEEK OF
20TH TO 24TH FEBRUARY 2023

Hon. Kimani Ichung’wah (Kikuyu, UDA): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(a), I rise to give a Statement on behalf of the House Business Committee which met on Tuesday, 14th February 2023 to prioritise business for consideration during the week.

Hon. Speaker, allow me to once again welcome Members to the Second Session of the 13th Parliament trusting that we have all enjoyed our long recess, had time to rest, reenergise and reconnect with our families and our dear constituents. Therefore, all Members are well-energised to restart this Second Session.

As Members are aware, yesterday the House approved the Calendar of the House for the regular sittings setting the stage for the commencement of business for the Second Session. Notably, the first part of this Session will be quite busy with key business being consideration of the Budget Policy Statement and Medium-Term Debt Strategy for the 2023/2024 Financial Year, which I have just tabled before the House this afternoon. It is also noted that the Committees of the House are already engaged in consideration of the Supplementary Estimates and this will give way for consideration of the Supplementary Appropriations Bill, hopefully in the course of next week or early in the following week.

Hon. Speaker, next week Members are expected to continue deliberations on the general debate on the proposal to amend the Constitution and the Standing Orders, should the debate not be concluded at the rise of the House today. Members are encouraged to attend the sittings to ensure that their views are recorded on these very important constitutional and procedural matters that are before us.

The House will also continue debate on the report of the delegation of the Organisation of African, Caribbean and Pacific States (OACPS) on the 42nd Session of the ACP-European Union Joint Parliamentary Assembly should it not be concluded today.

Additionally, the Petition to Parliament (Procedure) (Amendment) Bill, (National Assembly Bill No. 51 of 2022) by Hon. Gladys Boss, MP and the National Construction (Amendment) Bill, (National Assembly Bill No.59 of 2022) by Hon. David Gikaria, MP are set to undergo the First Reading. This will open up the Bills for consideration by the relevant Committees in accordance with the Standing Orders.

Hon. Speaker, Members will note that the House Business Committee is yet to start scheduling Questions to the Cabinet Secretaries. This is in view of consideration of the proposed mechanism currently before the Procedure and House Rules Committee. Once this is concluded, the necessary processes will be instituted to allow Members to ask Questions accordingly. The House Business Committee will reconvene on Tuesday, 21st February 2023 to schedule business for the rest of the week.

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

Thank you.

(Hon. Ichung’wah laid the document on the Table)

Hon. Speaker: Thank you Leader of the Majority Party. I now call the Member for Navakholo, Hon. Emmanuel Wangwe.

REQUEST FOR STATEMENT

DELAY IN ENROLMENT OF FORM ONE

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STUDENTS IN KAKAMEGA COUNTY

Hon. Emmanuel Wangwe (Navakholo, ODM): Thank you, Hon. Speaker. I rise to request for a Statement regarding the delay in enrolment of students in Kakamega County into Form One classes.

Pursuant to Standing Order No.44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Education regarding the delay of students from Kakamega County in joining their respective high schools.

Hon. Speaker, it is regrettable that several students across the country are yet to join their respective secondary schools owing to lack of school fees. These include students in Kakamega County who are sponsored by Jomo Kenyatta Foundation under the Elimu Programme. It is against this background that I seek a Statement from the Chairperson of the Department Committee on Education on the following;

1. Is the Ministry of Education aware that 155 students from Kakamega County sponsored by Jomo Kenyatta Foundation under Elimu Programme are yet to join their respective secondary schools for Form One classes?
2. Could the Chairperson have the Ministry explain the fate of these very needy students if they fail to join secondary schools?

Thank you, Hon. Speaker.

Hon. Speaker: Thank you Hon. Member. Next Order.

BILLS*First Readings*

THE PUBLIC SERVICE (VALUES AND PRINCIPLES) (AMENDMENT) BILL
(National Assembly Bill No.46 Of 2022)

THE GERIATRIC BILL
(National Assembly Bill No.50 Of 2022)

(The Bills were read a First Time and referred to the relevant Committees)

MOTION

GENERAL DEBATE ON PROPOSALS TO AMEND
THE CONSTITUTION AND STANDING ORDERS

THAT, noting the contents of a Memorandum submitted to Parliament by His Excellency the President asking Parliament to consider initiating amendments to the Constitution; Acknowledging that actualization of the proposals which relate to, *inter alia*, the composition of Parliament as provided for in Articles 97 and 98 of the Constitution in order to attain the two-thirds gender principle, the creation of the Office of Leader of Official Opposition in Parliament, and the inclusion of various funds in the Constitution would necessitate amendment to the Constitution,

while the restructuring of parliamentary oversight to allow for Cabinet Secretaries to appear before the Houses of Parliament to respond to Questions by Members would require the amendment of Standing Orders; further acknowledging that the Speaker, vide a notification issued on 9th December 2022 referred the matters raised in the Memorandum to the Departmental Committee on Justice and Legal Affairs with regard to proposals relating to the implementation of the two-thirds gender principle and the establishment of the Office of the Leader of Official Opposition; the Joint Parliamentary *Ad Hoc* Committee with regard to proposals to amend the Constitution to entrench the Constituency Development, Senate Oversight and National Government Affirmative Action funds; and the Procedure and House Rules Committee with regard to proposals to amend the Standing Orders to strengthen parliamentary oversight of the Executive so as to facilitate public participation pursuant to Article 118 of the Constitution; now therefore, pursuant to the provisions of Articles 1(2) and 95(2) of the Constitution, this House notes, considers and makes general comments on the proposals contained in the Memorandum by His Excellency the President.

*(Moved by Hon. Kimani Ichung'wah on
15.2.2023 - Morning Sitting)*

*(Resumption of debate interrupted
on 15.2.2023 - Afternoon Sitting)*

Hon. Speaker: The Hon. John Mutunga, Member for Tigania West.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Thank you, Hon. Speaker for giving me the opportunity to contribute to this Motion on the Message from His Excellency the President.

I would like to thank His Excellency the President for thinking through this and for making effort to ensure that he reaches out to the House to make a determination. Hon. Speaker, I also would like to thank you for committing this business to the Committees. We are waiting for the report from the Departmental Committee on Justice and Legal Affairs and the joint *ad hoc* Committee to entrench the funds and also the Procedure and House Rules Committee to amend the Standing Orders and strengthen the oversight so that they may be able to give us the guidance that we shall use in order to deal with these issues.

Hon. Speaker, the President was very precise in his Statement. He requested the Speakers to consider all policy measures to fully actualise the full promise of our Constitution. The President wants the Constitution adhered to and wants the full actualisation of the Constitution. That is why these matters were brought to the House. The idea is not just to change the Constitution but to ensure that the Constitution is fully implemented.

Let me be specific on some of these issues. First of all, it has not been easy for us as a country to realise the gender equity. All efforts have been put up. Articles 97 and 98 of the Constitution speak to this and it has not been possible to get the numbers as it were. On compliance with the Constitution, the President is requesting us to come up with a formula or requesting us to consider a formula that will ensure that there is equitable representation in terms of gender, in all electable and appointive positions. There is need for us to look into this so that we may ease the burden of having poor representation.

Looking at the trend of events, we have had women being empowered in this country. Some of them being nominated to positions, so that we can balance out the equation. As we can see, what happens is that those that are nominated, the next time they come as elected. Those who have been given positions to popularise themselves have been able to do so to an extent that they are elected. We see a situation where at the end of the day, this equation will naturally balance out and not only balancing out, there is a likelihood that the women will be more than men. So, gender is not about women; it is about balancing the numbers in view of both genders.

We need to note that the actual nominations that happen in the Senate and in the National Assembly have not given us the numbers that we need. So, the formula is necessary. Therefore, I laud this request by His Excellency the President to handle this particular problem.

If I may speak briefly to the issue of National Government Constituencies Development Fund (NG-CDF), the Senate Oversight Fund and the National Government Affirmative Action Fund (NGAAF), I would like Kenyans to understand that NG-CDF does not belong to Members of Parliament. There is a misconception that NG-CDF belongs to Members of Parliament. It does belong to the Members of the National Assembly. It is a Fund that is basically overseen by a Member of the National Assembly. It is a Fund that is very specific to developments described in terms of proportions of use and has targeted development across the constituencies. When you go to every county, you are able to see what NG-CDF has done and that money is not a lot. The NG-CDF is the most significant Fund in most of the constituencies. The design of NG-CDF results in the realisation of outputs and outcomes that are so apparent in those areas.

The NGAAF does a lot of good work. Therefore, my request is to consider NGAAF a little more seriously. Let us look into it, look at the legislation and regulations that guide it so that it is better guided than it is right now. It is an important Fund as it is.

Let me speak to an omission. I do not know whether everybody looks at it that way. I wish to think about the Ward Development Fund. We have avoided this particular issue and it has become a serious and thorny issue in many counties. As we speak now, Meru County is going through turmoil and a lot of problems because of the Ward Development Fund. We see a situation in future whereby Members of County Assemblies (MCAs) will come up and ask to be considered for a development fund that is specific and targeted to their wards. So, it is something that probably could be looked into at this particular point in time.

The Senate Oversight Fund is not really a fund. We are staring at a situation where Members of the National Assembly, members of county assemblies (MCAs) and others who are elected may be looking at an oversight fund or some money to help them oversee their programmes. This is something that this House should practically look into and debate. We should set up a fund that is going to help Senators to do some work in their areas and not necessarily to offer oversight. The oversight role is a shared function between Senators and MCAs.

Parliamentary oversight is important and that is the final issue I want to speak to. Improving Parliament's oversight over the Executive is key. We need to bring the Executive here. Many of us have argued that this will lead to confusion and reduction of business of committees. People are saying that it will demystify the relevance and the existence of committees. However, I share a totally different opinion. The work committees do is detailed. There is no time we shall have cabinet secretaries attending to all issues. Specifically, I will speak of agriculture. The Cabinet Secretary for Agriculture, Livestock, Fisheries and Cooperatives may not answer all Questions within the Ministry in one sitting. In any case, we will have asked those Questions in this House before the cabinet secretaries come in. They will be coming to respond to specific issues and not general issues or anything that we may have in mind.

The other issue is that it will create an opportunity for greater spread of knowledge and information. When cabinet secretaries come to respond to issues at committee level, only a few Members of this House gain response. The feedback is limited to only a few and those probably invited as friends of committees. Those who may not know about this issue may not know what was discussed. That is why we are saying that if they come here and anybody is interested in a specific issue, there is sufficient room to listen to the issue and room to interrogate the issue.

In conclusion, this issue is articulated in Standing Order 253(3). Even if they are strangers, all we need is to look at is that provision and see how we can make it possible for them to come to this House. None of the matters proposed by the President demands a referendum. I speak to this House with the list of matters that require a referendum. There is nothing that talks about the supremacy of the Constitution. Nothing touches on the territory of Kenya. Nothing touches on the sovereignty of the people and the national values. None of those issues will touch on the Bill of Rights, the term of the President or the functions of Parliament. None of them touches on the objectives, principles and structure of devolved governments.

Let me briefly speak on the issue of the functions of Parliament which could be what is making some of our Members consider it an issue requiring referendum. About the functions of Parliament, what among those four issues will hinder deliberating and resolving issues that affect our people? Which of those will disable us from enacting good laws? Which of them will make it impossible for us to determine allocation of resources at different levels and functions? Which of them will impede the appropriation of funds for expenditure at the various ministries, departments and agencies? Which of them will impair oversight of the national Government or Government officials? Which of them will make it impossible for us to approve war or extension of an emergency? None of the above. Hon. Speaker, none requires a referendum.

I thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Member. There is Hon. Kulow Hassan. Is he in the House? He had some six minutes to go that we overlooked. He is not here. Let us have Hon. Eric Muchangi.

Hon. Muchangi Karemba (Runyenjes, UDA): Thank you, Hon. Speaker, for the opportunity to contribute to this Motion.

Mine is a brief submission on my thoughts on the NG-CDF. There has been a misconception out there that the NG-CDF is under the control of Members of Parliament or it benefits MPs. I would like to say that the NG-CDF is a Fund that has been very beneficial to the people in this country. It is a Fund present in every corner of constituencies in the country. When it comes to issues to do with the education of our kids and students, the NG-CDF has come in handy. To those who think the NG-CDF should be abolished, the NG-CDF should be increased to serve the many needs of our students in the larger republic. I try to imagine how many students would be out of school if there was no NG-CDF. Considering the cost of living nowadays, many parents are unable to take their children to school. They only rely on the NG-CDF, some doing so entirely. We should protect this Fund, even as we introduce other forms of Funds like the Senate Oversight Fund. The NG-CDF should be a Fund we should consider increasing so that it can benefit more students and schools.

The idea of amending the Standing Orders to provide for cabinet secretaries to come and respond to Questions in Parliament is a very welcome idea. I have personally asked Questions to cabinet secretaries and I have seen them come to committees but sometimes the kind of answers they give in committees are not satisfactory. If they will have to come to the House, it means they will come with well-prepared answers. Members will get an opportunity to ask supplementary

questions. There is no cabinet secretary whatsoever who will come to this chamber not prepared or not sure of what he or she is going to say. Many projects are not going on in our constituencies because of simple issues that would be sorted if cabinet secretaries were readily available to attend to issues raised by Members.

I support this Motion so that we can have more participation by Members in asking cabinet secretaries Questions when they appear before this House. Thank you, Hon. Speaker.

[The Speaker (Hon. Moses Wetang'ula) left the Chair]

[The Temporary Speaker (Hon. David Ochieng') took the Chair]

The Temporary Speaker (Hon. David Ochieng'): Let us have Hon. Didmus Barasa if he is in the House.

Hon. Didmus Barasa (Kimilili, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity to support the gesture by the Head of State. We need to amend our Constitution on a number of matters. Notably and most important is the NG-CDF because, as you are aware, we have heard perennial litigants, busybodies, who have been hovering from one court room to the other attempting to block this very important Fund. If you move across every corner of this country, you can fail to spot a pregnant woman but you will not fail to spot a project funded by the NG-CDF. This is a fact. The misinformation going out there that this Fund is unconstitutional and politicians control it is not true. A committee nominated by a panel chaired by the Deputy County Commissioner (DCC) controls the Fund. The National Treasury controls the Fund. That is why one of the signatories to this Fund is a district accountant, an employee of the National Treasury. The Head of State means well for this country. That is why it is very necessary that this Fund be embedded in our Constitution so that the perennial litigants can find something meaningful to do.

When it comes to the Senate Oversight Fund, it is a very important Fund that the Senators must oversee the billions of shillings that are devolved across various governments in the country. This is very important, but the only area that I do not agree with, which I have been very forthright on even from the previous Parliament, is forcing people to elect the numbers of a particular gender when it comes to elective positions. I have always been of the view that the issue of two-thirds gender rule be excluded from elective positions because you cannot force the people of Kimilili Constituency to elect a man or a woman. They will elect a person who will appear to have a superior plan on their behalf. I have always looked at female Members of Parliament as Members who are competent enough to articulate issues that affect the children of this country.

I have always used an example of the County of Kirinyaga where in most elections, female politicians have been trouncing men in trousers not once or twice. I believe what a man does a woman can do even five times better. We should begin to look at elected leaders of this country not in terms of gender, but in terms of their mental capabilities to take this country forward. I am a believer and I have evidence that we have women whose thinking is better than men and vice versa. The gender was just a way that God used to ensure that we have procreation, but in terms of thinking and application of wisdom, we are equal in the eyes of God. When that time comes, I will give my opinion on what I think is good for this country. I still believe that the issue of gender parity should exclude elected leaders because it will be difficult to force people of a particular area

to elect a male or a female. We should leave that issue wide open for them to decide and bring men and women in this House who better understand their problems.

Hon. Temporary Speaker, this House is a debating chamber where different views are debated and we also have a responsibility to change any law any time following the stipulated procedures in our Constitution. Various committees that are considering these Bills should expedite the Bills so that they go through public participation where Kenyans can give their views and we stop endangering this important Fund from the hands of perennial litigants.

This is a very good gesture and proposal by the Head of State. He has done his thinking. We need to pick it up and run with it to ensure that in less than a year or even before the end of this year, we should have the laws embedded in our Constitution. We should even think of increasing some of the devolved functions that county governments have been grappling with. We need to get some of them, bring them back to the national Government and expand this Fund so that it can take care of those functions that the counties are struggling with.

As I finish, it is important for this House and Kenyans to know that the way the NG-CDF has been operationalised is not a blank cheque. It begins with the committee sending a proposal to the NG-CDF Board, the Board looks at it, approves it, and monitors its implementation. The only way to avoid pending bills is to follow the route on how the NG-CDF is managed. I would want to see a situation where the devolved functions of the county government have a framework similar to the NG-CDF where proposals are approved by someone here in Nairobi and when they go back to the counties, they allocate enough money so that we can reduce the issue of pending bills and disregarding projects that were initiated by a predecessor. This can only be possible by following the NG-CDF way. The NG-CDF should be emulated and not scrapped and that is why we feel very strongly that it should be embedded inside the bedroom of our Constitution.

I support. Thank you.

The Temporary Speaker (Hon. David Ochieng): Thank you so much, Hon. Barasa.

Hon. Members, I wish to recognise the presence of students in the Public Gallery from Kanjalu Girls High School, Tigania West in Meru County, and students from Sawagongo High School, Gem, in my county of Siaya. They are welcome to follow the proceedings of the august House this afternoon.

This chance now goes to Hon. Johana Ng'eno if he is in the House. I cannot see him. This chance goes to Hon. Wanjiku Muhia of Kipipiri. Hon. Wanjiku Muhia, I can see you. This is your chance to give your comments on this particular debate. If she is not ready, I will give this chance to Hon. Kibet.

(A Member spoke off record)

Hon. Wanjiku Muhia (Kipipiri, UDA): Thank you, Hon. Temporary Speaker. I am ready and I believe the debate on the Floor is on the Constitution, which I want to support and appreciate.

The Temporary Speaker (Hon. David Ochieng'): Go ahead.

Hon. Wanjiku Muhia (Kipipiri, UDA): I wish to say to the Kenyan citizens that the mind of the President is positive and well thinking for the Republic of Kenya. The four issues that are raised are very pertinent and popular, particularly the issue of the NG-CDF. Yesterday, I was in my constituency and the public is still crying why we are not able to give bursaries. We all know that the genesis of why we are late in giving bursaries to our children is because of the cases that have been filed time and again limiting the National Treasury and other bodies to process the NG-CDF in time. One way to cure this challenge is to have NG-CDF, NGAAF and all such other

funds in the Constitution. A child from Turkana, Nairobi or anywhere in the republic who wants to join Form One will do so knowing very well that the money to sponsor them is in the Constitution.

As women leaders in this House and even women outside there, the issue of gender inclusivity is very pertinent. This is an issue that this House has struggled with for a long time. In the 11th Parliament, we had Duale 1, Duale 2 to almost Duale 10 and it is never coming to an end. We shall discuss this issue and I am sure when it shall go to the committee level, the committee and Members of similar interests will deliberate it well. It is also another issue that should come to an end and not be discussed time and again. Some of the issues that we discuss here and are never ending also consume Parliament's time. If we agree and put the issue of gender inclusivity in our Constitution, it shall have been sorted out once and for all.

I look at the proposal for Cabinet Secretaries coming to this House with both eyes. I find it very good, but at times I am not very comfortable with it because committees also deliberate a lot when they call them. I urge the Departmental Committee on Justice and Legal Affairs or any other relevant committee that will be handling this issue to criticise and analyse it and conduct a cost-benefit analysis for the benefit of the people of Kenya. We agree that it is well to consider the proposal.

The last proposal is on a fund for Senators. Some Members have a different thought about it. Handling a whole county is not easy. Women representatives who are here will testify. It is not easy to move around the whole county with your own funds and your own vehicle. In fact, you may think you are conducting oversight, but you may do very little. Today you are in this House and tomorrow you are in the Senate. When I was in the East African Legislative Assembly (EALA), I pleaded with Hon. Kanini Kega, who was the Chairman of the Budget and Appropriations Committee, to include some funds in the Budget and the proposal was well articulated by the Ministry of East Africa Community (EAC) to be used for sensitisation. The idea never materialised, no matter the number of times we pleaded. Today, Hon. Kanini Kega is in EALA and recently he spoke with me on the same issue. As we deliberate on any issue, let us consider that you can be representing your constituency in this House today and tomorrow you are in the other House.

[The Temporary Speaker (Hon. David Ochieng') left the Chair]

[The Temporary Speaker (Hon. Farah Maalim) took the Chair]

Hon. Temporary Speaker, in the same Memorandum, there is a proposal to amend the Standing Orders. I am looking forward to that except I am not sure if the amendments will be effected immediately. How I would love the amendments to become effective immediately. As the Chair of the Committee on Regional Integration, I realise there is a big gap between this House and other parliaments which some Members from this House serve such as the Pan African Parliament. My Committee will be recommending that when the Assembly is nominating Members to serve in other parliaments, it picks at least a Member from that Committee, so that when reports of deliberations in those parliaments are tabled in the House, that Member will have the advantage of inside information. This information can benefit the Committee in its deliberations and it will enrich debate in the House. Amending the Standing Orders is a normal

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thing that we should encourage because we live in days when we need to change things to rhyme with the times we live in.

Hon. Temporary Speaker, I support and look forward to these changes to benefit the Republic of Kenya. Thank you.

The Temporary Speaker (Hon. Farah Maalim): Hon. Beatrice Kemei. Is she in? Hon. (Dr) Makali Mulu.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you very much, Hon. Speaker. I want to add my voice to this debate on proposals by the President. A number of things have been proposed in the President's Memorandum. Some of them make a lot of sense, and others are contentious. Let me run through the issues one by one.

The issue of the two-thirds gender principle has been in this House for a long time. We have tried our best to get it right. Any time it gets to voting, it always falls short of expectation. I think it is time we changed tact on this issue. It is important that we come up with a different strategy to achieve the expected goal. The two-thirds gender principle is important to this country, but the strategies we have been using in the past will not give us the results. If we go the same way again, I do not think this House will be expecting different results. The committee concerned will have to seriously think about a different strategy so that we can get a different result.

The matter of official opposition has been adequately canvassed by the legal minds in this House. And what has come out clearly is the fact that this matter might be unconstitutional. If our legal minds have said that, it is important that we are seen to be operating within the Constitution. All of us in this House have sworn to protect the Constitution, and so we must make sure that we do things correctly and not be accused of going against the Constitution.

The proposal to allow cabinet secretaries in the House is another contentious issue. Our Constitution is very clear that cabinet secretaries are appointed from out of the House. They do not belong to the House. During the Building Bridges Initiative (BBI), we proposed that cabinet secretaries come from the House. We all know what happened. I do not think it will be fair for us as a House to sneak this matter through the backdoor. We will be seen to be acting unconstitutionally in terms of addressing this matter. This matter will still need sober discourse so that at the end of the day, we operate within the law. My take is that if as a country we want to go the presidential system, then let us agree to go the presidential system as we have agreed. If we want to go the parliamentary system, it is important we choose the parliamentary system. We should not have a mixed system which might not help this country. Always there are what we call best practices and we must make sure that we do not do things that appear as if we have no idea of what should be done.

I do not want to talk much about the NG-CDF matters. There is a proposal to have oversight funds. The Auditor-General, in her reports, has come out clearly over the years to say that a lot of public resources are not used prudently. Every year we get these reports and conclude that a third of the budget appropriated in this House ends up either being misused or misdirected. At the end of the day, Kenyans do not get value for money. If we are to apply the same formula to the counties, it means that about 30 per cent of the resources we send to county governments face the same fate. We are talking about Ksh370 billion. So, on average, Ksh120 billion ends up not properly utilised every year. Some of the money might be misdirected and some might find its way to individuals' pockets. So, the idea of an oversight fund is very important and it should be applicable at the Senate, the National Assembly and at the county assemblies, so that anyone involved in oversight has adequate resources to do their work. At the national level, we are told that about Ksh1 trillion ends up not being applied properly. At the county level, about Kshs120 billion is not applied in

the right way. I am sure the oversight fund might not even be Ksh2 billion at the end of the day. If we can use Ksh2 billion to save more than Ksh1 trillion, let it be. Personally, I think this is a matter that we should support so that by the end of the day, we can save Kenyans and they get value for money with regards to resources which this House is appropriating.

On the issue of the NGAAF, we are aware that our County Woman Representatives cover very big areas and we want to support them so that when we entrench the NG-CDF in the Constitution, and the NGAAF is also included. This will ensure that there is no way the busy bodies in this country who seem to have minimal to do and always end up in court have other assignments to do because they are not helping Kenyans.

As I conclude, there are two things which are very dear to me which I think we need to consider as a House even as we look into the issue of oversight funds like the NG-CDF and the NGAAF. One of them is the issue of the Ward Fund. We need to be fair to our colleagues, the MCAs, so that even as we devolve the resources through the NG-CDF, we have more resources being devolved at the county level through the Ward Fund. If we implement this, we will develop this country while being independent of any political alignment.

Lastly, we have the issue of financial autonomy to county assemblies. Hon Temporary Speaker, you have been in this House for long and you know that the time we used to go for funding as Parliament from the Treasury was chaotic. This is what is happening in our county assemblies where currently the County Executive Committee (CEC), Finance, must sign and approve the budgets. This makes it difficult for them to do their oversight role independently because they are still relying on the Executive to get financing. It is time we ensured that county assemblies have financial autonomy just as the President provided financial autonomy to the Kenya Police Service. It is important that we also support this autonomy for our county assemblies.

With these many remarks, I want to urge my colleagues in this House to have very sober discourse so that at the end of the day we can do justice to the proposal by the President and help Kenyans to move to the next level.

I thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Next is Hon. Dorothy.

Hon. Dorothy Muthoni (Nominated, UDA): Thank you, Hon. Temporary Speaker. I too support this very important proposal by His Excellency the President of the Republic of Kenya. From the outset, I want to thank His Excellency for these four worthy considerations that he has thought will heal some of the problems that we contend with in this country. I also appreciate and acknowledge that the President is a seasoned politician. He has been here for quite a while and knows too well that if these issues are handled and adopted by the House, they will cure some of the issues that we contend with daily.

Hon. Temporary Speaker, the raft of things that His Excellency has put across for consideration is the entrenchment of the NG-CDF and NGAAF in the Constitution. Every Member seated in this House today appreciates the important role this particular Fund plays in our constituencies as far as looking at the welfare and well-being of our electorates stands. Very many children have benefited from this particular Fund and if you walk across every constituency, this is the only Government fund that can be attributed to development. Therefore, we can only do justice to this fund if it is entrenched in the Constitution so that nobody wakes up one morning and decides that the NG-CDF should not be given to the Members of Parliament. It is important for Kenyans to understand that Members do not have a hand in this fund. It is a fund that is controlled

centrally and has fund managers. The only thing a Member of Parliament does is to oversee the fund and I am sure this is the reason why the fund is utilised very well.

Hon. Temporary Speaker, on the proposal of the gender parity, it is 13 years down the line from the promulgation of the 2010 Constitution and we have been contending with this issue of the Two-Thirds Gender Rule. It is important to note that women can go for elective positions as well as vie in single Member constituencies, but it has been increasingly difficult as much as we are making laws in elective positions for women to lead various positions in the counties and constituencies due to unequal opportunities and uneven playground that women find themselves in. With that being said, it is very prudent that we consider our women so that at the end of the day, they can sit on the decision-making table. I note with a lot of concern that we at times have to struggle and find a formula for picking women so that they can sit in Parliament or appointed positions. This is not something that we should be struggling with. Let us accept the concept is very good and at the end of it all, we can come back to the drawing board and ask ourselves which is the best way of doing it.

Hon Temporary Speaker, the other amendment is for establishing the office of the leader of opposition. I would like, at the outset, to state that establishing the official office of the leader of opposition is not in any way power sharing and as a House we should not be distracted by the names. That office will be very beneficial because the opposition will critically examine the work of the Government, question them in the House and have an opportunity to interact with the cabinet secretaries when they appear before Parliament. They will debate in a very healthy way the issues that are belabouring our Members and our constituents like the ongoing drought, banditry as well as provide alternatives to the Government in a more structured and organised platform. Establishing the office of the official opposition leader will enable the opposition to be involved in non-policy decisions such as appointments when they arise and they question all the appointments on the Floor of the House.

It is very sad when we see today the official opposition leader walking in the streets of Nairobi opposing the Government while the people he is trying to tell those issues have little understanding of what he is trying to oppose. It is important that we have this office bearing in mind that we are not creating the office for any particular individual. You can be in the Government today and tomorrow the opposition leader. Bearing that in mind, it is the reason His Excellency the President has asked us to establish this office so that we can honour different people who hold various positions.

The other issue the President has brought for consideration is having cabinet secretaries coming before the Floor of the House. This might be a rather emotive issue because we have other platforms where cabinet secretaries can go. It is a welcome idea because we do not sit in every committee that works for Parliament. However, if cabinet secretaries appear in Parliament, every Member will have an equal opportunity to interrogate them. This is the only way that cabinet secretaries can be accountable to the people because the issues the Members of Parliament float anywhere are for and on behalf of the electorates.

Finally, I urge all Members that when the time comes for us to consider these proposals by His Excellency, we all rise and support in the spirit of ensuring that this country is more important than the small issues that we contend with.

Thank you, Hon. Temporary Speaker.

Hon. Temporary Speaker (Hon. Farah Maalim): Hon. Members, I am informed that there are a number of Members who would wish to contribute to this Motion, but they have already done that. The rules are very clear. You cannot contribute to a Motion twice. As a matter of fact, even

if you just stand and say “I second”, that is taken as having contributed unless the Motion is amended. If it is amended, then you can contribute to both the main Motion and the amended one. Under the circumstances, Hon. Sigei, Hon. Beatrice Kemei, Hon. John Gitonga, and Hon. Waluke, although you have booked that you want to contribute to this Motion, you had already done that and so you do not get another chance unless there is going to be an amendment to this Motion, which I do not foresee.

Is Hon. Kibet Komingoi here? Hon. Jackson Lekumontare? Hon. Fatuma Mohammed? Oh, Hon. Jackson Lekumontare, please proceed.

Hon. Jackson Lekumontare (Samburu East, KANU): Thank you, Hon. Temporary Speaker. I want to contribute to this very important Motion. There are several issues contained in these proposals that are very important to Kenyans. Just as the other Members have said, the issue of the NG-CDF is important to Kenyans. There are so many benefits when it comes to these funds, including the NGAAF. It affects the citizens of Kenya directly and, therefore, it is very important for it to be anchored in the Constitution. Right now, the NG-CDF is at the mercy of other people. We recently almost failed to get the funds.

When it comes to cabinet secretaries coming to this House, it is very important for them to be Members of Parliament rather than from elsewhere. While looking at this whole issue, this is what we wanted as a House that cabinet secretaries should be Members of Parliament. That will be more beneficial to Kenyans rather than cabinet secretaries who are in offices and only visit the House. I am just wondering about the number of questions the Cabinet Secretary for Education can tackle when he comes here given the fact that there will be an allocated time. We must look at some of these things.

In regards to the office of the leader of opposition, if the Government decided to create this office, in my view, the leader of opposition will be stronger. I am looking at it in the sense that if this Government funds the opposition, it will be enticing them not to work. We, therefore, do not need it now. Let it remain as it is. It is very important for us to consider this. If the Government funds the opposition to run that office, where will the office end and what is its position? What becomes of it if it does not reach every part of the country? We need to make the right decision on this when the time comes.

The Senate Oversight Fund will help Senators to play an oversight role. As elected leaders, we all have the role of oversight. Some people may look at all these funds that are being proposed to be in the Constitution as if they will benefit the elected leaders, but the intention is to help the citizens. The County Woman Representatives want the NGAAF while Members of Parliament want NG-CDF and if Senators are given the funds, then it will help them do their oversight role without using their money. This is a good proposal that we have to look at and when the time comes for us to deal with each and every item there, then we will make the right decision that will be beneficial to our people.

Thank you for the chance, Hon. Temporary Speaker. I support.

Hon. Temporary Speaker (Hon. Farah Maalim): Let us have Hon. Ngogoyo, Member for Kajiado North followed by Hon. Fatuma Mohammed, Migori County.

Hon. Onesmus Ngogoyo (Kajiado North, UDA): Thank you, Hon. Temporary Speaker. I rise to support the constitutional amendment. I have to say that part of the many solutions that we can offer to this country is having legislation that is people-centred. The NG-CDF is not anchored in the Constitution. In 2003, CDF was started by a Member of this Parliament who moved an Act of Parliament. The intention was that every constituency would not be left behind on matters development. It brought in the issue of equitable share of resources for every constituency so that

schools in Mandera, Wajir or Nyamira would have classes and the country would move forward in a consistent manner.

Once we enshrine the NG-CDF in the Constitution, we will evade the notorious people who are against our school going children. They took the NG-CDF to court just because it is an Act of Parliament. Once we have it in the Constitution, it will become a constitutional legislation. Going forward, in very many ways, the people of Kenya have shown that they believe the NG-CDF offers part of the solutions in schools.

All of us in the National Assembly face one problem every January and February. Most secondary school going children come to us asking to be sponsored because they have been admitted to certain schools and are unable to pay fees. Therefore, we intend to enshrine this fund in the Constitution to secure our children's future and betterment of the lives of our people as enshrined in the Constitution.

I agree that we need to amend our Constitution and enshrine the NG-CDF together with the NGAAF, so that our young people's projects can be funded using this money constitutionally and not through an Act of Parliament, so that nobody can then wake up in the morning and say it is unconstitutional. We have also realised the gender issue is serious. We do not want to be like the 12th Parliament, but want to do our part. I will be among the people supporting amendments to the Constitution for the National Assembly to do its part in complying with the two-thirds gender rule. Some argue it is expensive, but in the Constitution, we created a responsibility for ourselves to ensure that we are compliant with the two-thirds gender rule.

Lastly, is the issue of the Senate Oversight Fund. The main role of the National Assembly and the Senate is oversight. We should be at our utmost ensuring that we do our oversight job very well. This is the only job that cannot be equated to any amount of money. We need to use our resources and energy towards doing oversight of all the money we appropriate as Parliament.

As I conclude, I want to agree with the mover of the Motion that we need to amend the Constitution to ensure the future of our children is bright by enshrining the NG-CDF in the Constitution. We also need to make sure that the NG-CDF, which our people believe is the only visible money, continues to exist beyond the 13th Parliament. I support the issue of the NG-CDF, the constitutional amendment to the two-thirds gender rule and the Senate Oversight Fund. I look forward to a healthy debate going forward to make sure that we are part of the history, so that in future, money is distributed equitably to our people whether in Lodwar, Mandera, Taita Taveta, Kajiado and all the other constituencies.

Where I come from in Kajiado North, this is the only visible money. When it delays, it becomes a very big burden to the people of Ongata Rongai, Ngong and Kiserian. I look forward to this Parliament enshrining the laws and being part of history so that this money assists every constituency to move forward in all dimensions.

Thank you very much, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Hon. Fatuma, followed by Hon. Charles Onchoke. Is he in the House? In that case, the Member for Emurua Dikirr, Hon. Johana Ng'eno, will follow. Proceed.

Hon. Fatuma Mohammed (Migori County, Independent): Shukran Mhe. Spika wa Muda. Nimeamka kuitetea NG-CDF na NGAAF. Kama mwakilishi wa kina mama, najua vile pesa tunazopata kupitia NGAAF zinawasaidia walio mashinani. Kusema kweli, watu mashinani wanajua NG-CDF na NGAAF lakini imesemekana haiko kwenye Katiba. Hili ni jambo ambalo wananchi wakilisikia watapata uchungu. Kutokana na mambo mengi ambayo yamezungumzwa, NG-CDF na NGAAF ni kama kanisa; usipoipata hauna maisha.

Serikali kuu haipati nafasi ya kufika mashinani kujua shida za wananchi. Kwa hivyo, hizi pesa zinatusaidia. Kusema kweli, tunatumia hiki kiti ili kutetea mambo mengine lakini bila NG-CDF na NGAAF, hakuna maana ya kuwa Mbunge kwa sababu wananchi wanaangalia hizi pesa tunazozipata kupitia hiki kiti. Ingekuwa juhudi yangu binafsi ningeamrisha leo hii hizi pesa ziwekwe kwenye Katiba bila kuwauliza wananchi kwa sababu wananchi tunaowaakilisha wanatusukuma kila siku wakituuliza mbona inasemekana hivyo. Kusema kweli, hii si haki. Hizi pesa ziwekwe kwenye Katiba ndiyo wananchi wapate haki yao.

Kwa upande wa kuongeza idadi ya wamama ndani ya hili Jumba, hii pia ni changamoto kubwa sana. Hadi sasa tuna upungufu mkubwa sana. Hata ndugu zetu ambao ni Wabunge wenzetu, wanakubaliana na sisi kuwa idadi yetu iko chini. Hata sasa, sisi ambao ni waakilishi wa wamama tunaambiwa ya kuwa uchaguzi ujao utakuwa mwisho wa kiti hiki. Hapo tayari imeleta baridi kwa wananchi na wamama.

Sasa hii wanatubabaisha wakituambia baada ya uchaguzi ujao kiti cha wamama hakitakuwepo tena na hatuna idadi ya kutosha, tukifikia uchaguzi mpya na hiki kiti kifanyiwe uchaguzi wa mwisho huenda kukakosekana hata mama mmoja kwenye hili Jumba. Tunapaswa kupitisha Hoja hii haraka sana bila kurudi kwa wananchi. Kuna yale ambayo yatahitaji turudi kwa wananchi kwa njia ya *referendum* ili watuambie kama wanakubali maneno tunayoyazungumzia ndani ya hili Jumba.

Kuhusu NG-CDF, NGAAF na kuongeza idadi ya wamama kwenye hili Jumba, Wakenya wanakubaliana na sisi kwamba ni muhimu na inapaswa kuharakishwa. Kuhusu waliochaguliwa kama *cabinet secretaries* kuja ndani ya hili Jumba, sijui kama kutakuwa na haja ya kamati. Kwa sababu kama wakikuja hapa kujibu maswali, basi hakuna haja ya kamati kuketi chini na kutumia hela ya wananchi kumwita mkubwa mwingine aelezee vile pesa zinatumiwa katika Idara. Maoni yangu ni kama tunafanya kazi moja kwa mikono miwili. Hakuna haja mtu mwingine akuje hapa kuzungumza na kwenye kamati mtu mwingine anazungumza maneno mengine. Hii haina maana kabisa. Kama tunataka wakuje katika hili Jumba, basi wachaguliwe kati yetu tulio hapa ndio wanaamka kutetea jambo linalozungumziwa kwa haraka ndio tupate majibu na tuwachane na mambo ya kamati ama tuendeleo na kamati ili wakuje tuwaulize maswali. Ukiangalia idadi ya Wabunge walio ndani ya hili Jumba, tunaelekea mia 400. Ni wakati mgani mmoja wetu atapata nafasi ya kuzungumza na huyo *cabinet secretary* akija hapa? Kwa sababu kuja kwake hapa itakuwa muda mfupi, huenda ni dakika ishirini ama thelathini, ni nafasi gani kila mmoja atapata ili azungumze yale ambayo angependa kumuuliza? Lakini kwenye kikao cha kamati kama uko na neno umekubaliwa kufika pale maanake kuna Wabunge 15 na ikienda sana 20.

[The Temporary Speaker (Hon. Farah Maalim) left the Chair]

[The Temporary Speaker (Hon. Peter Kaluma) took the Chair]

Tunapata nafasi ya kuongea na kurudia yale ambayo tunataka kusikia kutoka kwa mkubwa aliyetitwa kuliko kumleta hapa na kumuangalia tu bila kumuuliza maswali. Na Wabunge wengine ambao sio wanakamati wanasema kuwa hawapati nafasi ya kuuliza maswali lakini wamekubaliwa kuingia katika kamati hata kama si wanakamati ili waulize maswali ambayo wanataka wajulishwe kibinafsi. Basi kuna muda wa kutosha, Mbunge aje pale aulize maswali badala ya kuleta mawaziri hapa na kuharibu muda ili irekodiwe kuwa alikuja na kuulizwa maswali.

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Nikiangalia desturi ya hili Jumba, huenda ni waheshimiwa wawili ama watatu watapata nafasi ya kuzungumza. Sisi kama waakilishi wa kina mama au wachache ndani ya Bunge hatutapata nafasi ya kuzungumza na yule Waziri atakapokuja. Kwa hayo machache, ningependa kusema kuwa lililo la muhimu sana na lenye dharura ni swala la NG-CDF na NGAAF lipitishwe bila kupelekwa kwenye kura ya maoni.

La pili ni swala la uwakilishi wa akina mama katika Bunge lipitishwe bila hata kupelekwa kwenye kura ya maoni. Mengine yanahitaji kina Wanjiku na Atieno wajisemee iwapo wanapenda ama hawapendi hiki kifanyike. Kwa hayo machache, nashukuru Naibu Spika wa Muda.

The Temporary Speaker (Hon. Peter Kaluma): Umechangia *Memorandum* hii kwa ufasaha na uweledi bila kutambua eneo unalotoka. Ungeomba, ningekuongeza muda. Nampa nafasi hii ndugu Mheshimiwa wa Eneo Bunge la Emurua Dikirr, Mwanasheria Johana Ng'eno aendelee kuchangia kwa lugha hii ya kitaifa.

Hon. Johana Kipyegon (Emurua Dikirr, UDA): Ningependa kukushukuru, Bwana Spika wa Muda. Hii lugha ya Kiswahili sijui ilitokea msitu upi ikaingia hapa Kenya. Tunasema lugha ya Kiingereza ilikuja kwa meli lakini sijui hii ilikuja kwa farasi au mguu ikatupata hapa. Hata hivyo, wacha nijaribu kuchangia kwa lugha hii. Nashukuru kwa nafasi hii. Pia, nakushukuru kwa *Memorandum* ambayo ilitumwa na Rais wa Jamhuri ya Kenya hapa Bungeni ili tujaribu kuangazia na kuangalia tutakavyo endelea.

Watu wengi wanauliza iwapo sheria hubuniwa na Bunge. Ni kweli kuwa ubunifu wa sheria ama waliopewa jukumu hilo na Katiba ya nchi ni sisi Wabunge. Lazima tuzitambue zile sehemu tatu za Serikali ambazo ni Bunge, *Executive* na Mahakama. Wakati mwingine tukibuni sheria mahakama inaweza ipinga hiyo sheria kwa madai ya kuwa kinyume na Katiba na kutoa mwelekezo. Wakati mwingine, tunazitumia zile *precedences* za mahakama kama sheria. Hata hivyo, ijapokuwa sheria inasema kuwa sisi ndio watunzi wa sheria, kuna sehemu za Serikali ambazo zimepewa jukumu la kubuni sheria. Wakati mwingine, *Executive* hubuni sheria zao zinazopitishwa hapa Bungeni. Ninaamini kuwa Rais kuwaandikia Wabunge kuwaeleza mtazamo wake si kosa. Hii ndio fikira langu

Jambo la muhimu ambalo Rais amezungumzia haswa kuhusu kazi tunayofanya Bungeni ni kupendekeza mawaziri waje kwenye Bunge. Aliomba Bunge ipitishwe hilo pendekezo kupitia kwa Kauni za Kudumu. Tutazibadilisha ili kuhakikisha kuwa wale mawaziri ambao tunataka kuuliza maswali waje hapa wayajibu. Lakini ninaamini kuwa suluhu ya kudumu ni kuangalia iwapo tunaweza badilisha Katiba ya Kenya, ijapokuwa tunajua uongozi wetu ni *presidential system*. Nia ya Rais kuwatuma mawaziri hapa ni kuhakikisha kuwa mahali tulikuwa tunafanya ukaguzi wa mawaziri haikufanyika vizuri. Sasa, pendekezo hili lithakikisha kuwa ukaguzi wa mawaziri unafanywa vizuri kwa sababu utaonyeshwa kwa uwazi.

Ni maoni yangu kuwa tunaweza kuamua kuibadili sheria kwa kuwa hatukuandikiwa sheria bali tuliandika sisi wenyewe lengo likiwa kurahisisha maisha ya mwananchi. Haikuandikwa iwe kitu cha kutudhuru. Tukibuni sheria na baadaye isitimize lengo lake ni jukumu letu kama wananchi tukipiga kura ya maoni tuhakikishe kuwa tutarekebisha pale ambapo hapastahili kuwa. Tukiona kuwa *presidential system* haifanyi kazi, tunaweza ibadilisha tuwe na ile inaitwa *hybrid*, yaani ule mchanganyiko maalum. Kuna Rais anayechaguliwa na raia na mawaziri wanaochaguliwa kutoka kwa Wabunge ili wafanye kazi ya uwaziri wakiwa kwenye Bunge. Ninaamini Rais alitaka tuzoe kuleta mawaziri Bungeni. Ninaunga mkono.

Jambo la pili ambalo Rais amezungumzia sana ni swali la *two third gender rule*. Waandishi wa Katiba ya Kenya walishindwa kupata suluhisho. Inakuwaje kuwa waliopewa jukumu la kuandika Katiba walizunguka nchi nzima na wakaenda Naivasha kuandika sheria lakini dakika ya mwisho wakaweka kipengele cha kulipatia Bunge hilo jukumu? Ni kwa sababu ni kitu kigumu sana. Bunge zote kuanzia Bunge la 11, Bunge la 12 na Bunge la 13 hazikuweza kushughulikia swala la *two third gender rule*. Kama tunataka kuwasaidia wanawake ni lazima tubuni sheria inayosema kuwa katika kila uteuzi, asilimia hamsini kwa mia iwe ya kila jinsia. Hiyo itawezekena kukiwa na uwezo ya kuteua watu wala si kuchaguliwa. Ukipewa hiyo nafasi, unaweza amua kulingana na sheria kuteuwa wanawake kwa wanaume. Katika uchaguzi, ni raia anayeamua bila kujali iwapo wewe ni mwanamme au mwanamke. Anakuchagua kulingana na anayohisi iwapo unastahili kuwa kiongozi wake.

Katiba inasema kuwa uchaguzi ni kupitia *universal suffrage*. Sijui kutafsiri kwa Kiswahili. Kiswahili kilikuja kwa miguu kikatupata barabarani tukienda, kwa hivyo kuna vitu hatufahamu. Hiyo *universal suffrage* inaruhusu mwananchi kumchagua mtu yeyote hata kama ni kiwete au mwanaume. Uchaguzi unategemea mtu mwenyewe. Tukitaka suluhisho la kudumu kwenye sheria itabidi tuirekebishe baadala ya kuchagua ili iwe hamsini kwa hamsini.

Jambo la mwisho ni la NG-CDF. Namshukuru Rais kwa kuunga mkono NG-CDF. Mtu yeyote ambaye amewahi kuwa mbunge wa Kenya ama amewahi kutafuta kiti cha kuwa mbunge hawezi kubali NG-CDF itolewe. Wale watoto ambao wamesoma kwa kutumia NG-CDF huko vijijini kama wamefika chuo kikuu ama wamemaliza, na wale wako shule ya upili hawawezi kukubali itolewe. NG-CDF ni kama ile kitu inaleta usawa mahali ambapo serikali za kaunti na Serikali ya Kitaifa zimeshindwa kufanya na kufikia. Hizi ni pesa ambazo zinaenda mpaka mahali Rais ama gavana hawawezi kufikia. Rais alikuwa Mjumbe wakati fulani. Ameelewa yakwamba NG-CDF iko na maana. Sisi kama Wajumbe tutasaidiana tuhakikishe kwamba tumeiweka kwa Katiba ya Kenya, ndio isije ikawasumbua watoto wetu ambao watakuwa Wajumbe baadaye.

Hizi pesa zinasaidia Kenya na magavana kwa sababu kuna vitu ambavyo hawawezi kufanya kwa sababu ya ulaghai wao. Wajumbe wanawasaidia. Hata wakifika hapo, wanapata barabara na shule zimejengwa. Kama hizi pesa hazingekuwa, magavana wangukuwa na shida nyingi sana.

Kwa hivyo, Mhe. Spika wa Muda, naunga mkono Hoja hii. Ikifika wakati wa kuunda hii sheria, sisi tutakuwa hapa. Tutamsaidia Rais na wananchi wa Kenya kuunda hii sheria.

Ahsante.

The Temporary Speaker (Hon. Peter Kaluma): Ahsante sana, Mhe. Johana Ng'eno. We will have, on a special request, the gentleman from Ruaraka Constituency in Nairobi City County. Hon. Charles Onchoke, you are next.

Hon. T.J. Kajwang' (Ruaraka, ODM): Thank you, Hon. Temporary Speaker. As you know, trying to speak in Kiswahili will be like committing suicide in this House. Because I respect it, I do not want to start falling down - that the whole Member for Ruaraka has choked because his tongue entered in his throat. So, I will not go to that direction. I will speak in the language of my mother, which is English.

(Laughter)

The Temporary Speaker (Hon. Peter Kaluma): I actually gave you priority because I thought being a Member of Parliament from Nairobi City County, you would speak in Kiswahili.

Hon. T.J. Kajwang' (Ruaraka, ODM): The side of town where we come from, we speak in English because we are learned per square foot.

(Laughter)

Allow me to contribute my very little thoughts on this matter in a very short and precise manner. This Motion is very strange. In my experience as a legislator, or in my parliamentary work, this is the first time that the Executive is requesting the Legislature to do something of this sort. We know that by the Constitution, His Excellency the President makes remarks or reports to this House according to the Constitution. It is in those reports that we get policy discussions of the Cabinet and make recommendations. This is the first time that the Executive has done this. Scholars will analyze the constitutionality of this move. We are worried because the Executive already has a lot of powers in legislation-making, including what is loosely called the veto power. It is the power to send a memorandum against some legislations that the Executive may feel different.

The first thing we must be worried in this House is that we do not want the Executive overreach. This is when a President feels that he can make legislation by way of sending information to this House. That is an issue that should concern each one of us. Those of us who have taken time to understand the whole principle of separation of powers should be very worried, if another arm of Government is given or avails itself an opportunity to make and implement laws.

The clean position is that the Executive implements laws which have been passed by the Legislature and the Judiciary makes decisions on interpretation of the law. However, there is nothing that breaks the arm when these reports come to us because we may decide to approve or reject them. I am only worried when that report comes as a memorandum. However, it is still a chalice because the Executive also commands respect in this House in the sense that there is a Majority Party forming the Government in which that Executive influence positively, even to pass a legislation. At the end of the day, you come to the same thing. He is not making legislation but he is coming purposefully to endear the House to make suggestions. However, he has the drumstick by which he will come back and get the Majority Party forming the Government to accept those positions. At the end of the day, you will have an Executive overreach. That is one thing that should concern us.

We have to decide, Hon. Ng'eno, whether we want to have a presidential system or a parliamentary system. Even when you want to have this hard dry hair called "hybrid" in respect of which I do not know any constitutional formation, we have to decide. If you want to have what the lecturers call "autochthonous Constitution", which means something which befits us, we still have to discuss it as a country. We cannot discuss it here as assembled 349 Members and think that those are the decisions of the people we represent. We are their representatives in terms of legislation, but we are not their representatives in terms of the Constitution. It is for every individual who must make a voice. At the end of the day, even if we want to have a mixed system, it should spring from the people. Therefore, we must create a mechanism and national convention where people can speak and say whether they want to go the presidential way or mixed system. Any system which works is good for this country. Let us respect the people because they passed a Constitution. The sovereignty of the People is much more important than anything else. That is the second thing.

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To walk on this carpet, Members, you must be elected by the people. We are their representatives. That is why everybody else who is not elected by the people is a stranger. It can be very good because it is convenient to have somebody here to answer questions. However, there is a question of representation. In other words, have the people given you the opportunity to speak on their behalf? That is very important, including those people whom we call “Cabinet Secretaries.” Even President Moi, who was in power when there was a parliamentary system, had to nominate you first and then turn you into a representative before he appointed you as a Minister. You cannot just walk here because you are a technical person, and then you stand and speak from the Chamber. Who gave you that opportunity? That is why we are saying that we do not have to change the Constitution. Let us just change the Standing Orders. I know that the Procedure and House Rules Committee will soon bring proposals before us on how they can stand over there.

(Hon. T.J. Kajwang’ gestured)

That is where they should stand and answer to us here because it is not Plenary. They can say as much as they want and we can grill them as much as we want. To bring them within this base here, it must get the blessing of the people which is through the ballot. There is no shortcut about it. If we want to go that direction, which is possible, let us go to the people through a referendum and change the system, in which case people will be brought here through appointment or nomination from here – but they must come here. However, thinking there could be a short way in which people can come to debate in this House, is wishful thinking that cannot happen.

The last issue I want to speak about has something to do with the two-thirds gender rule. I do not even think this Motion has more political value than constitutional.

Hon. Temporary Speaker, I can see that my time is running out but seeing the House the way it is, we can be able to discuss these issues properly.

The Temporary Speaker (Hon. Peter Kaluma): It is not seeing the House but I like, and you are recognised for the points and the dimensions you are bringing in. Because of that, and reading the mood of the House and the interest that Hon. Johana Ng’eno and other Members have in the contribution you are making, I will give you five more minutes.

Hon. T.J. Kajwang’ (Ruaraka, ODM): Thank you, Hon. Temporary Speaker. We have dealt with the issue of two-thirds gender rule exactly in terms of how *Mheshimiwa* Ng’eno has said. It is not out of the question of lack of law being in the Constitution. The Constitution mandates us to make legislation to make it work, but you cannot police something over people if it cannot work. Look at all those who have interest, research on it all over the world and tell me where there is even one constitution that has this two-third gender rule that we are talking about. That is why the Constitution was drafted the same way as it is in the Bundestag, Germany.

Germany has the strongest people. I would have expected this Member from Migori to listen to this because when gender is mentioned, it becomes emotive and if you have views against something, people think you are anti-gender and yet, it may not be so. Germany is one of those countries whose governments strongly support the female gender. What do they do? They do not bring a law like this. They support women wherever they are. If you run a business, they support you. If you are in a profession, they support you. They give you so strong support that you can vie with men on a 50-50 basis. It has happened in Germany. Their Chancellor was a woman. Right now, the Chancellor is a woman and more than half of the membership of the Bundestag are women. The retired Prime Minister in New Zealand was a lady. That is what they do. Poland has

a very young girl. Half of the Cabinet are young women with some being about 26 years old. That is what they do.

Those countries do not have written constitutions to police people and tell them that they need to have so many women in parliament for parliament to work. You cannot police people through law. We need to have a flexible environment as we do right now and bring a legislation which can help and support women. Let us have an affirmative fund which helps women to be strong enough to be able to campaign, and people will bring them to this House without having to force *wananchi* through the Constitution to do this kind of thing. I speak plainly, and if you feel that I am going against the other gender, it is because of what the Constitution is saying.

On the National Government Constituencies Development Fund (NG-CDF) and those other things, I think the President is coming late because we are already on track. I wish we could close our eyes to whatever else is happening and go on track by what we started. There are proposals before us. The President can support us out there, be it on the roadside or wherever he can be but, as a House, we should close our eyes and process the legislation that we had before us in terms of NG-CDF and the proposed Senate oversight fund. I like the fact that we are now not talking about NG-CDF but rather Parliamentary oversight. The NG-CDF is not for Members of Parliament. There is no time a Member of Parliament can put his hand on the NG-CDF. The funds comes as a package that is guided by law on how they are supposed to be used. For the Member of Parliament, other than the fact that this is happening within his or her constituency, there is no other control one can give it.

That is why we need money to be able to oversee the millions of shillings going to the NG-CDF. When we talk about parliamentary oversight, Members from the other House need to understand us – that, there is only one institution called Parliament. The rest are just Houses of Parliament. They need as much money in the Senate as we do here, for oversight. So, let there be a parliamentary oversight fund so that money can be availed to ensure that a Senator does his work as a Member of the National Assembly also does his work too. A Member from Migori, for example, should be able to do his work even though he is not a single constituency Member. That is how we will succeed; and it has happened. It is happening in South Africa. It is the system they have there. It is happening in the United States of America (USA). In the USA, money is given to a Member. It is availed to the constituency office so that when a constituent comes to your office looking for this or that, you are able to draw that money and thereafter, you account for it. It is also happening in Germany. You can go and research by just using google and you will find that Members in those countries have money to enable them accomplish what they are doing.

Hon. Temporary Speaker, I want us to treat this Motion as a wake-up call but note that it is now a legislative proposal which we already have. Let us work on them. I thank His Excellency the President for thinking positively because the Legislature has already taken a leap forward.

Thank you so much.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Kajwang', just before you sit down, because you are still within your time, Hon. Charles Onchonke is also a lawyer with a finance-like mind. The Member for Narok North should also prepare in that order.

I want to get your views on Article 38 (2) and (3). I want you to read it for the House and, once you read it, make us understand because the President is seeking our views. There is no Bill before us yet. How in your view, as a legal expert, can we secure the two-third gender rule in the manner South Africa and other jurisdictions are doing?

Hon. T.J. Kajwang' (Ruaraka, ODM): Article 38 deals with political rights, and political rights begin from participation in political parties. Every citizen has a right to participate in a fair

and regular elections, and the vote is taken by secret ballot. That is the point. Thank you for bringing up this issue.

The Temporary Speaker (Hon. Peter Kaluma): Kindly, read up to Article 38 (3).

Hon. T.J. Kajwang' (Ruaraka, ODM): Article 38 (3) says that every other citizen has the right without unreasonable restriction to be registered, vote by secret ballot and to be a candidate for a public office. Exactly, Hon. Temporary Speaker, you cannot force people. I wanted to speak when we were a full House. It is not possible to force people. These things are political rights which are guaranteed by the Constitution. If you leave Article 38 the way it is, it means that people have a right to go to the polls and elect the person which by their own volition, they have decided to choose, whether men or women, as long as they are over 18 years old. That is what the Constitution says. We understand that we need to develop both genders. It springs from here that, we must now promote political parties. For example, does the Orange Democratic Movement (ODM) have a framework and structures of supporting women? How is that possible? For example, is the Political Parties Fund funding some women's activities that can help them campaign and strengthen them? You cannot force people to elect women. That is not possible. You cannot force people to elect women. The only way you can do that is through affirmative action. Support women and strengthen them enough so that when they go for elections, they can compete even better than the men in society.

I care about women because I am out-numbered by them in my house. When we vote at home, I always lose because there are more women than men. Just as you have shown, Hon. Temporary Speaker, the point is that it is not possible to force people to elect any gender for that matter.

Thank you so much, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Tom Joseph Francis Kajwang'. Hon. Charles Onchoke, Member of Parliament for the great of people of Bonchari.

Hon. Charles Onchoke (Bonchari, UPA): Thank you, Hon. Temporary Speaker, for giving me the opportunity to contribute to this Motion. I will not go deep into the law or constitutionality of the issues that have been presented through the President's Memorandum. Allow me to speak very generally on the issues before us on the NG-CDF, the proposed office of Leader of the Official Opposition, the suggestion that Cabinet Secretaries come to the House and the two-thirds gender rule.

Having listened to the contributions from the Members who have spoken before me, the tally I have taken is that the NG-CDF is not in contention. The President is joining where the House is already moving to. There is a team already working on this matter so that the NG-CDF is properly shielded and guarded so that it is not taken away from the people who need it so much.

The NG-CDF has done a lot. I have just come from Bonchari Constituency, which I represent. There is need to have even more of it going to the people so that it can support all the projects and functions it is intended to support. When you compare the NG-CDF with the other two accounts – the national Government and county governments accounts – there is a stark difference. It is only the NG-CDF that does not have a pending bill. Not a penny. The county governments accounts and the national Government accounts have pending bills worth billions of shillings.

Many countries have come to Kenya to study this model and they are implementing it back in their homes. It is a big success in many countries of the world. Therefore, the question you should pose is: Why do you want to do away with something that is working for us, which has been borrowed and is working well wherever it has been taken?

As many Members have said before, if you go to any part of this country, you see glaring evidence everywhere of the NG-CDF. But you cannot say as much about the other two accounts. As a matter of fact, in Bonchari, when you look at our schools, the NG-CDF has developed very magnificent, beautiful, nice buildings and classrooms. There is an eyesore in terms of the parts that have been left to the county governments – the Early Childhood Development Education (ECDE) section of our education. The buildings that our children at that level are using are a shame. They are *mabati* or mud-walled structures whereas other levels of education have beautiful and have permanent classroom blocks.

(An Hon. Member stood in the gangway)

The Temporary Speaker (Hon. Peter Kaluma): The Member who is standing between the Speaker and the Member speaking should read the Standing Orders again. You do not block the view of the Speaker from the Member speaking.

Hon. Charles Onchoke (Bonchari, UPA): So, you ask yourself if it is the same in other constituencies whereby the section that is funded by the county government is a structure that you do not want in your schools. In short, I am trying to say that the NG-CDF is accessible. Therefore, I support the idea that it should be entrenched in the Constitution.

I thank the President for joining us as we are already working on it as Members of Parliament to make sure that it is properly protected so that it is not attacked by anybody who wakes up thinking of something to attack and they decide to go for the NG-CDF.

As regards the proposal to create the office of Leader of the Official Opposition, I have read the Memorandum from the President. I have also listened to Members contributing to it but I am not convinced that I have heard the reason why we should have the Leader of the Official Opposition who will protect the Opposition. I do not know whether we have an Opposition in this House. We need to make up our minds on whether we want a presidential or a parliamentary system.

Even as we discuss these constitutional amendments, we need to have a general framework. What do we want? What is the direction that we want to move towards? This is so that as we discuss the amendments, we are guided by proper theories and a framework that will give us a good Constitution. I am not convinced why we should be talking about the Leader of the Official Opposition in the House.

Since we have already defined the direction in which we want to move so that we protect the NG-CDF, the National Government Affirmative Action Fund (NGAAF) and the Senate Oversight Fund, one thing we need to guard against is to not get caught up with many issues put together in the omnibus Memorandum which can get convoluted and, therefore, lose what we want to achieve. We want the NG-CDF and the NGAAF protected and the Parliamentary Oversight Fund also introduced to support Members of Parliament as they perform their oversight role. This is so that we do not have something unpopular that will kill the good ideas that will help this country to achieve the objectives and ideals that it stands for.

The explanations I hear for bringing Cabinet Secretaries to the House are expedience, convenience and efficiency. We need to be guided by the Constitution. How does that align with the Constitution? Is that what we intended or what we want? How does it align with the Committee system that we are currently using to get answers and responses about the work that the Government is doing?

Hon. Temporary Speaker, the matter of two-thirds gender rule has been articulated. I would not want to add to what my senior, Hon. T.J., the Member for Ruaraka, has said. If people want to vote for whoever they want to, they should do so. We have many elected Members. But let us not try to legislate what people should do. Doing so is the surest way of failing.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Charles Onchoke. The gentlelady representing the great people of Narok North, Hon. Agnes Pareyio.

Hon. Agnes Mantaine (Narok North, JP): Thank you, Hon. Temporary Speaker, for giving me this opportunity to add my voice to the ongoing debate on the Memorandum from the President.

In that Memorandum, there were about four issues. One of them is the NG-CDF and NGAAF. This issue has been here for a long time. We have debated a lot and we even had a caucus that was dealing with it. I remember when we went to Mombasa for two days, we did not do anything because we were trying to force the National Treasury to put money into our accounts. Anchoring it in the Constitution will solve the problem and nobody else will ever interfere with NG-CDF and NGAAF. This is money that is known to everybody. This is not money that is meant for Members of Parliament. This is money whose effect you can see when you go to the ground. This is money that can be left behind even when a Member of Parliament has gone home. Students whose school fees has been paid will always appreciate the NG-CDF. Everybody knows about the NG-CDF. I support it being anchored into the Constitution.

The other issue is the two-thirds gender rule. The Member from Ruaraka contributed and he has not given us a solution. He says that there is no way we can force women to be elected and yet, he is not giving us a solution. The two-thirds gender rule is reflected in the Constitution. How else can we run away from it? It is there and that is why the 12th Parliament was pronounced unconstitutional by the former Chief Justice David Maraga. To avoid that, we have to deal with this issue.

I agree with the Member who said that we cannot force electorates to elect a woman. However, as a woman, I know what we go through to get into these positions. One, a woman has to have her own money and property so that she can achieve an elective position in Kenya. If Members are serious, then let us come up with an affirmative action that can facilitate women to vie for elective positions. I also want to urge male Members not to look at the gender issue like a women issue. Tomorrow, they will be the ones crying. As we fight for this, more women will try hard to vie and a day is coming when you men will be the ones crying. So, let us face this issue to avoid this House being pronounced unconstitutional again. That ruling is still at the President's desk and that is why he had to bring it up in the Memorandum.

On the issue of bringing the Cabinet Secretaries to this House, yesterday I watched TV and saw that there is a problem in the education sector. The junior secondary school students have not yet reported to schools. If we had a Cabinet Secretary amongst us, he would be here to answer questions as to why those students have not reported to school. I know that there is a problem there because some schools are charging a lot of money in terms of fees. Some are forcing the students to change their uniform and some are selling uniforms in their schools. I do not know whether the Government is aware of this. We should have Cabinet Secretaries to answer to these questions here. I know we have the Committees. We are not saying that all Cabinet Secretaries must be here. However, when we have issues that we need answers, we should be calling a specific Cabinet Secretary to address issues of interest – like education currently.

I support that we, Members of Parliament, must address the two-thirds gender rule by coming up with a solution. We should not run away from it because it will always be there and it

will keep on haunting us. Until we address this issue, then we will not have moved away from it. I stand to support the Memorandum.

(Hon. George Sunkuyia crossed the Floor without bowing to the Chair)

The Temporary Speaker (Hon. Peter Kaluma): Order. Is that Hon. Sunkuyia? You are an old Member and you know what you should do. I will not tell you but just do it and then proceed.

(Hon. George Sunkuyia went to the Bar and bowed to the Chair)

Hon. Agnes Mantaine (Narok North, JP): So, I end by saying that I support. I would like to urge the learned lawyers in this House to have experts who can sit and give us a solution on the two-thirds gender rule. We cannot run away from it. As women, we will always talk about it and we will all be here to contribute. We want to make sure that there is an affirmative fund that will be set aside to empower women so that they can also run for offices.

On the facilitation of the Senate for them to perform their oversight role, I support. There is no way we can think that there is oversight happening when the Senators are not facilitated to ensure that the funds that go to the counties are used in the way they are budgeted for, and that the communities are benefiting. For that reason, I support.

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Hon. George Sunkuyia, the gentleman representing the great constituency of Kajiado West. You can contribute from there. This is a presidential system. You can contribute from any side of the House.

Hon. George Sunkuyia (Kajiado West, UDA): Thank you, Hon. Temporary Speaker. I take this opportunity to support that the NG-CDF need to be anchored in the Constitution. This is long overdue. Children and vulnerable people in Kenya have been waiting for this to happen. The NG-CDF is very important to students who benefit from bursaries, and for construction of classrooms. This Fund also helps in constructing chiefs and assistant chiefs offices and many other infrastructures for security purposes. It is prudent for the children in Kajiado, Nairobi, Lokichogio and in every part of the country to benefit from this.

It is quite wrong to deny Hon. Members the NG-CDF. This is because, if you go to the ground and find out what is happening, you will see the difference between what NG-CDF and what the county governments have done. Billions of shillings are appropriated to the county governments and yet, you can see very little development compared to development funded through the NG-CDF. If you go to the respective constituencies, NG-CDF projects can be seen in every corner of the constituencies.

I support the proposal that the NG-CDF should be anchored in the Constitution so that what I will do today and in years to come can serve as a record that can be seen. In my constituency, I have over 140 public primary schools and 45 secondary schools and yet, we are allocated the same amount of money as the people of Starehe Constituency. My constituency is about 7,910 square kilometres. It is also important for us to see to it that later on, these allocations are not equal.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Sunkuyia, I am sorry to interrupt you. You will continue after this Communication. Sit down for a minute.

COMMUNICATION FROM THE CHAIR

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DELEGATION FROM THE PARLIAMENT OF
THE FEDERAL REPUBLIC OF GERMANY

The Temporary Speaker (Hon. Peter Kaluma): Hon. Members, I wish to introduce to you a delegation from the Committee on Economic Co-operation and Development of the Parliament of the Federal Republic of Germany. The delegation comprises the following:

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|--------|---------------------------------|---|---------------------------------------|
| (i) | Hon. Kurt Gartshaw, FDP | – | Leader the delegation; |
| (ii) | Hon. Dietmar Freud, AFD | – | Member; |
| (iii) | Hon. Cornelia M. Dialinke | – | Member; |
| (iv) | Hon. Thomas Rachel, CDU/CSU | – | Member; |
| (v) | Hon. Rebecca Shamba, SPD | – | Member; |
| (vi) | Hon. Turk Najbao Deria, SPD | – | Member; |
| (vii) | Hon. Rule Charles of the Greune | – | Member; and, |
| (viii) | Hon. Mr. Thomas Wilmer | – | Acting Germany
Ambassador to Kenya |

Hon. Members, the delegation is in the country on a visit to undertake a peer exchange of views and engage in discussions with other organs of Government on various economic affairs. On my behalf and that of the National Assembly of Kenya, I welcome them to Parliament and wish them fruitful engagements during the course of their stay in the country.

This Communication is under the hand of the Right Hon. Moses Wetang'ula, EGH, MP, and the Speaker of the National Assembly of Kenya.

Welcome to Kenya and enjoy your stay.

MOTION

DEBATE ON PRESIDENTIAL MEMORANDUM TO PARLIAMENT TO CONSIDER
AMENDING THE CONSTITUTION AND THE STANDING ORDERS

(Debate on the Motion resumed)

You may continue, Hon. Sunkuyia.

Hon. George Sunkuyia (Kajiado West, UDA): Thank you very much, Hon. Temporary Speaker.

The allocation and distribution of the NG-CDF is not fair. I have said that my constituency is 7,910 square kilometres and yet, it gets an allocation equal to that of the people of Starehe, the people of my learned friend from Roysambu and all these other constituencies that have several public schools, and where all the roads are tarmacked. Maybe, they each have one secondary school and a number of their schools continue being registered. Some pupils in my constituency cannot access schools due to lack of a road network. I stand to support that the NG-CDF be anchored in the Constitution. We all support as Members of Parliament.

I also support the idea of Cabinet Secretaries appearing before this honourable House. Some of them cannot even attend Committee sessions to reply to Parliamentary Questions to sort out some of the things that are needed in our respective constituencies. It will be prudent for them to be here before us to reply to Questions raised by Members. It is an issue for this honourable

House to make some amendments to the Constitution so that things in this Republic can be easily sorted out.

With those remarks, I support.

The Temporary Speaker (Hon. Peter Kaluma): Next is Hon. Titus Lotee, the gentleman representing the people of Kacheliba Constituency.

Hon. Titus Lotee (Kacheliba, KUP): Thank you for allowing me to contribute, Hon. Temporary Speaker.

When the Constitution was promulgated sometime back, I strongly believed that there were some things we missed. One of them is that we moved from a parliamentary system to a presidential system. That is the reason we see a Memorandum from the President trying to re-introduce Cabinet Secretaries in this House to answer Questions. It is not wrong for us to review our Constitution. When we see that there are flaws such as these, we should be allowed to debate and correct them. I support the proposal that Cabinet Secretaries be asked to come to Parliament to address some of the concerns that Members of Parliament could be having. I know that we have the Leader of the Majority Party and the Chairpersons of the various Committees that could represent Cabinet Secretaries. However, it has been found to be ineffective. That is why we want to call Cabinet Secretaries to come personally to respond to Members' Questions.

The other thing is on the NG-CDF and the National Government Affirmative Action Fund (NGAAF). I support that we anchor them in the Constitution. There is no doubt in the minds of everybody who has spoken here that these two Funds have done some marvellous work in this country. Where I come from, Kacheliba Constituency, we have had many of our children going to school. Last evening, I launched a bursary that will support the pastoralist children of Kacheliba Constituency to a tune of over Ksh30 million. If the NG-CDF was not available in our constituencies, many children and our schools would not perform. Our country would not meet its Millennium Development Goals of ensuring that people are educated.

We have got an opportunity, as Members of Parliament, to save the NG-CDF. There are people who are saying that we should do away with the NG-CDF. Those are people who hate the NG-CDF. They would want to ensure that the NG-CDF is dead. We might play with it today; we might play with it next year, but we might not play with it all the time. If we do not anchor it in the Constitution, the NG-CDF will eventually die. In order for us to ensure that, those funds are secure, we need to put them squarely in the Constitution. I do not think this requires a referendum. The referendum has already been on the peoples' heart. People already require the NG-CDF to be secured. The percentage of the annual national revenue that should be going to the NG-CDF need to be known from the word go.

This also goes along with NGAAF. This Fund has been treated as a gift from the President, having been the CEO of the National Government Affirmative Action Fund. Having sat there as the CEO, you realise that you need to sweet-talk the Cabinet Secretary in charge of the National Treasury. You need to sweet-talk the President for you to get funding. It is not secure at all. It is at the behest of leaders who sit at the National Treasury and yet, that Fund has totally transformed some affirmative action groups - the women groups that we see, the markets that we see, the *boda boda* riders, and the shades that we see. If we cannot secure this funding by putting it into the Constitution, we will be losing a whole lot of people that have benefitted from this Fund. I support that both NGAAF and NG-CDF be anchored in our Constitution. We do not have an option about it. If we do not do it now, we will be the people who will go into record as having allowed the NG-CDF to go down the drain.

Hon. Temporary Speaker, I support the idea of actualizing the two-thirds gender rule. The best way for us to achieve the two-thirds gender rule effectively is if it is done through the political parties' system. Parties will come with their lists of members having met the two-thirds gender rule. As it is in our Constitution, it is not possible to force the electorates to elect women or men to meet the two-thirds gender rule. So, we need a hybrid system. What we can do now, as Parliament, is to allow for more nominations of more than thirty women Members into this House. If we do that, we will be dealing with a Constitution that was not thought out properly. I support that we go the hybrid way and, at the same time, look for better ways of ensuring that the two-thirds gender rule is achieved. Otherwise, we will always be a House that is not constitutionally constituted. We know that in the 12th Parliament, the former Chief Justice said that, as a House, we were unconstitutional. We remain unconstitutional not because we wanted it that way, but because *raia* elected more men than women. There was no way we could have forced them to elect more women and yet, the Constitution says that we must fulfil the two-thirds gender rule.

The lawyers in this House need to come out clearly. If we do more nominations, we will have a bigger budget for the people of Kenya. However, at the end of the day, we need to be a Parliament that follows the Constitution. We should not breach the same Constitution that we swore to protect.

Lastly, there is what is called "the Senate Oversight Fund." We need to call it "the Parliamentary Oversight Fund." It is not a Senate Oversight Fund because as Members of the National assembly, we are also supposed to oversee the national Government functions within our constituencies. How will we do that? The NG-CDF is not an oversight fund. It is a development fund. It is not a Member of Parliament fund. So, as we support giving Senators oversight funds to oversee counties, Members of the National Assembly are also supposed to be given an oversight fund to oversee the national Government functions within the constituencies.

Thank you. I support.

The Temporary Speaker (Hon. Peter Kaluma): Next is the Member for Isiolo South – the Member directly opposite Hon. Lotee. Do you want to contribute? You have been recognised.

Hon. Bidu Mohamed (Isiolo South, JP): Thank you, Hon. Temporary Speaker. I lost my card. It was stolen somewhere in town and I was not able to get it. I thank my fellow lady Member who went to the Clerks-at-the-Table and gave my name.

Mine is just to make very few remarks on some of the proposals by the President. Before the Constitution was promulgated in 2010, there was a lot of lobbying and talks for several years, and people fought so that we change the Constitution. The Constitution was changed and what we are having today is what was agreed upon. However, it seemed that, at a certain stage, some selfish things came in. From lawyers and people who have the expertise, it was on the issue of the system of governance. A system of governance is either presidential or parliamentary. We did not go for any of them. We are told we went for a hybrid system. If we went for parliamentary, everything would have been parliamentary and we would not have issues. If we went the presidential way, we would have a presidential system and there would be no shortcuts in between. We are now getting into this confusion probably because the people in power did not want some of these things to happen. That is selfishness.

In Kenya, what we are suffering from is selfishness by individuals who are given power by the people. If we want to have Ministers appearing before this House today, we must have a parliamentary system because that is the system through which we can have Ministers coming to this House. The President could have just said that we turn the whole thing by changing the Constitution to go fully parliamentary. That would have made a lot of sense. Or, we can stick to

what we said, which is presidential. We are getting a lot of hiccups here and there because of this system of governance. The Executive, experts and people yearning for power in Kenya are fighting. They are not coming out clearly. They are not honest with the people of this country. They should come up with a system that is like systems of countries we have been copying from, whether it is the United Kingdom or the United States of America. However, we are not going that way. What we are doing is to try to be in-between and that is the cause of these problems. These problems can only be solved by the people of Kenya. They can do it through a referendum. Bringing these proposals here does not add any value to us because to change a system of governance, you have to go through a referendum.

Hon. Temporary Speaker, there are other proposals that have been brought up. Issues like NGAAF, NG-CDF and the Oversight Fund are critical. They are supposed to be brought on their own account to this House so that we can pass them. I do not think it would have taken us all these years. We are now trying to lock them in the Constitution by using other things that are far off them. That will change the context of the Constitution whereas in real sense, we would have finished off the issue of NGAAF, NG-CDF and the oversight fund for the Senate separately. I agree with my friend who said that the NG-CDF is supposed to be overseen. According to the Constitution, we are supposed to oversee the budgetary allocations of the national Government. We are supposed to be given an oversight fund to facilitate us to do that, but it is not given. It has been said that the NG-CDF has been misused by Members of Parliament. It has never been so. The NG-CDF has shown on the ground that it is doing more than what is allocated to the county governments. On county governments, I am talking about devolved functions. In real sense, what is seen on the ground when it comes to the NG-CDF cannot be compared to the county government expenditure on the ground.

Right now, there is drought in my constituency. All the livestock is almost perishing. What have I done? I had to pay every secondary school going kid in my constituency from the NG-CDF. I relieved them and people are happy. I am expecting the County Government to equally play its part of educating the people of Isiolo. What I am saying is that the NG-CDF is very important. The oversight fund for the Senate and the National Assembly, NGAAF and the NG-CDF should be increased. If you see the amount of money for devolution in the revenue sharing formulae that goes to counties, it is too small compared to what is collected nationally. A chunk of it is supposed to be given for oversight by the Members of Parliament. What we are seeing on the ground done by devolution can be put into more use with Members' supervision of the big chunk of the money that is given to county governments. There are leakages in the county governments. We have heard about pending bills being generated every other day. The small money that we are getting from the NG-CDF seems to be going to the right places.

Some of us come from marginalised counties. This is the only time we are getting funds at par with other counties. In the last Parliament, we were threatened with the politics of one man-one shilling. The marginalised areas would have received less funds. Every county is now getting almost the same amount of money. That is the Kenya that we want. We are supposed to share everything. Help those who are down to rise; do not suppress them. I would have requested the President to give more money to the NG-CDF because it helps the people on the ground - the hustlers.

On the two-thirds gender rule, men and women are equal. That is what everybody is advocating for. Everybody should fight for their space. There are a lot of women here who campaigned and won. We do not need to waste a lot of time on some of these things. Let us have

the NG-CDF and the oversight fund included in the Constitution. The rest of the proposals can be discussed later.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Mohamed, you decided to speak in tongues. Hon. Andrew Okuome Adipo, the Member of Parliament for the great people of Karachuonyo.

Hon. Adipo Okuome (Karachuonyo, ODM): Thank you, Hon. Temporary Speaker. I am glad that you recognise Karachuonyo as a constituency of great people.

The President wanted our views. It is important that we give him our views on what he sent to our Speaker. Let me start with the NG-CDF. The Fund has done wonders in this country. People see the outcome of the NG-CDF. If you visit this country, you will see various projects in all corners of the nation. That is why the Fund must continue to exist. That is why it must be anchored in the Constitution to make sure that it serves the people today and for posterity. It is a great fund. Indeed, I support all the three funds proposed to be anchored in the Constitution. The NGAAF is little in amount, but it creates productivity in this nation. I support what my colleagues have said about the Senate Oversight Fund. It should not be a Senate issue alone, because oversight is a cardinal mandate of the two Houses of Parliament. We must anchor the Senate Oversight Fund in the Constitution, but it should cover both Houses.

One thing which I want to emphasise is that let this process not be confused with the remaining issues. Debate on anchoring the NG-CDF in the Constitution had started. It should be treated as a completely separate thing. It should not be part of a global amendment of the Constitution that includes other issues. That will delay what we wanted to do. We wanted to do it as soon as possible so that development projects funded by the NG-CDF can have enough time during the life of the 13th Parliament.

On inclusion of Leader of Official Opposition in the Constitution, there are a lot of questions arising from the proposal. We need to consider it very carefully. When we talk about a presidential or a parliamentary system of government, we are talking about a big thing. The country must be given enough time to consider it. This is not an issue to be considered together with an urgent matter like the NG-CDF. As of now, I cannot support or oppose it. There are many issues arising from it.

On the two-thirds gender rule, I am not a lawyer but I declare it unconstitutional. It is totally unimplementable. Someone tells you: "Of these 20 people, give me five. The choice is yours but the result is ours. I want to see a result reflecting the two-thirds rule." Is it a possibility in human life? I say it is not. You cannot give me the freedom to choose and judge me by a result which does not respect my freedom of choice. The suggestion to have nominations done is possible, but let us remember the maximum number of elected Members of Parliament representing constituencies is 290 plus 47 Woman Representatives and 12 Nominated Members, totalling to 349 Members. If you were to nominate more women so that their number is at least a third of the total membership, you would contravene the Constitution as you would exceed the maximum number of Members allowed in the House. The only way to do it is by amending the Constitution. We need to hold on a bit on some of these issues so that the Constitution is amended to cover such issues together with any other issues the people feel need to be changed.

The proposal to have Cabinet Secretaries come to the House sounds good, but it raises other issues. Currently, we are working in a committee system where chairpersons wield power. My question is: If Cabinet Secretaries are going to do part of what Committee chairpersons do, to what extent will the new arrangement affect the current committee system? Hon. Temporary

Speaker, I love the amendment, especially where it touches on the funds. The Constitution must be amended to anchor the three funds.

With those few remarks, I thank you.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Mark Mwenje, Member of Parliament for Embakasi West.

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Temporary Speaker for that introduction. Having listened to my colleagues, I gather the question is about having a presidential or parliamentary system of government. That is the debate we are having with this memorandum from the President. I believe we do have issues with the 10 years of this presidential system. It has not achieved what we set out to do. There are some positives and there are a few issues too that remain unresolved, especially the issue of bringing Cabinet Secretaries to the Floor of the House. Some of us, growing up, had the privilege of watching how Parliament operated. We watched Cabinet Secretaries respond to Questions in the House. We borrowed that system from the British and it appears to be a favourable one. It is more at home with the people of Kenya.

Since I joined the House, I have done a bit of research and realised that a Question can take up to six months by the time it goes to the relevant Committee and before you get a response. We are here for five years. If you break that down it means if you were to follow up on the same Question it would take you a year before the Question is responded to. For that reason, we should limit the number of Questions that we ask. If it will take you six months to get a response yet we only have five years here, then there is something wrong with our system. I do not believe these challenges existed in the previous system, but here we are. We now find ourselves with a system that we must improve. I believe deciding to throw the whole system away will be more difficult and it will take a longer process.

I was elected under the Azimio Coalition. Some of us contributed to the Building Bridges Initiative (BBI) and did quite a lot. I find it strange, Hon. Temporary Speaker, because some of us were supporting this idea. We had a presidential candidate, Hon. Raila Amollo Odinga, with whom I had the privilege of discussing this issue. He is on record for saying that he enjoyed being questioned when he was serving as Prime Minister. We do not want to water down the integrity of the committees, but clearly it cannot be business as usual the way it has happened for the last 10 years. I listened to my senior, Hon. T.J Kajwang, talking about the privilege of this provision and I agree with him 100 per cent. If it means locking the Cabinet Secretaries in a corner over there to answer our Questions or if that is what it takes to find a hybrid system, so be it. I, however, feel we will not be losing much if we got the Cabinet Secretaries here to directly respond to issues that affect our constituents. This is something that the 12th Parliament was trying to bring back and it has been brought back.

On the matter of the office of the Leader of Opposition, we really voted for it under BBI and some of us hoped that it would come back. Let us be honest and call a spade a spade. Those who opposed it have now brought it back. Those of us who supported BBI now want to oppose it because it is being brought by those who opposed it. At what point does this cycle come to an end? We wanted this proposal. I remember the President himself, at Bomas of Kenya, asking us, 'Now you have created the position of Leader of Opposition, what about these others who are here?' He referred to Kalonzo, Wetangula, and Mudavadi. We remained quiet because we figured out that it was actually true. We had not considered them. We are now looking at one position. We must do that beyond any individual, but right now the perfect person to take the position is Hon. Raila Amollo Odinga. We are not creating the position for him. In fact, initially, we thought the position would go to the current President. We were out there shouting that he is the one who is going to

take up the position. It is important that we do not shoot this thing down. We have said that as long as it is brought in good faith and it is not a way of gagging the Opposition, then it is a good proposal that we need to debate more about.

Hon. Temporary Speaker, my other point is on parliamentary oversight. I am glad we have moved from Senate oversight. It is necessary for the Senate and National Assembly that this matter be factored in the next financial year. In the coming Budget, we need the Budget and Appropriations Committee (BAC) to appropriate some funds towards this proposal. That is how we will know this Government is serious about supporting this proposal. The BAC Chairman is not here but I hope this message will get to him and all the Committee Members. Let them appropriate these funds as we work on amending the Constitution.

On the issue of the National Government Constituency Development Fund (NG-CDF), we had this debate in the First Session of this term and I wish to adopt my comments. The only thing that we need to talk about is how we distribute NG-CDF monies to constituencies. On matters of education it is a very unfair system. How do you explain to me that a child in Garissa gets Ksh50,000 worth of bursary but a child in Nairobi gets Ksh5,000? In North Rift another one gets Ksh15,000 and in Nairobi, Ksh5,000! Wajir and Mandera university students get paid for an entire year. In Nairobi, it is chaos trying to distribute these bursaries. How do you explain a scenario where you have, say, 80 or 150 students in one classroom and yet somewhere else there are 20 or 30 students in a classroom? This is something we really need to talk about. As much as we are talking about amending the Constitution, the quality of education here in the capital, where the majority of Kenyans live and where we have majority of the young population, must be considered.

Finally, on the two-thirds gender rule, whichever way we argue it, can we not find a formula that is democratic? Let us not start assigning constituencies that only certain genders should vie. I feel the formula that we have been given is not very clear. Does it restrict? Does it mean that in the constituencies that have female Members no man should ever vie there? We have not thought this thing through, the issue of how we nominate Members. Let us not kid ourselves. We have seen nominations going to girlfriends and not to the deserving women. For those women who are deserving in politics, they have gone back to the constituency, vied and have been elected. We need a formula that gets the right women here on merit. It should not be based on who you know or how much money you have; rather it should be about a system that gets us the right numbers and the right people in this House. Let us not make mistakes here that we have seen being made in the county assemblies.

Hon. Temporary Speaker, there are some good proposals here, whichever side of the House one comes from. We need to find the right formula on some of these issues so that we can address them, especially the issue of bringing Cabinet Secretaries in the House. Remember, we do not want to kill the committees. I think all chairpersons of committees are concerned about it. It is time the Liaison Committee sat down and addressed this issue. They have the privilege of discussing these issues so that we ensure we do not demean committees. We should make this Parliament better than the previous two.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Joyce Kamene, Member of Parliament for Machakos County.

Hon. Joyce Kamene (Machakos County, WDM): Thank you very much, Hon. Temporary Speaker, for giving me this opportunity to give my voice on the issues that are on the Floor.

I would want to begin with the issue of the three Funds: NG-CDF, NGAAF and the Senate Oversight Fund. I will start with NGAAF because it is patronised by the County Women

Representatives. It is a very important Fund. I have traversed the entire county and women need empowerment. Not only the women but also people with disabilities and the youth groups in the entire county. If we do not support the very vulnerable people that cannot support themselves to put food on the table, then we are just cheating ourselves. It is very crucial to have these Funds anchored in our Constitution.

Hon. Temporary Speaker, we have the NG-CDF that supports education through bursaries to our students. At a time like this, the very vulnerable families can celebrate because there are bursaries that were given to their children through the NG-CDF. We should not be debating this matter. To avoid busy bodies that keep running to court to stop these funds, this is the best time to come together and make sure that the funds are anchored in the Constitution.

Hon. Temporary Speaker, I would also like to comment on the two-thirds Gender Bill. This is a Bill that has come a long way and it should have been passed as early as the 11th Parliament. It is something that has been dilly-dallied for long. Whatever the circumstances, let us first actualise it and if there are any regulations that need to be sorted out, then we can start working on them once we start. Gender is about both male and female. Today, we lack enough women in positions and so we must first create a balance. There is a Member who has insisted that this might not be practical. I am just wondering if it was possible in other African countries and Parliaments, why not in Kenya? It is high time we stopped dilly-dallying and make this two-thirds gender Bill rest its case by actualising it in practice.

Before I sit down, let me comment on the Cabinet Secretaries appearing before the Floor of the House.

Hon. Temporary Speaker (Hon. Peter Kaluma): Hon. Kamene, before you comment on that, because the proposal is by the President, we can enrich those thoughts and possibly come up with a Bill. How would you propose we realise the two-thirds gender rule? Do we go by what the President is proposing or do you have a different proposal? Ultimately, we want to go through it as you say.

Hon. Joyce Kamene (Machakos County, WDM): I do not mind what the President has suggested. This is because if that is the quickest way to get a solution, so be it. I have heard you and the rest. There are a couple of Members who are disputing this method but I want to say this: Because the President has made a proposal on this issue at a time like this when we know that our female Members of Parliament are very tricky when it comes to solving this problem, may we just follow the President's point of view so that we can get a solution. I beg and request all the male Members... I am honestly excited this time because all of you are coming together and agreeing that there is no difference between male and female. We all get the same education and have the same ability to be leaders.

As I wind up, on the proposal that Cabinet Secretaries appear on Floor of the House, this is a good idea. Most of the time, they like evading committees' sittings. I am sure if they are called to appear on the Floor of the House, then they will be more prepared. Members from all constituencies will ask questions and will face these Cabinet Secretaries one on one. If I am a Member of just one committee, then that means there is only one Cabinet Secretary who will be coming before that committee to answer questions. This time round, let us have all the Cabinet Secretaries coming to the Floor so that we can put them to task for effective service delivery.

Thank you very much, Hon. Temporary Speaker, for giving this time. I support the proposal.

Hon. Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Kamene. Hon. Omboko Milemba, Member of the Chairperson's Panel and Member representing the great people of Emuhaya.

Hon. Omboko Milemba (Emuhaya, ANC). Thank you, Hon. Temporary Speaker, for giving me this chance to speak on these proposals that were sent to this House by His Excellency the President on constitutional amendments and also amendments on the Standing Orders. The proposals are quite a number, but I think the most sensitive ones are two or three. First, there is a proposal to entrench the NG-CDF and NGAAF into the Constitution. Secondly, there is a proposal for the Senate to get the Senate Oversight Fund. Many amendments and views have been given that we do not separate the Senate from the National Assembly and possibly call it the Parliamentary Oversight Fund. In my view, that will be very good. Many speakers seem to agree on this. However, a number of us seem to differ on the issue of the two-thirds gender rule and how it can be achieved.

Hon. Temporary Speaker, in the previous Parliament, the attempt to make sure this House achieves the two-thirds gender rule was tried many times. I remember the many *kamukunjis* that were organised by the then Leader of the Majority Party, who is now the CS Defence, Hon. Aden Duale. On each occasion, we were unable to achieve that threshold. I also vividly remember the attempts by the women parliamentarians in this Assembly to try and push for it. In fact, one time, they even wore ribbons into the House to show their concern over this matter. So, there has been a continuous fight for the women of Kenya to attain the two-thirds gender rule in Parliament. This has been encompassed by the fact that the Constitution pronounces itself on the composition of the House and the number of women required. Therefore, we have been operating a Parliament which many times we have been worried is unconstitutional.

We vividly remember when the Supreme Court pronounced itself on this matter and the country was expectant. People made statements, including the religious leaders and other players asking the President not to dissolve Parliament. It was a very gloomy day and anxiety was all over the country. If the President was to act on the advisory given by the then Chief Justice, Hon. Maraga, then Parliament ought to have closed.

I think that advisory is still before the presidency together with other matters. So, this is an issue we must finally confront once and for all. The faster we confront it the better. I want to be one of the early legislators to brave and confront this issue. Maybe the Members who have spoken on this Motion can think of a better way other than what has been raised by the President. If not, we can just adopt the President's methodology and have enough women in the House.

I know by bringing more women in the House it will encourage, motivate and empower those seeking positions. We can also give this proposal a timeline so it will not be there forever as has been proposed. It can be handled the same way we did with the position of County Women Representative. I think a timeline was given to it. I suspect was set to end in 2027, but I stand corrected. So, then, we can evaluate ourselves to see if we achieved anything or not.

I know there are fears about how the nominations will be done. People have said how girlfriends and other relatives will be nominated, but we can handle that. Let us brave it and bring women here. So, as we operate in Parliament, at no time shall we do so under the wings of fear that the President can dissolve Parliament anytime. Maybe another petitioner can go to court to seek why the matter that was before Maraga has not been acted upon. We should not live in fear because once we do so, we shall not be an independent institution. This is my take on this particular matter. I am being very brave. It is because I know I qualify, in the next few years, to become the President of this country. We must make decisions that will move us forward. So, we need to bite

the bullet and make sure that Parliament operates with the requisite numbers as per the two-thirds gender rule.

I want to speak on the issue of Cabinet Secretaries coming to the House. We cannot at one time be crying babies and another fear to confront issues. I wish I had come much earlier but I am speaking now. In the 12th Parliament, every Member of Parliament would petition the then Speaker of the National Assembly, Hon. J.B. Muturi, that a certain chairperson of a committee is not in the House, or cannot answer a question properly, or that they need to be asked to expound on a Statement and so on. This is a chairperson who was sent and you cannot hit him with a stone. Hey! You parliamentarians! What is this we are fearing to execute? So, everybody wanted the Cabinet Secretaries to come to this House so that they are grilled and answer questions. Leave alone the desperate situations we have had with Cabinet Secretaries like the one in charge of the National Treasury who refuses to send NG-CDF money to the constituencies. I would wish to sermon him here only that we do not get a chance to do so.

In desperation, we wanted to sermon them in *kamukunjis*. I am just taking you down the memory lane. We are now being given an opportunity to sermon these people in a formal sitting not a *kamukunji*. Again, we are fearing to bring them in the House to grill them. We are now wondering where they will seat and whether they will take the powers of the chairpersons of committees. I think we must confront this matter and locate a place where they will sit. Their presence should not interfere with the general operation of the House and they should not take over powers.

Maybe they can appear in the lobby and use microphones to answer questions. I want to propose they be brought starting with the Cabinet Secretary for the National Treasury. He needs to tell Members why he has failed to disburse to constituencies what was promised to be disbursed weekly. So, for me we need to bite that bullet and bring these people here. We should locate where they can sit and be put to task to answer questions. Again, it does not mean they will always come here. Parliament still enjoys its independence and timetable of knowing when to call them or not. In some cases where it is obvious, the chairpersons of committees will possibly bring a written Statement or answer as is the case presently.

Finally, on the issue of the Office of the Leader of Opposition, just like one Member said, it is a ping pong. A month ago, I had the opportunity of visiting the United States of America (USA). We were taught very passionately how the Congress operates. We were given a case study of what happens each time a Government is formed whether by the party currently in power, the Democrats, or the party that is not in power, the Republicans. People tend to change laws depending on where they are. Hon. Temporary Speaker, at one time I was there with you and the party in power wanted to reduce the threshold of the Senate to 60 Members so they pass more laws. When they lose power, they also change their position and pretend that is not affecting them. I think...

Temporary Speaker (Hon. Peter Kalama): I will add Hon. Omboko Milemba three minutes because he is making a very important point.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you Hon. Temporary Speaker. I think that when you are in power you look at things differently from when you are not. Most likely the things mentioned by those who are in power are good. Competition may occur simply because of who has proposed an issue. So, who takes credit for a good thing? That is what we are facing. So, the Office of the Leader of Opposition in Parliament is a good thing. Let us not belabour the point. This is because we could just be competing on who has proposed this new idea. If the idea is good let us accept it, move forward and Parliament will be more active.

Hon. Temporary Speaker, thank you for adding me one minute.

The Temporary Speaker (Hon. Peter Kalama): We thank you for your wisdom Hon. Omboko Milemba. I can see Hon. Paul Biego, the Member for Chesumei wants to consult with me. Can we have Hon. Paul Mwirigi, the Member for Igembe South.

Hon. John Paul Mwirigi (Igembe South, UDA): Thank you Hon. Temporary Speaker, for giving this opportunity.

The Temporary Speaker (Hon. Peter Kalama): No doubt, I have noted the presence of Chairperson of the Departmental Committee on Finance and National Planning in the House this late. He will speak later.

Hon. John Paul Mwirigi (Igembe South, UDA): Thank you Hon. Temporary Speaker, for giving me this opportunity to contribute on this Motion. For me to get a chance to serve a second time it was through the hand of NG-CDF and how I utilised it. These funds contributed a lot towards the development of my constituency. So, the President's memorandum is speaking to our hearts. It is very important to do what it takes to ensure that the National Government Constituencies Development Fund (NG-CDF) is anchored in the Constitution and the allocation is even increased to 5 per cent so that what we receive from the national Government helps us to develop our constituencies even more. Most of the students we normally pay school fees for are from poor families. We educate orphaned students with these funds which means that they do not waste time after primary school. Students are, therefore, able to better their lives and become good people in this country.

Secondly, I support the Women Enterprise Development Fund so that our honourable Members who represent us from the counties can have something with which to fulfil their promises as per their manifesto.

I also support the Senate Oversight Fund. It should not just be a Senate issue but it should be a parliamentary oversight fund so that each and every Member of Parliament can benefit from it because we all perform an oversight role. We are supposed to be facilitated to oversee projects that we are implementing when we go back to our constituencies to ensure that they are audited. The Senate should also be able to oversee whatever projects counties are implementing to ensure that the funds allocated to them are fully utilised.

Hon. Temporary Speaker, I also support the position of the Leader of Official Opposition being anchored in the Constitution. We can never tell who will be the Leader of Opposition during an election but he or she is somebody who is voted in by the people and comes in as a second runners-up in the presidential elections. This leader ought to have an office where he or she can operate from. We do not know for sure how an incoming Government will behave towards the Opposition. If the Government has misled the country and the Opposition is supposed to perform an oversight role, they may organise demonstrations. We do not know how such a Government would react to such. So, it is good to have this position so that whenever the Government goes wrong, there is somebody who can oversee it and point out what it is doing wrong.

I thank the Kenya Kwanza Government because the President said that he is ready to be oversighted. Without oversight, many things go haywire without us realising that the Government is messing up the country. However, when the Government allows its people to oversee it, funds will not be misappropriated. Whenever cases of corruption arise, the Opposition will be in charge of checking the Government to ensure that the right thing is done and justice is carried out. That will ensure that our people benefit fully from the Government of the day. I would like to urge all Members to ensure that this Motion is supported and acted upon fast so that our people can benefit.

Lastly, I remember we have a proposal here by Hon. Gichimu which is in progress now. It will be good if we fast-tracked this proposal faster so that by next financial year our constituencies benefit by anchorage of this piece of legislation in the Constitution.

With those few remarks, I beg to support.

The Temporary Speaker (Hon. Peter Kaluma): Thank you Hon. John Paul Mwirigi. Hon. Francis Kuria Kimani, the Chairperson of the Departmental Committee on Finance and Planning and the Member of Parliament for the people of Molo.

Hon. Kuria Kimani (Molo, UDA): Thank you very much, Hon. Speaker...

The Temporary Speaker (Hon. Peter Kaluma): Hon. Kimani, let me thank you for being here this late. When we first came to House, this is time when the first term Members like Hon. Omboko Milemba, would be in the House honing their legislative and debating skills. They would also enrich their thoughts. We now have a very good time for that yet the first term Members are barely present. They will be waiting to compete for speaking time with Hon. Francis Kimani Kuria and the Leader of the Majority Party and the Leader of the Minority Party at the start of the House on Tuesday and Thursday. I do not know how that will work. Let us encourage all Members to be in the House particularly when we are debating such an important Motion, that is, the Memorandum from the seat of the President.

I thank you. Proceed and may the House benefit from your thoughts over this.

Hon. Kuria Kimani (Molo, UDA): Again, thank you very much Hon. Temporary Speaker for that very candid introduction. As you have rightly put it, I really implore Hon. Members, especially those of us who are young, to come during this time to participate and they will have the time to make mistakes and learn. Sometimes, we young people are afraid to make mistakes. During such a time, you get to speak, correct yourself, and with time perfect your debating skills.

Hon. Temporary Speaker, I have noted very keenly that you properly read the Memo is from His Excellency the President. So, how I wish that over the weekend when you are in your next ODM rally (*Laughter*) you get to say the same. On a more serious note....

The Temporary Speaker (Hon. Peter Kaluma): Do not worry Hon. Kimani. My weekend is starting tomorrow in Kisii and then we will be proceeding to Kisumu on Saturday. Do not worry about those other things we do outside the House. Let us do this business.

Hon. Kuria Kimani (Molo, UDA): I love that candid admission and I hope that Kenyans are listening and watching.

Hon. Temporary Speaker, over the weekend, on Sunday, we had a national prayer day in Nakuru. The sermon by one apostle Kimani of Kingdom Seekers was about destiny. He said that there is a destiny for this country and there is where God wants to take this country. He went ahead and broke that destiny and said that for us to achieve the destiny of this country, we have to achieve the destinies of respective leaders in Government. We have to achieve the respective destinies of Kenyans that contribute to our economy, whether it is through taxes or those who are beneficiaries from all the programmes the country is trying to get at. I was reflecting on what to say and I thought how the amendments we are talking about would help us as a country achieve our destiny.

Look at the two-thirds gender rule. This is a very funny issue. Every time I put my thoughts around gender, I remember that I have a daughter called Scarlet. I ask myself, "Who are the examples that she will see, to encourage her and know that a lady can do it?" These are some of the leaders that have given the Floor of this House life and even the Senate. His Excellency the President has appointed 50 per cent of them into the Cabinet. I am sure that the big table is no longer a table of men. If we have to make sure the table where decisions are made is fine, we ought

to ensure there are as many women as possible. That is so that even the little ones, as early as when they are suckling from their mothers' breasts, or going to playgroup, or going to junior primary and secondary school, can see that they can become engineers, MPs, or even presidents. You have a people that will achieve their destiny collectively. That way, we will have a country that will achieve its destiny. Without going that way, we are bound to fail. This debate of the two-thirds gender rule has elicited many emotions from male colleagues. Sometimes most of our women colleagues, if you talk to them one on one away from the camera, have a problem with it. Why are some people opposed to us enshrining the two-thirds gender rule that is in the Constitution, by passing legislation to make sure we achieve this? Who are the beneficiaries of this loss?

I will give you an example of what was said about nominations. When you have a chance to nominate or employ people, who are the people that get those positions? As much as we enrich this in the Constitution, which I very much support, we must look at that. There is one Indian author called Jaggi Vasudev who said, "If you seek success, seek competence and empowerment and do nothing but the best". As much as we seek to have women in leadership, we must make sure we seek competence in women leadership. Once we solve that issue of ensuring that the privileges we are extending to the great women of this country... Everyone will support us and every Kenyan will be happy to support this Motion.

We have 11 constituencies in Nakuru. When it was the chance to elect people at the ballot, the 11 constituencies chose a unique mix of leaders. If you go to Naivasha, they elected a lady—the Hon. Jayne Kihara for the third or fourth time. His Excellency the President was talking of Hon. Jayne Kihara—for the third or fourth time. In fact, His Excellency the President was saying that Jayne Kihara floors around eight men every time. The neighbouring constituency called Gilgil elected a woman, Hon. Martha Wangari. She is the First Chairperson at the Speaker's Panel. Nakuru Town East and Nakuru Town West elected Hon. Gikaria and Hon. Arama. Bahati Constituency elected a woman, against all odds, under the Jubilee Party. I am talking about Hon. Irene Njoki. Subukia Constituency re-elected my good friend Hon. Gachobe. Njoro Constituency, my neighbouring constituency, re-elected a woman who is Hon. Charity Kathambi for the second time. She is Ameru in a Kikuyu Constituency, with a mix of our Kalenjin brothers and sisters. There is myself in Molo Constituency, the first time they ever re-elected anyone for the last 30 years. Then, there are Kuresoi North and Kuresoi South constituencies of Hon. Tonui and Hon. Muta respectively. We have Rongai Constituency with Hon. Chebor.

What am I saying? There are constituencies that elected women in elective positions that had very strong men. If you talk about the age mix, our elder is Hon. Jayne Kihara. They elected the youngest, yours truly, from Molo. What does that tell you about the electorate? The electorate looks at competence not age. Kenyans are not interested in young leaders or women leaders; they are interested in competent leaders. But it will be very nice that these competent leaders comprise young people, older people, women and people with disabilities.

Hon. Tim Wanyonyi, for Westlands Constituency, a man abled differently, gets re-elected all the time. In fact, if he ran for Nairobi gubernatorial seat, I am sure he would have given Hon. Sakaja a run for his money. He is re-elected again and again even when he is on a wheelchair. As we think about empowering our women, we should not forget that what Kenya needs to achieve its destiny is competence. In as much as we want to encourage women leadership, we must encourage competent women leadership. In as much as we want to encourage youth leadership, we must encourage competent leadership because we are not going to achieve this country's destiny with just saying that we want young people or women. What we need to do is get competent people.

On the issue of NG-CDF, I have said on this Floor that perhaps were it not for the NG-CDF and Hon. Mukiri, the then MP for Molo, I would just probably be a useless boy in the village. When I did my KCPE and passed very well, there was no money to go to high school. In fact, I had to go to another constituency called Subukia to stay with my uncle there so that I could attend a day school called Kieni Secondary School. Even in that day school, it is Hon. Mukiri who used to support me through bursary. That is why, for me, NG-CDF and bursary are critical.

We must address the issue of population. Yesterday, my comrade, Hon. Ndindi Nyoro, did something very beautiful in Kiharu. It has sent a lot of pressure to most constituencies because they are asking where Hon. Ndindi is getting the money which other constituencies do not have. Perhaps if you address the issue of ...

The Temporary Speaker (Hon. Peter Kaluma): Just add him only two minutes so that he can conclude that important point.

Hon. Kuria Kimani (Molo, UDA): Thank you, Hon. Temporary Speaker. If we address the number of schools per constituency and the population, we will be able to find what is happening in Kiharu, Molo, and many other constituencies. I have sat with some of my colleagues in other constituencies. Mine is not too big, but not too small either. I have over 100 primary and secondary schools. Hon. Zachary Thuku of Kinangop tells me he has 150 schools. So, how is he supposed to distribute the same money to 150 schools when Hon. T.J. Kajwang', my friend here, has only five? So, you must address the issue of population and the number of projects in schools.

Lastly, on the issue of Office of Leader of Opposition, I would urge this House to address it soberly in this context: this office is not being created for Hon. Raila Odinga. Hon. Raila Odinga is very lucky that he is one of the few politicians who can turn up anywhere and a lot of people turn up to listen to him. When he is raising Kenyan issues, Kenyans get to hear. But what if we do not have that? I am looking forward to having an Opposition so that when the President is naming his Cabinet, the Leader of Opposition is also naming his Shadow Cabinet and when the Minister for Finance is reading the Budget, the Opposition Minister is also reading his. It is so that Kenyans can compare who among them will make a better leader. The only way to do so is to allocate resources to that important office. That is democracy. We must achieve our destiny as a country.

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Chair of Departmental Committee on Finance and National Planning for the enriching presentation.

Hon. Palul Biego, Member of Parliament for Chesumei.

Hon. Paul Biego (Chesumei, UDA): Hon. Temporary Speaker, thank you very much for giving me this opportunity to add my voice to this debate. I have sat patiently waiting for this time.

Knowing the kind of person that the President is, being a Member of Parliament from the region he comes from, and being a member of his party that brought me to this Parliament, I will definitely support whatever Motion he proposes to the House. I know what calibre of a man he is and I know what he wants is for the best interest of this country.

Many things have been spoken about. We are in concurrence that NG-CDF is not for the benefit of Members of Parliament. I strongly support anchoring the Fund in the Constitution so that the discussion does not have to always come to the Floor of the House. The NG-CDF, as it is designed, is a Fund that supports Kenyans at the constituency level in development. My colleagues have talked about disbursement of NG-CDF funds. Being a first time Member, I also fault the way bursaries are being issued. People used locations and sub-locations in distributing bursaries, but due to population increase I felt that we should use polling stations. By so doing, we are going to address the issue of unfair disbursement.

To me, NG-CDF is something that should not be discussed. It should already have been entrenched in the Constitution. Now that it has not been entrenched, I call upon all Members to fast-track the process. Hon. Gichimu and Hon. Mule had given us a blueprint and discussions had been done on the same. This Fund is aimed at achieving equitable distribution of resources across regions and to control imbalances in regional development brought about by partisan politics. NG-CDF structures are well stipulated that even to manipulate them is not easy. There are committees and we conduct public participation before they award development projects to respective areas.

Hon. Temporary Speaker, why would somebody think or say that it is unconstitutional? If this is the case then what we need to do as legislators is to have it amended as it was in 2015. If there is another issue, everything can be discussed and amended. What I strongly believe and would not accept is for this Fund to be scrapped. There are billions of shillings that go to the counties, Ministries, and many State departments including grants and the impact is not visible in our communities. With NG-CDF structures and fund managers in place, I believe that NG-CDF is a fund that requires seriousness. If it is scrapped then I believe that the people who voted us in will not have got justice.

On the matter of the Senate wanting an oversight fund, I totally support that but since we are all legislators and we are alive to the fact that we, as Members of Parliament, do not control that Fund, then we also need a similar fund in the National Assembly. This will enable us to oversee the jobs being done by the committees and by the people who we have given those jobs on the ground. I think I would support the allocation of money to the Senate so that they play their oversight role.

As for the issue of the Leader of Opposition having their kitty, I support in totality and if the position is created then we will not have to witness ugly situations and scenarios that we are currently seeing in this country. Now that many of us are aspiring to be future Presidents, if we fall short of being President and we land to Opposition, then it would mean something for us - we will not have to go to the streets. What is happening in Kenya currently is the call for street protests and for all other manner of initiatives to show power. This would be a thing of the past if the Leader of Opposition had a lucrative fund. I support it.

Hon. Temporary Speaker, when it comes to the issue of Cabinet Secretaries and Ministers coming to the House, as I earlier said, I am aware that it has been well designed. However, being a Member of Parliament, my other role is to oversee the Executive. Now that I am also a member of a committee, we have to be cognizant of the fact that once the Members or Cabinet Secretaries come to the Floor of the House then it will definitely weaken the committees and for sure the people who formed committees had a reason because you cannot have serious business going on the Floor of the House where there are many Members. This is why the committees were formed. Therefore, I feel strongly that even if Ministers were to come to the Floor of the House, we need to design a way that does not weaken committees.

On the issue of two-thirds gender rule for women, when the time came for these women to be considered....

Hon. Temporary Speaker (Peter Kaluma): Your time is up but I will give you one more minute only because you took time sitting and waiting. Add him a minute.

Hon. Paul Biego (Chesumei, UDA): Wow, thank you. Patience actually pays.

As I was saying, on the two-thirds gender rule, this time round, we have women who are better and cleverer than men. I do not know why we would at this time of dispensation say that women are disadvantaged. We need to look at that. I know one Prof. Jackline Korir in Eldoret who has employed over hundred men. I asked her why she has not employed women and she told me

that the reliability and the efficiency of men is more than that of women. She is a woman who has employed many men. I know for sure that the women we have now are up to the task. We have women who have been elected to positions. Aldai, Turbo and Moiben Members of Parliament are women. The Member of Parliament for Turbo is serving her second term. I know women are up to the task.

Thank you very much.

Hon. Temporary Speaker (Peter Kaluma): Hon. Joshua Mwalyo, the Member of Parliament for Masinga. Is it possible for you to contribute within five minutes so that your brother, Hon. Abraham Kirwa also gets a bite?

Hon. Joshua Mwalyo (Masinga, Independent): Yes.

Hon. Temporary Speaker (Peter Kaluma): Thank you. Proceed.

Hon. Joshua Mwalyo (Masinga, Independent): We are going to share with Hon. Kirwa. Thank you very much, Hon. Temporary Speaker, for giving me this opportunity to contribute. And because the President has already sent his proposal to this House, I want to air my views on a few of those proposals so that it can be written that I also said something.

I have been a Member of the NG-CDF Committee for two terms now. This is my second term being a Member of that Committee in this Parliament. There is no doubt that anything that is done by the NG-CDF is done in an open manner. There is transparency, accountability and value for money. The way the proposals are done and evaluated by the NG-CDF Board is above board. Therefore, it is the right thing to entrench it in the Constitution so that those who keep going to the courts can stop. We are helping the Government to perform its duty on education and schools' infrastructure and we have done a wonderful work. I, therefore, support that the NG-CDF should be entrenched in the Constitution.

Secondly, I also support the two-thirds gender rule because it is in the wisdom of the President that this House achieves it so that the Judiciary can stop sending us home. You will recall that in the last Parliament, we were almost going home because it had been pronounced so. We, therefore, need it done. The President, in his own wisdom, has seen it fit that we use that formula in order to fulfil the two-thirds gender rule. As a House, we should all support it. We need to be behind whatever he wants to do.

Thirdly, I support the creation of the Office of the Official Opposition. This is because as it is right now, the winner takes it all. The Opposition is then left outside in the cold without an office or a budget. If somebody is not busy, they will always device ways of doing other things. We need to keep the Opposition busy the way other mature democracies do by having their offices fully funded by the Government. Kenya is not an exception. Therefore, I support the creation of that office so that we can have our brothers and sisters who are in the Opposition have an office where they can air their views.

Last but not least, we have too many unemployed young people in this country. If we entrench the NG-CDF in the Constitution, we will create jobs for the small contractors who have been building classes, halls and all manner of things in the constituencies. If it is not entrenched and it stops being operational, then we render them jobless yet we have many young people who depend on those small jobs for their survival.

With those few remarks, and because of my brother, I want to stop there so that he can also say something before the time lapses. Thank you very much, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Mwalyo. Hon. Abraham Kirwa, the gentleman representing the people of Mosop Constituency.

Hon. Abraham Kirwa (Mosop, UDA): Thank you very much, Hon. Temporary Speaker for this opportunity that you have given me to also support this Motion.

Specifically, for the two-thirds gender rule, women should be allowed...I applaud the President because he took upon himself to bring this Motion to the Floor. All of us have daughters and sisters. Historically, our women have been marginalised politically and economically. The Constitution allows us, and it states that all Kenyan men or women have the right to equal treatment, including the right to equal opportunities and politicking.

I support this Motion because in other countries, it is not even a discussion. Women automatically get two-thirds of seats. I am in support and I am proposing that all Members...Truly, let us look into this matter and make sure we pass and comply with it. It is unfortunate that sometimes... The 12th Parliament was almost sent home as it was not in compliance.

I support this Motion of entrenching the NG-CDF into the Constitution. We started identifying students who need help in my Constituency last week. I can tell you that most families are truly struggling and need money. We are dealing with orphans, children of single mothers and families that cannot simply afford. We need to entrench it in the Constitution so that nobody comes back to propose that we abolish it.

Wherever we went, most parents were asking when we were going to disburse the funds and bursaries. When we told them that we were still waiting, you could see the desperation in their eyes. You could see they were waiting for this money. This is the only money they are expecting. It is not only for bursaries but also for projects like building of schools and many other things that we do with NG-CDF. As we said, this NG-CDF is not for a Member of Parliament, but for the community. It is the only money that the community is going to feel and make sure it has not been misused.

The other issue is the creation of the office of the Official Opposition. I know that time is almost up but I want to request ...

The Temporary Speaker (Hon. Peter Kaluma): Hon. Member, you will have seven minutes the next time this matter is put on the Order Paper for debate. Most likely that will be on Tuesday. So, make sure you are in the House at the start of the Motion.

ADJOURNMENT

The Temporary Speaker (Hon. Peter Kaluma): Order, Hon. Members! The time being 7.00 p.m., this House stands adjourned until Tuesday, 21st February 2023, at 2.30 p.m.

The House rose at 6.12 p.m.

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