



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – SECOND SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

TUESDAY, MARCH 7, 2023

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Honourable Speaker
4. **MESSAGES**

The Speaker conveyed the following Message from the Senate –

Approval of appointment of a Member to the Parliamentary Service Commission under Article 127(2) (d) of the Constitution

“Honourable Members, Pursuant to the provisions of Standing Order No. 41, I wish to report to the House that I have received a Message from the Senate regarding approval of appointment of a Member to the Parliamentary Service Commission under Article 127(2)(d) of the Constitution. In the Message, Honourable Members, the Speaker of the Senate conveys that:

“The Senate, on 28th February 2023, considered the Report of the Standing Committee on Justice, Legal Affairs and Human Rights on the proposed appointment of Hon. Johnson Muthama, as a Commissioner of the Parliamentary Service Commission pursuant to Article 127(2)(d) of the Constitution, section 9(c) of the Parliamentary Service Act and Standing Order 77(3), and by a resolution, approved the appointment of Hon. Johnson Muthama, as a Commissioner of the Parliamentary Service Commission.”

Honourable Members, You may recall that on Wednesday, 15th February 2023, this House considered and approved the appointment of Hon. Johnson Muthama as a Commissioner of the Parliamentary Service Commission, following which I conveyed the fact to the Senate for concurrence. In this regard, the approval by the Senate of the said nominee concludes bi-cameral appointment process contemplated under Article 127 of the Constitution.

As a matter of fact the Honourable Members, the Hon. Johnson Muthama has since been sworn in and is now discharging his duties as a Commissioner of the Parliamentary Service Commission. I thank you!”

5. PETITIONS

The Hon. Speaker reported the following Petitions to the House pursuant to Standing Order 225 –

(a) Enactment of Legislation to Criminalize and prescribe penalties for the crime of enforced disappearance

“Honourable 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 those presented by a Member.

In this regard, Honourable Members, I wish to report to the House that my office has received a petition from one Dr. Annette Mbogoh, the Executive Director of Kituo cha Sheria Legal Advice Centre calling for enactment of legislation to criminalize and prescribe penalties for the crime of enforced disappearance. The Petitioner claims that the organisation has worked closely with victims of cases of extra-judicial killings and disappearances in the country since the year 2007 and documented a total of 1201 killings and 272 enforced disappearances with most of the incidences having occurred in the hands of the police and other security agencies. The petitioner further claims that in 2021, Kenya reported approximately 43 cases of disappearances of persons who were last seen in police custody or who were abducted by persons believed to be police officers.

Honourable Members, the petitioner highlights the northern and coast regions as being hotspots for such incidences to counter terrorism operations and sites other instances including the retrieving of at least 20 dead bodies from River Yala. The petitioner is concerned that there is no effective legal remedy available through law to hold suspects accountable for forcibly disappearing victims whose whereabouts remain unknown or denied. Efforts to have the matter addressed through filing of a constitutional petition seeking that the Attorney General does request the President to form judicial commission of inquiry to look into the rampant cases of enforced disappearances have not been fruitful.

Honourable Members, the petitioner therefore prays that the National Assembly enacts legislative provisions that will expressly criminalize and prescribed penalties for the crime of enforced disappearance.

Honourable Members, having established that the matter raised in the Petition is well within the authority of this House; and further, that the matters raised in this Petition are not pending before any court of law, constitutional or legal body, I hereby commit the Petition to the Public Petitions Committee for consideration pursuant to Standing Order 208A. The Committee is required to consider the Petition and report its findings to the House and to the Petitioner in accordance with Standing Order 227(2). I thank you.”

(b) The State of food Security in the Country

“Honourable Members, Article 119 of the Constitution gives right to any person 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 those presented by a member.

In that regard, Honourable Members, I wish to report to the House that my office has received a petition from one Shadrack Agaki of Identification Card No. 27414999, a Communications and Food Policy Expert regarding state of food security in the Country.

Honourable Members, the Petitioner states that food insecurity continues to affect the lives of many Kenyans contrary to the spirit of Article 43 (1) (c) that obligate the state to ensure that every citizen is free from hunger and have adequate food of acceptable quality.

Honourable Members, the Petitioner is concerned that various policies, initiatives and programs that have been implemented in an attempt to address food insecurity have been unsuccessful. He alludes to the fact that no significant efforts have been made to realize optimum yield in Kenya’s different ecological zones.

The Petitioner therefore prays that the National Assembly amends the Food Security Act with the aim of achieving a clear legal framework and coordination mechanism between the National and County Government in addressing food and nutritional insecurity in the country.

Honourable Members, having established that the matter raised in the Petition is well within the authority of this House; and further, the matters raised in this Petition are not pending before any court of law, constitutional or legal body, I hereby commit the Petition to the Public Petitions Committee for consideration pursuant to Standing Order 208A.

The Committee is required to consider the Petition and report its findings to the House and to the Petitioner in accordance with Standing Order 227(2). I thank you”

6. PAPERS LAID

The following Papers were laid on the Table of the House-

- (a) Submission of Nominees to Garissa and Mbeere North Constituencies from the National Government Constituencies Development Fund Board
- (b) Research on the state of Certified Secretaries (CS) profession in Kenya from the institute of Certified Secretaries;
- (c) Performance Audit Report on provision of Maternal and Neonatal Healthcare by the Ministry of Health from the Office of the Auditor-General;
- (d) Annual Performance Report for the period 1st July, 2021-30th June, 2022 from the Ministry of Defence;

- (e) 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:
- (i) Kaimosi Friends University College;
 - (ii) Siruti Technical and Vocational College Awendo;
 - (iii) Mathira Technical and Vocational College;
 - (iv) Ramogi Institute of Advanced Technology;
 - (v) St. Paul's Kibabii Diploma Teachers' Training College;
 - (vi) Kongoni Technical and Vocational College;
 - (vii) Kiminini Technical and Vocational College;
 - (viii) Bunyala Technical and Vocational College;
 - (ix) St. Augustine Teachers' Training College – EREGI;
 - (x) Nzoia Sugar Company Limited;
 - (xi) Kenya Wildlife Service; and
 - (xii) Warehouse Receipt System Council.
- (f) Reports of the Auditor-General and Financial Statements in respect of the following Constituencies for the year ended 30th June, 2021 and the certificates therein: -
- (i) Bondo;
 - (ii) Lari;
 - (iii) Hamisi;
 - (iv) Garissa Township;
 - (v) Seme;
 - (vi) Endebess;
 - (vii) Funyula;
 - (viii) Webuye East;
 - (ix) Chuka Igambang'ombe;
 - (x) Tharaka;
 - (xi) Kimilili; and
 - (xii) Samburu North.
- (g) Report of the Auditor-General and Financial Statements of East Africa Skills Transformation and Regional Integration Project (Credit Number 6334-KE) - Kenya Coast National Polytechnic for the year ended 30th June, 2022 and the certificates therein.
- (The Hon. Kimani Ichung'wah – The Leader of the Majority Party)*
- (h) Report of the Joint Committee of the National Assembly Departmental Committee on Finance and National Planning and Senate Standing Committee on Finance and Budget in the Vetting of Dr. Susan Jemtai Koech for approval as Deputy Governor of the Central Bank of Kenya
- (The Hon. Kuria Kimani, MP – The Chairperson, Departmental Committee on Finance and National Planning)*
- (i) Report of the Kenya Delegation to the 144th Assembly of the Inter-Parliamentary Union (IPU) in Nusa Dua, Indonesia, from 20th to 24th March, 2022.
- (The Hon. John Kiarie, MP – a Member of the Kenya Delegation)*

7. NOTICES OF MOTIONS

The following Notices of Motions were given –

(a) Approval of Appointment of Dr. Susan Jemtai Koech as the Deputy Governor of the Central Bank of Kenya

THAT, taking into consideration the findings of the Joint Committee of the National Assembly Departmental Committee on Finance and National Planning and Senate Standing Committee on Finance and Budget in its Report on the vetting of Dr. Susan Jemtai Koech for approval as Deputy Governor of the Central Bank of Kenya, *laid on the Table of the House on Tuesday, 7 March, 2023* and pursuant to Section 13B(1) and 13C(1) of the Central Bank of Kenya Act, Section 8(2) of the Public Appointments (Parliamentary Approval) Act 2011 and Standing Order 216(5)(f) of the National Assembly Standing Orders, this House approves the appointment of Dr. Susan Jemtai Koech as Deputy Governor of the Central Bank of Kenya.

(Hon. Kimani Kuria – The Departmental Committee on Finance and National Planning)

(b) Adoption of the Report of the 144th Assembly of the IPU

THAT, this House adopts the Report of the Kenya Delegation to the 144th Assembly of the Inter-Parliamentary Union (IPU) in Nusa Dua, Indonesia, from 20th to 24th March, 2022, *laid on the Table of the House on Tuesday, March 7, 2023*.

(Hon. John Kiarie, MP – Leader of Kenya National Assembly Delegation)

(c) Adoption of the Report of the 144th Assembly of the IPU

THAT, aware that Article 42(1)(a) of the Constitution provides for the right of every person to access the highest attainable standard of health, which includes the right to health care services; further aware that cancer is among the leading causes of death in the country; noting that although the budgetary allocation for health care services is progressive, it is inadequate to cater for cancer prevention and care across the country; further noting that cancer control in the country is hampered by inadequate cancer care infrastructure and limited specialized human resource capacity; recognizing that a significant number of cancer patients do not complete the prescribed treatment due to the high cost of cancer management; further recognizing that the Cancer Prevention and Control Act, 2012 seeks to promote access to quality and affordable diagnostic and treatment services for persons with cancer; and to ensure sustainable capacity for the prevention and control of cancer; this House resolves that the Government through the National Treasury, establishes a national cancer prevention and control fund to promote prevention, control, and treatment of cancer in the country.

(Hon. Timothy Toroitich, MP – Member for Marakwet West)

(d) Kutekelezwa kwa Sheria za Kupiga Marufuku Mahusiano ya Jinsia Moja Nchini Kenya

KWAMBA, tukifahamu kuwa, familia ndio kiungo cha msingi cha jamii, na kutambua kwamba utamaduni wa Kiafrika unathamani sana asasi ya ndoa ambayo inahakikisha kuendelea kwa binadamu kupitia uzazi; tukizingatia ukweli kwamba Ibara ya 45(2) ya Katiba inaeleza kuwa kila mtu mzima ana haki ya kufunga ndoa na mtu wa jinsia tofauti, kwa msingi wa hiari baina ya wahusika; tukitambua pia kwamba Kifungu cha 162 cha Kanuni ya Adhabu kinamtia hatiani yeyote ambaye anashiriki tendo la ngono lisilo la kawaida na mtu yeyote kinyume na utaratibu wa asili; tukizingatia kuwa mahusiano na ndoa za jinsia moja na ngono inayotokana na mahusiano haya ni kinyume na utaratibu wa asili; tukisikitika kwamba kumekuwa na ongezeko la mahusiano ya jinsia moja nchini Kenya kutokana na usambazaji wa vitabu na machapisho yanazokuza upotovu huo; tukitambua kwamba uchapishaji na usambazaji wa nyenzo zinazohusu mahusiano ya jinsia moja katika machapisho na vyombo vya habari una athari kali kwa maadili ya jamii kuhusu mwelekeo wa kijinsia; tukimaizi kwamba kuna haja ya kutekeleza sheria ili kulinda na kuhifadhi maadili ya mahusiano ya jinsia tofauti katika taifa; tukifahamu kwamba hakuna uwezekano wa kuzaa kutokana na mahusiano na ndoa za jinsia moja; tukihofia kwamba kuongezeka kwa mahusiano na ndoa za jinsia moja kunaitia jamii ya wanadamu nchini katika hatari ya kutoweka; Bunge hili hivyo basi linaazimia kwamba Serikali ipige marufuku mara moja uzungumziaji, uchapishaji na usambazaji wa taarifa zinazokuza mahusiano ya jinsia moja nchini na kuweka mikakati ya kudhibiti maudhui hayo kwa mujibu wa Ibara ya 45(2) ya Katiba na Kifungu cha 162 cha Sheria ya Adhabu ili kuikinga jamii, hasa watoto na vijana, dhidi ya kufikiwa na mielekeo potovu ya mapenzi na ndoa ya jinsia moja.

(Mhe. Mohamed Ali, MP – Mbunge wa Nyalii)

8. QUESTIONS

(a) The following Questions were asked –

- (i) **Question No. 012/2023 by the Member for Lamu East (Hon. Ruweida Obo, MP) to the Cabinet Secretary for Information, Communication and the Digital Economy** regarding digital exclusion in *Siu, Shanga* and *Mkokoni* in Lamu East Constituency that are not connected to the mobile phone network, the reasons why the entire Lamu East Constituency was still served by 2G Network when the rest of the country is on 4G Network and is soon transitioning to 5G Network and the plans that the Ministry had to ensure that *Siu, Shanga* and *Mkokoni* areas are connected to the mobile phone network and that the network upgraded from the current 2G to 4G?

(To be replied before the Departmental Committee on Communication, Information and Innovation)

- (ii) **Question No. 013/2023 by the Member for Embakasi Central (Hon. Benjamin Gathiru, MP) to the Cabinet Secretary for Labour and Social Protection** regarding the status of the *Inua Jamii* Programme, detailing the number of current beneficiaries and those who had exited the programme, why there are delays in the disbursement of cash transfers to beneficiaries under *Inua Jamii* Programme and state what plans the

Ministry had put in place to ensure timely disbursement of the funds and mechanisms instituted by the Ministry to ensure timely replacement of beneficiaries of the *Inua Jamii* Programme who exit the fund through death as well as orphans and vulnerable children (OVC) who attain the age of 23 years which is set as the exit age, and when the Ministry intended to carry out mass registration of fresh beneficiaries?

(To be replied to before the Departmental Committee on Social Protection)

- (iii) **Question No. 014/2023 by the Member for Konoin (Hon. Brighton Yegon, MP) to the Cabinet Secretary for Roads and Transport** regarding the plans has the Ministry put in place to re-carpet the busy *Changoi–Kimulot–Kaptengecha* Road in Konoin Constituency which has been in a deplorable state for several years and when the Ministry intended to restore the said Road to motorable condition in order to reduce the number of road accidents and enhance movement of people, goods and services?

(To be replied to before the Departmental Committee on Transport and Infrastructure)

- (iv) **Question No. 015/2023 by the Member for Kirinyaga Central (Hon. Joseph Gitari, MP) to the Cabinet Secretary for Education** regarding the criteria used for placement of students in form one, particularly in day schools, whether the criteria takes into consideration the proximity of learners to schools and measures the Ministry had put in place to ensure that day scholars who walk for distances of over 10kms to school in the wee hours of the morning and evening are guaranteed security from potential dangers such as attacks by criminal gangs, abductions and vulnerability to incidences of rape?

(To be replied to before the Departmental Committee on Education)

- (v) **Question No. 016/2023 by the Member for Westlands (Hon. Timothy Wanyonyi, MP) to the Cabinet Secretary for Roads and Transport** seeking details of the approved design of *Waiyaki* Way, including the road profiles, all road signages, road lighting, service lanes and pedestrian walkways and crossings; whether the ongoing construction works on the named road are being carried out in accordance with the approved design; timeline for completion of the *Kangemi* and *Ndumboini* overpasses and restoration of access roads destroyed during construction; reasons as to why there were no footbridges, pedestrian walkways and road markings on the said road, and further explain why the provided pedestrian crossings are kilometres apart from each other, thereby escalating road accidents on the said road and disadvantaging school going children, the elderly, persons with disabilities and emergency response teams why the Ministry approved the construction of the Westlands roundabout footbridge without incorporating a ramp for persons with disabilities and state whether there are any plans to have one installed?

(To be replied to before the Departmental Committee on Transport and Infrastructure)

- (vi) **Question No. 019/2023 by the Member for Nyatike (Hon. Tom Odege, MP) to the Cabinet Secretary for Roads and Transport** seeking details of persons or firms who participated in the tender Nos. KeNHA/2579/2022 and KeNHA/2580/2022 for construction of *Masara-Muhuru Bay* Road advertised by the Kenya National Highways Authority (KeNHA) the

contractor who was awarded the tender for the named project including the contract sum; whether due process prescribed in law was followed in awarding the tender; the reasons why works on the said road had not commenced; the expected time of commencement of the works and the measures put in place to expedite completion of the named Road?

(To be replied to before the Departmental Committee on Transport and Infrastructure)

(vii) **Question No. 020/2023 by the Member for Embakasi West (Hon. Mark Mwenje, MP) to the Cabinet Secretary for Interior and National**

Administration regarding the reasons as to why the Betting Control and Licensing Board was no longer processing new applications for licenses given that their Service Level Agreement indicates that the application and issuance license process takes 6 Months, when the Board would resume processing of new and pending applications, including licences that the Board had cleared for renewal for the year 2022/2023 and the measures instituted to ensure that where the Board had ceased to process and issue licences with an expiration date of 30th June 2023, any dealers applying for renewal of licences in the next financial year would not be required to submit current licences as proof of compliance.

(To be replied before the Departmental Committee on Administration and Internal Affairs)

(viii) **Question No. 021/2023 by the Member for Alego Usonga (Hon. Samuel Atandi, MP) to the Cabinet Secretary for Information, Communication and Digital Economy** on the alleged interference by the Ministry and conflict of interest by the Selection Panel with regard to the ongoing recruitment of members of the Board of the Media Council of Kenya, measures that have been put in place to guarantee integrity of the recruitment process, details of the Report of State Corporations Advisory Committee (SCAC) on the assessment of the outgoing Board members and indicate if any of the members qualified for renewal of their term; whether a legal advisory had been provided by the Attorney General on independence of the Council and whether the advisory has been taken into account in the ongoing recruitment and measures that the Ministry had taken to address loopholes in the recruitment process of the Board of the Media Council which previously led to court cases in 2013, 2014 and 2019, including the three current cases in 2023?

(To be replied to before the Departmental Committee on Communication, Information and Innovation)

(b) The following Question was deferred –

(i) **Question No. 017/2023 by the Member for Nakuru Town East (Hon. David Gikaria, MP)** to the Cabinet Secretary for Energy and Petroleum regarding detail the circumstances that led to the termination of 30 employees by the Geothermal Development Company in April, 2022, including the reasons for dissolution of each employee's contract and plans for reinstating those employees?

(ii) **Question No. 018/2023 by the Member for Machakos County (Hon. Joyce Kamene, MP)** to the Cabinet Secretary for Ministry of Roads and Transport regarding measures that the Ministry had put in place to provide for pedestrian footbridges along an approximately 2-kilometre stretch of

Mombasa Road, especially the crossings at Hilton Garden Inn and the Syokimau Railway Station/Nairobi SGR Terminus and the stretch between KAPPA Industries and Mastermind?

9. STATEMENTS

- (a) **Pursuant to Standing Order 44(2)(c), the Member for Baringo Central (Joshua Kandie, MP)** requested for a Statement from the Chairperson of the Departmental Committee on Blue Economy and Irrigation regarding the stalled *Kirandich* Dam Water Supply Project Phase II in Baringo Central Sub-County and whether the contract could be cancelled and awarded to a capable contractor given that the awarded contractor had failed to undertake the works despite various extensions granted in 2016, 2018, 2020 and 1022.
- (b) **Pursuant to Standing Order 43, the Member for Navakholo (Hon. Emmanuel Wangwe, CBS, MP)** made a General Statement conveying congratulating the Rt. Hon. (Dr.) Moses Wentang'ula, EGH, MP following conferment of a Honorary Degree of Doctor of Humane Letters (*Honoris Causa*) by Kibabii University.

(Change of Chair from the Rt. Hon. Speaker to the Deputy Speaker)

10. MOTION - GENERAL DEBATE ON THE PROPOSAL TO PARLIAMENT TO CONSIDER AMENDING THE CONSTITUTION AND THE STANDING ORDERS

Motion having been made and Question proposed –

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.

(The Hon. Kimani Ichung’wah - Leader of the Majority Party – Wednesday, 15th February 2023 – Morning Sitting)

Debate interrupted on Tuesday, February 28, 2023 resumed;

(Change of Chair from the Rt. Hon. Speaker to the Deputy Speaker)

(Change of Chair from the Deputy Speaker to the Fifth Chairperson of Committees)

Rising in his place pursuant to Standing Order 87(1), the Member for Gatundu South (Hon. Gabriel Kagombe) claimed to move that, the Member for Suna West, the Hon. Peter Masara was out of order for referring to the Deputy Chief Justice as a “mere woman” while contributing to the Motion, specifically on the proposal regarding the composition of Parliament as provided for under Articles 97 and 98 of the Constitution and attainment of the two-thirds gender principle;

And the Speaker acceding to the claim;

The Speaker directed that the contributions of the Hon Peter Masara be expunged from the records of the House.

And the time being Seven O’clock, the Fifth Chairperson of Committees interrupted the he proceedings and adjourned the House without Question put pursuant to the Standing Orders.

11. HOUSE ROSE - at Seven O’clock

MEMORANDUM

The Speaker will take the Chair on
Wednesday, March 08, 2023 at 9.30 a.m.

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