



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT**

**NATIONAL ASSEMBLY**

**THE HANSARD**

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## THE HANSARD

Thursday, 6<sup>th</sup> July 2023

The House met at 2.30 p.m.

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

### PRAYERS

**Hon. Speaker:** Serjeant-at-Arms, we have no quorum. Ring the Quorum Bell.

*(The Quorum Bell was rung)*

Hon. Members, we now have a quorum to transact our business.  
Hon. Jematiah, Member for Baringo County.

### PETITION

#### DECLARATION OF MUKUTANI FOREST AS A PUBLIC FOREST

**Hon. Jematiah Sergon** (Baringo County, UDA): Hon. Speaker, I rise to present a Public Petition on the declaration of Mukutani Forest as a public forest.

I, the undersigned, on behalf of the residents of Baringo County, draw the attention of the House to the following:

THAT, Article 1 of the Constitution of Kenya 2010 reposes all sovereign authority in the people of Kenya;

THAT, Article 10 of the Constitution provides for the national values and principles of governance which bind all state organs, state officers, public officers and all persons, whenever any of them applies or interprets the Constitution; enacts, applies or interprets any law; makes or implements public policy decisions, and which values and principles include public participation;

THAT, Article 63 of the Constitution of Kenya recognises community land and provides that the land shall vest in and be held by communities identified on the basis of ethnicity, culture or similar community of interest;

THAT, under Section 8 of the Forest Conservation and Management Act, 2016, Kenya Forest Service is bestowed with the responsibility of conserving, protecting and managing all public forests in Kenya.

THAT, under Section 31(2) of Forest Conservation and Management Act, 2016, before declaring any section as a public forest, the Cabinet Secretary is required to consult the National Land Commission;

THAT, the Second Schedule of Forest Conservation and Management Act, 2016 makes provisions for public participation;

THAT, in the said Legal Notice, the said then Cabinet Secretary decreed that the alleged Mukutani Forest is an area of land approximately 13,185.8 hectares;

THAT, your humble petitioners herein contend that they were not involved in the decision of the then Cabinet Secretary, Hon. Judi W. Wakhungu, contained in the Legal Notice No.265 dated 27<sup>th</sup> October 2017;

THAT, the area described in the schedule to Legal Notice No. 265 is a community land by dint of Article 63 of the Constitution of Kenya;

THAT, the said area is and continues to be occupied by three communities, namely: Pokot, Tugen, and Ilchamus;

THAT, further, the petitioners contend that their elected representatives, to whom they have delegated their power to, were not also consulted;

THAT, there is no forest in the area described by the Cabinet Secretary (CS) in the Legal Notice No. 265;

THAT, the alleged designation of the area as a forest poses an existential threat to the communities and requires urgent intervention of the House to avert any further conflict;

THAT, your humble petitioners have made the best effort to have this issue addressed by the relevant authorities without any dependable outcome;

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

Therefore, your humble petitioners pray that the National Assembly, through the Public Petition Committee:

1. finds that the process leading to declaration of Mukutani Forest as a public forest was done in brazen and egregious contravention of the Constitution and Forest Conservation and Management Act 2016;
2. recalls the decision of then CS of Environment and National Resources contained in the Legal Notice No. 265 dated 27<sup>th</sup> October 2017, interrogate the same and order that fresh exercise towards declaration of the alleged forest named Mukutani be undertaken by the CS, the Board of Kenya Forest Service, the National Land Commission and all the relevant stakeholders.

And your petitioner will ever pray.

Thank you.

**Hon. Speaker:** Thank you, Hon. Jematiah. Hon. Members, under our Standing Order, I will give a few Members to comment, if they wish. On this issue, you can go to interventions. Before we do that, allow me to acknowledge, in the Public and Speaker's galleries the following schools:

1. Kisumu Boys' High School, Kisumu Central, Kisumu;
2. Karatina Girls Secondary School, Mathira, Nyeri;
3. Ngethu Secondary School, Gatundu North, Kiambu;
4. Kimwolwet Boys Secondary School, Sotik, Bomet;
5. Kirere Central, Kigumo, Murang'a.

Thank you.

Hon. Pukose. Two minutes each.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): Thank you, Hon. Speaker. Having lived and worked in Baringo, there is no forest in that area of Mukutani. It is very unfair that the Government can gazette community land as a forest area. It will be very important that the Committee, once they go to that place, tables a report in this House to reverse that gazette.

In addition, the area of Mochongoi, which people also occupy, should also be de-gazetted, and the people be given title deeds to earn a living as rightful owners of Mochongoi and Mukutani.

Thank you, Hon. Speaker. I support.

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

*(Hon. Didmus Barasa spoke off record)*

**Hon. Speaker:** Give him a proper microphone.

**Hon. Didmus Barasa** (Kimilili, UDA): Hon. Speaker, while I support this Petition, it is also very important that we relook at the laws that govern public participation. Is it just ticking boxes, or do you consider the contributions that the people make? We also need to expand and ensure that the citizens are the ones that should initiate what they want to be done.

The Committee, when doing their recommendation, should show that action will be taken against any other Government officials who will try to impose something on the people. The Committee should also consider proposing actions to be taken against those Government officers that went ahead to implement whatever is said in the Petition without proper public participation and consultations.

I support this Petition, Hon. Speaker.

**Hon. Speaker:** Hon. Ruweida Obo.

**Hon. Ruweida Mohamed** (Lamu East, JP): Asante, Mhe. Spika. Nami naunga mkono hiyo *Petition*. Ahsante.

*(Laughter)*

**Hon. Speaker:** Is that all you wanted to say or had you keyed in for something else? Yes, Hon. Makilap.

**Hon. Joseph Makilap** (Baringo North, UDA): Thank you, Hon. Speaker. As a Member of Parliament from Baringo North, which borders that area, I support this Petition. This issue started when some privileged people were serving in the National Land Commission (NLC) and later started the process of gazetting the area of Mukatani as a forest.

Hon. Speaker, in that area, people were forcefully moved out of the Mukutani area because of insecurity. The solution to ensuring that bandits do not take that land is not to gazette it as a forest. They ought to do land adjudication so that there is proper land ownership of that particular place. This is a fraud.

The Constitution is very clear on public participation. People should not use their positions in Government to rob citizens without knowledge.

As a Member of Parliament from Baringo, we are on this. It is not right. The place which is supposed to be de-gazetted and returned to the people is Mochongoi and not Mukutani, which is being gazetted as a forest. That is a grazing area where bandits forcefully removed people, and they will go back when normalcy returns. There is a need for land adjudication but not gazetting it as a forest.

I support this Petition on behalf of the people of Baringo.

**Hon. Speaker:** Thank you. Kangogo Bowen.

**Hon. Kangogo Bowen** (Marakwet East, UDA): Thank you, Hon. Speaker, for allowing me to support the Petition by Hon. Jematiah. The case raised by Hon. Jematiah is only a single case across the country. Where I come from, there is the Embobut Forest. The entire Embobut is a forest where most of us were brought up. It has administrative units of locations and sub-locations. There is a Deputy County Commissioner's (DCC) Office. There is a Member of the County Assembly (MCA). It is a ward called Embobut/Embolot Ward in Marakwet East, but the entire place is gazetted as a forest.

I think the Ministry of Environment, Climate Change and Forestry and Kenya Forest Service (KFS) do not understand many parts of this country, where forests are and where there is a settlement.

I support that the gazettelement be reversed. It should not mean that the Mochongoi area becomes a government forest because the people living there were displaced due to insecurity.

Hon. Speaker, it is upon the Government to provide security there and ensure that the people of Mochongoi and Embobut are given title deeds.

Hon. Speaker, I support.

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

**Hon. Rahim Dawood** (North Imenti, Independent): Thank you, Hon. Speaker. I support this Petition. I have never heard of a community land being turned into a forest. I have heard of forests being given to people but not *vice-versa*. This is the first time we are hearing this.

Hon. Speaker, as a country, we need to come up with better ways of adjudicating our lands. We need to strengthen the NLC with the Ministry of Lands so that wherever we do not have title deeds in the country, the people are given. We need to adjudicate lands so that we can give title deeds to the people. I join my colleagues in supporting this Petition. It is important to have public participation in every part of the country. There has never been public participation asking the public to give its land away for gazettelement as a forest.

Thank you.

**Hon. Speaker:** Hon. Kamket.

**Hon. Kassait Kamket** (Tiaty, KANU): Hon. Speaker, I agree with Hon. Jematiah for the first time.

*(Laughter)*

As a resident of the area that has been gazetted illegally as a forest, I want to join my colleague in condemning that illegal gazettelement of the Mukutani area as a forest. I want to confirm to this House that there is no forest in Mukutani. Mukutani and Mochongoi are areas that are occupied by the communities mentioned in the Petition - the Pokot, Ilchamus and the Tugen. Those nomadic pastoralist communities have lived in the area for many years. I believe this is a case of abuse of office by those officers who had the privilege to work in those departments. They thought they would take advantage and force an illegality on the people. Therefore, for the first time, I want to join my colleague and the County Woman Representative, Hon. Jematiah, in agreeing that this decision is completely wrong. I want to urge the Chairperson of the Public Petitions Committee to use the same energy that he used when he was trying to restore his electricity. I want him to use the same energy.

*(Laughter)*

**Hon. Speaker:** You are obviously veering off the beaten track and discussing a colleague without a Motion, which is out of order. Hon. Ng'elechei.

**Hon. Caroline Ng'elechei** (Elgeyo Marakwet County, Independent): Thank you, Hon. Speaker. I want to support the Petition by Hon. Jematiah on the gazettelement of community land. For those of us who live in counties with massive forest cover, such occurrences are not isolated. There is a story in Elgeyo Marakwet of a forest called Cheptonge whereby the senior person at that time fought with a white settler. The white settler punished the whole community by gazetting their land to be a forest, and they were displaced to other places.

Such innocent communities and people who might not have access to what is happening should not be intimidated or displaced by gazetting their land. As much as we want to grow trees and to have more forest cover in Kenya, we also need to have a place for those who are taking care of the forests or for the reason of growing forests to be there. We cannot displace human beings to grow trees that should benefit the same human beings. I, therefore, wish to support her Petition.

Thank you.

**Hon. Speaker:** Can we stop there? Yes, Hon. Jared Okello of Nyando.

**Hon. Jared Okello** (Nyando, ODM): Yes. Thank you, Hon. Speaker. I want first to urge you and, on behalf of the Kisumu Central Member of Parliament, to welcome our good sons from Kisumu Boys' High School. It is one of our prestigious schools in Kisumu County.

**Hon. Speaker:** I thought you wanted to talk about the Petition.

**Hon. Jared Okello** (Nyando, ODM): Yes, that is what I am coming to, but since they are from my county, I wanted to welcome them officially. The land will forever remain emotive, and any approach employed towards disturbing the status quo must be addressed with due consideration. We are in this situation today courtesy of the presentation by my sister, Hon. Jematiah. Somebody chose to be careless and not pay attention to the plight of the residents of that area by degazetting land and appointing the same as a forest. We appreciate the importance of forests in this country as water catchment areas. Forests are also areas that absorb the carbon mix. With climate change such as the one that we are experiencing, it is only important that we pay much attention to the issues of forests. But it cannot be to the detriment of the existence of a people. Elaborate processes are being put in place for the degazettement or gazettement of a particular place, but when you fail to address those matters, we reach that situation. I implore the Public Petitions Committee to move expeditiously to address this matter and put it to rest.

I thank you, Hon. Speaker.

*(Applause)*

**Hon. Speaker:** Thank you. The Petition stands committed to the Public Petitions Committee, which should report back within 60 days.

Next Order. Clerk-at-the-Table, before that, allow me also to acknowledge, in the Public Gallery, students from Moi Forces Academy, Lanet, Bahati Constituency, Nakuru County.

*(Applause)*

The Member for Kajiado Central has requested that his daughter is among those in the gallery, and he would want to acknowledge her presence.

*(Applause)*

On behalf of all of us, please welcome not only your daughter's school, but all the schools here.

**Hon. Memusi Kanchory** (Kajiado Central, ODM): Thank you very much, Hon. Speaker, for giving me this opportunity. Let me take this opportunity to welcome Moi Forces School, Lanet, Form Four Class of 2023. Moi Forces, Lanet is one of the very good national schools that are managed by our military. I also sit on the Departmental Committee on Defence, Intelligence and Foreign Relations and so, I have a lot of interest in this school. Let me also take this opportunity on behalf of all the Members to wish early success to our Form Four class and ask these girls to put in all their effort. I have talked to them outside there, and because it is tough and competitive out here, they need to do their best. I welcome them and all the schools that are here.

Thank you, Hon. Speaker.

*(Applause)*

**Hon. Speaker:** *Mheshimiwa Mrembo*. Is that your name or your title?

**Hon. Irene Njoki** (Bahati, JP): My name.

(Laughter)

Thank you, Hon. Speaker. I take this opportunity to welcome Moi Forces Academy, Lanet, which is one of the prestigious schools in my constituency, with a mean grade of 7.8. I wish them all the best as they undertake their exams. I hope you guys will give me a mean grade of over 10, and that is what we agreed on outside.

*Karibuni sana.* I also welcome all the other schools that are here.

**Hon. Speaker:** Thank you, *Mheshimiwa*. Next Order.

## PAPERS

**Hon. Speaker:** Leader of the Majority Party! Hon. Samuel Chepkong'a.

**Hon. Samuel Chepkong'a** (Ainabkoi, UDA): Thank you, Hon. Speaker. I am the Temporary Majority Leader for the time being today.

Hon. Speaker, I beg to lay the following Papers on the Table of the House:

1. Report of the Auditor-General and Financial Statements of Human Resource Management Professionals Examinations Board for the years ending 30<sup>th</sup> June, 2019, 2020 and 2021.
2. Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June, 2021, and the certificates therein –
  - (a) Achego Vocational Training Centre; and,
  - (b) Garsen Technical and Vocational College.
3. Reports of the Auditor-General and Financial Statements in respect of the following constituencies for the year ended 30<sup>th</sup> June 2022, and the certificates therein:
  - (a) TurkanaEast;
  - (b) Turkana West;
  - (c) Turkana Central;
  - (d) Turkana South;
  - (e) Wajir South;
  - (f) Bamachoge Chache;
  - (g) Jomvu;
  - (h) Kisauni;
  - (i) Kasipul;
  - (j) Saku;
  - (k) Moyale;
  - (l) Laisamis;
  - (m) North Horr;
  - (n) Isiolo South;
  - (o) Isiolo North;
  - (p) Samburu East;
  - (q) Samburu West;
  - (r) Samburu North;
  - (s) Laikipia East;
  - (t) Laikipia West;
  - (u) Laikipia North;
  - (v) Kajiado East;
  - (w) Kajiado Central;
  - (x) Kajiado North;

- (y) Baringo Central; and,
  - (z) Baringo North.
4. Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June, 2022, and the certificates therein:
- (a) Kenya National Examinations Council;
  - (b) COVID-19 Monitoring Impacts on Learning Outcomes (MILO) Project;
  - (c) National Cereals and Produce Board;
  - (d) Koshin Technical Training Institute;
  - (e) Ol'lessos Technical Training Institute;
  - (f) Tigania East Technical and Vocational College;
  - (g) Eldas Technical and Vocational College;
  - (h) Meru National Polytechnic;
  - (i) Agriculture and Food Authority;
  - (j) Agriculture and Food Authority (AFA) Car Loan and Mortgage Fund;
  - (k) Kenya Maritime Authority Staff Mortgage and Car Loan Scheme; and,
  - (l) Jomo Kenyatta Foundation.
5. Report of the Auditor-General and Financial Statements of Norwegian Programme for Capacity Development in Higher Education and Research (NORHED II) for the year ended 31<sup>st</sup> December, 2022, and the certificates therein.

I, thank you, Hon. Speaker.

**Hon. Speaker:** Chairperson, Departmental Committee on Agriculture and Livestock.

Hon. Mutunga, *yuko wapi?* The Temporary Leader of the Majority Party, where is the Chairperson? Oh! Okay. Hon. Odanga Makokha, you are a member of the Committee? Please give him the microphone.

**Hon. Geoffrey Odanga** (Matayos, ODM): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Agriculture and Livestock on its consideration of the Sugar Bill, (National Assembly Bill No. 34) of 2022.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Makokha. Chairperson, Select Committee on National Cohesion and Equal Opportunity. Who is the Chairperson? Go ahead, Chairman.

**Hon. Yusuf Adan** (Mandera West, UDM): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Select Committee on National Cohesion and Equal opportunity on employment diversity audit in public institutions.

Thank you, Hon. Speaker.

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

### NOTICE OF MOTION

**Hon. Speaker:** Chairperson, Select Committee on National Cohesion and Equal Opportunity. Give him the microphone. Use the one on your right.

#### REPORT ON EMPLOYMENT DIVERSITY AUDIT IN PUBLIC INSTITUTIONS

**Hon. Yusuf Adan** (Mandera West, UDM): Hon. Speaker, I beg to give notice of the following Motion:

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THAT, this House adopts the First Report of the Committee on National Cohesion and Equal Opportunity on the Employment Diversity Audit in Public Institutions, laid on the Table of the House on Thursday, 6<sup>th</sup> July 2023.

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

## STATEMENTS

### STATUS OF IMPLEMENTATION OF HOUSE RESOLUTION ON SCHOOL FEEDING PROGRAMME

**Hon. Mishi Mboko** (Likoni, ODM): Hon. Speaker, pursuant to the provisions of Standing Order No. 44(2)(c), I rise to request for a Statement from the Chairperson of the Select Committee on Implementation regarding the status of implementation of the Resolution of the National Assembly regarding Development of a School Feeding Policy to cover basic education pupils.

By a Resolution passed on Wednesday, 25<sup>th</sup> October 2022, this House approved a Motion sponsored by the Member for Kakamega County, Hon. Elsie Muhanda, MP, resolving that the Ministry of Education develops a school feeding policy to cover basic education pupils and sustain the programme to ensure that children are maintained in schools for effective learning and improvement of their well-being. The intent behind that policy, which I supported, was to provide sustenance to all basic education pupils and to ensure that they can continue their education without facing hunger challenges in schools.

Standing Order 209(2)(a) empowers the Committee on Implementation to scrutinise the resolutions of the House and examine whether or not such decisions and undertakings have been implemented, and where implemented, the extent to which they have, and whether it has taken place within the minimum time necessary.

Noting that in passing the stated Motion this House took cognisance of the crucial milestone that expeditious implementation of that Resolution would contribute towards ensuring that the right to basic education as enshrined in Article 53(1)(b) of the Constitution is truly accessible to all pupils irrespective of their economic background, it is imperative that the House be apprised of the progress made by the Ministry in developing and implementing the school feeding policy seven months after the adoption of the Motion.

Against this background, I seek a Statement from the Chairperson of the Select Committee on Implementation on the progress made in implementing the school feeding programme as passed by the National Assembly on Wednesday, 25<sup>th</sup> October 2022.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Mishi Mboko. Hon. Samuel Chepkong'a. Chairperson, Committee on Delegated Legislation.

### STATUS OF STATUTORY INSTRUMENTS BEFORE THE COMMITTEE ON DELEGATED LEGISLATION

**Hon. Samuel Chepkong'a** (Ainabkoi, UDA): Hon. Speaker, I rise pursuant to Standing Order No. 44 (2)(d) and 210 (5A) to report to the House the list of the statutory instruments that have been approved under Paragraph 4(a) of the Statutory Instruments Act.

It is a requirement in the Statutory Instruments Act that the Committee reports the instruments that it has considered, approved and recommended in the House every three months, and that is what we are doing this afternoon.

The Committee has received a total of 45 statutory instruments since its establishment on 4<sup>th</sup> November 2022. It has considered and concluded 34 statutory instruments, of which 25 have been approved pursuant to Standing Order No. 210 (4)(a).

Reports on 11 statutory instruments have been tabled in the House. The House has approved nine reports on the statutory instruments, and three reports are awaiting approval by the House. There are, however, six pending statutory instruments before the Committee for its consideration.

The Ministry of Environment, Climate Change and Forestry submitted the Climate Change (Public Participation and Access to Climate Change Information) Regulations, 2023, on 6<sup>th</sup> April 2023, pursuant to Section 11 of the Statutory Instruments Act, No.23 of 2013. However, after engagement and analysis of those regulations, the Committee requested the Ministry to withdraw those Regulations because they were inappropriately before the Committee. On 26<sup>th</sup> June 2023, the Ministry of Environment, Climate Change and Forestry withdrew the Regulations they had submitted so that they could re-submit them to follow the relevant procedures as contained in the Climate Change or Environment Act under Section 36. A detailed list of the statutory instruments the Committee has considered is attached for the House to note.

Hon. Speaker, I thank you personally, your office and that of the Clerk for making it possible and facilitating the Committee to consider most of those regulations on a timeous basis. I also thank the Members of this House for being very co-operative and facilitating the work of the Committee. When we brought our reports, they were approved without any abstention. I also thank the Members of my own Committee for the hard work that they put in to ensure that they dispense with most of the statutory instruments that were referred to the Committee.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Chepkong'a. Hon. Wamuratha Ann, Member for Kiambu County.

ALLEGED MISTREATMENT OF FEMALE  
EMPLOYEES AT BROWN CHEESE COMPANY LIMITED

**Hon. Ann Wamuratha** (Kiambu County, UDA): Thank you, Hon. Speaker. Pursuant to Standing Order 44, I rise to make a general statement regarding an allegation of mistreatment of female employees working at Brown Cheese Company in Tigoni, Limuru, Kiambu County.

On or about Tuesday, 4<sup>th</sup> July 2023, female employees at the Brown Cheese Company Limited located in Kiambu County were forced to undress at work by a senior manager after being accused of disposing of a used sanitary towel in the wrong disposal bin. With the rising cases of gender discrimination in the country, the three senior managers acted against the Menstrual Hygiene Management Policy. It is disheartening to note that the said managers are female. We commend the police for having swiftly taken action and arrested the culprits.

Hon. Speaker, while we note this laudable action by the police, we strongly condemn the callous treatment given to the female employees of Brown Cheese Company Limited, and we demand further action against the senior manager for acting inhumanely. As the Member of Kiambu County, and this being a very weighty matter for me and, indeed, for the people of Kiambu and the country at large, I will be taking it up with the relevant Government agencies to ensure that justice is served. Also, those multinational companies should now start to take care of the people they have employed and note that they owe an apology not only to their staff, but also to the women of this country.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Wamuratha. Hon. Jane Kagiri, I will give you one minute.

**Hon. Jane Kagiri** (Laikipia County, UDA): Thank you, Hon. Speaker. I stand to support Hon. Ann Muratha on the said statement. I want to make it clear to employers in this country that one of the basic rights of an employee is proper working conditions. Listening to that statement, we consider that the company did not have the right working conditions for women. That is because for a woman to dispose of a sanitary towel in a dustbin, it means their washrooms have not catered for a facility like that.

I would be calling on the authorities to visit industries and companies in this country to ensure that women have the right places to place their sanitary towels, as well as remind employers that any employee in their organisation is either a parent, sister, brother or even a cousin to somebody. So, they need their right to dignity, and they need to be respected. Those are role models in the country and must be treated as such.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you. Hon. Alice Ng'ang'a, one minute.

**Hon. Alice Ng'ang'a** (Thika Town, UDA): Thank you, Hon. Speaker. When we hear some of these things, one would think they are watching a movie. Women were lined up just because of a natural thing that takes place in every woman. It is very sad that they were lined up and did what they did to them. What is so sad is that a woman subjected them to that act. Serious action needs to be taken.

Wherever women are working, they need to be accorded respect and a conducive environment for them to work and be productive. But when someone does this, yet they are not sure who has done it, they punish the entire group, including even the woman who had put it there. If a proper facility existed, an act like that would not have happened. I do not think that was her first time experiencing menstrual periods. We always experience menstrual periods every month. It happens. It occurs every month and so, there is no news of menstrual periods at any given time. When you see such an act happening, it always happens that the company has not given them a facility where they can deposit them. When the company did not do that, the lady had to look for somewhere to put the sanitary towel. Or did they want her to put it in her bag and go home with it? It is very sad.

Action needs to be taken for people to know that they need to treat women properly. Even if something like that happens, I need to educate the House; they need to know that we sometimes even leave the House not knowing that our menstrual periods will come on our way to work. It happens. What, then, are you supposed to do? To be chased out of work? Or should I leave Parliament because I am having my menstrual period? That is very sad. Proper action needs to be taken, and those people should be brought to book so that they can be an example to the rest of the companies not to treat women inhumanely.

Thank you very much, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Alice. Hon. Rozaah Buyu, you said you have a short Statement to make.

#### INSECURITY IN KISUMU WEST CONSTITUENCY

**Hon. Rozaah Buyu** (Kisumu West, ODM): Thank you, Hon. Speaker. My Statement is not in line with what has just been discussed.

**Hon. Speaker:** I know that. Yes.

**Hon. Rozaah Buyu** (Kisumu West, ODM): My Statement is in line with the escalating insecurity in my constituency, Kisumu West.

Hon. Speaker, over the last month, we have had violent robberies, sometimes leading to killings of constituents, but targeting business premises. Our trading centres like Dago,

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Otonglo, Lela, Kisian and Holo, up to Maseno are being targeted for thuggery and, many times, leading to death. Just last week, on 29<sup>th</sup> June 2023, a businessman was accosted and killed on his premises at Ojola Centre, opposite Ojola Police Post. Everything in his business premises was taken. On Monday, at 5.30 p.m., a young lady, a Form One student at Kuoyo Secondary School was attacked on her way home and killed.

When you have cases of such high insecurity, it causes a lot of fear among the members of society. I request immediate attention to security in this area. Can we have a session with the Cabinet Secretary for Interior and National Administration to find out what measures can be put in place to lower the escalating insecurity in Kisumu West Constituency?

Thank you for your indulgence, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Rozaah. I believe the Leader of the Majority Party has heard you. The Leader of the Majority Party, your Thursday Statement.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. Let me express my sympathies, with your indulgence, to the people of Kisumu West, ably represented by Hon. Rozaah Buyu. I regret the loss of lives, especially that of a young Form One student and the businessmen who suffered from those robberies.

Allow me to advise Hon. Rozaah Buyu to apprise herself on the current House procedures and changes in our Standing Orders. She can ask the Cabinet Secretary for Interior and National Administration, Prof. Kithure Kindiki, to appear before the House and hold him accountable for insecurity issues.

I hope the Inspector-General of Police and the Directorate of Criminal Investigations (DCI) have heard you. If they have not, I encourage you to draft a question or a statement for response by the Cabinet Secretary. I will be very happy to relay that Question or Statement to him and cause his appearance before the House so that you can hold him and security agencies to account on behalf of the people of Kisumu West.

#### BUSINESS FOR THE WEEK OF 24<sup>TH</sup> TO 28<sup>TH</sup> JULY 2023

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, allow me to proceed to the usual Thursday Statement. 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, 4<sup>th</sup> July 2023, to prioritise the business for consideration during the week.

I wish to commend the leadership of this House, both from the Majority and Minority coalitions, the chairpersons and vice-chairpersons of all committees, and all Members for the dedication and co-operation you have exhibited in the Session so far. There have been a number of key developments, especially over the past month. Members of this House have been deeply engaged in priority budget-related business, which included consideration of the First and Second Supplementary Estimates for the Financial Year 2022/2023; Budget Estimates for the Financial Year 2023/2024; the Appropriation Bill, 2023; the County Allocation of Revenue Bill, 2023; the Finance Bill, 2023; the County Governments Additional Allocations Bill, 2023; the Equalisation Fund Appropriation Bill, 2023 and other key priority business. We have done our part, and we all deserve to pat ourselves on the back and be proud of our achievements.

Members will recall that last week, the House resolved to alter its Calendar for the Second Session (Regular Sessions) by varying the period for the short recess that is scheduled to commence tomorrow, Friday, 7<sup>th</sup> July 2023, and end on Monday, 24<sup>th</sup> July 2023. Therefore, the break will last for two weeks instead of one week, as was earlier scheduled on our Calendar. The House is expected to resume regular sittings on Tuesday, 25<sup>th</sup> July 2023, at 2.30 p.m. to continue with the second part of the Session.

The House awaits reports on various items of business. I urge committees to use this time to expedite and finalise their reports on Bills, treaties, inquiries and responses to Questions and Statements, which will be considered upon the resumption of the House.

Our mission is far from over as we recollect and appreciate what has been achieved. We still have a significant number of legislative proposals, Bills and other statutory instruments that most certainly need our keen attention. I, therefore, urge Members to rise to the occasion when the business is presented before the House and remain diligent in its consideration.

In accordance with the provisions of Standing Order 42A (5) and (6), and in view of what transpired in the House yesterday afternoon, I wish to convey that the following Cabinet Secretaries are scheduled to appear before the House on the afternoon of Wednesday, 26<sup>th</sup> July 2023 to respond to Questions, and also address other matters raised by Members in the same Sitting.

The Questions include:

1. The Cabinet Secretary for Water, Sanitation, and Irrigation is to appear and respond to the following Questions:
  - (a) Question No.235/2023 by the Member for Gatundu North Constituency, Hon. Njoroge Kururia, regarding the construction of the Ndaragu II Dam Project and the delayed water connection to residents from Karimenu Dam;
  - (b) Question No.237/2023 by the Member for Taveta Constituency, Hon. John Bwire, regarding the flooding of Kimorigo, Abori Lambo, Mwarusa, Marodo, and Majengo villages in Mboghoni Ward caused by blockage of canals constructed by the National Irrigation Authority;
  - (c) Question No.238/2023 by the Member for Manyatta Constituency, Hon. Gitonga Mukunji, regarding the redirection of water from River Rupingazi to Mbeere South Irrigation Scheme;
  - (d) Question No.239/2023 by the Member for Maragwa Constituency, Hon. Mary Wamaua, regarding the governance of Murang'a South Water and Sanitation Company (MUWASCO);
  - (e) Question No.240/2023 by the Member for Bura Constituency, Hon. Yakub Adow Kuno, regarding the provision of water bowsers to residents of Bangale Ward in Bura Constituency;
  - (f) Question No.332/2023 by the Member for Marakwet West Constituency, Hon. Timothy Kipchumba, regarding the status of projects in Chebara Boys Secondary School, Chebara Girls Secondary School, AIC Chebara and Kaptomut Primary School, following their relocation to pave way for the construction of Chebara Dam;
  - (g) Question No.336/2023 by the Member for Mandera County, Hon. Umul Kheir Sheikh Kassim, regarding the status of implementation of Mandera Water Supply and Sewerage Projects; and,
  - (h) Question No.337/2023 by the Member for Bondo Constituency, Hon. Gideon Ochanda, regarding the status of land reclamation efforts in Yala Swamp.

*(Hon. Mpuru Aburi and Hon. Jematiah Sergon consulted loudly)*

Hon. Speaker, please, protect me from the Member for Tigania East and the Member for Baringo County.

**Hon.Speaker:** Hon. Mpuru Aburi, you cannot just walk in and cause a commotion.

(Laughter)

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. They are quite disruptive.

2. The Cabinet Secretary for Labour and Social Protection is to appear and respond to the following Questions:

- (a) Question No.088/2023 by the Member for Konoin Constituency, Hon. Brighton Yegon, regarding the welfare of Kenyans working in Saudi Arabia and efforts geared towards regulated licensing of recruiting agencies;
- (b) Question No.089/2023 by the Member for Yatta Constituency, Hon. Robert Basil, regarding incorporation of senior citizens into the Older Persons Cash Transfer Scheme;
- (c) Question No.090/2023 by the Member for Konoin Constituency, Hon. Brighton Yegon, regarding the formulation of a policy framework to support children whose parents or guardians are incarcerated;
- (d) Question No.091/2023 by the Member for Machakos County, Hon. Joyce Kamene, regarding the plight of orphans, widows and widowers in the country;
- (e) Question No.092/2023 by the Member for Kirinyaga County, Hon. Jane Njeri Maina, regarding the effectiveness of the *Inua Jamii* Programme since its inception;
- (f) Question No.160/2023 by the Member for Kiambu Constituency, Hon. John Machua Waithaka, regarding the eligibility of cancer survivors being registered as persons with disabilities;
- (g) Question No.189/2023 by the Member for Mombasa County, Hon. Zamzam Mohammed, regarding compliance by institutions to the minimum accessibility standards for persons with disabilities (PWDs);
- (h) Question No.190/2023 by the Member for Kinango Constituency, Hon. Gonzi Rai, regarding the cushioning of elderly persons under the *Inua Jamii* Programme;
- (i) Question No.326/2023 by the Member for Keiyo South Constituency, Hon. Gideon Kimaiyo, regarding the unemployment of youths in Keiyo South Constituency;
- (j) Question No.327/2023 by the Member for Machakos Town Constituency, Hon. Caleb M. Mule, regarding registration and deregistration of beneficiaries of the *Inua Jamii* Programme in Machakos Town Constituency;
- (k) Question No.328/2023 by the Member for Likoni Constituency, Hon. Mishi Mboko, regarding the status of beneficiaries under the *Inua Jamii* Programme in Likoni Sub-County; and
- (l) Question No.329/2023 by the Member for Kinango Constituency, Hon. Gonzi Rai, regarding provision of hardship allowance to civil servants in Kinango Constituency.

Hon. Speaker, upon resumption, the House will also be expected to undertake the First Reading of the Water (Amendment) Bill, 2023, and the Second Reading of the following Bills, should they not be concluded today:

1. The Food and Feed Safety Control Coordination Bill, 2023;
2. The National Rating Bill, 2022;
3. The Statute Law (Miscellaneous Amendments) Bill, 2022; and,

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## 4. The Conflict of Interest Bill, 2023.

Hon. Speaker, debate will also be undertaken on the Report of the Consolidated Fund expenditures under the Financial Year 2023/2024 Budget Estimates and Report of the Kenyan Delegation to the Parliamentary Dialogue on United Nations Convention against Corruption (UNCAC) and Global Organisation of Parliamentarians against Corruption (GOPAC) Annual General Meeting, should they not be concluded today. The House Business Committee will reconvene on Tuesday, 25<sup>th</sup> July 2023 to schedule the business for the rest of the week.

Hon. Speaker, on behalf of the House Business Committee and, indeed, my constituents, the people of Kikuyu, I want to wish Members a wonderful recess period as they reconnect with their families and constituents and also discharge their parliamentary and constituency obligations. I hope we will all come back after the recess period invigorated in readiness to perform our roles for the remainder of the second part of the Session. I now lay this Statement on the Table of the House.

Thank you, Hon. Speaker. My apologies! The statement was too long.

**Hon. Speaker:** Thank you, Leader of the Majority Party. Yes, Jared Okello.

**Hon. Jared Okello** (Nyando, ODM): Hon. Speaker, allow me to join my sister Hon. Rozaah Buyu...

**Hon. Speaker:** Order, Hon. Okello! You are out of order.

**Hon. Jared Okello** (Nyando, ODM): Hon. Speaker, it stems from the directive that has been given to the Leader of the Majority Party.

**Hon. Speaker:** Order, Hon. Jared Okello! Hon. Rozaah Buyu made a Statement. We have moved to another matter and cannot go back. You know I am always very accommodating to you and, so, oblige and take your seat.

*(Hon. Jared Okello spoke off-record)*

Order! When Hon. Rozaah Buyu made the Statement, I directed the Leader of the Majority Party to inform the Cabinet Secretary for Interior and National Administration of the security situation in Kisumu West. What is there for you to debate again? Give him the microphone.

**Hon. Jared Okello** (Nyando, ODM): Thank you, Hon. Speaker.

**Hon. Speaker:** You are setting a very poor example but I will allow you.

**Hon. Jared Okello** (Nyando, ODM): Thank you, Hon. Speaker, for the indulgence. It is true that marauding gangs are having a field day in Kisumu County. The rate at which homes and businesses are being broken into is quite unprecedented. Therefore, whereas the Leader of the Majority Party has given an advisory that we need to do a statement or a question, this is a matter of great and utmost urgency. If we delay until we come back from recess to do the necessary, I am afraid many lives and properties may be subjected to complete destruction.

Therefore, I implore upon you, *Bwana* Speaker, with great humility, that the Leader of the Majority Party, whom you have tasked with this responsibility, takes up the issue and talks to the responsible offices so that this matter can be addressed. Yesterday, my neighbour's home was attacked and somebody is nursing injuries in hospital. If this is left un-checked, we are very afraid that Kisumu County may become a den of thugs and, at the end of the day, we might lose much more.

Thank you, Hon. Speaker and my sister Hon. Rozaah Buyu for raising this matter.

**Hon. Speaker:** Thank you, Hon. Jared Okello. Leader of the Majority Party is seized of the matter. I am sure action will be taken.

Next Order!

## BILL

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*First Reading*THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL  
(National Assembly Bill No.29 of 2023)

*(The Bill was read a First Time and referred to the relevant Committee)*

**Hon. Speaker:** Thank you, Clerk. Next Order!

**MOTIONS**ADOPTION OF REPORT ON THE DRAFT CHARTER  
FOR THE OPEN UNIVERSITY OF KENYA

**Hon. Samuel Chepkong'a** (Ainabkoi, UDA): Thank you, Hon. Speaker. I beg to move the following Motion:

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the draft Charter for the Open University of Kenya, laid on the Table of the House on Thursday, 29<sup>th</sup> June 2023 and, pursuant to the provisions of section 24(1) of the Universities Act, 2012, approves the award of Charter for the Open University of Kenya.

Hon. Speaker, this is a very important Motion about something which should have happened very many years ago. Unfortunately, it looks like time has passed without this matter being brought to the House. As you know, three revolutions have happened in the lifetime of many generations that have existed. This first revolution was the agricultural revolution, second was the industrial revolution and the third which happened 200 years after the industrial revolution was the information and communication technology (ICT) revolution which happened in the later part of the last century.

That university is being established after the third revolution. In this country, for those who want to register or enlist themselves for distant learning, they do so through other distant learning institutions that are not established in this country and so, we have been left behind. I remember a situation where we were considering a nominee in the 11<sup>th</sup> Parliament. He produced a certificate he acquired through electronic means. He went to a university equivalent to what we are considering this afternoon and he was asked: 'Did you go to that university?' The people who were considering that nominee were analogue and did not know about e-university. It was very difficult and, at some point, his degree was rejected because it was not certified by the Commission for University Education (CUE).

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

*[The Temporary Speaker (Hon. (Dr) Rachael Nyamai) took the Chair]*

Fortunately, Hon. Temporary Speaker, that university was recognised by the United Nations Educational, Scientific and Cultural Organization (UNESCO) which we are members. We passed a law sometime that year that any UNESCO recognised university will also be recognised by the CUE. The Draft Charter for the Open University of Kenya was submitted to the National Assembly on 15<sup>th</sup> June 2023 for parliamentary approval, pursuant to Section 24

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(1)(b) of the Universities Act, 2012. The purpose of this Charter is to establish a national Open University that is specialised to offer university programmes through distance and e-learning mode.

The late Nelson Mandela, who was jailed in Robben Island once said: ‘Education is the most powerful weapon you can use to change the world.’ One of the drafters of the United State of America (USA) Constitution by the name Benjamin Franklin said: ‘Education pays the best interest.’ Why are we establishing that university? Regulation 43(3) of the Universities Regulations, 2023 provides requirements for an application for the establishment of a national open university, which include a Cabinet resolution declaring the mandate of the proposed university and a draft charter. Those documents were submitted to Parliament through the Office of the Leader of the Majority Party.

Section 24(1)(b) of the Universities Act, 2012 provides for the establishment of a national open university as a specialised university to offer programmes through distance and e-learning modes. Such a university is to be established by His Excellency the President on the recommendation of the Commission for University Education (CUE) through the Cabinet Secretary for Education, with the approval of Parliament.

The establishment of the Open University of Kenya is an avenue for enhancement of open and distance learning as captured in various Government policy instruments. These include Sessional Paper No.1 of 2005, Sessional Paper No.1 of 2019, the National Education Sector Strategic Plan (2018 - 2022), Vision 2030 and the UN Sustainable Development Goals (SDGs).

By *Gazette* Notice No. 11920 of 30<sup>th</sup> September 2022, His Excellency the President appointed the Presidential Working Party on Education Reforms. Part of the terms of reference of the Working Party was to recommend a framework of operationalising of the National Open University of Kenya and a framework on open, distance and e-learning (ODEL). The rationale for establishing the Open University of Kenya is as follows:

1. The basic philosophy and primary objective for open universities worldwide is to expand options and opportunities for training, in-service, skills upgrading, capacity building and continuing education. The Open University of Kenya will expand access to university education through a flexible mode of study. The intention is to ensure that wherever you are in this country, you will not be disadvantaged because of the distance to universities established in this country.

This will apply if the university one has been invited to join is far. For example, someone in Turkana may be admitted to Pwani University, which could be very expensive in terms of distance. Such a person can register through the Open University to pursue their course, finish and complete without leaving their area of residence. All these things can be done within the house and the community.

- (2) The University will break barriers in access by the difficult-to-reach groups through flexible admission criteria and by systematically building on prior learning. It will help to overcome geographical barriers to access by facilitating access in different localities using technology.

- (3) The focus on lifelong learning will ensure that no one is left behind in line with the constitutional requirements for non-discrimination and inclusion. It will provide opportunities to the youth, the elderly, and persons living with disabilities, minorities, marginalised groups; including those in various forms of work who wish to pursue upward mobility or to diversify their skill-sets.

This is a very good opportunity for Members who want to further their education. There could be Members here with Bachelor’s degrees and they want to advance to master degrees and PhD. They can learn while seated here by using the tools available here to access universities. We know that we have some challenges. The Salaries and Remuneration

Commission (SRC) says that we do not have any qualification. That is why our salary is pegged at the level at which it is. If every Member had a degree, we would be paid over Ksh1 million like all the other State officers. This is an opportunity for Members to acquire university degrees while working in Parliament.

- (4) The proposed university will save the Government the high cost of establishing and maintaining many conventional universities, as the university has the potential to absorb large numbers of students at a relatively lower unit cost.

As you know, there are students who are visiting the House this afternoon. We welcome them to Parliament. I hope one of them will, at some point, join the Open University of Kenya once we approve its establishment.

The proposed university will initially offer eight flagship programmes - six Bachelor's programmes and two postgraduate programmes: The programmes are:

1. Bachelor of Data Science;
2. Bachelor of Science in Cyber Security and Digital Forensics;
3. Bachelor of Technology Education;
4. Bachelor of Entrepreneurship and Business;
5. Bachelor of Economics and Statistics;
6. Bachelor of Agri-technology and Food Systems;
7. Leadership and Accountability; and
8. Learning Design and Technology.

The Leadership and Accountability programme is very good for Members. Many Members are serving their first term. They can register for this postgraduate programme so that they can become better leaders in their constituencies.

The physical seat of the proposed university will be at Konza Technopolis, while its virtual presence will be supported on a learning management system with both physical and cloud servers. Currently, the University is being hosted at the National Commission for Science, Technology and Innovation (NACOSTI) Headquarters on a temporary basis. Admission of the first batch of students is projected to happen by September 2023, once the House approves the Motion.

Having engaged the Cabinet Secretary for Education on Thursday, 29<sup>th</sup> June 2023, in its consideration of the draft Charter, the Committee observed that the Cabinet, at its first Special Meeting held on 27<sup>th</sup> April 2023, considered and approved the Cabinet Memorandum on Establishment of the Open University of Kenya as required by Section 24 of the Universities Act. The Cabinet also approved the transmittal of the grant of Cabinet approval of establishment of the Open University to Parliament for its consideration and approval. The Committee further observed that the proposed Open University of Kenya will expand access to university education through flexible modes of study and by expanding options and opportunities for training, in-service skills upgrading, capacity building and continuing education.

Having examined the draft Charter for the establishment of the Open University of Kenya, the Committee recommends to the House to approve the award of the Charter for establishment of the Open University of Kenya, pursuant to Section 24(1) of the Universities Act (No. 42 of 2012).

Hon. Temporary Speaker, with those very many remarks, I request Members present this afternoon to consider this Report and approve it. I beg to move and request Hon. Ruku, a member of the Committee, to second.

I thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Hon. Ruku.

**Hon. Ruku G.K.** (Mbeere North, DP): Thank you, Hon. Temporary Speaker. I rise to second the adoption of this Report. The Open University is expected to be the centre of

excellence in ODeL. It will also serve other universities in building capacity in distance and e-learning education. It will certify critical expertise for ODeL institutions and practitioners. It will also institutionalise research to generate new knowledge and improve practice in the area. The University will admit both local and international students and hence, it will create opportunities for international publicity and knowledge sharing.

*(Loud consultations)*

**The Temporary Speaker** (Hon (Dr) Rachael Nyamai): Order, Hon. Members. This Motion that is being seconded by Hon. Ruku is extremely important. I order that you consult in lower tones to allow those who would like to listen to do so. You may proceed Hon. Ruku.

**Hon. Ruku G.K.** (Mbeere North, DP): Thank you, Hon. Temporary Speaker, for protecting me. Allow me to go back by one paragraph. The University is targeted to be a centre of excellence.

*(Loud consultations)*

**The Temporary Speaker** (Hon (Dr) Rachael Nyamai): Please proceed.

**Hon. Ruku G.K.** (Mbeere North, DP): It is targeted to be a centre of excellence in open and distance e-learning. It will serve other universities in building capacity in distance and e-learning education. It will certify critical expertise for open and distance e-learning institutions and practitioners, and institutionalise research to generate new knowledge and improve practice in the area.

The university will admit both local and international students and hence, it will create opportunities for international publicity, knowledge sharing, cultural exchange and eventually branding our Republic. This will position Kenya as an exporter of higher education. Kenyans in the Diaspora will also provide their children with access to Kenyan education. The recent recognition of Kiswahili as one of the official languages of the African Union (AU) will create a market for the proposed Open University of Kenya which will launch a programme in the second year. The proposed university will also earn foreign exchange for our nation.

In preparation for the establishment of the Open University of Kenya, the Technical Working Committee undertook various critical activities such as developing the requisite consultative documents namely; the charter, blueprint and the proposal for the proposed university instruments such as the logo, seal and mace. Other pertinent documents include: Open distance and e-learning policy, student handbook, student rules and regulations, admission criteria, staff terms and conditions of service, five-year strategic plan, Information and Communications Technology (ICT) infrastructure requirements, and digital library requirements. The documents were approved by the Commission for University Education (CUE) and Cabinet. They were submitted to the National Assembly for approval as required by Section 24(1) of the Universities Act (No. 42 of 2012). Upon approval, the Cabinet Secretary for Education shall submit the same to His Excellency the President, Dr. William Samoei Ruto, for the award of the Charter.

The Committee also observed that the draft Charter had also been reviewed by the Office of the Attorney-General for forwarding to Parliament for approval, pursuant to Section 24(1) of the Universities Act (No. 42 of 2012).

Hon. Temporary Speaker, I support the Motion.

**The Temporary Speaker** (Hon (Dr) Rachael Nyamai): Hon. Ruku, do you second the Motion?

**Hon. Ruku G.K.** (Mbeere North, DP): I second the Motion. Thank you.

**The Temporary Speaker** (Hon (Dr) Rachael Nyamai): Thank you very much, Hon. Ruku. Hon. Members, before I propose the Question, we have several schools which are seated in the Speaker's Gallery this afternoon. They are: Matuiku Secondary School from Rongai Constituency in Nakuru County and Njenga Boys Secondary School from Kirinyaga Central in Kirinyaga County.

The following schools are also seated in the Public Gallery this afternoon: Ngatho Secondary School from Gatanga Constituency in Murang'a County; Makutano Academy from Mbeere in Embu County and Kiambogo Secondary School from Naivasha in Nakuru County. On behalf of the Speaker of the National Assembly, we welcome you to observe the proceedings of the House.

*(Question proposed)*

**Hon. (Dr) James Nyikal** (Seme, ODM): On a point of order, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon (Dr) Rachael Nyamai): Hon. (Dr) Nyikal, are you raising a point of order? I would like to open the Motion for debate. What is out of order?

**Hon. (Dr) James Nyikal** (Seme, ODM): Hon. Temporary Speaker, I acknowledge that this is a very important Motion.

*(Loud consultations)*

**The Temporary Speaker** (Hon (Dr) Rachael Nyamai): Hon. Lady Members who are seated at the back, I know that you have an extremely important discussion, but consult in lower tones to allow us to proceed with the House business. Hon. (Dr) Nyikal.

**Hon. (Dr) James Nyikal** (Seme, ODM): This is an extremely important and progressive Motion. It is a step in the right direction. However, there is something that...

**The Temporary Speaker** (Hon (Dr) Rachael Nyamai): What is out of order, Hon. (Dr) Nyikal?

**Hon. (Dr) James Nyikal** (Seme, ODM): Why has this Motion come to the Floor of the House through the Committee on Delegated Legislation but not the Departmental Committee on Education? I have looked at Section 24(1) of the Universities Act, 2012. It says that award of a university charter is through Parliamentary approval. Being an issue related to education, one expects that it should come to the Floor through the Departmental Committee on Education. Has the Departmental Committee on Education gone through this Report? I would like to be informed on that. In my view, that is not in order.

**The Temporary Speaker** (Hon (Dr) Rachael Nyamai): Hon. Nyikal, this is based on Standing Order 210. It is a regulation. That is why it has come through the Committee on Delegated Legislation. Nothing is out of order. I would like us to proceed. I will give the first opportunity to the Leader of the Majority Party, Hon. Ichung'wah.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Temporary Speaker. I am sure that Hon. Nyikal is now satisfied. He is a stickler to procedures and a very diligent legislator. I encourage our new and young Members to learn from the likes of Hon. Robert Mbui, Hon. (Dr) Nyikal and the Chairman of the Committee on Delegated Legislation.

Let me use this opportunity to thank the Committee on Delegated Legislation for ably considering this Charter for the Open University of Kenya. I commend the Member for Mbeere North who has distinguished himself, within a very short time, as a very diligent legislator. He is following in the footsteps of the Chairman of the Committee and Hon. (Dr) Nyikal. He has ably articulated the issues pertaining to the Open University of Kenya.

The Member for Mbeere North is acting as the *defacto* Vice-Chairman of the Committee. Coincidentally, I have even forgotten who is the Vice-Chairman. I assume he is

the one because he is very diligent. Hon. Temporary Speaker, you can also bear witness that whenever he takes your seat here, he is also very diligent in articulating other issues on other Bills and Motions. It is encouraging to see that new Members have taken their work very seriously. As he has said, the Open University of Kenya will expand the access to university education for many of our people.

Hon. Temporary Speaker, our Constitution guarantees access to basic education. We are at a point in this country where university education is almost part of basic education and it is a fundamental right that is guaranteed to all Kenyans. Access to university education should be available to Kenyans irrespective of the background of their families and irrespective of where they come from. Every Kenyan child should access university education.

Through the Open University of Kenya, our country now joins the league of developed nations that have used e-learning and distance learning to expand access to higher education for their youths. Whether you are in Wajir and Marsabit counties, Kikuyu and Kisumu West constituencies, you will be able to access university education. I have heard this afternoon that there are rampant cases of insecurity in Kisumu Town West. I believe if the young people in Kisumu Town West and other parts of the country had access to higher education and e-learning, they would not be engaging in crimes because they would have expanded their skills and knowledge to access job opportunities online through the ICT hubs that the Government is keen to set up in our constituencies. I hope that as we embark on our recess today, we will utilise the time to guide our communities on public participation and ensure that in every ward we allocate funds through the National Government Constituencies Development Fund (NG-CDF) to establish the ICT hubs.

The ICT hubs will also serve as part of the training centres where our youths who have cleared Form Four can access the Open University of Kenya because they provide free Wi-Fi. They will attend online classes as the rest of the world is doing. It is indeed true, as the Chair and the *de facto* Vice-Chair have said that many of our children today access university online. In my family, my sister pursued her Master's and Bachelor's degrees from the University of South Africa online through distance learning. We have been expatriating resources from our country to foreign universities. The Open University of Kenya offers our country a golden opportunity to tap into the resources of other students in our region. We cannot continue priding ourselves that we are leaders in the larger East, Central and Southern African region when our universities are not accessible to foreign students. (*Technical hitch*)

I do not know why the Clerk-at-the-Table is sabotaging my contribution. I was going to touch on ....

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): The Leader of Majority Party, it is five minutes, but I will give you two more minutes.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Temporary Speaker, for your indulgence.

We are also giving our nation an opportunity to earn foreign exchange and enhance our foreign exchange reserves from the international students who will access our universities.

I also note that as we approve the charter, we have before the Committee on Delegated Legislation the Universities Regulations, 2023. I was chatting with the Chair and his Members of the Committee and told them that the Regulations have a total of over 102 clauses. I encourage them to go through the clauses with a tooth-comb. The concern we heard from Dr Nyikal is very legitimate because it is not right to use subsidiary legislation to amend Acts of Parliament. A glance at 102 clauses in the Universities Regulations shows an attempt to amend the Universities Act using subsidiary legislation. I encourage the Committee on Delegated Legislation to go through all the Regulations with a tooth-comb and anything that is geared towards amending the Universities Act should come through substantive legislation that should

be considered after public participation by the Departmental Committee on Education and Research, as Hon. (Dr) Nyikal was articulating.

We must be on guard and ensure that the Universities Regulations of 2023 will only serve to enhance, realise and actualise the implementation of the Open University of Kenya and not any other sinister business. His Excellency the President is very keen on re-modelling how we finance our university education. I alert the Committee on Delegated Legislation to ensure that they do not in any way tinker with the policy that the President has already espoused on funding of university education through regulations. Any regulations that come to this House on funding of universities in this country should be in line with what the President has already launched and espoused as a policy for university funding so that we guard ourselves and our country from tampering with Government policy and Acts of Parliament using subsidiary legislation. I encourage the Committee to ensure that they go through the 102 clauses and report back to the House through a report that should be approved. I repeat and I hope the Chair is listening. They should bring a report for approval or disapproval before this House, because it will touch on funding of our public universities.

I encourage the young people of this country that when we will have the Open University of Kenya ready and running at Konza Technopolis to utilise the ICT hubs. Allow me to announce to the young people of Kikuyu Constituency that, as I speak, Nachu Technical Vocational College has access to internet. The cabling is ongoing this afternoon and by next week that particular institution will be ready so that by the time we launch the Open University of Kenya, the children of Kikuyu will not have to travel long distances to access universities education. They will not need to pay for hostels, but will be able to learn from their backyards in Kikuyu from every village as we promised them with His Excellency the President when we went there to campaign. The Open University of Kenya serves our Bottom-up Economic Transformation Agenda as we sold to the people of Kenya.

I encourage the Departmental Committee on Education and Research to ensure we actualise the Kenya Open University so that we also mainstream digital skills and capacity building in the priority areas of the bottom-up economic agenda along the nine value chains that we have listed in our manifesto and which will be funded through our budget appropriations this year.

With those many remarks, I support.

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Thank you very much Leader of the Majority Party. Hon. Members, the next opportunity goes to Hon. Robert Mbui, Member for Kathiani.

**Hon. Robert Mbui** (Kathiani, WDM): Thank you, Temporary Speaker, for giving me this opportunity.

The idea of the Kenya Open University is very timely. Listening to what has happened and noting that Kenya has spent so much money on distant and e-learning outside, it is a shock that this was not done ages ago. Nevertheless, the importance of education cannot be gainsaid. It is good especially when it is higher education.

If you look at the history of education in this country, and I will just talk about the time when I was at the university, things were very different from what is happening now. I remember at the university we used to be paid by the Government. We used to receive a “boom” of Ksh5,040 each semester. We were accommodated by the university students’ accommodation board and all students were accommodated. We were fed and we actually benefitted a lot. The Government was taking the issue of education very seriously.

However, if you look at the current situation, parents have to raise money for university students to pay their fees. The cost of living in the university hostel is too high. So, what is happening is that many of them are probably living in the nearby estates. Those are the places

where they end up getting involved in drugs and alcohol abuse. The cost of living is so high that those students in the university can hardly afford food.

I was in the rugby team in the University of Nairobi - the Mean Machine - and we were actually the champions of the country. Today, I doubt whether any one of those students can actually go and compete favourably outside there because they are malnourished. They do not get enough food because of the cost of living and the situation.

So, we need to adopt this. The Government has done this because of the changes that we have faced as a country and what is happening all over the world. What are the changes we have had to go through that are making us have to go to e-learning and distant learning?

One, of course, a lot of money has been spent by Kenyans pursuing higher education. They cannot afford to do it in our local universities because of the cost. So, they have gone and spent a lot of money out there. Therefore, when we do that by ourselves, we will be saving money for the country.

Two, there are many more people pursuing university education now than back then. This is the way by which we can have more people accessing higher education. It is really a brilliant idea, of course, not forgetting that in 2020, we were hit by COVID-19 which unfortunately forced us to shut down our learning institutions. Now, with e-learning or distant learning, education can continue even when we have such life-threatening diseases.

In my opinion, it is really a game-changer, but I have one major concern. Much as I support this, my concern is about integrity in the education sector in this country. Every year, we have exams. We have national exams in primary schools and in secondary schools. Almost every year, there are rampant cases of exam cheating. Those are people that are frisked before walking into the exam room. Those exam papers are kept in a store under lock and key in a police station and yet, somehow, we still manage to have cases where people have stolen exams and some schools are benefitting from the same. I am asking myself even as I support this, how sure are we that the students that will be online learning and doing the exams are the ones who will be getting the certification? That is one thing we must figure out because, as a country, we really have a problem with lack of integrity. As we do this noble idea, we must introduce systems to make sure that those that are registered in those universities are the ones that learn there and are the ones that will do the exams.

Otherwise, with those few remarks Hon. Temporary Speaker, I support.

**The Temporary Speaker** (Hon (Dr) Rachael Nyamai): Thank you very much. Let us have Hon. Rindikiri Mugambi, Member for Buuri.

**Hon. Mugambi Rindikiri** (Buuri, UDA): Thank you, Hon. Temporary Speaker. I rise to support this noble proposal on the Open University and, just like other Members have stated, I think this is the greatest opportunity that majority of our kids have across the country. There are so many parents who are not able to take their sons and daughters to the university because of causes related to their tuition fees, accommodation and other maintenance costs. This comes in handy because the people of Buuri and the children of Buuri will benefit.

This is the best option for families that are not endowed to take their children to the university and afford the courses. I join my colleagues to say that this is a very noble idea. It is going to create accessibility to education to a majority of our children and it is going to ease the burden of expenses to our parents. It is going to give alternatives to where there would be no alternatives.

The only issue that I would like to note is that some courses might not be offered by the Open University. I am worried about the science subjects which are important and we are encouraging our kids to study, for example, the technical programmes requiring the practicals, guidance and careful assessment.

The other issue is the pricing. We really need to know what costing will be there. We can be excited by saying it is cheaper but we still need to know the proper costing of the university.

The issue of integrity has been alluded to by my senior Member of Parliament for Kathiani. I am also worried because we know there are so many people in this country who have degrees, but never passed the minimum requirements. I do not know how the assessment for joining the Open University will be carried out and by who. It is very important right from the beginning that we make sure that even if it is accessible, we must put stringent measures to ensure those who will be pursuing e-learning through the Open University are people who have met the minimum requirements. I also would like to hear from the proponents the timelines for their degrees. I think it is very important.

Hon. Temporary Speaker, I recommend that all universities whether e-learning, open or the existing ones must have internship programmes. How will they be managing the internship programmes for the students who will be learning through Open University?

Otherwise, it is a good and noble idea, now that the Government is doing a lot of connectivity of internet. Let us not open that university and give it a charter because some areas in this country might be disadvantaged in terms of internet connectivity. This means we must have electricity in all the counties, constituencies and all the wards, if we have to create fairness for our students to learn from all corners of this country. Otherwise, this is a good and noble idea and I support it. However, they need to do their adjustments because I need to know what they are doing specifically on the science and technical subjects, which are not part of this programme.

I thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon (Dr) Rachael Nyamai): Thank you very much Hon. Member for Buuri. Hon. Dr. Makali Mulu, Member for Kitui Central.

**Hon. (Dr) Makali Mulu** (Kitui Central, WDM): Thank you very much Hon. Temporary Speaker. I also want to support this important Motion on the issue of awarding a charter to the Open University of Kenya. This issue is long overdue in this country because open universities have actually been helpful to many countries and, more so, to the developed countries. As the Mover said, one of the advantages of those open universities is access to education where parents who are not able to send their children out there to other countries, will access their education just from their homes so long as you have internet connection and you have a computer.

As Kenyans benefit from this Open University, the region will also benefit because we are becoming a trailblazer.

**The Temporary Speaker** (Hon (Dr) Rachael Nyamai): Hon. (Dr) Makali Mulu, I will take a minute.

Hon. Members, we have students seated at the Public Gallery from Kangaru Girls High School in Manyatta Constituency in Embu. I would like to welcome them to the National Assembly so that you may observe the proceedings of the House.

Hon. Makali Mulu, sorry about the disruption and I would like you to proceed.

**Hon. (Dr) Makali Mulu** (Kitui Central, WDM): It is good that our daughters are in the House because they are going to be the beneficiaries of that Open University when it will become operational. So, as I was saying, what will happen is that even as Kenyans benefit from that university, the region will benefit because our neighbours such as Uganda, Tanzania and the rest will benefit from the Kenya Open University.

Hon. Temporary Speaker, the Open University of Kenya will also assist Kenyans in terms of accessing higher education. There will be a lot of facilitation. Countries with open universities make a lot of money through payment of fees and accommodation.

Hon. Temporary Speaker, you will appreciate that many Kenyans have enrolled for different courses in different universities, like the South African Open University. When they are in session, because at times students will be required to visit the universities for a short time, they will look for accommodation in those countries and, therefore, make money for their countries. Kenya will also be benefiting from the same. In a situation where a professor wants to have a one-on-one interaction with the students and, more so, when they are doing their thesis, there will be one or two weeks that they will be in Kenya. They might thereafter decide to go back to their countries. During that time, the country will also make money in terms of foreign exchange.

Hon. Temporary Speaker, it is also critical to look at the infrastructure required to competently provide that service. As usual, a number of regions in those counties have been marginalised. For example, in North Eastern Kenya, internet connectivity and infrastructure laying has not taken place. We also have far-flung counties like Lamu and yesterday, we heard the *Mheshimiwa* from Lamu complaining about marginalisation in Lamu East and other areas. Even as you award the charter, I think it will be important for this House to make sure that the required infrastructure is provided.

Another advantage of an open university is that you can also tap from the best professors in the world. This is where you can consult such professors and ask them to educate our students from different parts of the world. This will help us get the best in terms of resource persons.

In my view, while it is important that the House supports this Motion, we need to look at the issue of integrity of our education system. This idea of Kenyans getting fake certificates is very common. It is even surprising that they are able to get those certificates for all the levels – O-Level, bachelor's degree, master's degree, and I think there have even been attempts to get PhDs through the same system. We really need to look at the credibility of our education system so that we can make sure that those students who get those certificates have actually earned them; that it is not a situation where they go through shortcuts and get the certificates. I am more worried about a situation where you might find other educated Kenyans assisting their children or relatives to get those fake certificates because we might not have physical presence where you can confirm attendance. This is an area that we really need to guard. Those are issues of values. As a country, we need to invest in our national values, so that at the end of the day, our students get certificates that they have genuinely earned through the education system.

With those many remarks, I want to support this Motion and congratulate the Committee for a job well done. I also want to request Members to support this move. It is a good move for the country.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Thank you very much, Dr Makali Mulu. Hon. Omboko Milemba, Member for Emuhaya.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Temporary Speaker. This is a good idea with a few threats which can be mitigated. An Open University of Kenya will certainly provide better opportunities for the students.

First, an Open University will create a lot of flexibility in time and place of learning. An Open University will also use modern technology, which is everywhere now. It also eases pressure on the physical facilities within the university and the higher learning institutions. We currently base our intake on the availability of spaces in the universities, but this will not be the case. With an Open University, we shall get away from facilities and spaces within the universities determining how many students are admitted.

Hon. Temporary Speaker, it also brings the idea of reducing the cost of education because much of the cost of university education is courtesy of beddings and boarding. You will recall that I am one of the advocates of removal of boarding schools, not only just at the university

level, but even in the high schools. We should do away with the boarding section so that we reduce the cost of education. The Open University idea will reduce the cost of education.

I also wish to indicate that the Departmental Committee on Education must come in to work together with the Select Committee on Delegated Legislation because we need to align certain laws. I am happy that the *pseudo* Vice-Chair of this Committee, Hon. Ruku, is here. There are certain laws that do not accept degrees that are earned from certain universities, possibly including this type of university with the system in Kenya. We shall need to actually realign our laws so that the degrees that come from that type of university are accepted.

Of course, with the charter, that should be a step forward. We have seen many of our students go to Uganda or outside the country to do degrees but, when they come back here and want to teach, they are told that their degrees are not valid. They are not recognised in Kenya and, therefore, they do not get employment. Many students have suffered this because they have wasted a lot of money going to universities outside the country but, when they come back, they do not get job opportunities.

I should also be quick to say that it is a very good opportunity to make education a foreign exchange earner for this country. If you go to Boston State, education is simply funded by the universities. Payments to the universities become foreign exchange to the country. This will actually provide an opportunity for Kenya to earn foreign exchange from education. We will also possibly export qualified people outside the country and this will be very good for our system. Education should be earning us foreign exchange.

I am glad that Hon. Mbui is still in the House because I heard him talk about how education was very well funded during the old times. I think that was the nostalgia period of when education was a sacred cow. Those are the theories of a man called Todaro, the economist of education. At that particular time, when we got Independence, education was still a sacred cow. And being a sacred cow, you just went to school to get employment which was waiting for you. People would not even go to the university because they would easily get that employment after the A and O-Levels. But things have really changed and education is no longer a sacred cow and possibly that is why the boom was removed. Things have changed and that is why we are where we are.

I would wish to say that the Open University will create Kenya and Nairobi as a hub for all other students from outside and around the region to learn in the institution and pay us some money. I would also wish to indicate that such a university must then have a dollar account for payments before they come here. Currently, our country is lacking in terms of foreign exchange and that is what we really need.

Finally, the threat would be the standardisation and the quality of the degrees coming out from that university. But I am not threatened by this because even without ICT, we already have people struggling with papers. When we were going through the elections, you saw how papers were a problem. So, we must fix it using technology and this will take us forward in expanding education for our students in this country.

Thank you, Hon. Temporary Speaker, for giving me this chance.

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Thank you very much, Hon. Omboko. Hon. Catherine Omanyo, Member for Busia County.

**Hon. Catherine Omanyo** (Busia County, ODM): Thank you, Hon. Temporary Speaker. I have looked into this with a grain of salt. Open learning is very good for people who have no time and choice to sit like the younger students who have to be in class all the time. As we look at both sides of the spectrum, there are those who wish to have time to be in class like anybody else, but are unable to do so. However, they have the oomph; they want to continue with upping their levels of education and knowledge. If they can afford to get more skills and knowledge to be promoted even at their workplaces, then they should get that opportunity. Let this be free to whoever can go for it. This kind of arrangement can also be flexible for people who hardly

have time. I have seen people read in their cars. They put on their headphones and go online where they get somebody on the other side giving instructions. And by the time they get out of the *matatus* or private cars, they would have finished their lesson or learnt something. It is not like a traditional system where you must be physically present in a class listening to a teacher. It is flexible, cheaper and affordable compared to the other one where you are needed to attend class. Some of the ways that they use in teaching is recording. There are no physical trainers or lecturers. Someone is given the recordings and he or she listens to them, make notes and thereafter, submits his or her homework.

I have been looking into it and it is a good way for those people who learnt when things had not changed or the education system had not changed. If my father was to resurrect from his grave, with all the education and knowledge that he had he would not come to terms with what we are using today because it is mostly digital. For those who want to catch up with the running world, new systems and digital ways, this is a very good way of expanding, and coming up with ways that do not look archaic or analogue.

To top that, we should find ways to connect internet (Wi-Fi) in places which do not have. Nowadays, I see people in the villages having Android make of phones because they can afford them. We should worry of places that do not have access to that kind of education because our people everywhere, including in the villages, are curious and want to learn. Even somebody who did not have or had limited education in their lives, out of curiosity, even if they are not after getting the degrees, would want to learn some things and become knowledgeable. Knowledge is power and that is why we are looking into it so that we do not have so many ignorant people, or people who do not care of what is happening, so that they become part of the solution.

Thank you.

*(The Temporary Speaker (Hon. (Dr)  
Rachael Nyamai) left the Chair)*

*(The Temporary Speaker (Hon.  
Omboko Milemba) took the Chair)*

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Tindi Mwale.

**Hon. Nicholas Mwale** (Butere, ODM): Thank you, Hon. Temporary Speaker. I rise to support and contribute to this noble Report, which is supporting the creation of an Open University in the Republic of Kenya.

I want to, first of all, commend my colleagues who have already contributed a lot on the advantages and disadvantages of having an open university in the Republic of Kenya.

An open university in Kenya would be fundamental to the society. We have Persons Living with Disabilities (PWDs) who in some cases, might not be able to access the learning facilities because some institutions lack the requisite provisions for the PWDs. A handicapped person would be able to learn from any place wherever he or she lives; and people suffering from chronic diseases, and who might require to frequently see a doctor and are required to live near hospitals or when admitted, would get an opportunity to learn from wherever they are because it would be provided digitally

I also want to support my colleagues who have raised the issue of integrity. We need to make sure that open universities in Kenya have got a high sense of integrity so that we do not get people who claim to have gone to a certain university or learnt through a laptop or computer and, maybe, they do not know how a keyboard or mouse looks like.

I also want to support my colleagues who have raised the issue about sufficient access to internet. The Government needs to make sure that Kenya is well connected to the internet

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so that each and every person who is living in any place in our Republic of Kenya is able to access the internet, log in and join an online class in an open learning university.

I am a member of the Committee on Delegated Legislation, and we are going to consider the number of courses that are going to be offered because, when you look at the Report, the undergraduate courses are only five while the postgraduate are two. We need to increase the courses so that learners can get enough room to choose whatever course they wish to study. This would enable them to contribute to the economy of the Republic of Kenya.

With those few remarks, I beg to support the Motion on the Open University in Kenya. Thank you very much.

*(Several Members raised their hands)*

**The Temporary Speaker** (Hon. Omboko Milemba): Very well. Hon. Members, if you have keyed in, I am able to see you here. There is no need to even raise your hand. The next in the line is Hon. Phylis Bartoo. Is she in the House? Proceed.

**Hon. Phylis Bartoo** (Moiben, UDA): Thank you, Hon. Temporary Speaker.

I rise to support the Motion on the Open University in Kenya. This is a noble idea which has come at the right time. The world has become a global village and it is high time education became simple to achieve. We should access education using simple means.

Kenya has come of age for this type of institution, just like the University of South Africa (UNISA), which offers all the programmes. It has graduated students from undergraduate up to the level of PhD. Therefore, for this particular innovation of an Open University, it is the best thing that can happen to Kenya.

During the COVID-19 Pandemic, we experienced difficult times where people were left staying at home, children did not go to school, students in colleges and higher institutions like universities did not learn. However, if we had such an institution, learning would have been a continuous process. Students would have accessed knowledge wherever they were.

The advantages of such institutions are many as have been enumerated by the Mover of the Motion. For example, the PWDs or the people who are not able to move from one point to the other would be able to access education.

A colleague also talked of the people who might be shy to go and advance their studies because it has taken them long. This will then give them the opportunity to access education without physically going to class.

It will also encourage exchange programmes. As I said earlier, Kenya has become a global village. We will have students all over the world accessing programmes in such an institution in Kenya and we will also have our students accessing programmes in other countries. In that case, we will have educational tourism and Kenya will benefit from foreign exchange.

In my constituency, for example, farmers have sold land to have their children access international education. We have massive migration of students to Finland, Australia and United States of America, which is a good thing. We would wish that also students from those countries where our students are going apply for these programmes in our open university so that we also benefit from the cross exchange. We have people who cannot afford programmes which are offered in Kenya, but are offered abroad. They struggle to raise money to travel abroad and pay international fees. They look for visas even when they do not have enough resources. Such a university will enable us access multiple programmes within Kenya. How I wish the infrastructure is looked at so that everybody in Kenya can access education. We should have internet all over the country. There should be no marginalisation.

With those few remarks, I support the Motion.

**The Temporary Speaker** (Hon. Omboko Milemba): Very well. Hon. Robert Pukose is not in the House. Next is Hon. John Mutunga, Tigania West.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Thank you, Hon. Temporary Speaker, for the opportunity.

The Open University of Kenya is a great idea coming at this point in time. I would like to say that it is late in coming. We should have gone that direction way before. Having a charter means the university can discharge recognisable certificates across the globe. Education is universal and the only thing that is recognised across the globe is the fact that the university is chartered. That is why it is important for us to facilitate the process of getting the charter so that this university can move on.

Many things have been said by my colleagues. I just want to say a few. One of them is the fact that it will save a lot of time for the people who want to study because they can work at any time of the day. I do not think it has to be on specific times. People can work at night because they do not have to travel. Courses can be scheduled at any particular part of the day and it can be structured in a way that even working-class category of people can access education.

On the other hand, there are those of us who have advanced in age and do not feel like appearing in class in the university with much younger people, especially their children. It is going to offer great opportunity for them to advance their education. They want to go to school, but they do not want to do so with their sons and daughters. The Open University of Kenya is a great idea for them because they will learn without necessarily mingling with their children.

On the other hand, the Open University which is going to be almost 100 per cent digital, is going to allow better consultation between the student and the lecturer. What makes students shy away from studying is the consultations that take long and they do not occur when they are required to occur. If the supervisor is an extremely busy person, then the students suffer. Therefore, there is possibility for them to arrange a meeting through virtual possibilities. Supervision can go on without one necessarily having to appear in person. This will enable them to do their courses faster than was expected.

It is also going to increase chances for Kenya to source for students from outside Kenya. There are many people in this world who would like to have an opportunity to go for some studies. We know Kenyans enrol in universities across the globe through virtual means. This will offer an opportunity to those from other countries to join the Open University of Kenya.

This possibility will allow the scope of coverage. We are a young nation and education is essential for everyone. In fact, education is a basic need. It is an equaliser for people. It is the one that enhances or balances out the missing links. It plugs in the missing links in the sense that education enables people to grow. It also offers opportunities. We are also going to increase the chances for people to have university education who could probably have missed it if they were to go to school as it were. The charter is going to help the university to qualify to be offering degrees and other certificates. This is going to enable the university to collaborate with other universities across the globe since they will be operating in an equal space. It will also enable recognition of the products from the university. That means that the certificates from such a university will enable people to move from one level to another, which is going to enable us increase chances and possibilities.

I support this particular Motion. Thank you.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Caroline Ng'elechei.

**Hon. Caroline Ng'elechei** (Elgeyo Marakwet County, Independent): Thank you, Hon. Temporary Speaker, for giving me this opportunity to support the Motion on consideration of the draft charter for the Open University of Kenya.

This Motion is coming at a time when we really need it. This country has so many people facing challenges of paying school fees. Nowadays, many universities and colleges

charge more on accommodation and other issues rather than tuition fee. The tuition fee is what will earn you the degree or certificate at the end of the day.

I speak on behalf of hustlers, people with disability, girls and mothers and all other people who have other duties and responsibilities that may hinder them from leaving their homes to attend university education. Nowadays, you find someone does something that can give them a small income or earn something small for their families or for themselves, but if that person must leave their home for another place to attend university education, it means that person will forego any other activity. There are girls who maybe get children before joining university and that responsibility of taking care of their children or being mothers or wives will hinder them from travelling far away to access university education.

Nowadays, we have good coverage of internet all over the country. People can even access or learn through their mobile phones and it is still the same education that is offered worldwide in other universities. I laud the Committee on Delegated Legislation for bringing this Motion. The only thing that I would wish would not be forgotten is, they should also make sure that some courses are not completely offered on distance learning.

During COVID-19 times, there were universities which ran for about one-and-a-half years on science courses like medicine and engineering, and students were learning online. Some courses or degrees cannot be offered virtually. They should make sure that they regulate because if universities are left to do whatever they want, others will field all the courses virtually, not knowing that some need proper laboratories and practicals for the students to graduate.

Another issue that should also be regulated is the fees charged. As much as some colleges and universities will feel that this is denying revenue to the locality where people offer hostels and rent houses to students, or the university collects some revenue from hostels, the fee should be regulated so that it makes meaning. If not, some of the universities will charge the same fee for distance learning and the same fee for somebody who uses facilities in the school. So, as much as it is a good thing, it should also be taken care of so that people do not take advantage of others. At the end of it all, its meaning may be lost. I support.

Thank you.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Tim Wanyonyi, Member for Westlands.

**Hon. Tim Wanyonyi** (Westlands, ODM): Thank you, Hon. Temporary Speaker for offering me this chance to contribute to this Motion. An open university will offer great opportunity, especially to those who cannot access the physical university. Students will do their courses online; they will be assigned tutors who will guide them through the courses. That will be a cheaper way of making sure that education is accessible to many students from the comfort of their homes or wherever they will be residing. This university education will be reaching to them. I support this idea. There are many universities in Kenya but many people cannot access them because of the cost of many other things that come with university education like accommodation because many universities do not provide hostels for their students. Therefore, an open university that will offer online courses will be a cheaper way of making people access university education. Those who will be unable to continue with their studies in the open university and want to transfer from the open university to the regular universities, will transfer their credits to the regular universities, So, it will not be prohibitive but more flexible. Therefore, I support this Motion.

This draft Charter for the Open University of Kenya is an idea whose time has come. This open university will be handy to people living with disability, people living in marginalised areas and nomads. They will access university education from where they will be. We have internet facilities across the country and people can access it through their mobile phones. So, they will not need to invest heavily in it. As the first speaker said, we need to have

regulations on open university. It can end up being abused and we can easily compromise the standards of university education. Issuance of a Charter for the Open University of Kenya is a good idea. I support.

Thank you.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Thuku Kwenya.

**Hon. Kwenya Thuku** (Kinangop, JP): Thank you, Hon. Temporary Speaker. Indeed, after a long wait, I finally have an opportunity to add my voice to this important Motion on consideration of the draft charter for the Open University of Kenya. From the outset, education is a right of every Kenyan. It is enshrined in Article 43(f) of the Constitution of Kenya that we promulgated in 2010. Article 53(1)(b) of the Constitution states clearly that every child has a right to free and compulsory basic education. I want to thank the efforts of the Ministry of Education, especially the Department of Higher Education in proposing to establish an opportunity or a platform where every Kenyan can access university education. Without this platform, the people who are limited will not access our university education which is quite expensive.

We are more than 30 years late in establishing such a platform. Our neighbours in East Africa, Tanzania established their open university in 1992 through an Act of Parliament. The same was operationalised in 1992. That is to say that we are many years late. It is time we took the initiative to approve the award of charter for the Open University of Kenya. We will reap bountifully if we establish this university. A child living in Kinangop who is a son or a daughter of a peasant farmer will have an opportunity to access this education, especially through the digital hubs that have been proposed by this Government. I am praying that this Government will actualise the digital hubs in every ward so that every person who will be interested with university education will have access to this platform.

The Government must work on connectivity. It should take network to places where there is no network. I want to affirm what the Leader of the Majority Party alluded to that, indeed, fiber optic is being laid across the country. This kind of learning is not new to Kenyans because of the revolutionary kind of learning that was brought about during the COVID-19 pandemic when students were required to learn online. We have lessons that we have taken from online education where students have been learning virtually. Those of us who are scholarly have benefited from virtual learning.

We have also seen the shortcomings of online learning. There are many ramifications that we need to address even as we approve the award of charter for the Open University of Kenya. On study materials that a student is supposed to download, if the Government will not avail network, it will be very expensive in terms of buying data or what we call bundles. The reliability of networks is critical. We know of fluctuation of networks. There is also the issue of absence because some of the learners are very young and cannot maintain discipline in terms of making sure that they are in class when they are supposed to be there. In essence, this is a great idea that is coming in late. It should have been implemented many years ago. However, with the advancement of technology, I believe it is an idea that everybody should support.

On the issue of courses that are going to be offered, there will be limitations in the sense that the Open University can only offer social sciences and arts courses. Courses in sciences cannot be offered in open university.

Thank you.

*(Several Members walked into the Chamber)*

**The Temporary Speaker** (Hon. Omboko Milemba): Order, Hon Members! You are doing everything wrong. Please, as you come in the Chamber, maintain the calmness of the House and do not pass between the Chair and the Member who is speaking.

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Hon. Johana Ng'eno.

*(Loud consultations)*

Order, Hon. Members! If you have that demand, it must come from yourselves. You know the rules of the House.

Proceed, Hon. Member.

**Hon. Johana Kipyegon** (Emurua Dikirr, UDA): Thank you, Hon. Temporary Speaker for allowing me to also weigh in on this Motion. A Member is asking for the Mover to be called upon to reply, but we first need to contribute then the Mover can be called upon to reply later.

Education everywhere has been noted to be the only equaliser that can make children from all divides of life to have the same situation in future in their lives. Yesterday and today, there has been a very deep discussion on matters of education. We have never had an opportunity to review the kind of education system that we have in our country. We have reviewed the Constitution, the Government, and many other things, including agricultural systems. We need to have a serious conversation about education because it has proven to be the only system that is very consistent in uplifting the poor to the same level as the rich. It has also proven to be the only system that has uplifted those who could not have managed to be where they are today. It is time we paid attention to education, so that our children and grandchildren have easier access to opportunities.

The Open University of Kenya is long overdue because it has been practised in many countries across the world. Our country had not had the opportunity to look into it to allow students who study through these programmes to access education. Open learning is like distant learning. It is the easiest way to access education. It is flexible for those who may not have the opportunity to go to class or to access the kind of universities that they want. This system will allow children in remote areas to access education, especially with the introduction of the Bottom-Up Economic Transformation Agenda, where we will have Wi-Fi installations in every village and ward.

Currently, students who complete secondary school education stay in villages for many years simply because they do not have fees, or they cannot access the universities of their choice. Others who have finished university education and want to proceed for their master's degrees or PhDs cannot do so because of various impediments. With the introduction of Wi-Fi in villages, students who complete university education can proceed for master's degrees while they are still tarmacking in villages, without necessarily going to university. It will also be easier to access the kind of courses that one wants to pursue without much hustle. Therefore, this Motion is very timely.

Initially, when the Jubilee Government came into power in 2013, they introduced the laptop project for students in lower primary. That was a very good idea. Nobody wanted to redo it. Maybe they did it, got what they wanted, and then abandoned the idea. If that project had been promoted from the ground level up, e-learning would have been much easier.

I support the Motion. Our country is moving towards the digital arena. We need to catch up with the rest of the world.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Rachael Nyamai, Kitui South.

**Hon. (Dr) Rachael Nyamai** (Kitui South, JP): Thank you very much, Hon. Temporary Speaker, for giving me this opportunity to support this important Report by the Committee on Delegated Legislation, which seeks to establish a charter for the Open University of Kenya. I am very excited to talk about this because I first heard of an open university in 1998 when I was a young student. It is long overdue.

I have looked at this document and listened to the Mover of the Motion, as well as the Seconder. I was very interested in the courses being offered. I would like to draw the attention of Members to Page 3 of the Report. As per their discussions with the Ministry of Education and proponents of the university, the Committee has identified the courses that the university will offer. These include Bachelor of Science in Data Science degree which is extremely important. Our students spend a lot of money on other courses similar to data science such as information technology courses that are offered by Strathmore University. So, this is a very welcome move.

There is also the Bachelor of Science in Cyber Security degree. As you may be aware, someone can call you using a number that is familiar to you, or one that you have saved on your phone, and speak in a voice that you are aware of using artificial intelligence. This can lead you to give out your private information that can cause you to lose money or valuables. So, we currently need these courses.

Courses such as Bachelor of Technical Education, Bachelor of Entrepreneurship, Bachelor of Economics, Bachelor of Statistics and Bachelor of Agritechnical and Food Systems are extremely important. I would like to request the Committee on Delegated Legislation and the Departmental Committee on Education to ask the Open University of Kenya to go beyond the courses that they have identified and offer a degree course called Bachelor of Education in Participatory Health Promotion, which is extremely important today. Doctors have just realised that...

*(Hon. Shakeel Shabbir criss-crossed the Floor)*

**The Temporary Speaker** (Hon. Omboko Milemba): Order. The Member who has just walked in should go back and properly follow the rules of the House. You cannot criss-cross the Chamber. Go back, please. You are completely prejudicing the House.

Proceed, Hon. Nyamai.

**Hon. (Dr) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Speaker, one extremely important course is that of health promotion. Doctors have realised that treatment of diseases is not the most important aspect of health. I am very happy that President (Dr) Samoei Ruto has realised that health promotion is extremely important, and ordered the Ministry of Education to not only focus on curative health, but also on preventive health. That is why health education and promotion must be taken seriously.

The Departmental Committee on Education can also reach out to the best universities in the world such as Manchester University, the University of Florida, the University of Liverpool, Boston University, Columbia University, the University of Pretoria, and the University of Southern Queensland. When it comes to health promotion, reach out to the best professors like the ones who taught me the same course. I would like to mention their names. They are: Prof. Bjarne Bruun Jensen, Prof. Jen Sagard, Prof. Venka Simovska, and a professor in Australia called Prof. Adrian Bauman. This course was recently started in our country. It is flourishing in other countries through open universities, but we have not been able to embrace it.

I hope this House will seriously consider the fact that we need to embrace participatory health promotion. The best way to do it is through this open university, which will be based in Konza. I am excited about Konza. I hope the Open University will also promote tourism.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Irene Mayaka.

**Hon. Irene Mayaka** (Nominated, ODM): Thank you, Hon. Temporary Speaker. I also rise to support this Motion. Several Members have put a lot of emphasis on the Open University

of Kenya today, especially on the flexibility of its programmes, and the fact that it is easily accessible even to people who are abroad. That cannot go unnoticed.

As one Member cited, Tanzania has an open university. Statistics in our country show that the open university has the highest uptake of students.

I support this Motion. I particularly want to cite why this university is important for us from an ICT perspective. First, we are still struggling to transition from the third industrial revolution to the fourth industrial revolution as a country. The fact that this university will have courses that are related to cyber security and data science will help our country to position itself in the fourth industrial revolution before we get into the fifth industrial revolution, where majority of countries are currently in.

I also want to emphasise that even as we support this Motion, we also need to encourage more of our young women to join Science, Technology, Engineering and Mathematics (STEM) courses, so that we can have more women in this country participating in the STEM environment.

You might very well know that we do not have enough women engineers and women in ICT space in this country. So, I urge the implementors of this programme to ensure that during the intake of students, they encourage female students. As I finish, I want to emphasise on the importance of this course being accessible to working people. This will enable those of us in Parliament who want to further their studies to access the open learning university.

Hon. Temporary Speaker, please, protect me from Hon. Osoro who is harassing me to finish up.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Osoro, please, stop. Proceed Hon. Member.

**Hon. Irene Mayaka** (Nominated, ODM): Thank you, Hon. Temporary Speaker for your protection. As I finalise, I urge Members to support this important Motion because it will help us progress our country and take it to the next level. Thank you.

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

**The Temporary Speaker** (Hon. Omboko Milemba): What is your point of order, Hon. Junet.

**Hon. Junet Mohamed** (Suna East, ODM): Thank you, Hon. Temporary Speaker. I am standing under Standing Order 95 and would like to request that the Mover be called upon to reply.

**The Temporary Speaker** (Hon. Omboko Milemba): Is that the mood of the House that the Mover be called upon to reply?

**Hon. Members:** Yes.

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

**The Temporary Speaker** (Hon. Omboko Milemba): Mover proceed.

**Hon. Ruku GK** (Mbeere North, DP): Thank you Hon. Temporary Speaker, for giving me this opportunity. This Report has received overwhelming support from Members across the divide. As you will realise, the open university will provide key degrees like Bachelor of Science in Data Science, Bachelor of Science in Cyber Security and Digital Forensics, Bachelor of Technology Education, Bachelor of Entrepreneurship and Business, Bachelor of Economics and Statistics, Bachelor of Agricultural Technology and Food Systems, and post graduate programmes in leadership, design and technology.

Hon. Temporary Speaker, I want to thank Members for their support. I thank the Committee Members for preparing and presenting this Report. I also thank the Committee clerks. I want to stress the point that this Report needs to be implemented.

Hon. Temporary Speaker, I beg to reply.

**The Temporary Speaker** (Hon. Omboko Milemba): Order, Hon. Members! Having confirmed that we have the requisite numbers, I will now put the Question.

*(Question put and agreed to)*

Next Order!

REPORT ON APPROVAL OF THE DEFENCE CO-OPERATION  
AGREEMENT BETWEEN KENYA AND SEYCHELLES

THAT, this House adopts the Report of the Departmental Committee on Defence, Intelligence and Foreign Relations on its consideration of the Defence Cooperation Agreement between the Government of the Republic of Kenya and the Government of the Republic of Seychelles, laid on the Table of the House on Tuesday, 13<sup>th</sup> June, 2023 and pursuant to the provisions of section 8(4) of the Treaty Making and Ratification Act, 2012, approves the Defence Cooperation Agreement between the Government of the Republic of Kenya and the Government of the Republic of Seychelles.

*(Moved by Hon. Major (Rtd) Abdullahi Sheikh on 4.7.2023)*

*((Resumption of debate interrupted on 4.7.2023))*

**The Temporary Speaker** (Hon. Omboko Milemba): Did we have any Member on the Floor? There was no one on the Floor. Therefore, we shall proceed with those who have keyed in. Next to speak on this is Hon. Paul Biego, Member for Chesumei.

**Hon. Paul Biego** (Chesumei, UDA): Thank you, Hon. Temporary Speaker for giving me an opportunity. I wanted to speak to the previous Motion. I request you to give this chance to another Member.

**The Temporary Speaker** (Hon. Omboko Milemba): Very well. Hon. John Kiragu, Member for Limuru. He is not in the House. Hon. John Mutunga, Member for Tigania West.

**Hon (Dr) John K. Mutunga** (Tigania West, UDA): Thank you, Hon. Temporary Speaker. This Motion was there last week. I tried to speak to it, but time lapsed before I spoke.

**The Temporary Speaker** (Hon. Omboko Milemba): Order, Hon. Mutunga. May I bring the Members to speed that we are on the Motion on Adoption of Report on the Approval of the Defence Cooperation Agreement Between the Republic of Kenya and the Government of the Republic of Seychelles. You may proceed.

**Hon (Dr) John K. Mutunga** (Tigania West, UDA): Thank you, Hon. Temporary Speaker. This collaboration is good for both republics; the Republic of Seychelles and the Republic of Kenya because training together is important. It will help them to share experiences and develop better skills than when they are alone. Also, when it comes to disciplined forces, we have witnessed other countries from all over the world like to train in Kenya. There are some European Union countries and United Kingdom soldiers training in Nanyuki and other parts of this country.

We have observed some incidences of indiscipline within the disciplined forces. As this is ratified, we need to state that interactions with the community needs to be curtailed so that

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people are respected and dignity prevails. Seychelles and Kenya share a coastline. Therefore, we have an advantage of an enlarged seashore where they can train because there is a large water body. The two navies will have a great opportunity to practise together, have joint trials and vessel testing in the waters because of the enlarged coastline. Training together will enable faster skills development; our soldiers will challenge each other and this will make them better. The military personnel are coming from different environments so they will share experiences, build capacity and become more rounded.

Thank you, Hon. Temporary Speaker, I support this collaboration.

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

**The Temporary Speaker** (Hon. Omboko Milemba): Next to speak on this... What is your point of order!

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Temporary Speaker, I rise under Standing Order 95. Will I be in order to ask that the Mover be called upon to reply? This matter has been debated since yesterday. We should move to the next business.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon Members, a Member has risen in his place under Standing Order 95, to move that the Mover be called upon to reply. Is it the mood of the House that the Mover be called upon to reply?

**Hon. Members:** Yes.

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

**The Temporary Speaker** (Hon. Omboko Milemba): Mover, proceed to reply.

**Hon. (Dr) John. K. Mutunga** (Tigania West, UDA): Hon. Temporary Speaker, I thank Members of this House. This is the third day this matter is being discussed. Defence Cooperation Agreement is a tool that is globally accepted. Kenya and Seychelles share a common border at sea. This agreement will help Kenya Defence Forces, more so the Kenya Navy, to train in Seychelles.

I beg to reply.

**The Temporary Speaker** (Hon. Omboko Milemba): Having confirmed that we have the requisite numbers, I now put the Question.

*(Question put and agreed to)*

Next Order.

ADOPTION OF REPORT ON CONSOLIDATED FUND SERVICE  
EXPENDITURES FOR 2023/2024 BUDGET ESTIMATES

**Hon. (Dr) Makali Mulu** (Kitui Central, WDM): Thank you, Hon. Temporary Speaker. I beg to move the following Motion:

THAT, this House adopts the Report of the Public Debt and Privatisation Committee on its consideration of the Consolidated Fund Service Expenditures under the Financial Year 2023/2024 Budget Estimates, laid on the Table of the House on Wednesday, 21<sup>st</sup> June 2023.

Before I get to the main text of the Report, allow me to begin by thanking Members of the Public Debt and Privatisation Committee for working tirelessly to ensure that this comprehensive Report is tabled in this House. On behalf of the Committee, I extend our gratitude to the National Treasury, the Office of Controller of Budget, the Office of the Auditor-

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General and the Central Bank of Kenya (CBK) for providing critical information in the process of reviewing the Consolidated Fund Service (CFS) expenditures. The offices of Controller of Budget and Auditor-General have over time proven to be very critical in promoting accountability and transparency in relation to CFS expenditures and have highlighted gaps which the Committee is working on.

It is important to remind Members of this House that the CFS expenditures are excluded from the Appropriation Act pursuant to Article 221(7) of the Constitution. This is because the expenditures are a direct charge on the Consolidated Fund, thus do not require appropriation. This seems to be an unfamiliar aspect of expenditure, in that expenditures can be undertaken without appropriation by the House. In brief, unlike other expenditures which we appropriate as a House, CFS expenditures are not appropriated by this House. They are a direct charge on the Consolidated Fund. For the benefit of Members, CFS expenditures comprise the following:

1. Expenditures required to service the public stock of debt, being interest payments and redemption, that is, maturity of debt expenditures.
2. Pension expenditures.
3. Salaries for constitutional and independent offices.
4. Expenditures related to guaranteed debt.

For the FY 2023/2024, CFS expenditures are the largest in terms of percentage at a value of Ksh1.84 trillion, more than the recurrent expenditures of the current Government which amount to Ksh1.56 trillion, and development expenditure which is worth Ksh807.64 billion, as approved by this House.

The CFS expenditure of Ksh1.84 trillion is about 70 per cent of the projected revenue for the FY 2023/2024. This figure is quite high in comparison to the return on our exports. In short, the expenditures are very huge. Unfortunately, the Standing Orders are not very clear on how we should address these expenditures. As we discuss this important Report, the House has already passed the Budget Estimates, meaning we do not give these expenditures the kind of attention they deserve yet they take up a huge chunk of revenue.

In the FY 2023/2024, CFS expenditures are projected to amount to Ksh1.84 trillion. In the FY 2022/2023, which has just ended, the figure was Ksh1.553 trillion. This is an increase of Ksh283.4 billion. Because the expenditures are a direct charge on the Consolidated Fund, they will constrain our fiscal space by reducing the amount of money available to finance other critical expenditures in the country.

Over the medium-term, CFS expenditures are projected to hit Ksh2.2 trillion by June 2027. The increase is largely driven by expenditures required to service the growing public debt stock, which amounted to Ksh9.6 trillion as at April 2023. On average, debt servicing expenditures account for about 88 per cent of total CFS expenditures.

Hon. Temporary Speaker, if you take the totality of how much we spend on Consolidated Fund Service expenditures, 88 per cent goes to debt servicing. In this regard, in the Financial Year 2023/2024, public debt service expenditure is estimated to be about Ksh1.625 trillion. This is an increase of about Ksh265 billion. Largely, it is on account of an increase in the external debt service expenditures from Ksh362.2 billion in the Financial Year 2022/2023 to Ksh622.47 billion. This will be occasioned by a one-off payment for the maturing debt, sovereign debt and sovereign bond that have been allocated a total of Ksh241.75 billion.

While external debt will cost periodical increases over the medium-term, the risks emanating from this domestic debt remain the main concern. External debt is characterised by concessional financing, with low interest rates and long grace period. Domestic debt is characterised by rising interest rates, shorter maturing period and then the debt keeps on increasing every year. In the years 2022, 2023 and 2024, expenditures slated for domestic debt servicing are projected to amount to Ksh1.00 trillion. This is an increase on account of re-opened or re-issued domestic bonds and short-term Treasury Bills. Interest payment

expenditures will account for the largest share of Ksh628.8 billion. Domestic debt redemption will amount to Ksh374.5 billion.

External debt services were Ksh622.5 billion, which is 72 per cent increase from the Financial Year 2022/2023. This is as a result of increase in external debt redemption and expenditures for the Financial Year 2023/2024 that will amount to Ksh475.6 billion. There is an increase due to the expected maturity of sovereign bond of US\$2 billion. We all know about the Eurobond that will amount to Ksh241.75 billion. External debts interest rate expenditures will also amount to Ksh1.69 billion which is an increase primarily driven by expenditures required to finance commercial debts and multilateral debts owed to institutions such as China Development Bank.

Hon. Temporary Speaker, the second item is pensions expenditure which will amount to Ksh189.09 billion in the Financial Year 2023//2024. This is an increase of about Ksh16.45 billion. This is mainly attributed to an increase in ordinary pension payments to 91.23 billion in the Financial Year 2023/2024 from Ksh82.93 billion in the Financial Year 2022/2023. This is occasioned by an increase in the number of retiring public servants. That is about 12,290 public servants and military personnel who will retire. Furthermore, in the Financial Year 2023/2024, pensions are expected to increase by annual pension increase at the rate of 3 per cent as from 1<sup>st</sup> July 2023 which is this month. That will lead to increase in pensions. Salaries and allowances for constitutional and independent offices, as well as other miscellaneous expenditures, are expected to increase by 2 per cent from Ksh4.62 billion to Ksh4.73 billion.

Finally, will the expenditures be guaranteed by the Government? The House will remember that most of these loans which are taken by parastatals and the county governments are guaranteed by the national Government. When they do not pay up, the debt can be called up. As we are talking now, the Kenya Airways (KQ) guarantee became a liability to the Government in the Financial Year 2022/2023 and payments have been charged to the Consolidated Fund ever since. In this Financial Year 2023/2024, this country will pay a total of Ksh17.2 billion towards that loan which was guaranteed for KQ. We paid about Ksh16 billion in the Financial Year which has just ended and Ksh17.2 billion will be paid this year.

Hon. Temporary Speaker, the Committee noted that the House made resolutions on CFS expenditures based on these recommendations and as part of the follow up of the implementation. For the Financial Year 2023/2024, the Committee has come up with the following set of recommendations based on the consultative engagements held:

1. In line with the financial consolidation plan, any in-year adjustment in the Financial Year 2023/2024 Budget Estimates undertaken by National Treasury should be within the approved Financial Year 2023/2024 fiscal deficit limit of 4.4 per cent of Gross Domestic Product (GDP) in order to mitigate against unplanned borrowing. That is what the House approved.
2. In line with the House resolutions on the Medium-Term Debt Management Strategy, in the Financial Year 2023/2024, the National Treasury should adhere to the approved 50:50 mix of domestic to external borrowing. Any deviation in funding strategy should be approved by the National Assembly.
3. Fifteen days after the end of each quarter in each financial year, the National Treasury should submit to the National Assembly a quarterly report on the status of all CFS expenditures indicating actual expenditures compared to the budgeted ones.
4. That for any in-year CFS expenditure adjustments as well as budget cycles going forward, the National Treasury should report the overdraft facility, as well as all expenditures related to guaranteed debt as separate and substantive components of public debt servicing expenditures and not under the salaries and allowances components of the CFS.

5. The National Treasury should ensure timely payment of pensions to the pensioners and prioritise prompt disbursement of employer contributions under the Public Servants Superannuation Scheme (PSSS).

As a Committee, we have realised there is a serious delay in paying pensions to our retired civil servants. It is time that our retired civil servants who have served this country faithfully are paid their dues in good time, so that they do not die before they enjoy their terminal benefits.

6. In the next budget cycle, that is for the Financial Year 2024/2025, the National Treasury should submit its explanatory notes on the CFS expenditures along with the Budget Estimates for the Financial Year 2024/2025.

Explanatory notes are very important when we are analysing budgets. They provide more details than we can see in the figures. So, it is important that as we move to the future, every item submitted to the National Assembly by the National Treasury is accompanied by explanatory notes.

7. That, by 31<sup>st</sup> December 2023, the Office of the Auditor-General should undertake a special audit on pensions relating to pensioners paid through Crown Agents Bank in the United Kingdom (UK) and submit a report to the National Assembly within the stipulated time frame.

The Committee realised that after being very keen on CFS expenditures, the allocation for this particular group of Kenyan retirees who are in UK was reduced from Ksh150 million to Ksh42 million. We were not sure what really happened. Thus, we are asking the Auditor-General to go out there and do a specific audit on this matter so that as a Committee, we are informed of what really happened and what triggered that change. In case there will be any issue of misappropriation or misdirection of resources, we will ask this House to recommend the necessary sanctions for such case.

Hon. Temporary Speaker, as I conclude, let me repeat what I said earlier. I re-emphasise that the Consolidated Fund Service expenditures take a huge percentage of our budget. It is important that we start paying more attention to them as opposed to what is happening now. I plead with the House, and more so our Speaker, that this Motion be given more time and we discuss it at the right time instead of discussing it when we have passed the budget.

With those many remarks, I take this opportunity to move this Motion. I call upon one of my very active Members, a very serious first-time legislator, Hon Aden Daudi, to second. I must also thank the people of Wajir East Constituency for electing him as their representative.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Daudi.

**Hon. Aden Mohammed** (Wajir East, JP): Thank you, Hon. Temporary Speaker. I also thank my Chairman for recognising me and allowing me to second this very important Motion.

Hon. Temporary Speaker, I beg to second.

I will start with the alarm bells that our Chairman has just rung. In this Financial Year, 2023/2024, the Consolidated Fund Service expenditures will be at Ksh1.84 trillion.

*(Loud consultations)*

Hon. Temporary Speaker, could you ask the Members who are consulting loudly to lower their voices?

**The Temporary Speaker** (Hon. Omboko Milemba): Order, Hon. Members. Proceed.

**Hon. Aden Mohammed** (Wajir East, JP): Let me start with the alarm bells that have just been rung by our Chairman regarding the CFS expenditures. It is important for this House to note that in the Financial Year 2023/2024, the CFS expenditure will be Ksh1.84 trillion. That is a huge amount. It is about 51 per cent of our national budget. That figure does not come

through this House. I remember in the last few weeks, we have been staying here until midnight just to argue about US\$200 billion that was added to the Finance Bill, but here we are now very lacklustre. We do not seem to mind an expenditure of Ksh1.84 trillion.

By the year 2027, as has already been said, this figure will balloon to Ksh2.2 trillion. Unless this House and country do something about that kind of expenditure, we are going into a financial mayhem. I suggest that we go into financial consolidation and financial discipline.

The fiscal deficit limit is targeted to be 4.4 per cent of our GDP. I would like to remind this House that we recently debated the debt anchor and we pegged it at 55 per cent debt to GDP at present value. It behoves us as a House to hold the National Treasury to account and to make sure that our fiscal deficit limit should not be more than 4.4 per cent of our GDP. Going forward to the year 2027, our fiscal deficit should be reduced to 3 per cent of our GDP. This is in line with what we did the other day by moving from a debt ceiling to a debt anchor of 55 per cent. We have given the National Treasury five years to comply with the 55 per cent debt anchor.

Hon. Temporary Speaker, our public debt stock... Hon. Temporary Speaker, I am wondering why the time indicator is at yellow already when I am seconding. This is a very important Motion.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Member, you have five minutes, proceed.

**Hon. Aden Mohammed** (Wajir East, JP): I was getting concerned. The national debt has gone to Ksh10 trillion. Out of that, it is very important that this House finds out the inter-generational equity of the loans that we take. Every time we hear the Executive has signed for a loan that we do not know where it will be spent, it is important for this House to ensure the dictates of our Constitution are followed so that the loans we take have both an inter-generational and geographical equity.

My Chairman has already talked about the 50:50 Medium-Term Debt Strategy: 50 per cent domestic, 50 per cent external debt. This House passed that Report, but unfortunately a few days later, we passed another Report, the Budget Policy Statement of 80 to 20. It is important that this House takes note of the reports that we are pass. Some of them could be contradicting each other. I urge this House to take note of this very important Report and not just say ayes and nays.

Finally, Hon. Temporary Speaker, we have gone from a defined benefits scheme to a defined contribution scheme as far as our public pensions are concerned. Unfortunately, the idea of moving from defined benefits to defined contribution was to reduce the pension burden on the public. But as already said, the pension budget is increasing. It is important that this House follows up on that and makes sure that the Public Servants Superannuation Scheme is fully funded for the benefit of the people of Kenya.

I beg to second.

*(Question proposed)*

**The Temporary Speaker** (Hon. Omboko Milemba): The first person to take a bite on this one is Hon. Beatrice Elachi.

Every Member will have a maximum of five minutes to speak. Proceed Hon. Elachi.

**Hon. Beatrice Elachi** (Dagoretti North, ODM): Thank you Hon. Temporary Speaker. First, I would like to thank the Committee for giving us a very elaborate Report on the debt of our country. I also thank the Chairperson of the Committee for taking us through the figures.

We appreciate what the National Assembly did through our Standing Orders, creating the Public Debt and Privatisation Committee that works very closely with the Budget and Appropriations Committee to resolve the financial challenges we face in this country. The

committees should see to it that we reduce our debt. When we look at the recommendations on the current expenditure, we spend 70 per cent of what we collect. That is something we need to address. I believe that in Kenya the problem is not the money, but how we put into use the resources that we collect. All the counties have been paid their money. Every institution has resources to pay pending bills. Counties like Mombasa are performing well. Other counties can also improve their revenue collection and performance.

As a country, we need to have a conversation on Kenya Airways. We cannot pay Ksh16 billion last year and then in the Financial Year 2023/2024 we are about to pay Ksh17 billion. We need to ask ourselves whether the management is the problem. The money we put in versus the air ticket rates they gave us do not match. You feel distressed when you pay Kenya Airways for a ticket. You wonder why our airline is expensive. In terms of hospitality, they have improved. In terms of rates, how they charge their tickets is something we need to inquire into. Domestic airlines are doing very well.

Even as we give them money, the National Treasury should tell us about the Government shareholding *vis-a-viz* the other shareholders and who they are. Why can Kenya Airways not awaken itself the way Ethiopian Airline and other airlines are performing in our country? It is something that this House has to follow through. We should ask ourselves how we can heal from this institution that we keep on giving money, but which is constantly in debt and in crisis.

The other issue is that of pensions. You have been a teacher and our mothers were teachers although they are now old. Once you retire, not receiving your pension is something that can subject you to suffering, especially for those who are sick and using the same money to go for treatment. We have to be very clear even as we deal with this institution in London. It is time we asked ourselves whether we can close this pension institution in Europe.

Finally, we need to support the President on the issue of debt. It is a must. We have to do it. I call upon all the counties that received money to, kindly, pay their suppliers so that money can go into circulation.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Thuku Kwenya.

**Hon. Thuku Kwenya** (Kinangop, UDA): Thank you, Hon. Temporary Speaker for giving me this opportunity to support the Report on our expenditure on the Consolidated Fund Service. At the outset, I would like to state that we, as a Committee, sometimes backed and passed in this House the Medium-Term Debt Strategy (MTDS). The National Treasury had proposed the kind of debt mix in the short term or in the Financial Year 2023/2024. For the record, as much as that Report was passed in this House it is not reflective of what the National Treasury presented to us later. They came to our Committee with different figures. Debt mix is a very important aspect, especially to investors, as this informs decisions as to how they are going to invest their money, especially those who invest in liquidity. A debt mix of 80/20, a departure from what was proposed of 50/50, means that investors must reorganise their investments. Having debts borrowed domestically at high level to the extent of 80 per cent of our total debt would mean that the interest rates are going to be higher locally.

Maybe our investors were focused on a situation where they would invest elsewhere or invest locally, but because of this back and forth, their programmes are interrupted. As a representative of the people, I feel that the National Treasury, in the future, should stick to what they have presented to the House. This House does not act in vain. So, when we pass reports and the National Treasury presents different figures within a short time, it makes - allow me to use this word, Hon. Temporary Speaker - nonsense of the work we do here.

Secondly, pensions are paid from the Consolidated Fund Service. We noticed that most of the employers, as much as they deduct their employees' money, they do not submit the same money in good time. Therefore, that becomes a challenge.

We also realised that there are some pensions that have been paid for a long time by the National Treasury to workers who retired during Africanisation in 1963, when there was a declaration that Africans should manage their affairs. Most of the workers who went back to their countries have been enjoying pension for quite a long time because it was a provision as at that time. The money was paid through an agent called Crown Agent and to-date, they are still being paid. If you calculate from 1963 to-date, we are talking about 60 years later. I would like to pause a question to the House to consider. If someone at that time was about 30 years old, 60 years later today, it means he is 90 years and above. These people are still enjoying taxpayers' money through Crown Agent. When we brought this matter to the fore, the National Treasury came back to us with different figures stating that it is not Ksh150 million that we are paying, but Ksh42 million. We need to put an eye on these expenditures, which are of CFS in nature as provided for in the Constitution so that CFS is not abused.

I want to thank the President because he has been firm on the fight against corruption. If we were to honestly interrogate this matter, we can see how much we are losing. Having said that, I wish to support this Report and state that we need to put some weight. Allow us, as Members, to ventilate the matters contained in reports like this one when they are tabled in the House even for purposes of the record because this is a House of record.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. (Dr) Wilberforce Oundo.

**Hon. (Dr) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Temporary Speaker for giving me the opportunity to contribute on this Report on the Public Debt and Privatisation Committee on Consolidated Fund Service expenditure under the Financial Year 2023/2024 Budget Estimates. Let me echo the statements of the Vice-Chair, that probably, this is the wrong time to bring this Report here. It ought to have preceded the Budget Estimates as well as the Finance Bill because you can only decide how much to borrow or raise when you know your total liabilities. The CFS are established pursuant to our Constitution, and they cover debt and payment of some important commissions, and specifically the President and his Deputy under Article 151.

In the wisdom of this House, towards the end of the last Parliament, we created this Committee to specifically focus on the issue of public debt because this has been a thorny issue that is mostly debated in the country. Many times during political campaigns, we use the public debt as a campaign tool, but once we get elected into office, we relax and go back to our old ways.

If you look at the Report of the Auditor-General, you will realise that they note with apprehension that the amount of public debt has been increasing substantially since 2018 from Ksh4.8 trillion to close to Ksh10 trillion. We have always asked why during that time the GDP growth rate has been subdued. That means that debt has not been used in the productive sectors of the economy. I hope the Members of the Committee are here. The most disappointing thing is the disproportionate allocation for servicing foreign debt and domestic debt. If you look at the figures, we are talking about Ksh1.3 trillion going to service local debt and yet about Ksh600 billion is probably what goes to service foreign debt. In a country with very low saving levels and a small financial market, honestly, excessive borrowing from the domestic market is going to stifle and eventually kill this economy. It will rob local businesspeople money that they would otherwise invest in productive ventures.

I totally agree, and probably to some extent disagree, that there should be a 50 to 50 per cent share arrangement on servicing domestic and foreign debt. The Central Bank of Kenya (CBK) made a comment and they were very clear under Paragraph 19 of their Report. The CBK knows that the capacity of domestic market to support elevated financing needs is limited. That is a very clear sign. We are aware that every week or month, CBK releases reports on uptake of Treasury Bills and other related bonds. If you track the reports and plot, you will find that the appetite has been reducing. Many a times, the CBK gets fewer applications and uptakes

compared to what is being floated. That should tell you that there is a liquidity problem in this country. As we have always argued, in an economy that is in recession and in a market where liquidity is stressed, Government should not compete with the private sector. The Government, being sovereign, is a less risk borrower compared to a normal business.

In that event, this economy will continue to struggle simply because those people who are in charge of making these decisions have simply forgotten basic macro-economic theories that are normally taught in first year in any reasonable university like the University of Nairobi. I wonder where these people went to university.

**The Temporary Speaker** (Hon. Omboko Milemba): Well spoken, except for your last remarks on universities. All universities are great in training our students.

The next to speak on this matter is Hon. KJ. I saw your name here. Did you want to speak on this one?

*(Hon. John Kiarie spoke off record)*

Then let us have Hon. Silvanus Osoro. Have you keyed in? Proceed and speak on this one. Economists, I have not seen you keying in and you keep... Hon. Osoro, proceed.

**Hon. Silvanus Osoro** (South Mugirango, UDA): Thank you, Hon. Temporary Speaker. I am sorry, Members are engaged in different matters. I am now handling constituency matters blended with my official duties here in the House.

I have gone through the Report by the Public Debt and Privatisation Committee. For me, of much interest is the recommendations by different independent offices as far as public debt is concerned. We are not doing very well as a country. We must accept that fact. If you look at this Report, you will agree that the Committee has done a good job in compiling the state of our public debt and coming up with recommendations as proposed by these independent offices.

If you look at the proposals by the Auditor-General and the observations by the Controller of Budget, you will notice that out of Ksh100 that we collect as revenue, 47.9 per cent is used to service debt. We are left with about 52 per cent to cater for everything, including healthcare, education, roads and every service that is required in this country. That is not a very good report. It is not something interesting to have as a country. Apparently, year in, year out, we find ourselves in this situation. We will always find ourselves paying. We will be servicing loans year in, year out because we are not living within our means. That is really a challenge. Many of these challenges are brought forth by our own making. There is a lot of wastage within the Government structures and operations. At times they are very unnecessary. If every office, sector and State department can check on how they spend their money, we will save a lot of money. We will not find ourselves servicing debts that are unnecessary. Those are things I have noticed in this Report.

As a country, we are not doing well. We need to empower the independent offices even as they make professional proposals that will help us to mitigate the challenge of public debt. If we are able to keenly follow what the Auditor-General, and the Controller of Budget, say - those offices give expert advice - we will mitigate these challenges. Sometimes people in public office take advantage of existing loopholes in the law and misuse public funds. At times we find ourselves in situations we cannot explain. People have misused the law.

This wastage is not just in the national Government. It is also in the county governments although sometimes when we raise such issues we are told to do our work and stop talking about matters of county governments. The wastage we see in government, at national and county levels, is not something to smile about. Today if you walk in the streets of your constituency, you can identify a project that has been undertaken through influence or patronage of a Member of Parliament, but you can hardly see anything being done by the

county government. This is because of a lot of wastage. Whatever you see at the national level is replicated at the county-level. For example, you will see a governor moving around in a convoy of about 50 or 13 vehicles, with one vehicle carrying a red carpet and another one carrying a tent. There will also be a car carrying his personal assistant and another one carrying the seat. I noticed that in a single day, you will find a county governor spending about...

**The Temporary Speaker** (Hon. Omboko Milemba): Studio controller, add the Whip of the Majority Party one minute.

**Hon. Silvanus Osoro** (South Mugirango, UDA): Thank you, Hon. Temporary Speaker. In basic recurrent expenditure, on what they call “governor’s expense”, you will find a governor spending about Ksh2 million. They do such activities day in, day out. You realise that ECDE classes are not being built and roads are not being maintained, but the county governors spend a lot of money on a daily basis. They move around with big teams of people. Without casting aspersions to anybody, particularly when I talk about my county, as we speak my, county governor is in China with 50 members of the county assembly and 30 county staff. He has taken all of them to China. They are going there to benchmark on how to plant bananas. Kisii is a hub of bananas. When I went through the vote book of the county government, I realised that they spent a whopping Ksh300 million to go to China to just see how bananas are planted there. It is shocking. That is the situation we are in. You will, however, see them here saying that the county governments have not been given money.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Osoro, do not discuss persons who are not in the House to defend themselves.

Proceed.

**Hon. Silvanus Osoro** (South Mugirango, UDA): You will see them. I am talking about oversight. You will hear county government teams saying that they are not adequately funded, and that the national Government has refused to give them money. However, immediately the money hits their accounts, it is spent on unnecessary trips and expenses like moving around in big motorcades with sirens and thus disturbing people in small towns. It is really unfortunate. It is such unnecessary expenditures that raises our public debt. We find ourselves funding unnecessary expenses arising from nonsensical Government structures.

For that reason, I support the Report as it is.

**The Temporary Speaker** (Hon. Omboko Milemba): Very well said, but kindly, mind your language. Strictly stick to the rule on parliamentary language.

Let us hear Hon. David Mwalika Mboni. Again, let me caution Members against speaking about people who are not in the House and, therefore, cannot defend themselves.

You may proceed.

**Hon. David Mwalika** (Kitui Central, WDM): Thank you, Hon. Temporary Speaker for giving me this opportunity to say one or two things about the Consolidated Fund Service expenditures. As we are all aware, CFS expenditures are the first charge in the Exchequer. They comprise of public debt service, pensions, salaries, holders of constitutional offices and guaranteed debt.

This is one of the best reports that I have ever come across because it gives us the fiscal situation of our country, which is very worrying. If you look at this Report, you will realise that out of the Ksh3.6 trillion Budget, the public service debt has taken Ksh1.6 trillion, which is almost 40 per cent of our budget. We need to think about how we are going to address our debt. It is quite worrying to spend Ksh1.6 trillion on debts and Ksh6 billions on development. If we continue like this, this country cannot develop.

We recently moved from numerical debt ceiling to debt anchor. Our debt to Gross Domestic Product (GDP) at present value is at two per cent. I also came to understand that the numerical value of our debt has already passed Ksh10 trillion. This then, gives us a very worrying situation because we do not have the fiscal space to even borrow. As a country, we

need to take measures to ensure that the country moves forward. One of the things the Government should strictly follow is the 50 to 50 per cent of domestic to external borrowing funding strategy which was approved by this House so that we can reduce borrowing because it is killing this country.

Secondly, we need to strictly follow the consolidation strategy. We have been talking about fiscal consolidation, but when you look at what is happening in terms of wastage - what Hon. Osoro was talking about - it is not good. In this country, wastage and corruption take around 60 per cent of our expenditures. If we can reduce corruption and wastage, this country will move forward. Our expenditure will even reduce by 50 per cent, and we will save enough money for development.

Thirdly, we need to move away from the expensive loans which have been taken from the East. We need to move to concessionary loans which are cheaper and have a long repayment period. We should use these loans to retire the most expensive loans so that we can have a fiscal space in order to invest in development.

In their recommendations, they say that the Committee should move forward. The fiscal deficit should remain at 4.4 per cent of the GDP. This is a very good recommendation so that we do not continue borrowing. I wonder if the National Treasury and the national Government are going to abide by this recommendation. We are fond of spending even outside the approved budget limits.

As Parliament, we need to look at Article 223 and agree on what should be going into it. At the end of the day, we spend over Ksh300 billion that is not budgeted for. We need to address the issue of domestic borrowing. If we continue to borrow from the domestic market, we will crowd...

**The Temporary Speaker** (Hon. Omboko Milemba): Well spoken. Next to speak to this Report is Hon. Rindikiri Mugambi.

**Hon. Mugambi Rindikiri** (Buuri, UDA): Thank you, Hon. Temporary Speaker for giving me this opportunity. First, I want to thank the Committee led by my friend, Hon. (Dr) Makali. This Committee has already indicated to us that they are ready to support the Government in putting in place the right structures to ensure that there is prudent management of the financial resources that we have.

I have keenly listened to the recommendations that they have given, but they should have presented a road map to be followed even before the next budget cycle starts. That way, they would have clearly spoken to this House on what they expect in terms of financial resource management, particularly under the CFS. However, they have clearly brought out certain things that the Government needs to do. That is one of the reasons why I support this Report.

We are all speaking about scarcity of finances in this country. We have seen a lot of wastage in terms of channeling of resources to sectors that have a chronic record of failure. If we continue that way, we will not be doing this country any good. For example, we have consistently supported the Kenya Airways yet we have never known why they perform poorly. I was privileged to be a Member of the Departmental Committee on Transport and Infrastructure in the last Parliament before some of us were chucked out. My last engagement with Kenya Airways was during the projects by privately initiated investment proposals. The problem of Kenya Airways is their year in, year out, bailout. We also have a few other institutions, like Mumias Sugar Company, with similar problems. Mumias Sugar Company is better because you can see they are producing something. The Kenya Airways management has never come out to say what is eating them.

Kenyan pilots presented a proposal and a few days ago, the same KQ adopted it. How I wish they realised that all this time the problem of bad performance by KQ is related to mismanagement of resources.

Another thing is the issue of pensions. I thank the Committee because we have brothers and sisters out there who have worked for this country for many years. People put in more than 30 years of service to this nation, but it takes them another 20 years to access their small pension when they retire. I ask the Committee to continue pressuring until we put the right systems in place. We have to state clearly that a certain amount must be set aside for pension payments, and such decision must be executed during each financial year.

The other factor is the issue of the National Treasury and the National Assembly working differently. There is a very serious assumption. We cannot run this country in the manner we are doing - where one arm of the Government says one thing and the other one says another thing - and expect this country to move forward. I am part of the Government, but for the National Treasury to continue giving different figures from those of national...

**The Temporary Speaker** (Hon. Omboko Milemba): Senior, you have had your bite. The list of requests to speak is slightly longer. The next Member to speak on this Motion is Hon. Abdikadir Mohamed.

**Hon. Abdikadir Mohamed** (Lagdera, ODM): Thank you, Hon. Temporary Speaker, for giving me an opportunity to contribute to this debate.

As a country, we do not know how much our debt is. Every Government institution that is concerned and non-state actors have their own figures. We need to know how much our debt is. The only way we can know is to carry out a forensic audit on public debts. The other question is whether pending bills are part of public debt. We have had pending bills for the last three to five years. I am sure if such bill was incurred through a contract, it would have attracted some interest. We should, therefore, ask ourselves if pending bills are part of the public debt. We need to scrutinise and conduct a forensic audit on our public debt so that we know exactly how much our debt is.

The other issue is that we have loans that we cannot link to any projects. I think the Auditor-General is doing something about that, but as an institution, we should be told who borrowed the loans. What were they borrowed for? When were they borrowed? We need to know.

The other issue is that we have a significant debt of about Ksh1.1 trillion which is undisbursed. Undisbursed loans are still part of our debt. We are already servicing some of them while for others, we have paid some fees called commitment fees of about Ksh600 million. However, the money is still somewhere. It has not been given to us. We are not using it, but it is also part of our public debt. I think the Ministry of National Treasury and Economic Planning should tell us where this money is and why it has not been disbursed. Once it is committed, it is our money. A sum of Ksh1.1 trillion is a lot of money that could have solved a lot of problems for us.

The only way we can get out of this economic quagmire is to have more revenue. The only way we can raise more revenue is to tax Kenyans, which is very painful. The options are to either take loans or raise revenue through taxation. Which option is better? Loans are worse because you pay them back with interest. Currently, 75 per cent of the interest we are paying on loans is for domestic loans, which is the easiest money that the Government can get. Whenever the Government wants to raise money, it issues bonds. We should look into our borrowing as a country. We should not borrow money and do nothing with it. We may have a challenge when it comes to raising money, but if we always go for loans and incur debts, it will be a problem for us.

I ask Kenyans to tighten their belts. We have increased the taxes, but they will help us in the next few years. Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Augustine Mwafrika

**Hon. Kamande Mwafrika** (Roysambu, UDA): Thank you, Hon. Temporary Speaker. I want to add my voice to this Motion. Borrowing, whether multilateral or bilateral, has a limit.

Our borrowing has hit the roof. That is why the Kenya Kwanza Government came up with the Finance Bill, so that we can somehow become self-reliant. That move was taken by the Government to make sure that we apply some brakes on borrowing and reduce it by paying taxes.

Any non-performing business should be closed. An example has been given of Kenya Airways. Kenya Airways was given Ksh16 billion in the last financial year, and it will receive an injection of Ksh17 billion in the 2023/2024 Financial Year. We have never been given an account of how much Kenya Airways makes. Kenya Airways is operational and yet it does not make any profit.

Let me remind this House about Uchumi Supermarket. In 2003, during the term of former President Kibaki - God rest his soul in peace - the Government injected Ksh600 million into Uchumi Supermarket. Afterwards, the Government injected more money into it, but it still continued to perform poorly. It did not make it despite support from the Government. After a short while, Uchumi Supermarket went under, even after all the support from the Government.

A time has come when this country must be managed like a business. The Government should stop making losses. We cannot have higher losses than the amount of revenue that we collect. That well-compiled Report shows that our expenditures are more than our revenues. If you include losses and corruption, you will force this country to go on a borrowing spree. A time has come when we have to pay taxes in order to stop borrowing. The Finance Bill was opposed by the Minority Party. I am happy with this Report on how to stop borrowing. A debt of Ksh10 trillion is big for a developing country like ours. Therefore, I support this Report and request the Government to ensure that all the parastatals that continue to make losses are closed including Kenya Airways. We cannot be injecting billions of shillings into Kenya Airways while it continues to make losses.

With those remarks, I support.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Amos Mwago, Member for Starehe.

**Hon. Amos Maina** (Starehe, JP): Thank you, Hon. Temporary Speaker for giving me an opportunity to speak on the Consolidated Fund Service Expenditures Report, which I support. As a country, it is high time we discussed the issue of public debt and the borrowing done by the Government. It seems lazy to think that an economy can only be driven through two ways - either borrowing or taxing the people. I think the Government is being too lazy in its thinking because we cannot have two models as choices to drive our economy.

An economy can be driven through other models like production, consumption, investment and savings. It is high time the Government looked for other creative ways to improve our economy, and not exclusively through taxation and borrowing. The Cabinet Secretary for Investment, Trade and Industry, Hon. Moses Kuria, is on record saying that 80 per cent of our farm produce is lost because it is always harvested when it over-ripe hence not fit for export. We have not exhausted all the export markets for our local produce.

Taxation as the only way to raise revenue is a very quick way to kill our economy. We are saying most of the budget is for servicing loans and paying debts yet we know that borrowing is a very bad habit that can never stop. It is high time we capped out public debt at a certain level and then adopt other ways of improving the economy. For example, in committees, when we talk to several Ministries, Departments and Agencies (MDAs) as well as Semi-Autonomous Government Agencies (SAGAs), which we oversee, we tend to notice that re-current expenditure is always three times the capital expenditure. You find an MDA having a recurrent budget of Ksh1 billion and a capital budget of about Ksh20 million or Ksh50 million and you are left wondering. We spend so much money yet the development component is so small. Many MDAs are doing this. We have a problem with how things are done and where the finances go in as much as we are borrowing.

Hon. Temporary Speaker, we have very qualified economists in this country who should be used to solicit for cheaper loans. We borrow loans at high interest rates - a mistake which will eventually catch up with us. We have seen what is happening in other countries. People who lent money to certain countries have taken over some serious institutions belonging to those republics. In some countries, sea ports and airports have been taken over by foreigners who lent those countries some money. It is just a matter of time before our foreign debt catches up with us, as a country.

I would also like to speak to the issue of expenditure. This is a very challenging part and it is where we seem to lose it. As Hon. Osoro has said, expenditures being incurred by various Government institutions are not in tandem with the economy. Some people live beyond their means through Government money that is borrowed at high interest rates. The current Government has chosen to borrow from the domestic market. This is a very big challenge for us as a country. With the passage of the Finance Bill, 2023, a lot of taxes have been imposed on Kenyans. If the Government competes with Kenyans for cheap loans from local banks, the banks will always lend to the Government because it has a higher collateral. Businesspeople will not be able to access loans. Currently, banks have increased their rates and it has become very expensive to get loans. Where are we going to get tax from if we kill the businesses that are supposed to pay taxes? It is time we had this discussion as a country, so that we have a clear way forward on how to tackle the issue of public debt.

With those remarks, I submit.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. John Waweru, you are back on the screen. Are you now ready?

Proceed.

**Hon. John Kiarie** (Dagoretti South, UDA): Hon. Temporary Speaker, I thank you for giving me this opportunity. I have taken time to internalise this very important Report. I commend the Committee and the Chairman. As a House, we can now see the wisdom of the 12<sup>th</sup> Parliament in establishing the Public Debt and Privatisation Committee. This being their first Report, the Committee is already doing a brilliant job.

Public debt is a real issue in this country. It is so real an issue that for the first time in Kenya's history, repayment of international obligations surpasses the Ksh1 trillion mark. The Ksh1 trillion mark has become an alarm bell that this country must wake up to. International obligations and debts are things that you have very little control over. You do not have control over the fluctuation of international currencies. You do not have control over the rules and conditions that are set by lenders. That is why this House, through this Committee, must be on top of this country's borrowing.

We have experienced a number of calamities in the past. One such calamity is the country going for extremely expensive debts. Expensive debts are at times a sign of corruption, because affordable debts are available. Because people want to make personal benefits out of what they borrow for the country, they choose to go for extremely expensive debts that are impossible to pay.

I support this Report in its entirety. One thing in it that excites me is the fact that the Committee recommends that we get quarterly reports on the debt of the country. I demand that during every budget cycle, this House gets the right debt register of the country. When we were dealing with the issue of raising the debt ceiling, this House was at a loss to tell the country how much we owe our creditors. This House has not been furnished with reports on how the country borrows, how our loan registers look and the nature of debts we have taken in terms of foreign and domestic debt and concessional and conditional debts. The fact that this Committee recommends that the National Treasury reports to this House is one of the reasons I support the Report.

There is a recommendation by the Committee that, in line with the House resolutions on the Medium-Term Debt Management Strategy of 2023 for the FY 2023/2024, the National Treasury should adhere to the approved ratio of 50 to 50 mix of domestic to external borrowing, and that any deviation in the funding strategy should be approved by the National Assembly. On that account alone, this Committee starts to speak to the issues of why this House demanded to have the Public Debt and Privatisation Committee.

A Member has raised the issue of misappropriation of the money that we send to the counties through the County Appropriation Bill. This is a radical recommendation. I believe this country cannot continue to send money to the counties in the form that we are doing now. Members of the County Executive Committees (CECs) spend the money as they wish. My radical recommendation is that the money that goes to the counties must be transformed to be conditional debts or grants. The National Government Constituencies Development Fund (NG-CDF) performs so well because...

**The Temporary Speaker** (Hon. Omboko Milemba): Studio, please, give him one more minute.

**Hon. John Kiarie** (Dagoretti South, UDA): Hon. Temporary Speaker, I thank you for your magnanimity.

This is the final point I want to make. One of the reasons why the NG-CDF is such an effective entity on the ground is because it is a conditional grant. If money is allocated from the centre to build a toilet at Kirigu Primary School, even the committee in the constituency, the school or user cannot change the use of that money since it is a conditional grant assigned to a particular project. If we make the money we send to counties conditional grants, the counties will register development projects in a way we have never seen before, just like the NG-CDF.

The second reason why NG-CDF does so well is because the administrative costs are very little. Being a conditional grant that is administered by a national board, it means there is only a small committee which sits at the constituency, and a very lean staff in the national board. We do not end up with a situation like the one we see in the counties, where a county allocates Ksh330 million to recurrent expenditure and zero to development. That means we have 47 county governments that are only paying salaries. As a result, we end up with projects funded by the NG-CDF as the only visible development taking place in the counties. The billion of shillings that go to the counties end up paying salaries and meeting other expenditures that have no bearing on development.

With those remarks, I support the Report fully.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Jessica Mbalu, you are elegantly dressed. Please, proceed.

**Hon. Jessica Mbalu** (Kibwezi East, WDM): Thank you, Hon. Temporary Speaker. I congratulate the Public Debt and Privatisation Committee. I want to be on record that in the 12<sup>th</sup> Parliament, as Hon. Kiarie has said, we ensured that this Committee was put in place. I appreciate the work that has been done. The Mover of the Report, Hon. Makali Mulu, is an economist. Being the Chairman of the Committee, I can imagine the kind of work that has been done resulting in this Report.

I have gone through the Report of the Committee on its consideration of the Consolidated Fund Service Expenditures of the Financial Year 2022/2023 Budget Estimates, which was laid on the Table of the House on Wednesday, 21<sup>st</sup> June 2023, and it is well prepared. I am holding it. It was presented by Hon. Makali Mulu. I can tell the House and the country that it has been looked at well. There was a lot of public participation, consolidation of information and education in terms of economy. This is a Report we should all support. I must be on record supporting this Report, having looked at it, especially the recommendations that the Committee has come up with.

Hon. Temporary Speaker, the National Treasury should adhere to the approved ratio of 50 to 50 mix of domestic and external borrowing, and any deviation from the funding strategy should be approved by this House. This is a very powerful House. I welcome this recommendation. I was with you, Hon. Temporary Speaker, in the 12<sup>th</sup> Parliament and you know what this one means.

The Committee also recommends that at the end of each quarter in each financial year, a report on the CFS should be brought to the National Assembly indicating the actual expenditures compared to the budget estimates. We were here the other week talking about the Finance Bill, which I am on record voting against because of the amount of taxation we were putting on our people. It is really frustrating our people. I am serving my third term in this House and I can tell how difficult it is to lead people who are overtaxed. Therefore, we must balance between borrowing and taxation. My first degree is in finance and my master's is in Strategic Management, and my PhD, which I am almost completing... let me not go on. I must appreciate, and I am sure Hon. Osoro appreciates the same as we support the Report.

The Committee is recommending that by 31<sup>st</sup> December, 2023, the Office of the Auditor-General should undertake a special audit on pensions. We have many pensioners who have not been paid their pension yet we pay other pensioners through the Crown Agent. Congratulations again to the Committee for this recommendation. The Committee on Implementation must ensure that this recommendation is implemented. We must see the fruits of the work of this House.

For the first time, I am sure this side and the other side of the House, including Hon. Osoro, support this Bill.

**The Temporary Speaker** (Hon. Omboko Milemba): Okay, give her one more minute.

**Hon. Jessica Mbalu** (Kibwezi East, WDM): Thank you. When I was a Temporary Speaker, I used to add you two minutes.

The other recommendation is that for any CFS expenditure adjustment in the budget cycle, going forward, the National Treasury should report the overdraft facility as well as expenditure-related guarantee debt as a separate and substantive component to public servicing expenditure, and not under the salaries and allowances component of the CFS. If these recommendations are implemented, our pensioners, like retired teachers, will benefit.

Hon. Temporary Speaker, again, allow me to thank and congratulate Hon. Makali Mulu and his Committee for coming up with this Report.

I support.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Fatuma Mohammed.

**Hon. Fatuma Mohammed** (Migori County, Independent): Thank you, Hon. Temporary Speaker. First, I must state for the purpose of record that I support the Bill. Kenya has a tendency of having syndicate loans. They are not normal loans, and this is a tendency that has been there for a very long time. At the moment, we have a budget deficit of Ksh720 billion. Where will we get that money from? The answer is simple - we will take a loan. We have become a laughing stock. When you travel outside the country and meet your fellow African brothers and sisters, they ask you what your population size and budget are. The next question they ask is where we will get the money to cater for our vast population. I have experienced this. If a white man is seated next to you, he will say that we will go to beg them to help us. I felt ashamed because Kenya is a rich country. We have resources. We can get money locally, but we have a tendency of borrowing. We do not borrow to help our economy, but a few people end up pocketing that money.

Currently, the President has a large motorcade. It will take an hour for his motorcade to pass you on the street. Governors also have large motorcades. That is a bad tendency. We are hungry. We are looking for food. The cost of fuel has gone up, but our leaders can fuel the cars that they move around in. Western countries are richer than us, yet they have no resources in

their countries. They get everything they need from Africa, including Kenya. They get copper from us. In Nyatike Constituency, where I come from, the Chinese and the Indians are mining copper and taking it back to their countries. In their countries, their presidents will pass you in one car with their security in another car. However, in Kenya, which is a poor country overloaded with debts, the President and county governors have large motorcades. You even wonder where they are headed to. I want to remind them that death is an equaliser. When you die, you will leave those cars behind. You will go to your God, who will have one question for you. He will tell you that he gave you an opportunity to lead your country...

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Osoro, what is your point of order?

**Hon. Fatuma Mohammed** (Migori County, Independent): I am only stating the reality. Do not be scared of death. As a Muslim, I am not scared of death.

**Hon. Silvanus Osoro** (South Mugirango, UDA): Hon. Temporary Speaker, is it in order for Hon. Fatuma to impose threats of death by saying that death is an equaliser while passing a very important message? Can this House not mitigate such challenges without death? Must we die for us to save our people from public debt?

**Hon. Fatuma Mohammed** (Migori County, Independent): I am sorry if that touched your heart, but I want to remind you that you are a candidate for death. All of us will die. I would like to remind you that as a Muslim, I am not scared of death. I am scared of the day of judgement. That is why it is my responsibility as a Muslim sister to remind my brothers and sisters where they go wrong, as my Holy Book commands. On the day of judgement, I will be next to you, and I will be asked what I did when I saw my president, my county governor or Cabinet Secretary moving around in big cars while people were dying of hunger. What answer will I give my creator? My answer will be that I spoke out against such atrocities, and it is on record. The devil will say that he is a witness. The angels will say that our sister spoke the truth.

Dear Kenyans, let us tell our leaders that the level of public debt is so much. In the six months since this Government was elected, they have exceeded the debt level by Ksh17.4 billion. You then hear that State House spends Ksh2 million daily on tea. The day of judgement is coming. We might not be able to judge you in the right way, but God will judge you. I would like to remind Hon. Osoro and his Government that death is an equaliser. You will leave your cars behind and go to your God empty-handed. Please, remind them. I support the Motion.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Fatuma, the big cars are really scaring you. Well spoken. Let us have Hon. Catherine Omanyoo on the same.

**Hon. Catherine Omanyoo** (Busia County, ODM): Thank you, Hon. Temporary Speaker. I just want to add to what my colleagues have said. They have contributed a lot. Borrowing is not bad. However, what are we borrowing for? We should borrow to promote economic growth. If we borrowed funds and stipulated that every county must have an industry, or a factory that employs our youth so that we can increase our tax base without increasing taxes, we will promote economic growth. We will have money to repay our loans. I am very sure that Kenyans are not afraid of paying taxes. The main issue is corruption and the loopholes that allow people to steal over Ksh2 billion every day and go scot-free, causing this country to bleed more.

The Report is good, but how do we reduce our spending? Just like my colleague has said, you can see the President, the Deputy President and county governors being escorted in style for lunch by a fleet of over 50 cars and *pikipiki* which first stop everybody. The people stopped might be rushing to sell *sukuma wiki* or fruits, but the President is passing. So, everything must stop. Every minute or hour wasted is time for a Kenyan to build this nation.

Members of Parliament abroad travel by train. Somebody will tell you that this is a Member of Parliament and you are surprised. I was in Berlin, Germany, the other day and I

was told that the former Prime Minister, Angela Merkel, goes to the supermarket to shop, and she travels by train. So, we need to cut down public spending on things not needed because it is costing Kenyans more. These are wants and we can do without them. So, we should cut our cloth according to our size. In Kenya, we know where we belong - from the President to the smallest person. So, we should do justice to our nation and not remain beggars the way other people see us. In fact, if you travel abroad, you may greet somebody and he assumes that you are there to beg yet you probably just wanted to pay a courtesy call. We need to improve on our spending. All of us must be responsible in order to manage this debt issue.

The other day I rode on a *pikipiki* and felt really nice because I paid Ksh200. I did not waste time even though there was traffic. I did not spend a lot of money either. I thought, what if everybody used this means? Let people see us living simple lives. *Wananchi* have put our status so high that when you arrive at a meeting on a *boda boda*, they say that you have nothing and that you might eat their money. So, they should not elect you. If you arrive in a big V8 car, they say you are their person. We need to educate our people to understand that being president or governor or member of parliament does not mean that you should arrive at public meetings in style, with a fleet of 30 vehicles, for you to prove that you are honourable. It is upon all of us to change our mindsets and adjust to living simple lives, making sure that the country is safe for us and future generations.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Members, there being no other Member interested in speaking to the Motion, I call upon the Mover to reply.

**Hon. (Dr) Makali Mulu** (Kitui Central, WDM): Thank you very much, Hon. Temporary Speaker. I take this opportunity to thank Members for taking time and being patient to discuss this important Report. As a Committee, we appreciate their positive comments. It is good for them to realise that the elephant in the room in this country is public debt. As a House, it is important that we give public debt the attention it requires. As we debate this Report, it is good that we get it right as this will inform our final decision. I am very impressed by comments from Members and very important things have been said. It is time we trimmed our expenditure or cut our cloth as per our size. As Hon. Kimani Kuria said, it is high time we got a very clear and detailed debt register so that as we move into the future, we see how much we borrow and where the money goes. We should ensure that there is fairness in utilisation of money borrowed and inter-generational equity so that we do not overburden future generations.

Hon. Temporary Speaker, with those many remarks, I beg to reply and, pursuant to Standing Order 53(3), request that you defer putting of the Question to another sitting.

Thank you.

**The Temporary Speaker** (Hon. Omboko Milemba): Thank you. We shall defer putting of the Question to the next session.

*(Putting of the Question deferred)*

Hon. Members, given that we are proceeding on a short recess, on behalf of the Speaker, I wish all of you well as you depart to your respective constituencies.

## ADJOURNMENT

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Members, the time being 7.00 p.m., the House stands adjourned until Tuesday, 25<sup>th</sup> July 2023, at 2.30 p.m.

The House rose at 7.00 p.m.

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