

**PARLIAMENT OF KENYA**  
**THE NATIONAL ASSEMBLY**

**THE HANSARD**

Wednesday, 6<sup>th</sup> May 2020

The House met at 2.30 p.m.

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

**PRAYERS**

**Hon. Speaker:** We can start.

**PAPERS LAID**

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Legal Notice No.55 of 2020 relating to the Banking (Credit Reference Bureau) Regulations and its explanatory memorandum from the National Treasury.

The Annual Performance Report for the Financial Year 2018/2019 from the Ministry of Defence.

The Statutory Six Months Preference and Reservation Report pursuant to Section 157(12) and (13) from the Public Procurement Regulatory Authority.

**STATEMENTS**

**Hon. Speaker:** The Member for Kajiado Central, Hon. Memusi. Is he among those ones who may be on the walkway? Let us get the Member for Teso South, Hon. Geoffrey Omuse.

Next request is by the Member for Mwingi West, Hon. Charles Ngusya Nguna.

Hon. Kanchory Memusi.

**MOVEMENT OF PEOPLE AND LIVESTOCK ALONG  
THE KENYA-TANZANIA POROUS BORDER POINTS**

**Hon. Memusi ole Kanchory** (Kajiado Central, ODM): Hon. Speaker, pursuant to Standing Order No. 44(2) (c), I wish to request for a Statement from the Chairperson, Departmental Committee on Administration and National Security regarding the porous borderlines in the country.

Hon. Speaker, the porous borderline points across the country and in particular the Namanga Border, are risky to the people of Kenya following the outbreak of the Coronavirus Disease of 2019. Livestock are crossing from Tanzania to Kenya unchecked through porous borderline points commonly known as *panya routes*. This has led to the continuous rising cases that have affected this country.

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

Hon. Speaker, it is against this background that I seek a Statement from the Chairperson, Departmental Committee on Administration and National Security on the following:

- (i) What steps is the Government putting in place to contain crossing of people and livestock in the porous border points along the Tanzania-Kenya Border and in particular areas around Namanga Town during this pandemic?
- (ii) Could the Government consider closing down the movement of people in Namanga and Isbania border points among others only with exception of essential services and goods?

I thank you, Hon. Speaker.

**Hon. Speaker:** Is Hon. Koinange in the Chamber? Very well, the response will be from that Committee's Chair. It will be transmitted to the Chair through the Leader of Majority.

Can I get the Member for Teso South, Hon. Omuse? He is not there. Then let us have the Member for Mwingi West, Hon. Ngusya.

#### GOVERNMENT PREPAREDNESS ON E-LEARNING DUE TO COVID-19

**Hon. Geoffery Omuse** (Teso South, ODM): Hon. Speaker. Pursuant to Standing Order 44(2) (c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Education and Research regarding the Government's preparedness in the country on e-learning due to COVID-19.

Hon. Speaker, as a result of COVID-19, the first term of the education calendar was cut short by three weeks in all schools, colleges, universities and other institutions. Further, the Ministry extended indefinite closure by another one month to 4<sup>th</sup> June 2020. This challenge has disrupted learning for many students including examinations and completion of the learning periods and graduations. Even though e-learning was proposed as an alternative way for the learners to continue with schooling and learning at home, it does not help learners residing in rural homes without access to electricity, gadgets equipment and internet accessibility.

Hon. Speaker, it is on this account that I seek a Statement from the Chairperson of the Departmental Committee on Education and Research on the following:

- (i) Could the Government state the appropriate mode of e-learning and its status on the impact of learners during the COVID-19 pandemic?
- (ii) What is the Government's immediate intervention to the majority of learners who cannot access gadgets, internet and electricity?
- (iii) What is the Government's intervention to parents who paid fees in both private and public institutions which were not utilised during the period the schools and institutions were closed?

Thank you, Hon. Speaker.

**Hon. Speaker:** Chair of the Departmental Committee on Education and Research, Hon. Melly, you may proceed. If he is not inside the Chamber, Hon. Omuse, your request is to the Chair of the Departmental Committee on Education and Research, who is making his way into the Chamber.

Hon. Melly, the request by the Member for Teso South is about many issues to do with the long periods of closure of schools, e-learning and of course the fact that not all parts of the country have access to electricity and not all pupils or even their parents have the appropriate gadgets to participate in e-learning.

In a nutshell, the request for a Statement by Hon. Omuse is on things to do with the long periods of closure of schools, issues to do with e-learning and, of course, related to it is the fact that the reality in the country is not all parts of the country have electricity and not all students and pupils and even their parents have the appropriate gadgets to even participate in that e-learning. In a nutshell, the request for Statement by Hon. Omuse is on those lines. How long do you think it could take you to respond?

**Hon. Julius Melly** (Tinderet, JP): Thank you, Hon. Speaker. I have heard the issues raised by Hon. Omuse. However, these are the same issues that I have heard from Hon. Washiali, Hon. (Ms.) Sabina Chege and Hon. Martin Owino. They all discuss the issues concerning the closure of schools, e-learning and many other issues. In fact, the Cabinet Secretary was supposed to appear before the Committee yesterday, but he sent his apologies that there was a Cabinet meeting. He has asked to appear before the Committee tomorrow, but the Clerk was addressing the issue of venue which was giving us a hard time. I promise that if we do not go on recess, by next week, we will bring back the Statement especially on e-learning, which is a thorny issue to all parents and for everyone because not all parts of the country are connected.

I thank you.

**Hon. Speaker:** Did you grant the request to meet the Cabinet Secretary tomorrow?

**Hon. Julius Melly** (Tinderet, JP): Yes. In fact, the Cabinet Secretary said he will be ready to meet the Committee on a wide range of issues, especially those concerning education.

**Hon. Speaker:** So, Hon. Omuse, if you have time and if the space allows, it will be advisable to attend the Committee hearing.

**Hon. Julius Melly** (Tinderet, JP): He is welcomed to attend virtually or physically. Thank you.

**Hon. Speaker:** Very well. Member for Mwingi West, Hon. Ngusya.

#### CONSTRUCTION OF KIBWEZI-KITUI-KABATI-MIGWANI-MBONDONI ROAD

**Hon. Charles Nguna** (Mwingi West, WDM-K): Thank you, Hon. Speaker for the opportunity given to me.

Pursuant to the provisions of Standing Order 44(2) (c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Transport, Public Works and Housing regarding the construction of Kibwezi-Kitui-Kabati-Migwani-Mbondoni Road.

Hon. Speaker, the road was commissioned by His Excellency the President in 2017 to provide an alternative route for vehicles travelling to Machakos, Makueni, Kitui and North Eastern counties, where the Leader of the Majority Party comes from, and ease traffic along Mombasa Road and Nairobi County.

It is against this background that I seek for a Statement from the Chairperson of the Departmental Committee on Transport, Public Works and Housing on the following:

- (i) What is the status of the remaining 25 kilometres?
- (ii) Could the Ministry confirm whether the already tarmacked stretch between Kitui Town and Kabati was part of the contract?
- (iii) What steps is the Ministry taking to ensure that the contract is not abandoned midway?
- (iv) What measures has the Ministry put in place to ensure the project will be completed?
- (v) When is the construction of the road envisaged to be completed?

Thank you, Hon. Speaker.

**Hon. Speaker:** Chairman of the Departmental Committee on Transport, Public Works and Housing, are you in the Chamber? Please, give an indication. Put on intervention.

**Hon. David Pkosing** (Pokot South, JP): I thank you, Hon. Speaker. One week is enough.

**Hon. Speaker:** One week it is, Hon. Ngusya. Very well. I see there is an intervention from the Member for Rarieda, Hon. (Dr.) Otiende.

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): Thank you, Hon. Speaker. I wish to bring to your attention for your direction that the Member for Kimilili is adorning his Kibra hat, which to my knowledge is not a religious hat. Is it in order for the Member to wear such an attire in this Chamber other than in Kibra?

**Hon. Speaker:** Or perhaps only in the village? Hon. Didmus Barasa, can you rise so that I can make a determination?

*(Hon. Didmus Barasa rose in his place)*

Obviously, that is meant to excite villagers. You have to go and throw it away or withdraw from the Chamber. That is not part of the clothing expected in the Chamber.

Member for Gichigu, Hon. Robert Gichimu.

**Hon. Robert Gichimu** (Gichugu, JP): Hon. Speaker, before I request for this Statement, I would like to seek your directions. I sought another Statement which was directed to the Chair of the Departmental Committee on Administration and National Security on 22<sup>nd</sup> April but I have not got any response. This other question is also directed to the same Chair. It was on the issue of the preparedness and criteria to be used in respect of relief to the needy.

**Hon. Speaker:** Well, I may not be able to address that particular issue now, given that you know the calendar of the House. Even the many requests that are there now will obviously have to wait, including those that Hon. Pkosing says he can deal with within a week. Unless he will give the responses virtually, but it is certainly outside the period because this particular period is traditionally reserved for various committees to consider the annual budget estimates for the national Government, the Judiciary and the Legislature.

This one month period is traditionally reserved for committees to engage with the various ministries to address the issue of Estimates. Maybe you can make your request and then it will be transmitted to the Chair of that Committee alongside the other one you have mentioned, so that they can look at them together.

**Hon. Gichimu Githinji** (Gichugu, JP): Very well, Hon. Speaker. I hope they will be both answered at the same time.

My request for Statement today is in respect of village elders, block leaders and *Nyumba Kumi* volunteers across the country during the COVID-19 Pandemic.

WELFARE OF VILLAGE ELDERS, BLOCK LEADERS AND NYUMBA KUMI  
VOLUNTEERS DURING THE COVID-19 PANDEMIC

Hon. Speaker, pursuant to Standing Order No.44 (2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding the welfare of village elders, block leaders and *Nyumba Kumi* volunteers in Gichugu Constituency and across the country during the COVID-19 pandemic.

The national Government administration officers, particularly chiefs and assistant chiefs, including village elders, block leaders and *Nyumba Kumi* volunteers have been working with the Government in the management of the spread of the COVID-19 in the country and are frontline workers at the village level. They have put a lot of effort in Gichugu Constituency, especially in the locations of Kabare, Kirima, Thumaita, Karumandi, Baragwi, Njukui-ini North, Njukui-ini South, Ngariama, Rwathai and Gachigi.

It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Administration and National Security on the following:

- (i) What measures the Ministry has put in place to ensure that the said categories of assistants to the national Government administration officers, namely, village elders, block leaders and *Nyumba Kumi* volunteers or leaders are provided with the requisite protective gear, including face masks and gloves as well as soaps and sanitisers for their use in the course of discharging their duties during the period of COVID-19 pandemic.
- (ii) What measures the Ministry has put in place to ensure that the said categories of assistants to the national Government administration officers have medical insurance, for example, ensuring that they are covered by the National Hospital Insurance Fund (NHIF) during the period of COVID-19 pandemic and thereafter.
- (iii) What measures the Ministry has put in place to ensure that the said category of assistants to the national Government administration officers are facilitated with monthly allowances to enable them meet their daily expenses like food, transport, airtime and other incidental costs during the period of COVID-19 and thereafter while discharging their duties and responsibilities.

Thank you, Hon. Speaker.

**Hon. Speaker:** The request will be channelled through the Leader of the Majority Party to the Chair of the Departmental Committee on Administration and National Security.

There is a request by the Member for Mwatate, Hon. Mwadime.

REASONS FOR GRANTING COMPULSORY LEAVE TO  
MR. KEVIN LEWIS SAFARI BY COMMISSIONER-GENERAL OF KRA

**Hon. Andrew Mwadime** (Mwatate, ODM): Hon. Speaker, pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Labour and Social Welfare regarding compulsory leave of Mr. Kevin Lewis Safari, Personal Employment Number 00005634 and ID No. 11055915, by the Commissioner-General of the Kenya Revenue Authority (KRA).

Mr. Kevin Lewis Safari was working at the KRA stationed at Times Towers. On 24<sup>th</sup> April 2020, he was illegally sent home on compulsory leave for a period of 90 days without being given a chance to show cause why. He is at risk of losing his job yet Kevin is the only person holding a senior position in the Government from Mwatate Constituency.

It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Labour and Social Welfare on the following:

- (i) What circumstances led to Mr. Kevin Lewis Safari of Personal Employment Number 00005634, ID No.11055915 being sent home on compulsory leave for 90 days by the Commissioner-General of the KRA; and

- (ii) When he will be reinstated to work at the station he was before, including payment of his dues.

Thank you, Hon. Speaker.

**Hon. Speaker:** There are those things about quadruple.

**Hon. Andrew Mwadime** (Mwatate, ODM): They do not understand that I am a mathematician.

**Hon. Speaker:** Hon. Mwadime is a mathematician, and he is an active Member of the Committee on Pensions. So, those who are likely to be liable to pension, like Hon. Junet, need to address him with care.

The Chair of the Departmental Committee on Labour and Social Welfare, Hon. Ali Wario, will respond to that request.

**Hon. Member:** I want to support, Hon. Speaker.

**Hon. Speaker:** There is no support about a request for Statement. The request for the Statement to be channeled through the Office of the Leader of the Majority Party.

Let us have the Member for Kiambu Constituency, Hon. Jude Njomo. If he is taking too long to come...

*(Hon. Jude Njomo walked into the Chamber)*

Walk right into the Chamber and not with swag.

#### TAXES CHARGED ON PERSONAL PROTECTIVE EQUIPMENT BY KRA

**Hon. Jude Njomo** (Kiambu, JP): Thank you, Hon. Speaker. I was not delaying purposely. I had to give them time to sanitise the microphone.

Pursuant to the provisions of Standing Order No. 44(2) (c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Finance and National Planning regarding taxes allegedly being charged on Personal Protective Equipment (PPE) by the Kenya Revenue Authority (KRA).

Hon. Speaker, it is alleged that before the Presidential directive, taxation on PPE was falling under the Customs Tariff Code 9018.90, which calls for 16 per cent on Value Added Tax (VAT) and 0 per cent Import Duty. After Parliament passed the Tax Laws (Amendment) Bill, 2020, to remove taxes on PPE, KRA, while relying on a World Customs Organisation write-up, classified PPE under the new Tariff Code 6307.90, which calls for 14 per cent on VAT and 25 per cent taxation on Import Duty.

Going by this new Tariff Code, KRA's argument is that the President and the National Assembly only removed the 14 per cent on VAT and not 25 per cent taxation on Import Duty. The National Assembly was so passionate on cushioning Kenyans against taxes on PPE to make them more affordable, but they are being made even more expensive by KRA's new Tariff Code 6307.90, therefore, defeating the purpose of the new tax law approved by this House.

Hon. Speaker, it is against this background that I seek a Statement from the Chairperson on the following:

- (i) To confirm that PPE are still subject to 25 per cent Import Duty as KRA is alluding.
- (ii) Why is the KRA's Simba System now classifying PPE under a new Tariff Code 6307.90 and, therefore, calling for 0 per cent VAT and 25 per cent Import Duty on PPE?

Thank you, Hon. Speaker.

**Hon. Speaker:** Again, I do not see Hon. Joseph Limo in the Chamber.

**Hon. Member:** He is here.

**Hon. Speaker:** Oh! Yes, Hon. Joseph Limo. You know he is always equal to the task. Hon. Joseph Limo, you will engage and give an appropriate response when the House reconvenes.

*(Hon. Joseph Limo spoke off record)*

Very well. Next is by Member for Suna West, Hon. Peter Masara.

MEASURES TO MITIGATE RISKS FACING RESIDENTS OF BORDER COUNTIES  
DURING COVID-19 PANDEMIC

**Hon. Peter Masara** (Suna West, Independent): Hon. Speaker, pursuant to Standing Order No. 44(2) (c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Health regarding measures being put in place to mitigate risks facing residents of border counties with regard to the spread and management of COVID-19.

Notwithstanding reports that COVID-19 is quickly spreading in border counties with Migori County having recently registered its first two positive cases, some of the residents of these regions have continued to defy most of the Ministry of Health guidelines and rules regarding social distancing, wearing face masks and crossing the common border with the neighbouring counties at will. For instance, Migori County, which has been identified as a high-risk region on matters of COVID-19, is unable to control movement of people across the border with Tanzania because of the porous nature of the common border.

Hon. Speaker, despite the counties being high-risk regions, most of them lack health facilities, equipment and personnel to effectively handle COVID-19 cases. For instance, Migori County does not have a single Intensive Care Unit (ICU) ward.

It is against this background that I seek for a Statement from the Chairperson of the Departmental Committee on Health. In her Statement, the Chairperson should inform the House on the following:

- (i) What measures has the Government put in place to seal all loopholes that may trigger the spread of the virus in the border counties such as Migori County?
- (ii) What measures is the Government putting in place to control movement of people across the porous common border with Tanzania?
- (iii) What measures is the Government putting in place to ensure the border counties particularly, Migori County, have the capacity in terms of health facilities, equipment and personnel to be in a position to effectively handle COVID-19 cases?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Chairperson of the Departmental Committee on Health is in the Chamber. I think you will be able to make a response to that when the House reconvenes.

Next is by the Leader of the Majority Party.

FLOODING IN GARISSA COUNTY OCCASIONED BY KenGen

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, it is my first time to seek a Statement. Because I represent the great people of Garissa Township, pursuant to provisions of

Standing Order No. 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Energy regarding flooding in Garissa Township Constituency occasioned by the Kenya Electricity Generating Company PLC, (KenGen) opening up its dams.

Over the years, perennial floods have continued to ravage Garissa County along the areas of Tana River Basin occasioned by heavy rains and the continuous act of negligence by KenGen by releasing excess waters from its Seven-Fork Reservoirs. These floods have resulted into loss of lives, displacement of people and destruction of properties including farms. Today, more than 8,000 households from Bula Iftin, Bula Punda, Bula Sheikh, Windsor and Ziwani areas in Garissa Town have been affected by the floods and are living in makeshift camps and schools within the town and along the Tana River Basin as depicted and pictured even by the Kenya Red Cross and the Government.

Hon. Speaker, it is against this background that I seek a Statement from the Chairperson - I do not mind if I get a written Statement as soon as possible - of the Departmental Committee on Energy on the following:

- (i) What long-term measures has the Government put in place to address the flooding occasioned by spillage from Masinga Dam into Tana River thus affecting the Tana River Basin and Garissa County as a whole?
- (ii) What permanent solution is the Government putting in place or is underway to prevent the frequent spillage from Masinga Dam and the Seven-Fork Reservoirs?
- (iii) Could the Government construct dykes along the river particularly where human settlement is established to prevent flooding?
- (iv) Could the Ministry consider constructing more dams to collect the excess water and also compel KenGen to compensate the people affected along the Tana River Basin for the loss of lives, livestock and properties?

Thank you, Hon. Speaker.

**Hon. Speaker:** Do I see the Chairman of the Departmental Committee on Energy, Hon. Gikaria? The Statement is from the Leader of the Majority Party in his capacity as the Member of Parliament for Garissa Township. The request he is seeking in written form would be submitted through the Office of the Leader of Majority Leader.

The other request is from the Member for Homa Bay County, Hon. Gladys Nyasuna Wanga. If she is in the other holding places, she could be notified that it is her turn to seek the Statement. In the meantime, let us have the Member for Mukurweini, Hon. Anthony Kiai.

#### ELECTRICITY SUPPLY OUTAGES IN MUKURWEINI CONSTITUENCY

**Hon. Anthony Kiai** (Mukurweini, JP): Thank you, Hon. Speaker.

Pursuant to Standing Order No.44 (2)(c), I wish to request for a Statement from the Chairperson, Departmental Committee on Energy regarding persistent electricity supply outages in Mukurweini Constituency.

Hon. Speaker, as you are aware, electricity is the main source of power in offices, industries, hospitals and households in this country. However, lack of access to supply of electricity constraints modern economic activities, provision of public services and quality of life in general.

However, the residents of Mukurweini Constituency have been experiencing persistent power outages for the last two months. The Kenya Power Company has been disconnecting customers' electricity supply without issuing prior explanation or notice thereby breaching its



contractual obligation to its customers and creating a lot of inconveniences. The effects of the electricity blackouts are far-reaching to the community especially during this COVID-19 pandemic, where the country is in a lockdown and citizens mainly rely on electricity for their daily activities especially the education sector, small-scale businesses, health and security.

Hon. Speaker, it is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Energy on the following:

- (i) Could the Chairperson explain why the Kenya Power has been interrupting and disconnecting the customers' electricity supply for hours in Mukurweini Constituency without prior notice?
- (ii) What steps has the Government taken to ensure that Kenya Power does not breach contractual obligations with their customers?
- (iii) What measures has the Government put in place to ensure consistent provision of electricity by Kenya Power especially during the COVID-19 pandemic?

**Hon. Speaker:** The Chairman, Departmental Committee on Energy is not in the Chamber. The request will be channeled through the Office of the Leader of the Majority Party.

Before Hon. Wanga makes her request, I would like to bring to the attention of the Serjeant-at-Arms that I can see a number of empty seats. At this time, 45 minutes after the commencement of business, no one should come and claim that the seats had been reserved for them. Other Members desiring to be in the Chamber, including Hon. Wanga can occupy the empty seats. We will not reserve seats for the indolent. Those who have chosen to be in the streets and not in the Chamber are denying a chance to those desirous to be here. Serjeant-at-Arms, please, usher in those Members who want to be in the Chamber. Nobody should come to claim later that their seats have been allocated.

Proceed, Hon. (Ms.) Wanga.

#### MEASURES TO SUSTAIN PROVISION OF WATER AND SANITATION SERVICES DURING COVID-19 PANDEMIC

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you, Hon. Speaker.

Hon. Speaker, pursuant to provisions of Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Environment and Natural Resources regarding measures to sustain the provision of water and sanitation services in the country during the COVID-19 pandemic.

Hon. Speaker, provision of water and sanitation services is a constitutional function of county governments, but in the recent directive by the President, no water provisions and services should be disconnected during this pandemic period. This is undertaken on their behalf by licensed water services and sanitation companies which include but not limited to, Homa Bay County, Nairobi City Water and Sewerage Company in Nairobi County, Kisumu Water and Sanitation Company in Kisumu County, Mandera Water and Sewerage Company in Mandera County just to mention a few. These companies are fully owned by the county governments and regulated by Water Services Regulatory Board (WASREB)

Hon. Speaker, it is against this background that I seek a Statement from the Chairperson, Departmental Committee on Environment and Natural Resources on the following:

- (i) What measures has the Government put in place to provide subsidies to the water companies for at least three months for purchase of chemicals to cater for

community water supplies and payment of electricity bills given that the directive implies that there should be no disconnection even due to non-payment?

- (ii) Could the Government waive fees and levies on all water related services and provisions during the COVID-19 period?

Thank you, Hon. Speaker.

**Hon. Speaker:** Chairman, Departmental Committee on Environment and Natural Resources, Hon. Kareke Mbiuki.

*(Loud consultations)*

At least we know that Hon. John Mbadi was here and he just walked out and he showed a desire to come back. The seat you have occupied has been empty since the commencement of business.

Hon. Wangwa, your request will be channeled through the Office of the Leader of the Majority Party. Hon. Members that ends the Order on Requests for Statements.

Hon. Wangwe, are you suggesting that you have a request? How come I have not seen it?

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker. I want to seek a clarification on the Order regarding the Committee of the whole House on Communication by the Departmental Committee on Agriculture...

**Hon. Speaker:** Not yet.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker.

**Hon. Speaker:** There are responses. However, Hon. Julius Melly indicated that with regard to the Statements sought by Hon. Washiali, Hon. Sabina Chege, Hon. Martin Owino and Hon. Omuse, they have a meeting with the Cabinet Secretary tomorrow. Is it my understanding that the responses will not be issued now?

**Hon. Julius Melly** (Tinderet, JP): Hon. Speaker, I have responses to the three Statements sought.

**Hon. Speaker:** You have responses for the three Statements?

**Hon. Julius Melly** (Tinderet, JP): Yes.

**Hon. Speaker:** I see. You do not think the responses will cover the request made by the Member for Teso South?

**Hon. Julius Melly** (Tinderet, JP): Yes.

**Hon. Speaker:** Proceed.

**Hon. Julius Melly** (Tinderet, JP): The requests for Statement by Hon. Sabina Chege, Hon. Jomo Washiali and Hon. Martin Owino are different, but they have covered in part issues of e-learning. Tomorrow, the Cabinet Secretary will address all these issues and others, including the aspect of e-learning that was raised by the Member for Teso South. I have written responses from the Cabinet Secretary regarding the Questions by the Members. If it is in order, I can proceed to read the responses.

Hon. Leader of the Majority Party, you know I am responding to a request for a Statement. Therefore, I have to give the detailed version as given by the Cabinet Secretary.

**Hon. Speaker:** Give the salient issues if it is so long so that we can move because there is a lot of heavy business.

MEASURES TO ADDRESS LEARNING AND EXAMINATION  
PROGRAMMES DURING COVID-19 PANDEMIC

**Hon. Julius Melly** (Tinderet, JP): The question was what measures the Ministry of Education has put in place to address the issue of learning and examination programmes for schools, colleges, universities and other institutions in the country, without compromising the education calendar and subsequent years for learners, including graduations and other ceremonies.

Just like in other sectors, the COVID-19 situation has also affected the education sector adversely, including the normal learning calendar. Learning institutions also closed early for the first term holiday. In addition, the opening for second term has been rescheduled by one month, effective 4<sup>th</sup> May 2020 as the Ministry continues to monitor the COVID-19 situation and consults with other relevant Government agencies before undertaking any further mitigation measures in the sector.

In the meantime, the Ministry, through the Kenya Institute of Curriculum Development (KICD), is delivering the curriculum through virtual learning and other digital platforms, including television, radio, the Kenya Education Cloud and digital contents in CD. Universities have also switched to online platforms. The calendar for administering the Kenya Certificate of Primary Education (KCPE) and the Kenya Certificate of Secondary Education (KCSE) examinations remains unchanged. If the Coronavirus persists thereby precipitating a change in the examination calendar, the Ministry will take appropriate action and inform the Kenyan public.

On the measures the Ministry is putting in place to address the gap that e-learning is not equitable to all learners due to limited or no access to the internet, equipment and gadgets and other infrastructure such as electricity in other areas in the country, the Cabinet Secretary responded that upon reopening schools, coverage of the curriculum will resume from the point of coverage as at mid-March. This is important because many areas in this country do not have internet and people do not even have access to radio. This will ensure that all learners who do not have access to e-learning are sufficiently accommodated.

In order to ensure that as many learners as possible have access to the out of classrooms lessons, the Ministry of Education, Science and Technology, through the KICD, is using a variety of methods to deliver virtual lessons. Before the COVID-19 pandemic, the KICD in partnership with the Kenya Broadcasting Corporation (KBC) had been airing radio lessons for a cumulative four to five hours a day. However, during the COVID-19 pandemic period, the radio lessons that were being aired have been up-scaled to eight hours per day.

In order to take care of learners in rural areas, the Ministry of Education, Science and Technology, through the KICD, has partnered with over 15 regional radio stations to broadcast out of classroom learning lessons. The use of radio is more prevalent in rural areas, especially where there is no electricity since dry cells are prevalent in rural areas. Dry cell batteries have been used to power the radio for many years. Adequate sensitisation is also being carried out on continuous basis through mainstream and social media as well as use of bulk SMSs to reach all parents, including those in rural areas, to tune to radio lessons for their children. Further, the KICD is using the Kenya Education Cloud, where digital items like e-learning materials are uploaded and learners access them free of charge.

The last question is if digital e-learning and use of other devices will, indeed, be rolled out, what measures the Government has put in place to ensure effective teaching dissemination and learning for all pupils and students in schools, colleges, universities and other institutions

throughout the country, in a holistic, cheaper - if not free - equitable, standardised and qualitative manner.

As mentioned in response one above, the Ministry of Education, Science and Technology, through the KICD, is providing out of classroom lessons to over 15 million learners in both primary and secondary schools without any charges. The pre-recorded lessons are done by qualified teachers who have been adequately trained on the new teaching pedagogies for the Competence Based Curriculum (CBC). These teachers have been offered accommodation at the KICD in order to minimise their exposure to COVID-19 as they provide this essential service.

To facilitate online capacity building for teachers, especially in the use of technology in teaching and learning, the KICD has established Elimika, which is an online portal within the Kenya Education Cloud platform. Through the Elimika online based portal, all teachers can enrol for capacity building courses on CBC, ICT integration in teaching and learning as well as health literacy.

The content on teacher orientation lessons for in-service teachers and career sensitisation programmes is also available in CD devices at the institute and can also be accessed on education television channels, the Kenya Education Cloud and *YouTube*.

I think those are the main issues.

The other question sought an explanation as to how the said digital learning away from the classroom will be accessible to children from extremely disadvantaged families, whose parents have no laptop computers, smart television sets and smartphones or even electricity and other power sources. This is very important because a majority of Kenyans are in this category.

The Ministry of Education, Science and Technology, through the KICD, is providing varied viable options for the extremely disadvantaged families and parents without access to laptop computers, smart phones and television sets or electricity connectivity, to access out of classroom learning for parents who cannot access television and online lessons through the Kenya Education Cloud and *YouTube*. The KICD has partnered with KBC's Radio Taifa and English Service with coverage in all counties to air the out of classroom lessons to learners in disadvantaged and remote areas. The advantage of radio as a communication device is that in the absence of electricity, dry cell batteries can be used to power it. In addition to KBC's English Service and Radio Taifa, the KICD has partnered with over 35 faith-based and community radio stations that are accessible even in remote areas and informal settlements to broadcast the curriculum lessons hence ensuring service to over 99 per cent of the country. These include KBC, Iftin FM in Garissa and Wajir, Radio Mitume in Kitale, Radio Upendo in Eldoret, Radio Amani and Radio Umoja in Nakuru, Radio Waumini and Radio Maria in Nairobi, Radio Maria in Murang'a, Radio Tumaini in Mombasa, Radio Mchungaji in Maralal, Radio Shahidi in Isiolo, Radio Jangwani in Marakwet, Radio Wega in Meru, Radio Kimuri in Embu, Radio Osotua in Ngong, Ekeyokon FM in Lodwar, Watchman FM in Samburu and West Pokot and Ejok FM in Turkana, Baringo, Elgeyo/Marakwet, Laikipia, Isiolo, Marsabit and many others. Those are the number of radio stations which are covering most parts of the country.

Some of the radio stations broadcast within informal settlements and, therefore, facilitate access to out of classroom lessons to disadvantaged learners in those areas. The KICD is also engaging other radio stations with a view to enter into partnership with them to upscale dissemination of out of classroom lessons.

Those are the responses to the Question by Hon. Sabina Chege. There are two responses to Questions by Hon. Jomo Washiali. I will go over them.

## MEASURES TO ENSURE EQUAL VIRTUAL LEARNING BY LEARNERS

He asked what measures the Ministry of Education, Science and Technology has put in place to ensure equal access to virtual learning by all learners, especially those living in informal settlements and rural areas. Most of these are repetitions. They are almost the same. I think this has been adequately answered by the earlier responses.

**Hon. Speaker:** It is not that they have been answered. Rather, it is that they have been covered.

**Hon. Julius Melly** (Tinderet, JP): Thank you, Hon. Speaker. This response has been covered in the earlier response because it is still on virtual learning and out of school learning. Students in informal settlements will use radio as advised earlier on.

There is one particular question, question two, if you may allow me to read: Could the Ministry confirm that physical infrastructure such as electricity and internet connectivity is available to all learners?

I wish to confirm that currently, physical infrastructure such as electricity and internet connectivity is not available to all learners. The Ministry has been leveraging on the electricity infrastructure that has already been rolled out by the Ministry of Energy, especially with regard to increased connectivity to the national grid through the last mile programme and the use of solar panels. The Ministry has also been applying the same strategy by leveraging on increased internet connectivity by the Ministry of ICT and Broadcasting. The Ministry continues to liaise with the two Ministries with a view to taking advantage of any additional electricity connections and internet connectivity, so that it can reach as many learners as possible.

What plans has the Ministry put in place to ensure that e-learning platform is sufficient for preparation of candidates who are due to sit for national examinations? I will read this because this is a peculiar question and it is good that Members see what the Ministry is doing.

In addition to television and radio lessons, the Kenya Education Cloud has proved useful, especially for candidates who were due to sit for national examinations at the end of the year. The cloud whose domain is *www.ke.ac.ke* hosts interactive digital content and radio lessons on demand. It has e-books for O-levels to serve pupils, teachers and online users and for teachers on curriculum integration and use of ICT in learning. Digital uploading from internal sources that is, radio and television sections of the Kenya Institute of Curriculum Development and external publishers, is continuous. All digital content is accessible free of charge during the period of COVID-19 pandemic in preparation of the programming and transmission schedules for both radio and television. The Kenya Institute of Curriculum Development is paying special attention to the candidates who will be sitting for national examinations at the end of this year including increasing the number of subjects covered as well as upscaling the digital revision materials for the candidate classes.

The last Question was: Could the Chairperson confirm whether the Ministry has deployed quality assurance teams to assess the coverage and impact of e-learning on learners across the country and if so, could the Chairperson table a report on the same? There is a Report here that I want to table.

Quality assurance and standards officers have conducted a survey to gather information on online and media learning. The survey was guided by five indicators as below:

- (i) Awareness of the radio and television lessons of KICD;
- (ii) Quality of teaching being offered via online and media;
- (iii) Quality of supervision of learning by teachers;

- (iv) Quality of assessment of learning by teachers; and
- (v) Role of stakeholders such as teachers, learners, principals and parents.

I have an attached list of a total of 1,295 responses that were analysed.

On the Question by Hon. Martin Peters Owino, the response is like what I had indicated in one Question that was asked by Hon. Njomo and Hon. Washiali. That one is adequately covered. I will read the one concerning hygiene. The rest were well covered.

What preparedness and precautionary measures has the Ministry undertaken to ensure that the Government policy and directives on hygiene and social distancing by schools will be observed and adhered to the letter when they reopen in regard to the COVID-19 pandemic?

The Ministry will continue to engage with the National Task Force on COVID-19 and other Government agencies from time to time on policy direction and on interventions for prevention against COVID-19 to ensure that policies on hygiene and social distancing by schools are observed and adhered to when schools reopen.

There is also an issue on commodities. What steps has the Ministry taken to ensure that essential commodities are available and will be distributed to all schools?

As indicated in the response above, the Ministry will engage the relevant Government agencies and national committee on COVID-19 in ensuring strict adherence to the guidelines issued with a view to facilitating the availability of essential commodities in schools. It will include learning materials and food stuffs of which some are currently stored in stores at sub-counties.

What measures have been put in place to ensure that fumigation and sanitation of schools that were identified and used as quarantine centres are done thoroughly before reopening?

The Ministry will liaise closely with the national committee on COVID-19 and the Ministry of Health with a view to benefiting from its expertise and guidance in fumigating and sanitising the schools that were identified and used as quarantine centres before reopening.

Will the Government consider waiving payment of tuition and exam fees to the needy students who cannot afford considering that the income of many parents has been diminished by the effects of COVID-19?

At the moment, the Government does not charge both tuition and examination fees for KCSE and KCPE candidates. The tuition fees is paid by the Government in all public primary and secondary schools. In addition, the examination fees is fully paid by the Government for candidates in both private and public schools.

Does the Ministry have a plan to engage counsellors to provide guidance and emotional support systems considering that COVID-19 is shrouded by fear and stigma?

At the moment, the Ministry has no plans to engage counsellors to provide guidance and emotional support system for learners. This is mainly due to various constraints including unavailability of budgetary allocation for the recruitment of such specialists. However, the Ministry will continue working closely with a multi-agency team on COVID-19 with a view to ensure that learners are accorded all the necessary support that they may require when schools reopen.

Those are the three responses for the Members. The Cabinet Secretary has indicated that tomorrow he will appear before the Committee. If we will have a venue, Hon. Members are invited, so that they can discuss many of these issues.

Thank you.

**Hon. Speaker:** Well, as you know, the first shot goes... Do not raise your hands. The first shot goes to the person who made the request. That is the order. Otherwise, it will lose

direction. So, Hon. Sabina Chege, is there any comment you would wish to make regarding the Statement that has been made in response to your question?

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Yes, Hon. Speaker. I want to thank you and the Chair of the Departmental Committee on Education and Research for covering the questions that I asked. However, I am a mother and I have children who are going to school.

**Hon. Speaker:** Are you a Member here or you are a mother?

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Speaker, I am a mother and a Member. This information that the Chair has shared, for example, on the radio stations - I heard him mention Radio Maria in Murang'a County - is not with the people on the ground. For example, I do not have this information. I have been trying to search for where I can keep my children busy when they are at home, but I do not have information. The information could be on paper, but we would like to have a thoroughly explained breakdown of that information. We know that in primary school, there is Grade One up to Grade Eight. So, if I am to tune in to Radio Maria, what time should I switch on to get what is of value for my child who is in Grade Two? We also have children in secondary schools.

I heard the Chair saying that if COVID-19 pandemic stays on, they will decide whether KCSE or KCPE will be done. Our children have lost three months. We normally say necessity is the mother of invention. The Ministry must be innovative to know how they will reach out to candidates who are in Class Eight and Form Four to get them prepared. Otherwise, they will extend the term to next year.

I have also noted that there is an assumption that all Kenyans can afford a radio and batteries. At this time, people have no food on the table.

*(Applause)*

So, through the provincial administration - assistant chiefs, chiefs and the *Nyumba Kumi* heads - how can we reach our children in the villages and come up with a programme where we do not have to tell them to listen to radio or watch television? They might not even be able to afford these facilities. You might have a radio, but you have no batteries. I just want to add, because the Chair said they are going to have another meeting tomorrow, kindly let us consult widely and see how we can help our children. No child should be discriminated against, whether in the urban areas or the rural areas. All children are equal. We normally say education is the only equaliser. Let us not leave any child behind.

I thank you, Hon. Speaker.

**Hon. Speaker:** And especially now that you added yet another mother: necessity. Apart from yourself, now necessity is the other mother. Hon. Washiali. Now this is a father.

*(Laughter)*

**Hon. Benjamin Washiali** (Mumias East, JP): Thank you, Hon. Speaker. Let me take this opportunity to also thank the Chair for the responses and quickly add that I would not really want to blame him, because it is a copy and paste exercise. It is surprising that the Ministry is not taking their work seriously. In the response, the Ministry indicates that the opening for second term has been rescheduled by one month, effective 4<sup>th</sup> May. This is the response from the Ministry yet the Ministry has already announced that it has rescheduled opening to 4<sup>th</sup> June. This is the response to

both Hon. Sabina's request for Statement and to my request. I think it is very unfair that the Ministry could be giving us wrong information.

I would not want to belabour a number of supplementary issues because they are more or less similar to what Hon. Sabina raised. I would just want to insist that not all students have the opportunity to go through virtual learning. As Hon. Sabina rightly pointed out, you need money to even buy batteries, so that you can access radio learning. Therefore, I think it is important that we meet the Cabinet Secretary. He is behaving like he lives on the moon. We need to meet the Cabinet Secretary himself tomorrow, so that he can explain this satisfactorily.

Thank you, Hon. Speaker.

**Hon. Speaker:** Including listening to that Watchman FM. Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, first I want to thank the Chair only for one thing: transmitting to this House a Statement I can describe as fake. It is fake.

*(Applause)*

This House cannot act in vain. What the Chair read as given by the Cabinet Secretary is not something which is practical. We represent people, including children of Kenya. The Cabinet Secretary for Education is playing with our children. Every Sunday when he appears on the COVID-19 briefings, there is something he says that: "I have been appointed by the President". Yes, and vetted by this House, for the people of Kenya. You do not need to remind us that you have been appointed by the President. The President did not appoint you to wash his clothes. He appointed you to take charge of the Ministry of Education.

*(Applause)*

You should tell us how you will reach a child in Turkana or in Homa Bay. The rich with children in Brookhouse and Aga Khan have their children learning. We must be very honest. Their children are learning. Even those who have taken their children to private universities like Strathmore, their children are learning. Now, tell us about the 99 per cent of the children of Kenya, who we represent here? The answers given by the Chair are inadequate. Hon. Speaker, I want you to take charge and rule that that answer is not admissible.

*(Applause)*

It is not admissible. You are talking about Radio Waumini.

**Hon. Speaker:** But you are wrong. The response is admissible for the simple reason that the Cabinet Secretary is appearing before the Committee, so that you can interrogate him on what is contained in it. The best thing is to admit it, so that you have a basis on which to interrogate him.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, you have corrected me. Admissibility is about accuracy. It is a parliamentary term. I am sorry. I withdraw that. The document is accurate, but the information it carries, in my opinion, is fake. I have just seen the Statement. The people who now live in schools in Garissa are those who have been affected by the River Tana flooding. There is no radio. Let us not cheat ourselves. The Cabinet Secretary for Education must come out and tell us what plans he has for examinations. He is saying that he is not going to postpone the examinations. It is like he knows when Coronavirus is going to end.



Every time he says the Government will not postpone exams. But he is not bothered about how the Standard Eight pupils and Form Four students are going to prepare for those exams. Teachers are paid. The Teachers Service Commission is paying teachers. The country needs to be told in black and white how the children of Kenya can access education under Article 53(1) of the Constitution, particularly children in public primary and secondary schools. How can they access education under this pandemic? That is the fundamental question Prof. Magoha and his team must answer. Do not tell us about radios. There are people who have no radio. There are people who have no access to internet. There are people who live in one-room houses, which are the bedroom, the study room and the kitchen.

I agree with the Chair. He has been given a response, but that response is an insult to the institution of the National Assembly.

**Hon. Speaker:** I will just allow a few comments because I have shown you how it is done. You can even ask Hon. Otiende Amollo. If you are in a court of law, nobody stops you from presenting a fake affidavit, but you will be cross-examined on it until it is established that actually you are telling a lie. So get the document as it is, appear before the Committee when the Cabinet Secretary comes tomorrow and interrogate him on the basis of what he has given. The request for the Statement came from three Members, namely Hon. Sabina Chege, Hon. Washiali and Hon. Martin Owino. So, we will hear Hon. Martin Owino, Member for Ndhiwa.

**Hon. Martin Owino** (Ndhiwa, ODM): Thank you, Hon. Speaker. I also want to thank the Chair for relaying that feedback to us. I do not accept the feedback and I am disappointed.

*(Applause)*

My questions were very simple. The Ministry declared that they wanted to open schools. What I wanted is the return to school plan. For example, in my constituency, three children still sit on one desk. How will they observe social distancing? That is a budgetary issue. What the Ministry is telling us here is that they continue to engage and yet they pronounced themselves very clearly. These are very difficult times for our children. I asked: What plans in terms of counselling and emotional support will the children get when they return to school?

The answer we get is that there are no plans because of budgetary constraints. They do not even know there is a COVID-19 Fund that they can ask for. Several schools are being used for fumigation and sanitation. So, what are the plans? We are liaising with the Ministry of Health. When I look at these responses coming from a Cabinet Secretary, it is disheartening. I want your guidance and I think you have given. We have to be in that meeting tomorrow and interrogate because they are not prepared and they keep on making pronouncements. It is unacceptable.

**Hon. Speaker:** Hon. Junet, what is it?

**Hon. Junet Nuh** (Suna East, ODM): Hon. Speaker, the Statement is not really addressing the issues that have been raised. There is no learning going on in my constituency as I speak. I can confirm here. The problem we have with the Ministry of Education is that we have a Cabinet Secretary who is addressing children and parents the same way. He thinks parents are like children. Whenever he is talking to them on television, he tells them: "Did you hear me? Can you hear me?" I am a parent. I am a big man. You should address me like a parent not like my child who is in Standard Three.

*(Laughter)*

That condescending attitude must stop if we are to engage with that man.

**Hon. Speaker:** Hon. Lilian Gogo, the Floor is yours.

**Hon. (Dr.) Lilian Gogo** (Rangwe, ODM): Hon. Speaker, thank you for giving me time to indulge in this particular matter. I stand here as a Member of Parliament and also, as an academician. This issue is at the heart of Kenya. When it comes to education for our children, we are honestly not going to engage in rat, cat and mouse games. When it is virtual learning, we want it to reach the very lowest end. As it has already been said by Hon. Sabina, there are some families that do not even have that particular battery to put into a radio system to listen to radio stations. What do they mean by radio stations? Who owns these radio stations? We represent the poor and the rich in this House. Our biggest concern in this House is the very poor of the poorest who have no voice. Those are the voices that we represent in this House. This is what we want to affirm and be assertive about. There is no way we are going to be reminded time and again - I stand to be corrected - that: "I was appointed, I was appointed, I was appointed", when he is not even taking calls from Members of Parliament.

*(Applause)*

I honestly do not intend to go to the Office of the Cabinet Secretary for Education to plead with him. I will not do that. I am a people's representative. I represent Rangwe Constituency in the National Assembly. We must get monitoring and evaluation of ... What was that? I do not know what the Chairman presented. I cannot place it.

*(Applause)*

It is high time as a House we came out and made this an august House. We are not just going to come here for you to do a very long Statement. We want precision. We want results. We want to be seen to be doing something to Kenyans and not buying time. Not just coming to say that we have extended the closure by one month, *sijui* what? We are not going to allow the Cabinet Secretary for Education to *somea* parents that, oh... That is not parliamentary.

*(Laughter)*

He is not going to lecture parents, students and Kenyans. We want performance. The President is a reasonable person and they should not let him down. The President cannot be a President at the same time the Cabinet Secretary for Education. We want performance.

Thank you, Very much, Hon. Speaker.

**Hon. Speaker:** Obviously, I appreciate that this is a very emotive matter, but there is no point of you to just express what you have to say then walk out of that door. You must put in place mechanisms of how what you debate and agree on is going to be implemented, and be the one to ensure it is implemented.

Member for Kisii County has been... Hon. Wanga, I know the time you came in. You can imagine, you found Hon. Janet Ong'era there and she has been raising her hand. So, you have just been promoted.

**Hon. (Ms.) Janet Ong'era** (Kisii CWR, ODM): Hon. Speaker, thank you for giving me this opportunity.

We are dealing with a very serious matter. I want to give an example of my granddaughters. For the last two months, I have been sitting with them in the House. There is an element of depression that our children are getting into and nobody understands it. The way the Cabinet Secretary is behaving, he is treating us like his patients. As my brother, Hon. Junet said, this Minister does not seem to have a clue on how he should treat parents and teachers. He thinks we are patients. As to whether he was appointed by the President, there is no doubt about it. Everybody knows he was appointed. However, the man must perform his tasks. We need a way forward. How are we going to interact once the COVID-19 pandemic experience is over? How will we have social distancing in classes? It really annoys us as parents to see that children from public schools like Karen Primary School and another one in Bomachoge in Kisii County, I can give the school like Kenyeny Primary School, will never have equitable share of resources. They will never be the same. Therefore, we cannot say that our education system is equitable.

We need this Minister to come up with a committee that is representative of all Kenyans to tell us the way forward for our children. Otherwise, by merely summoning him here, and maybe he even snubs us, will never help. That is why we need a parliamentary system of Government. Let ministers sit here and we can tell them off.

**Hon. Speaker:** You do not want to summon them. So, do you want to visit them in their offices? Member for Kibwezi West, the Floor is yours.

**Hon. (Dr.) Patrick Musimba** (Kibwezi West, Independent): Thank you, Hon. Speaker. I want to place my voice to this particular Statement which has been ably read by the Chair. I only want to raise one issue. This pertains to readiness of our candidates and the Ministry's ability to provide the syllabus to them. So, even when they are at home, that is a very fundamental thing which needs to be addressed. We need to ensure every single candidate in the Republic of Kenya is aware of the syllabus on the basis of which the exams will be set.

I thank you.

**Hon. Speaker:** Member for Kikuyu, the Floor is yours.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Speaker. I wish to join my colleagues in expressing dissatisfaction with the Cabinet Secretary and the Statement read by the Chair, but to an extent also be an apologist for the Cabinet Secretary. Hon. Lilian Gogo has talked about precision. The Cabinet Secretary, being a surgeon, knows about precision and more so, better precision, better than the military.

Hon. Speaker, it is time this Ministry is given to another general like Nairobi County and other areas. I want us to reflect for a moment on what the role of this House has been in the debacle that we found ourselves in not just in the education sector, but across the board, including agriculture, health and infrastructure. You hear Members speak of floods in Budalang'i, Baringo and Elgeyo Marakwet, among other areas across the country. In all those areas, Government intervention is nowhere to be seen. We must have a moment of reflection and introspection as a House. I agree with what Hon. Lilian Gogo said. It is time we rose up to be counted as the august House.

Hon. Speaker, I am ashamed that I sat in this House five years ago when we spoke about digital learning and digital literacy in the country. The Jubilee administration then promised that every child would have a laptop computer and a tablet. Had we got that right five years ago, we would not be lamenting the way we are doing here today.

(Applause)

I am saying we need a moment of retrospection because the budget process is with us today. I will shortly be reading a statement relating to the budget process. A budget has been tabled in this House, which has been done in the manner described by the Member for Othaya, that these are budget estimates that have been prepared in extraordinary circumstances, but in a very ordinary manner as if there is no COVID-19 in this country or as if floods are not ravaging this country, or like we do not have children who are at home without food.

Hon. Speaker, today we have military generals in Kariobangi slums evicting people in the dark of the night. Kenyans are suffering and dying. I want to beg that this is the time this House must rise to the occasion. You cannot transact business as usual, as Mutahi Kagwe said, and expect to be treated normally by your voters. When time comes, the voters will judge you by what you do today.

Hon. Speaker, I shall no longer be an apologist for a Government that is not delivering on the mandate that we elected it for. Let us not give excuses for Cabinet Secretaries. Chairs of Committees, if Cabinet Secretaries do not satisfy you with the answers they come with send them back to the ones who appointed them to disappoint them. I sat in the Appointments Committee under your Chairmanship, Hon. Speaker and I remember Cabinet Secretary, Magoha, saying that if he will not perform, he would rather resign. Cabinet Secretary Magoha, if there is something that stops you from delivering today, resign.

*(Applause)*

Equally, any other Cabinet Secretary who cannot perform his work should resign. Do not use budgetary allocations as an excuse. The Ministry of Education has one of the largest budget lines above health and infrastructure. Why can we not use that budgetary allocation to ensure that we support our children? I was so embarrassed when my 10-year-old daughter listened to the Cabinet Secretary, Magoha, as Hon. Junet said, lecturing her and me as we sat before the television. My daughter asked me: “Daddy, why are you asking me to follow the online teaching in school and yet the Cabinet Secretary for Corona is telling us that there is no learning? Schools are closed.”

Hon. Speaker, we are not just being embarrassed as parents, but we look irresponsible as leaders. It is high time this House acted as representatives of the people. We are not a Parliament that is here to apologise on behalf of the Government. We are here to oversee Government and ensure that it delivers on its mandate.

Hon. Speaker, allow me to express my disgust with the actions that we saw the other night in Kariobangi South. It is not only inhuman, but painful to see old grannies and young children sleeping out in the cold at a time when we are talking about social distancing. We know many of us here live in big houses. Whether those people live in *mabati* houses or on sewer lines, it must be a moment of introspection for us as leaders. When the Government evicted people in Mau Forest, we were told that they were safeguarding the water towers. We were told that the title deeds held by the residents in that area were worthless. Hon. Junet, there will come a time in this country when Government operatives will come and tell you that the title deed for the house you live in, be it in Karen or Lavington, is a worthless piece of paper. It happened in Mau Forest, it is happening in Kariobangi along the sewer lines. It will happen anywhere in this country. We must protect the sanctity of title deeds.

**Hon. Speaker:** You must be relevant. Hon. Members, you are now veering off the matter before the House. We were dealing with the response from the Ministry of Education. That is a

reason for me to put off the microphone. We shall have Hon. (Ms.) Wanga as the last one on this matter.

**Hon. Junet Nuh** (Suna East, ODM): Hon. Speaker that is the leader for *Tangatanga*.

**Hon. Speaker:** This is not the main business of the House. These are just comments.

**Hon. (Ms.) Gladys Wanga** (Homa Bay, CWR, ODM): Thank you, Hon. Speaker. Let me join my colleagues in expressing dissatisfaction at the responses that have been given. What Kenyans want to hear is that students have lost time and they will continue losing time as long as the Coronavirus is here with us. What we want to hear is a clear direction on how learning is going to be rescheduled. Any kind of virtual learning should be considered as extra tuition. Even when you access online learning portal, there is always need for a parent or guardian to guide the student. As we sit in this House, if there is online learning going on at home, you can be sure the children will not be learning. You have to be there to go through it with them bit by bit.

Hon. Speaker, we want to hear what Hon. Lilian called ‘precision.’ We want to hear that the time lost will be recovered through physical learning because the country is not prepared for online learning, unless you are Hon. Babu Owino, who remembers ‘dy’ and ‘dx’ as a parent. So, there is no learning that is going on at home, whether one accesses an e-learning platform or not.

According to arguments going on within social media forums, people are suing private schools for charging fees. Parents want to know whether if you put anything on an online platform, it is regular learning that should be paid for or it is extra tuition. As the august House, we must reflect on such developments. We must stand up for Kenyans who elected us to represent them here.

When I was growing up, if you listened to the radio at any time other than 7.00 O’clock, you would be beaten up for wasting the batteries before people could listen to news.

Hon. Speaker, I submit.

*(Several Hon. Members raised their hands)*

**Hon. Speaker:** Hon. Members, do not raise your hands. I am not going to allow any further comments on this matter.

Hon. Melly, did you say that the Cabinet Secretary is coming tomorrow?

**Hon. Julius Melly** (Tinderet, JP): Thank you, Hon. Speaker. I thank the Members for the very incisive discussion that we have just had. We agreed that he appears tomorrow at 10.00 a.m., and we want it in the plenary.

**Hon. Speaker:** You see, Hon. Members, I have noticed the interest. That session will be held inside this Chamber, so that as many of you as can be accommodated can come and raise those issues including the one about Watchman FM and the other one on the mother of inventions and the fathers of inventions. You can come and canvass all those things here. So, by the time you are through, as a House, through the Committee, you will be in a position to advise the institution of Parliament on how best to handle this situation. It is a fact that you cannot possibly expect every child in every corner of this country to have access to radio, television, internet, social media and all those other things. As Hon. Ichung’wah has said, it is high time we started thinking because schools are going to remain closed. Nobody knows when this pandemic will end.

The issues that have been raised by Hon. Martin Owino will need to be addressed. Many of the classrooms in the rural areas have been constructed using the National Government Constituencies Development Fund (NG-CDF), and that is a fact. Even in many constituencies, the other facilities have been purchased through NG-CDF. It is only fair that the CS and whoever

advises him is made aware by yourselves. If or when learning resumes in the normal way. Hon. Martin Owino has also raised an issue on how they will ensure social distancing.

I can see many of you want to say something about all these issues. You better come and say it to the CS tomorrow at 10.00 a.m. inside this Chamber. Do not tell me because I will be watching to see whether you will tell him. You do not have to tell me because I have no way of communicating to the CS. That is because I do not deal with him since I have no business.

So, please, we will leave at that. Hon. Melly, ensure that by 10.00 a.m. you take the Chair and let as many of you as possible be here because this is a very serious matter. Indeed, matters concerning education, as Parliament, we should begin asking ourselves questions. Especially, those of you who are slightly older and are spending time with their grandchildren. We should ask ourselves how is it that private schools are the ones doing their best.

Most of you went through public schools. How is it that, as a country, we have allowed ourselves to veer off from what is in the interest of the majority of the country? The investment should be in public schools. It is only that Hon. Jimmy Angwenyi is not in the Chamber. He knows. I am sure Hon. Yusuf would perhaps confirm this and Hon. Janet Ong'era. In those days, if you heard somebody going to a private school, you wondered what was wrong with them. They must have been having problems in their heads. The Deputy Speaker might have found a little bit of that and also Hon. Naomi Shaban.

Hon. T.J. Kajwang', we need to get to the bottom of this. How is it that the areas where we have 90 per cent of our children are allocated very little and there is very little learning or supervision? Therefore, as a consequence, performance goes down because a few are able to take their children to private schools. Hon. Members, as Hon. Melly has said, I believe you have the opportunity tomorrow. Also Hon. Ichung'wah has raised this and he will read a Statement later. Please, let us begin to ask ourselves when did the rain start beating us. Let us restore public education to its former glory.

There was a response by the Chair of the Departmental Committee on Lands. Are you able to do it in five minutes?

#### STATUS OF APPLICATION FOR RENEWAL OF LAND LEASE FOR DEL MONTE COMPANY

**Hon. (Ms.) Racheal Nyamai** (Kitui South, JP): Yes, Hon. Speaker I can try to summarise.

**Hon. Speaker:** Please try.

**Hon. (Ms.) Racheal Nyamai** (Kitui South, JP): Thank you Hon. Speaker. I rise to respond to a statement request on the status of application for renewal of land lease for Del Monte Kenya Limited, by Hon. (Eng.) Jungle Patrick Wainaina.

Hon. Jungle sought the following issues and I would like to read the response. The first one was on the status of application for renewal of the land lease for Del Monte Company Limited.

Hon. Speaker, Del Monte Kenya Limited deals with large-scale growing and canning of pineapple fruits for local and export market. It has a land holding that spans to parts of Kiambu and Murang'a counties. Notable parcels of land leased to Del Monte Kenya Limited are shown in the annexure.

Hon. Speaker, in the interest of time, I will go to the pieces of Land. L/R No.10733, L/R No.10735, L/R No.9213/1, L/R No.331/2/1, L/R No.12157, L/R No.13169 and in Gatuanyaga Farm, L/R No.1203. Hon. Speaker, as you have requested me to paraphrase, this is a total of 24,793 acres.

Hon. Speaker, in term of status as he requested, there is an annex from the CS on the dates of expiry and I will read them respectively as I read the L/R Nos. The first, second, third and fourth will expire on 3<sup>rd</sup> May 2021. The fifth and sixth, 1<sup>st</sup> May 2022 and the seventh, 1<sup>st</sup> May 2019.

Hon. Speaker, with regards to state of lease, renewal/extension, all the pieces I have read as per their L/R Nos. the status is that their application has been tendered.

The second matter is what the Government is doing to expedite the renewal process. The Ministry is aware and appreciates the importance of Del Monte Kenya Limited to the economy in terms of job creation by its local operations and taxes paid to the Government. The Ministry is working with the National Land Commission (NLC) in engaging the county governments of Kiambu and Murang'a with a view of ironing out the sticky issues in order to expedite the renewal processes.

The third issue is if there are any plans to conduct land survey for Del Monte Company Limited with a view of establishing the actual total size of the land that is leased to the company. Hon. Speaker, it is a requirement in law that survey of land be carried out in the process of lease renewal. The survey is, indeed, a vital step in this process. This will be conducted when measures to mitigate COVID-19 have been eased-off by the Ministry of Health.

The fourth issue is if there are any plans to carry out forensic audit on land leased to Del Monte Company Limited with a view of establishing the status of used land, unused land and public land. The response is that the survey will give a clear picture of the land holding, including the sizes and areas of the boundaries thereof. This will aid in identification and demarcation of all public land within the estate.

He also requested to know when the timelines for renewal of Del Monte land lease will be determined in order to enable the company make its plans of operation. As I said earlier, the renewal of leases is guided by the Statute. Conditions and obligations are apportioned to various players. The Ministry, however, pledges to play its part in ensuring a just and transparent process that would lead to expeditious conclusion of the matter.

Hon. Speaker, I also have a response from the National Land Commission (NLC) on the same. I would like to add something so that I do not cause confusion. On the second page, there is also Murang'a County. The first one I read was for Kiambu County but overleaf, there is Murang'a County, which is Chui Farm LR No. 121156, which is 7,000 acres and also with regard to status of renewal, it is also written that an application has been tendered. This makes a total of 32,224 acres. I would also like to paraphrase the response by the NLC on the same.

On the first page, they are only giving the law where they draw their mandate from and so, I will not read that. I will just go to additional information. In 2017, the Commission received a historical injustice claim by Kandara Residents Association under Article 67 of the Constitution and Section 15 of the National Land Commission Act 2012. The above mentioned alleged historical injustices occasioned against them by Del Monte (K) Limited together with colonial soldiers who returned from First and Second World Wars. The Commission conducted investigations, heard both parties and made recommendations vide Gazette Notice No. 1995 dated 1<sup>st</sup> March 2019.

In summary, the Commission made the following recommendations:

- (i) That the land held or occupied by the respondent, that is, Del Monte (K) Limited, should be resurveyed.
- (ii) In furtherance to the above, the surplus land, if any, should be given or surrendered to the claimants.
- (iii) In the alternative, where no surplus land is discovered, the County Government of

Murang'a and the County Government of Kiambu should be engaged.

(iv) That the respondent to surrender all public utilities within the land to the relevant national and county government agencies.

They have also gone ahead to quote the court cases that I will only summarise.

There is in the Environment and Land Court Case No. 53 of 2018 at Murang'a. It is a case by Kandara Residents Association and others Vs Del Monte (K) Limited. The second case is High Court Constitutional Petition No. 48 of 2019 at Nairobi, Del Monte (K) Limited Vs NLC and Attorney-General. The third one is Environment and Land Court Judicial Review No. 1 of 2019 at Murang'a, Kandara Residents Association and Others Vs NLC.

In conclusion, from the NLC, in light of the above, it has been unable to process the extension of the leases for the reason that Del Monte (K) Ltd has not made any formal application for extension of the leases to the NLC as required by the provisions of Section 13 of the Land Act and the Land Regulations 2017. It is only upon receiving the applications that they will be able to take action.

Hon. Speaker, those are the two responses; one by the Ministry of Lands and Physical Planning and the second one by the NLC. Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Jungle, is there any comment you would wish to make?

**Hon. Wainaina Jungle** (Thika Town, Independent): Thank you, Hon. Speaker. I will say this very quickly. I cannot emphasise enough on the importance of timely surveying of Del Monte land and subsequent renewal of their lease and, very importantly, surrender of unused land to the public for the public and community use. Here, 7,000 direct jobs and 28,000 indirect jobs are at stake, not to mention the Kshs10 billion in forex income. This company will surely wind up its operations in Kenya if something is not done today.

According to the NLC recommendation and Gazette Notice No. 1995 dated 1<sup>st</sup> March 2019, survey of that land was recommended. More than a year from then, nothing has taken place. Can the Committee Chair summon the CS in person and explain why something has not been done a year down the line? Can we have a timeline for the same? This is so serious. It is actually on record and we have heard it. The Ministry is talking of 24,000 acres and the NLC is actually talking about 32,000 acres. That is a difference of about 8,000 acres. What is happening here? Kandara Residents' Association went to court in 2018 claiming historical injustices. There is so much land that has actually not been used by Del Monte because it is not fit for planting the pineapples. Actually, Del Monte itself has no problem releasing that land provided proper survey has been done. Again, this is a failure on the part of the Ministry.

It is not correct for NLC to state that Del Monte has not done an application on the lease renewal. In fact, here I am holding a file and, in this file, there is correspondence dated 1<sup>st</sup> October 2012. That is eight years ago. I also have correspondence from the Ministry of Lands and Physical Planning on 4<sup>th</sup> February 2013 again in this file. The NLC responded on 2<sup>nd</sup> July 2013. There is another reminder by Del Monte on 8<sup>th</sup> August 2014. The County Government of Kiambu, indeed, sent a lease approval on 1<sup>st</sup> October 2018, but the question is: Why has that lease not been renewed to date?

There have been several requests and reminders to the County Government of Murang'a on approval of the lease from Del Monte and copied to the NLC. So far, they have not said anything. They are keeping everyone in limbo. What is the NLC doing on this very loud silence from Murang'a County? I am very disappointed with the Ministry's response. They barely said anything. The only thing I see is that they will start working after the COVID-19 pandemic is over. Surely, for 12 years, they have waited for COVID-19 excuse? In my view, there is no need



for further investigations. What we need now is action. We have everything we need. The survey and lease renewal should have happened yesterday. Kindly, let the CS again present herself in person to explain why this is not happening.

I thank you, Hon. Speaker.

**Hon. Speaker:** There was mention of some court cases and the substances of the various suits have not quite been explained. Is it possible that it could touch on those matters? I do not want to get any answers. In fact, I am not allowing anybody else to make any further comment. It does not matter. What is required, Hon. Jungle, is for you to submit something different that will bring out all those issues. The NLC and Ministry of Lands should appear before the Committee so that you are able to discuss all those issues. Why all those court cases? Do they have to do with the size of the land or what you are calling historical land injustices? Does it have to do with the application for renewal? You need to have another round-table and bring an appropriate request before the Committee, which will have to sit both with the Ministry and the NLC to try and resolve those issues if they are not going to affect the suits before the various courts.

You are raising a number of questions, but we do not know what the suits are about. What are the cases about? Do they touch on some of the issues that you would have wanted to be answered? Is it likely, therefore, that if the courts are given time, they will resolve those issues? So, you need to sit with the Chairperson of the Committee and go through those suits. What are they about? All of you who are interested in those things - including those who have written here saying they want to make some comments - this is not time for *bonga* points.

Let the Member for Thika Town, who brought this request, sit and discuss some of those issues you have raised with the Chairperson of the Departmental Committee on Lands and see how best to address them. If they are not going to affect the pending suits and are matters that can be resolved by the Ministry sitting together with NLC, try to distinguish them. Even if we just talk, we cannot keep talking because it is fashionable to talk in Parliament; that cannot be the reason. If the intention is to reach some resolutions, Hon. Wainaina Jungle, let us look for a way of bringing together the Ministry and the Commission first, even before you go to the other parties. After all, you represent the people of that constituency before others come to help you because I can see a number who want to do so. Before they come to help you because we do not know what kind of help, they are likely to bring, first sit with the other parties. If there are others with whom you can consult to go and sit with the Committee so that you can see how best to approach the matter of the land that is held by M/S. Del Monte, that will be good. Also, try to find a solution as to how the company can be assisted to get a renewal, what are the stumbling blocks and all those things.

I will give the Chairperson of the Departmental Committee on Health five minutes to respond. Some issues were raised.

#### ALLEGED DEMOTION OF TOP SCIENTIST AT KEMRI

**Hon. (Ms) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Speaker. I will start with the one that is very short. It is a request for statement asked by Hon. (Dr.) Chris Wamalwa on the alleged demotion of top scientist at the Kenya Medical Research Institute (KEMRI). I had promised last Wednesday in the afternoon that we were to get an answer, but the Ministry sought for more time. They appeared before the Committee yesterday, where they indicated that they were not ready. Today, 6<sup>th</sup> May 2020, there is a letter that we have got that I want to table, addressed to Mr. Michael Sialai. The letter says that the Ministry has communicated to KEMRI to provide information regarding the matter. KEMRI has requested for more time to address the issue which

includes the involvement of the advisory committee and, hence, it is not in a position to give proper information as requested due to the prevailing condition of COVID-19. In this regard, they are requesting for three weeks to allow KEMRI to carry out appropriate due diligence and submit a proper report thereafter. The letter is signed by the Permanent Secretary in the Ministry of Health, Ms. Susan Mochache, CBS.

#### MANAGEMENT OF SPREAD OF COVID-19 AT MALABA BORDER

The second one, Hon. Speaker, was a request for statement on the measures undertaken by the Government in Malaba Border on the management of the spread of Coronavirus. The first question was: What measures have the Government taken to ensure that the long trailer queues along the Malaba-Nairobi Highway near Malaba Town and the immediate surroundings are fumigated? The Ministry of Health (MoH) has provided pumps and disinfectants to the Malaba Port Health Office to undertake the fumigation of trucks as a standard procedure where trucks are deemed to have been in contact with the infectious agents. In the wake of the outbreak of the Coronavirus, port health officers have been instructed to be more vigilant in order to detect drivers or turnboys who may have features of Coronavirus, including screening for fever, cough or related chest symptoms in line with protocols that have been developed for the control of COVID-19 at ground crossing and along transport corridors. Should a truck operator show suspicious signs of Coronavirus - besides the collection of samples for testing from the crew - the trucks are fumigated before being allowed to proceed to their destination.

The second question was: What measures have been undertaken by the Government to reduce the risk truck drivers and turnboys pose to people in Malaba Town Border and the surrounding areas? The response is that the Government is fully aware of the risks posed by the trucks build-up at the border. Indeed, the East African Community (EAC) ministers of health and trade, in the last two weeks, have held a series of consultative meetings between Kenya and Uganda ministries of health and trade to address the build-up of trucks at the border that have been occasioned by Ugandan authorities instituting testing for Coronavirus at the border. This build-up has since been reduced through the Ugandan authorities, increasing the number of health care workers undertaking the testing and reducing the number of personnel per truck; requiring testing to a maximum of two drivers per truck. This has ensured fast clearance of trucks to avoid unnecessary backlog.

In addition, Hon. Speaker, the Ministry of Health has finalized protocols that will ensure that all truck drivers operating within the transport corridors undergo testing for COVID-19 before the commencement of their journey within the country. Facilities have been identified in Nairobi, Mombasa, Kajiado, Eldoret and other regions so that, by the time the truckers are starting their journey to Malaba and beyond, they already have their COVID-19 negative attestation letters. Malaba One-Stop Border Point will also be a specimen collection centre whereby the trucker's specimens are taken for analysis. If a trucker turns positive, he or she is transferred to an isolation facility and contacts are traced. Moreover, working together with the county health department, the ports health officers have also enhanced surveillance and screening of truck drivers and turnboys for signs of Covid-19 and referral to the county rapid response team for appropriate action.

Additionally, the National Police Service (NPS) has enhanced surveillance to ensure that there is no mingling with the community by ensuring that the drivers do not alight from the trucks outside the Malaba Border. At the border point, the NPS ensures that there is minimal interaction

and maintaining the recommended distance between clearing agents and the drivers. There is also increased self-education to the truckers in the community on COVID-19 transmission and prevention by the county and border healthcare workers. The MoH is also in the process of training volunteer group that will be used to reach out to the truckers and the community.

The request for statement also asked whether the MoH has any plans to adequately equip Kochoria Sub-county Hospital with Coronavirus testing equipment and staff protective gear. Kochoria Sub-county Hospital is equipped with one GeneXpert machine, which was initially installed to undertake testing for tuberculosis (TB). However, the machine is also capable of testing for Coronavirus. Its laboratory staff component has five laboratory technologists, four of whom have been trained and have the capability to operate the machine. The equipment, however, requires specialized cartridges to test for the Coronavirus and the Ministry is in the process of acquiring the cartridges that will also operationalize similar equipment in other county and sub-county hospitals across the country.

In the initial phase of 56 out of the total 189, Hon. Speaker, such machines will be operationalized countrywide including at Busia County Referral Hospital. In the meantime, the laboratory staff are trained to collect samples that can be shipped to the Busia County Referral Hospital - which is 26 kilometers from the border - for testing. The laboratory in Busia County Referral Hospital has recently been provided with testing kits. Testing will also soon be carried out at Alupe Sub-county Hospital, which is currently an isolation and treatment centre located around 20 kilometers from the border. The Port Health Facility at Malaba Border Point has also been staffed with two laboratory technologists for sample collection at the border point. As regards to Personal Protective Equipment (PPE), the sub-county hospitals obtain their supplies from the Busia County Referral Hospital.

Finally, on what action has been taken by relevant ministries to ensure that frontline medical staff and other personnel manning the Malaba Border Post are adequately trained on detection and handling of Coronavirus cases, all port health officers are trained on disease surveillance tools. This includes a brief history and recording of vital signs such as body temperatures using thermal guns. Standard Operating Procedures (SOPs) have been cascaded to the border point on how to detect Covid-19 cases by use of signs and symptoms and how to handle any suspected cases.

Any suspected case is then linked to the County Rapid Response Team for isolation and further investigation. The Ministry of Health has trained, at least, three trainers of trainers (ToTs) at each county level on case management and two ToTs on laboratory sample collection, preparation and shipping. Those ToTs have been cascading the training to the rest of the county front-line health workers. The medical professional bodies are in the process of enabling online training through the training portals. In addition, mentorship by the Port Health National Office is currently ongoing at the border points. This goes in line with provision of necessary tools and equipment that is needed for the control. I submit the response and it is signed by the Cabinet Secretary.

Last Wednesday, there was an issue that came up and it was a matter of public interest.

**Hon. Speaker:** That will be one minute.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): On Tuesday, 28<sup>th</sup> May 2020, the Departmental Committee on Health invited the Ministry of Health to shed some light to us on, among other things, funding streams received by the Ministry for the fight against COVID-19 in the country and a breakdown on how each funding stream had been utilised as of 30<sup>th</sup> April 2020.

At the meeting, the Ministry tabled a document that detailed various funding flows. Among other documents, was one showing Kshs1.3 billion budgetary support from the World Bank to support the national COVID-19 response. As soon as the document was tabled, the Ministry realised it had contained the budget-approved proposals which had not been broken down to cover the six months of the support. Unaware that the document only contained the budget and not a costed work-plan, the media went on to publicise the financial proposals. The media coverage gave the impression that the Ministry had already spent Kshs1.3 billion World Bank money in just a month, which was not the case. As expected, the coverage sparked a public outcry. Although the Ministry realised it had tabled an insufficient document immediately after the meeting, it was not supposed to issue a clarification because that could only happen before the Departmental Committee on Health, which was seized of the matter.

On its part, the Departmental Committee on Health saw the need to invite the Ministry on Tuesday, May 5<sup>th</sup> 2020 to explain the discrepancies that were contained in its own documents. The Principal Secretary in the Ministry of Health appeared before our team on Tuesday, May 5<sup>th</sup> 2020 and presented fresh documents which have been interrogated and accepted as a true reflection of the financial position of the various income streams. The Committee has put in place a report to table in this House. It has taken the liberty to stand before you to make this short statement and clear the air on this matter given that it has serious implications on the ongoing COVID-19 response. I, therefore, wish to notify the House as follows.

By the time the Ministry appeared in Parliament on April 28<sup>th</sup>, the World Bank funding had not hit the Ministry's account. This made us to conclude that there was no way the Ministry could have misappropriated what it had not received by then. By May 5<sup>th</sup> 2020, part of the funds had been received by the Ministry, although no payments had been made based on any COVID-19 national response. The Ministry informed the Committee that the World Bank support is expected to assist the Ministry...

**Hon. Speaker:** We will move to the next Order. If you cannot summarise, then I cannot give you more time. You are reading every word, full-stop and comma. Those statements are offered elsewhere. Why not summarise? I will add you one minute.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you. The Ministry informed the Committee that the World Bank support is expected to assist the Ministry in the national COVID-19 response for a period of six months from April to September 2020. We were sure that the funds would be utilised prudently during the period. I will table this document because there is no time. With the proper response from the Ministry, the Members can interrogate the concerns of what happened with the personal protective equipment (PPEs) and what materials the Government has given to each county. I have also attached a document so that Members can go through it as we go through the motion with the Ministry of Health.

I beg to submit.

**Hon. Speaker:** Very well. The first shot must go to one of the Members who sought a statement. I want to remind you about the old system of Question Time. The questioner must, at all times, get the first shot as a supplementary.

Let us have Hon. Wamalwa.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Thank you, Hon. Speaker for giving me this opportunity. First, I thank Hon. Sabina for the response. She has mentioned that the CS should get the proper answers within three weeks. It took less than an hour to sack Dr. Lutomia. I simply asked straightforward questions. What were the circumstances that led to the sacking? It is very ridiculous. We are being told in the statement that a decision that was taken within an hour

needs three weeks for clarification. That is enough evidence to show that the due process was not followed.

One of the questions that was also raised was: Were there any disciplinary measures? Those are straightforward questions. It does not mean that during such a time of the Coronavirus pandemics, we should circumvent the law. We have the Employment Act and the Labour Laws Act. It is important that we seek justice for Dr. Lutomia.

I have no otherwise. I will wait for the three weeks. Was the KEMRI Board involved in this matter or was it bypassed? We know very well that CS Kagwe has been doing very well, but everybody has a right to defend himself. We need more explanation on the manner in which Dr. Lutomia - being one of the top scientists and the Director of the Virus Research Centre - was dismissed or demoted. I will wait for the feedback.

**Hon. Speaker:** Let us have Hon. Mbadi. Hon. Members, I can still see a number of Members desirous of coming into the Chamber. Those of you who desire to leave and have no intentions of coming back, just inform the Serjeant-at-Arms so that we do not leave many empty spaces and yet, there are Members who would like to come in. Obviously, I know the Deputy Speaker is coming because he is moving a Motion. But I can see a few other empty spaces. If the Members have not indicated whether they are coming back, Serjeant-at-Arms, just usher in some of those Members. They have as much right as any other to be in the Chamber.

Let us have Hon. Mbadi.

**Hon. John Mbadi** (Suba South, ODM): Hon. Speaker, I want to raise an issue regarding the Statement as read by the Chair of the Departmental Committee on Health, particularly the third Statement. Hon. Speaker, I noticed that the Leader of the Majority Party and my Whip distracted you a bit. Probably, you did not follow but I am sure you can follow what the Chair has just said through the *Hansard*.

Last week, the Chair gave us statements regarding the expenditure of Kshs1.3 billion from the World Bank. It turns out that the information provided by the Ministry, even if she did not give that statement formally, was not factual. Now she has given us what is allegedly the correct position. How can the Ministry of Health, at this point in time, give false information to the people of Kenya regarding the expenditure of money that is being given by the World Bank of Kshs1.3 billion? We need clear statements from the Health Ministry on what is the correct position of the expenditure that it is incurring. Someone should bear responsibility if the Ministry is misleading the people of Kenya and even has no shame in misleading this House. Action needs to be taken against the Accounting Officer in that Ministry.

This is a matter of accountability. When I spoke about accountability, I said that our Committee must help us in following through the amounts that we are allocating. We know there are vultures there who are waiting to take the bigger chunk of the amounts that Kenyans, other friends of Kenya and the Kenyan taxpayers are putting into those funds. Instead of helping the people of Kenya to fight the disease, there are vultures out there ready to embezzle those funds. The Statement from the Chair this afternoon is testimony to that.

I will request, as a matter of procedure first, to know whether this House was earlier on misled. If not, what is the Chair going to do to make sure that the Ministry is held to account?

Thank you.

**Hon. Speaker:** Is it not the same? Hon. Washiali, you may proceed.

**Hon. Benjamin Washiali** (Mumias East, JP): Thank you, Hon. Speaker. I rise to react to the response on the statement sought by Hon. Chris Wamalwa on the sacking of Dr. Lutomia. I

want to declare that Dr. Lutomia comes from my constituency. It is about two weeks since Dr. Lutomia was dismissed.

*(An Hon. Member spoke off record)*

Whether it is dismissal or demotion, it does not make any difference! Even if he was demoted, the Chairperson must respond. If this House goes by its business Calendar, we will have to wait for another four weeks for the response to be given. This will be very unfair because the country is waiting for answers. Just like Hon. Wamalwa has said, responding to why you sacked or demoted someone is not a research issue where you will have to wait to mix chemicals and find out the reaction.

*(Laughter)*

Hon. Speaker, it is a very simple question, and the Ministry should have come out quickly to give us a response. I have seen a bit of explanation in the papers, but was the procedure followed? That is the biggest question we are asking.

Therefore...

**Hon. Speaker:** Very well. If your question takes as much time as it takes to find a vaccine for Coronavirus...

*(Laughter)*

It is good to compound. Since you have already pointed out that the House is due to go for recess, you should not take too long to ask a question. The point you are raising is similar to what Hon. Wamalwa has raised. The appeal is for the Chairperson to get the response.

Hon. Members, anything coming from any Ministry must be signed by the Cabinet Secretary or Principal Secretary (PS). Remember, those are the ones we know. Should we find anything that is incorrect, or anything that is meant to mislead this House, then this House will be able to take action against the author of the document.

Hon. Junet, we can put an end to this matter.

**Hon. Junet Nuh** (Suna East, ODM): Yes, Hon. Speaker. There are two issues about the Statement that was given by the Chair on the matter of Dr. Lutomia. If the demotion was procedural, I do not see why it is taking too long to get a response. Members feel that there is something fishy being covered up.

Secondly and more importantly, is the issue of the Kshs1.3 billion for the fight against Coronavirus. There is a document that was tabled here that is in the public domain, on how the money was spent. According to the document, Kshs4 million was spent on tea and *mandazi*, Ksh70 million on briefings and Ksh30 million on gatherings. It is the Chairlady who gave us that information. The information is all over in the public domain. It is in a document that was produced by the Ministry of Health. We are just morticians here. We know the money is gone. We are just following up on how we can 'inter the body.' We are dealing with a 'dead body' here. We know that the money has been squandered.

As the Whip, because I have Members in her Committee, I am aware that yesterday in their meeting with officials from the Ministry of Health, the officials completely denied the previous

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

document. That means they want to fabricate a new one that is fake. I am going to table the old document, which has to be admitted in this House. Kenyans believe it as the truth on how the money was spent.

**Hon. Speaker:** Yes, Hon. (Ms.) Sabina. Can you try to clarify these issues?

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Speaker, we actually said that it is good for us to be factual and precise. As I mentioned earlier, we had a Statement from the Ministry last week, which I read in this House. It was only on the use of Ksh300 million. That is the money that the Ministry of Health had received. But as a Committee, we had asked the Ministry to forward to us the document on the money they had received so far, indicating how much had been utilised. Part of the document that we received was received by the Secretariat and it was never tabled in this House. But it leaked to the media. That is the document that Hon. Junet is referring to. We had not even gone through that document ourselves. We actually saw it in the media, but the Secretariat had already received it. So, when we called for clarification, the Ministry officially said that by the time they were giving us that report, the money was not even in their account. So, how could money that was not in their account have been used? So, what I have submitted, which we can hold the Ministry responsible for, is the previous document they had given to the Secretariat – which we had not interrogated – and the one on which they made further amendments before the Committee. Both documents are available for the Members of this House to scrutinise.

*(Several Members stood up in their places)*

**Hon. Speaker:** Wrong! Nobody is going to address that issue here. Take the documents, read and cross-examine the Committee on the basis of the information contained therein. Nobody is going to comment on this matter anymore.

Before we go to the next Order, the Chair of the Budget and Appropriations Committee has a statement to issue.

PREPARATIONS FOR PUBLIC HEARINGS FOR BUDGET  
ESTIMATES FOR 2020/2021 FINANCIAL YEAR

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Speaker. The Statement is on the preparations for public hearings for the Budget Estimates for Financial Year 2020/2021, that were to be held in 11 or 12 counties by the Budget and Appropriations Committee.

Hon. Speaker, as you are aware, the Estimates of Revenue and Expenditure for Financial year 2020/2021 and the Medium-Term were laid in this august House on 29<sup>th</sup> April 2020 and stood committed to the Budget and Appropriations Committee and the various Departmental Committees for them to review with a view to make recommendations to this House as per the provisions of our Standing Orders.

Article 221 (5) of the Constitution provides that during the discussion and review of the Estimates, the Budget and Appropriations Committee...

*(Loud consultations)*

Hon. Speaker, can you protect me from the very loud consultations?

**Hon. Speaker:** Leader of the Majority Party, Leader of the Minority Party, the Whip and the Chair of the Committee on Finance should now be the ones to be chased out of the House.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Speaker for giving me the protection. The Constitution provides that during the review of the Estimates, the Budget and Appropriations Committee shall seek representation from the public and the recommendations shall be considered when the Committee makes its recommendations to the Assembly. In this regard, every year, since the year 2013, the Budget and Appropriations Committee has been fulfilling this constitutional requirement. The Committee has managed to undertake public hearings through visits to the various counties within the Republic. Since 2018, when the current Committee was constituted, 24 counties have been visited and we were planning to visit another 12 counties.

Hon. Speaker, the Committee deliberated on the choice of the counties to benefit from resources earmarked in the approved 2020 Budget Policy Statement (BPS) to cater for public initiatives and developed through the following criteria:

- (i) giving preference to counties that have never been visited and those that have been visited only once since 2013 in order of sequence; and,
- (ii) ensuring regional balance.

Using this criterion, the Committee resolved to seek the views of the public in the following 12 counties: Tana River County, Garissa County, Kitui County, Murang'a County, Turkana County, Samburu County, Kericho County, Narok County, Busia County, Homa Bay County, Kisii County and Kwale County. While in the Year 2021/2022, the Committee plans to visit the following 11 counties: Meru County, Nyandarua County, Baringo County, Kilifi County, Kiambu County (where I come from), Mandera County, Machakos County, Elgeyo Marakwet County, Vihiga County, Nandi County and Siaya County.

In addition, the Committee is alive to the fact that this year, public consultations on the 2020/2021 Budget will be an exception on account of the outbreak of the COVID-19 pandemic and, thus, on account of the issued COVID-19 guidelines, the Committee will be seeking the views of the members of the public and other stakeholders by inviting written submissions or memoranda through the media as well as requesting the Members of Parliament from the respective counties that have been earmarked for the hearing to caucus and submit their proposals to the Committee. This exercise is expected to be completed by Friday, 15<sup>th</sup> May 2020.

Hon. Speaker, let me emphasise that point. The 12 counties that we intend to conduct public participation in this year, because of the COVID-19 pandemic, we are unable to visit them and, therefore, we shall be seeking to receive written memoranda. We request Members of Parliament from the respective counties to caucus with their constituents and submit the memoranda by 15<sup>th</sup> May 2020.

I would like to thank the Parliamentary Budget Office for moving swiftly and unpacking the Estimates in record time, amidst these extraordinary times of our lives. The Budget and Appropriations Committee was on Tuesday, 5<sup>th</sup> May 2020, taken through the contents of the Estimates. During the briefing, as I had mentioned earlier, it was obvious that this year's Budget, despite the extraordinary times we are going through, was prepared in the usual ordinary manner, that is, the business-as-usual-pattern. Thus, I would like to inform the House and specifically the chairpersons and the entire membership of departmental committees to be extremely keen in scrutinizing the estimates and make the right decisions for this country.



I am aware that the Director, Parliament Budget Office and the Director, Committee Services have circulated a calendar of events of processing the Budget to all relevant committees and their secretariats. I, therefore, urge the departmental committees to observe the timelines.

From the initial review by the Committee, we noted that the submitted Estimates have not lived to the expectations of the nation and the moment. We expected a paradigm shift and firm proposals that related to responses to the crisis of the pandemic and the post COVID-19 era that include economic recovery packages, activities like SMEs rejuvenation, provision of basic needs to the populace, import substitution strategies, restructuring of our public debt, amongst other interventions.

Based on the above, the Committee is planning to meet the National Treasury. Of course, Hon. Speaker, you are aware we usually do this at the end of all consultations with departmental committees, the Judiciary and the Parliamentary Service Commission. But these being extraordinary times, we also want to conduct business in an extraordinary way by meeting with the National Treasury well in advance with a view to engage on these issues. We want to request them for a complete overhaul or re-organization of the 2020/2021 Budget to reflect the current circumstances and recovery of the Medium-Term. I am, therefore, requesting that the Committee be allocated a conducive and spacious meeting room, preferably this Chamber, on Thursday, 14<sup>th</sup> May 2020 from 10.30 a.m. In view of this, I would also like to extend an invitation to the chairpersons of departmental committees or their representatives to attend that meeting.

Hon. Speaker, in closing, I thank you. I re-emphasise the last point that having been taken through - and I know two or three departmental committees have also been taken through the Estimates - it is quite clear that the Budget Estimates that were tabled here last week have been prepared in a very ordinary manner. We have failed to take cognizance of the very extraordinary circumstances that face this country and the world economy at large. Therefore, we want to take an early opportunity to engage with the National Treasury and, through the National Treasury and our departmental committees, to engage with the Government or the Executive to ensure that we prepare a Budget that will be responsive to the needs of our people at this particular time. We have a health pandemic. We have a humanitarian crisis and we have an economic recovery crisis that we must address. Therefore, I want to beg, Hon. Speaker, you allow the Committee and chairpersons and vice-chairpersons or even nominees of departmental committees to join us on Thursday, 14<sup>th</sup> May 2020 in the morning so that we can begin the engagement with the National Treasury so that we also forestall. Hon. Speaker, you are my witness that last week during the Supplementary Appropriation Bill, we saw amendments being brought by the National Treasury as late as 2.00 p.m., when we were going to the Third Reading. To ensure that we are able to accommodate everything well in time, we want to start engaging them this early. Through the departmental committees, we should be able to do that and deliver to this country by June, a Budget that will be responsive to the current situation in our country.

With those remarks, Hon. Speaker, thank you.

**Hon. Speaker:** Since the Chamber would need to be disinfected and I am sure it would have been, I see no reason why it should not be made available to you on Thursday, 14<sup>th</sup> May 2020 at 10.00 a.m. Those from other departmental committees, particularly chairpersons and vice-chairs or any other member of a departmental Committee who is here and can make it on Thursday, 14<sup>th</sup> May 2020 to the meeting, please, you should make time for that. That engagement with the National Treasury and the Budget and Appropriations Committee here in this Chamber is an important meeting. I hope the chairpersons and their deputies or any member - and there are some active members of committees who are present - will be available that day. I know many of you

are very active on the Bunge online COVID-19. Come to that meeting. It will be an important one. I know you will add value by turning up. Some of the many ideas I have seen you canvass, maybe, they could get accommodation when you engage in the budgetary process particularly with the National Treasury. Let me not engage in that. If Members cannot come for budget engagements, then I do not know what they can. We have just been talking about education here. Surely, if there is need, it will be communicated, but treat this as the best invitation.

Next Order!

## PROCEDURAL MOTION

### EXTENSION OF SITTING TIME

**Hon. Speaker:** The Leader of the Majority Party, you have the Floor. Hon. Members, we have taken a long time dealing with preliminary issues. This may be important.

**Hon. Aden Duale** Garissa Township, JP): Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of Standing Order 30(3)(a), this House orders that should the time appointed for adjournment of the House be reached before the conclusion of business appearing under Order No.14 on today's Order Paper, the Sitting of the House shall stand extended until the conclusion of the said business.

Hon. Speaker, considering the importance of the business before us today, and without anticipating debate, this House is scheduled to proceed for a long recess today.

Take it very clearly because when I went out, some Members were asking me: "Why are we going on recess?" You need to learn how the Calendar of the House works. Ideally, we are not going on a recess. We are only going on a recess from the main Chamber because for the budget making process. It is in the month of May when the committees interrogate the annual estimates for the Financial Year 2020/2021. So, committees will be very busy.

We are only getting a recess from the Chamber so that committees can engage their Ministries and Government agencies after which they can engage the Budget and Appropriations Committee through the National Treasury and then bring a report. So, by the time we are coming back, we will have a report. We are not adjourning for a long recess. In fact, the only persons who are not members of committees in this House are the Speaker, the Deputy Speaker and I. We will be around together with the Clerk. The Leader of the Minority Party is a very active member of the Budget and Appropriations Committee.

So, from 14<sup>th</sup> May 2020, as the Chairperson of the Budget and Appropriations Committee has said, until we come back, we will be very busy with the Budget. For this reason, I seek to extend the time of the Sitting to allow for consideration of key businesses outlined in the Order Paper today before we proceed on recess. We will finish everything. We are not like the other House. We have serious business to do and we do not want to be accused with the House Business Committee. I am not in some of the forums. We are being accused of delaying certain Motions.

The House Business Committee always looks at what is more urgent like the Supplementary Appropriations Report, Budget Bills and the regulations that were passed on the Tax Laws. The matters before us today are also very urgent in terms of priority. So, let us be here tonight. We will not stay for long. By 7.30 p.m. or 8.00 p.m., we will be through. If we finish before 7.00 p.m., it will be well and good. However, it is good that, as we go to discuss the Budget

in our various committees, we have completed what was on our table as the House Business Committee and as the National Assembly.

So, I beg to move the Procedural Motion and ask Hon. John Mbadi to second.

**Hon. Speaker:** Hon. John Mbadi, you have the Floor.

**Hon. John Mbadi** (Suba South, ODM): I second, Hon. Speaker.

*(Question proposed)*

**Hon. Members:** Put the Question.

**Hon. Speaker:** Is it the mood of the House that I put the Question?

**Hon. Members:** Yes!

*(Question put and agreed to)*

**Hon. Speaker:** Hon. Members, while still on my feet, I wish to clarify the point that the Leader of the Majority Party has just made. I have already received a number of requests from the chairpersons, vice-chairpersons and members of certain departmental committees to begin engagement on the Annual Estimates for the Financial Year 2020/2021. Therefore, even as much as we say the House is scheduled to go on recess, do not put your minds to be in the villages. Please, remember your committee will be meeting and engaging with various players in the areas that you oversight in those committees. So, please, bear that in mind so that we do not hear about lack of quorum in committees. That is important.

Before we move to the next Order, allow me to invite the Vice-Chairperson, Departmental Committee on Agriculture and Livestock, Hon. Emmanuel Wangwe, to make a Statement.

## STATEMENT

### REQUEST TO EXTEND THE WINNOWING PROCESS OF THE TEA BILL (SENATE BILL NO.36 OF 2018)

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker. Pursuant to the provisions of Standing Order No.131, you directed that the amendments received for the Tea Bill (Senate Bill No.36 of 2018) be subjected to the winnowing process by our Committee.

Hon. Speaker, the following Members have proposed various amendments to the Bill:

- (i) Hon. (Ms.) Eve Obara Akinyi, MP.
- (ii) Hon. Ronald Tonui Kiprotich, MP.
- (iii) Hon. Ezekiel Ombaki Machogu, MP.
- (iv) Hon. (Ms.) Cecily Mbarire, MP.
- (v) Hon. Gichimu Githinji Robert, MP.
- (vi) Hon. Leonard Yegon Brighton, MP.

Hon. Speaker, this notification came to our knowledge today, 6<sup>th</sup> May 2020, and owing to the urgency of the matter, the Committee reached out to the Members this morning. However, the Committee managed to reach only Hon. (Ms.) Cecily Mbarire and Hon. Gichimu Githinji.

The Committee was not able to meet the other four Members to deliberate on the proposals regarding this matter. Since the Committee of the Whole House was schedule to proceed this

afternoon, it was not feasible to conduct the winnowing process as envisaged under Standing Order No.131.

Hon. Speaker, I leave this to you to provide guidance on this matter, specifically as we seek your directions on how to proceed and pray for more time to undertake the winnowing exercise effectively so as to enrich the Bill by engaging the Members in proper deliberations.

We thank you, Hon. Speaker.

**Hon. Speaker:** Well. Hon. Members, the request that is being made and has been communicated to me is that some of those proposed amendments actually came in as late as yesterday. That was shortly after I had left the Office. So, they have been brought to my attention today. Nevertheless, I approved them with directions that, because they were too many and some of them are very substantial in the propositions, they needed to be, first of all, discussed between the Committee and the respective Members proposing them.

In the event the Committee and Members are not able to agree, then a report will be made and Members will still be permitted to debate subject to Article 114 of the Constitution and allow some of them to be moved during the Committee of the Whole House.

Therefore, given that circumstance, I will direct that the Tea Bill (Senate Bill No.36 of 2018) be removed from the Order Paper appearing as (III) under Order No.12. It will not be considered today and, therefore, it is taken out of the Order Paper.

Encourage the Committee to have that meeting we agreed on with the Members with proposed amendments.

Next Order! Leader of the Majority Party.

## PROCEDURAL MOTION

### CONSIDERATION OF CERTAIN BUSINESS RECEIVED DURING MAY/JUNE 2020 RECESS

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to move the following Procedural Motion:

THAT, notwithstanding the provisions of Standing Order Nos.41 and 42 relating to conveying of Messages from the Senate and from the President or the National Executive, and Standing Order Nos.120, 122 and 126 relating to publication, procedure upon Publication and First Reading of Bills; this House orders that during the period of the long recess of the First Part of the Session (May/June 2020) –

(a) upon receipt of any Message from the Senate, or upon receipt of any name of a person nominated for appointment to a State or public office from the President or any other office in the National Executive, the Speaker shall forthwith refer such Message to the relevant Committee for consideration without having to recall the House;

(b) should a Bill be published during this period, or a published Bill becomes due for First Reading during this period, the Speaker shall, upon lapse of seven days following the publication of the Bill, forthwith refer such Bill to the relevant Committee for consideration pursuant to the provisions of Standing Order No.127 on Committal of Bills to Committees and public participation and, upon resumption of the House, cause the Bill to be read a First Time and the Second

Reading may be taken forthwith, or on such other day as the House Business Committee may determine.

(c) should the Speaker receive a Message relating to the Senate's Amendments to a Bill originating in the National Assembly, the Speaker shall forthwith refer the Schedule of the Senate Amendments to the relevant Committee for consideration, pursuant to the provisions of Standing Order No.145 on Senate amendments to Bills originating in the National Assembly and, upon resumption of the House, report such fact to the House.

Hon. Speaker, this is a matter we have dealt with before. Because of the COVID-19 pandemic and the fact that various committees will be dealing with the Budget Estimates for Financial Year 2020/2021, the House Business Committee (HBC) that you chair, agreed that during the recess, in the event that we receive a Message from the Senate on their Bills, a Message from the President on appointments to any constitutional body, Messages from the Senate regarding our Bills, like the Sectional Properties Bill, the Speaker can forward them to the relevant committees. In the event that we have a number of Bills from our legal drafters that have been published and are ready for First Reading, if such Motions are approved, the Speaker will have powers to forward Messages from the Senate regarding their Bills and our Bills – Bills that have been published and have matured - to the relevant committees for consideration. On Bills, they will be read a First Time once we come back from the recess before they move to the Second Reading Stage.

Hon. Speaker, this Procedural Motion seeks to ensure that Members are not recalled from recess for any of the above-mentioned reasons and cases. This is to also ensure that our rules and procedures are followed and no impediment is made to the mandate of this House when it comes to the law-making process.

This morning, when the Deputy Speaker was in the Chair, we agreed that even on the next Motion on amending the Standing Orders, anything we do, whether there is COVID-19 or any other disaster or emergency, we must uphold the Constitution, the Standing Orders, the procedures and precedents of the House as well as communications from the Speaker. We will not circumvent the Constitution or the Standing Orders because of a pandemic. Everything must be done procedurally.

With those remarks, I beg to move and request Hon. John Mbadi, a member of the House Business Committee and the Leader of the Minority Party, to second.

**Hon. Speaker:** The Leader of the Majority Party, I think you did not move part (d), which is similar to...

**Hon. Aden Duale** (Garissa Township, JP): This must be because of fasting, the COVID-19 pandemic and many other things. I am very sorry.

Hon. Speaker, I beg to conclude moving the Procedural Motion:

THAT, notwithstanding the provisions of Standing Order Nos.41 and 42 relating to conveying of Messages from the Senate and from the President or the National Executive, and Standing Order Nos.120, 122 and 126 relating to publication, procedure upon Publication and First Reading of Bills; this House orders that during the period of the long recess of the First Part of the Session (May/June 2020) –

(d) should the Speaker receive a Message from the Senate in respect of any Special Bill concerning County Governments, or a Division of Revenue (Amendment) Bill, the Speaker shall forthwith refer such Bill and the accompanying Message to the relevant Committee for consideration pursuant, to

the provisions of Standing Order No.143(3) on consideration of Bills originating in the Senate and, upon resumption of the House, cause the Bill to be read a First Time and the Second Reading may be taken forthwith, or on such other day as the House Business Committee may determine.

Hon. Speaker, this last bit deals with the Division of Revenue Bill and County Allocation of Revenue Act (CARA). We have already dealt with the Division of Revenue Bill and it has been assented to. We are sure to receive the CARA Bill. This Motion allows the Speaker to directly send the Bill to the Budget and Appropriations Committee for consideration.

Hon. Speaker, I beg to move and request Hon. Mbadi to second this Motion.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. John Mbadi, you have the Floor.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. The House will agree with us that it used to be very untidy when we went on recess and the Speaker was forced to recall the House for Bills to be read the First Time and we again adjourn for recess, or when a communication is made that a nomination had been made by the President and the matter was referred to the Committee and then the House adjourned again because when the House reconvened during recess, it could only deal with the matter that caused it to be reconvened.

In order to save time and allow those processes to continue even when the House is on recess, we are giving the Speaker authority to communicate those Messages directly to the relevant committees. They will deal with public hearing and participation on Bills, Presidential appointments if any, Communication from the Senate, the Division of Revenue Act (DORA) and CARA Bills. When we come back, the public hearing stage would have been concluded and the Committee would have prepared a report and we immediately resume. This is something we have recently adopted and I think it makes a lot of sense. I urge the House to agree with us.

I second.

*(Question proposed)*

*(Question put and agreed)*

**Hon. Speaker:** Hon. Members, I think it is important for even those that are not in the Chamber to note this. It is because that is a Resolution of the House and can only be varied by another resolution. As Hon. John Mbadi and Hon. Duale have explained, that is a better way of dealing with such procedural issues.

Let us have the Vice-Chairperson of the Procedure and House Rules Committee, the Hon. Deputy Speaker, for the next Order. Sorry, Hon. Deputy Speaker.

*(Several Hon. Members walked into the Chamber)*

Serjeant-at-Arms, if there are still some Members as I can see some hovering around out there, there are many empty seats. I can see Members of the nightshift, led by the Hon. (Ms.) Florence Mutua, starting to make their way in.

Proceed, Hon. Deputy Speaker.

**Hon. Moses Cheboi** (Kuresoi North, JP): On a light note, Hon. Speaker, many of us Members keep floating all the time we talk about “nightshift”. It is because we really do not

understand what it is. I am going to talk to Hon. Mutua to probably induct me into that nightshift. It looks like it is a very good thing.

*(Laughter)*

## MOTION

### AMENDMENTS TO THE STANDING ORDERS TO FACILITATE VIRTUAL SITTINGS OF THE HOUSE

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Speaker, I beg to move the following Motion:

THAT, this House adopts the Fourth Report of the Procedure and House Rules Committee on Amendments to the Standing Orders to Facilitate Virtual Sittings of the House and its Committees, laid on the Table of the House on Wednesday, May 6, 2020, and pursuant to provisions of Article 124(1) of the Constitution and Standing Order 265-

- (i) resolves to amend its Standing Orders as contained in the Schedule to the Report; and,
- (ii) orders that the amendments to the Standing Orders as contained in the Schedule to the Report come into effect on Monday, 18<sup>th</sup> May 2020.

I will be very brief because I know Members already have the document and I have also decided that I allow the gentleman who will be seconding me to do most of the talking. I know him to have really sat through this, particularly as the Chair of a Sub-Committee that was created by that Committee.

We held a meeting and, as I move this Motion, Members will agree that we are operating under very unprecedented times – times that have not been seen in recent history. It is because of the COVID-19 pandemic which is a global pandemic that requires rethinking the operations of many institutions in the world.

Hon. Speaker, we looked at various jurisdictions. We thank you because you moved very quickly and made the workings of the House favourable to Members when this pandemic was declared in Kenya. There are many things you have done which were not even done and have not been done in other Parliaments. We have looked at many Parliaments world over. We have looked at the House of Commons which works in almost the same way as ours. We have looked at the Congress in the US. We have even looked at the other House in the UK, the Senate, and seen that every House is trying to adapt to new procedures where they are able to keep safe from this pandemic as they work. We did not want to really look at it as a COVID-19 measure. We want to look at it as any other pandemic that might arise in future so that when we change the Standing Orders, it will, in the meantime, work against the COVID-19 pandemic. But, in future, should there be any other situation, it will be able to cater for that.

So, following the declaration of this as a global pandemic by the WHO on 11<sup>th</sup> March 2020, various public health protocols were instituted, including reduction of large public gathering to reduce contact among citizens. This followed the increased number of cases both at its epicenter which was Wuhan in China as well as in other countries thereafter. Those developments saw the unprecedented measures including closure of schools which has been done in Kenya and many other countries, reduction of the number of staff working in their workplaces and, hence, the famous term “work from home”.

In the meeting, we agreed on this Motion. We tried briefly to see if it works. We entered into a meeting where we had both the presence of Members and, at the same time, those Members following us virtually. It was very interesting. There are many things that we need to consider if the House passes this. That includes the rules of how we are going to be operating. In that meeting, when we were using the Zoom technology, for example, some Members at home dressed in a particular manner that I am not pin-pointing. I might only look at the person who did that and then you would know where my eyes are looking. Some were in caps and others in different dress styles.

*(Hon. John Mbadi gestured at Hon. Moses Cheboi)*

It is not you! I am looking a little further. I am short-sighted, Hon. Leader of the Minority Party.

*(Laughter)*

There was also another Member following the meeting. She was very busy and good. Noting the age of the Member, a child who must have been a daughter participated in the meeting. As a Committee, we said that is where a non-Member or a stranger got into our meetings as we progressed... Another Member went into speaking in vernacular without knowing that she was actively being followed. We thought that, that was unparliamentary language and so forth.

So, there are quite a number of things that will have to be considered once this is passed.

The basic issue we are trying to achieve in this Motion is to amend our Standing Orders to keep up with the times. It is good. We did not decide to go into specifics like, maybe, going to a certain service provider. It is because even Parliament can decide to have a tailor-made service for Members. There are a number of other issues that came as a challenge. The greatest challenge is the issue of voting. It is not very difficult to get into a virtual meeting, but it is difficult first to have a fully virtual meeting. It is not very tidy because there are issues of quorum and so many other things of that nature. Again, we must maintain the august House. We must maintain the National Assembly as an Assembly so that, if we decide that we want to do everything virtual, maybe, we will lose out on that one. For example, this morning, there were issues among Members on what happens in other Houses in the world and probably even within the Republic where one Member can decide to vote for other Members. Those are issues that must come in. We must be alive to the Constitution that we passed. As we progress on this one, there are a number of issues that will come up, but I know this House and yourself are up to the task. We will manage this process.

Subject to the adoption of this Report and the accompanying amendments to the Standing Orders, the Committee, led by yourself will, as a matter of necessity, create guidelines. We want to know how Members will approach those virtual meetings. Will they, for example, have to dress like they are supposed to dress formally in Parliament? It was the feeling of the Committee that they should be formally dressed so that they are uniform. The Members who are in the meeting and those who are following virtually should be dressed in a similar manner. It is important for the House to know that the Committee recommends a hybrid system that combines both physical and virtual proceedings, especially in matters that are related to substantive legislative business of the House.

In all jurisdictions that we looked at, none of them has gone completely virtual. There is always some element of having to participate physically by Members. The fewer the Members,



the easier will be the issue of physical distancing. Therefore, the issue of protecting ourselves from contracting some of these diseases will be catered for.

In conclusion, we hope that the House will approve these proposals to allow for the conclusion of guidelines during the recess period. This will ensure that by the time the House resumes, there will be guidelines in place for the House. I must commend a number of committees of this House that have started trying out these proposals. I know the Departmental Committee on Health did that and the Departmental Committee on Finance and National Planning. Several committees did that. It is possible that we can still move as a House even in these difficult times.

Hon. Speaker, having congratulated you for handling this matter diligently, Hon. T.J. Kajwang' is my old classmate who has a problem with these gadgets that we are using because of the shape of the nose that he has. I have seen it for a long time. He is not the only one. We have other Members who have the same issue. I told him that it is possible he can talk to designers to get a specific one. He was active during this process. He put in a lot of effort and he became a Chair of a Sub-Committee that was created to look into these specific things. So, I beg to move and request my friend Hon. Kajwang' to second.

Thank you.

**Hon. Speaker:** Hon. Hon. T.J. Kajwang', you have the Floor.

**Hon. T.J. Kajwang'** (Ruaraka, ODM): Hon. Speaker, I wish there were shops for noses. I would have looked for a very narrow and smaller one. This big one is giving me problems because it demands so much air than the mask can give.

I rise to second the Motion for the adoption of the fourth Report of the Procedure and House Rules Committee on the amendments to the Standing Orders to facilitate the virtual sittings of the House and its Committees. I want to commend the Deputy Speaker for ably leading us in the procedures as the House Rules Committee and for showing us first, how to wear a mask and how to keep it above the nose. These are extraordinary times. We must be versatile and dynamic. We must come up with extraordinary measures. This is the first time in Africa and we are the first House designing rules for virtual proceedings.

*(Applause)*

You can research the whole of Africa and, indeed, many jurisdictions. You can look everywhere. We are one of the first people that have literally sought to change our laws to provide for virtual sittings. I know there are many people who are trying it but they do not have the courage to write it in law. They would still do it behind the law. This is the first time that we have taken this proactive measure to put it in law, so that we have a transparent method, an objective criterion and a law that will enable us deal with such issues as they rise. We do not want to be in the streets and be heard issuing decrees or orders and making laws without putting those laws in written context. Kenyans should know and expect that this is what the National Assembly will do. That is why, out there, some people are saying that the National Assembly is doing nothing and yet, they do not know that they have not proposed a legislation on COVID-19. Nobody has brought a legislation to this House on COVID-19. So, how do you expect Parliament to work in a vacuum? Yes, we are legislators and we have presented proposals for a COVID-9 law. It is doing its rounds according to the laws that we have done. People join the *Wanjikus* that I represent, speak like we are in a public rally and say that we are doing nothing. Forget about them. Most of them are in the media and they will want to make a headline and make some earnings.

What Members need to think of is, first, not to be over-excited. This is National Assembly. This is Parliament. It is not a conference. This is not one of those discussions which you can hold informally. Parliament has a tradition. Parliament is the microcosm of the integrity of the nation. Even when we have difficult conditions, there needs to be a semblance of dignity and integrity that people will know that, that is the National Assembly transacting business. Hon. Speaker, I seem to be taking so much time. Please, allow me to...

**Hon. Speaker:** Proceed, Hon. Kajwang’.

**Hon. T.J. Kajwang’** (Ruaraka, ODM): Thank you, Hon. Speaker. If Members decide to behave the way they behave in conferences, nobody will differentiate what happens in a conference and what happens in the National Assembly. So, that is why when I hear Members say that they will be in their houses, for example, in Mathare or Ruaraka and as they serve their constituents with one hand, they will also be virtually participating in proceedings... Parliament has been made of traditions over the years. You must equate yourself with parliaments in closed jurisdictions. There are issues that must come to bare. Article 10 of the Constitution is the basis on which you must always think on how you debate in this House. Article 86 of the Constitution says that voting must be... The words are that, in any method that you chose, voting must be accurate, verifiable, secure, accountable, transparent and must facilitate prompt declaration of the results of each vote. The interesting thing with Article 86(a) of the Constitution – although it is designed for elections – when you look at it, it is a principle that runs across the Constitution. Whenever you want to do any voting, including here, it should be a process that is verifiable and secure.

Members must think about the Powers and Privileges Act. It draws from Article 117 of the Constitution. There is what is defined as “Precincts of Parliament”. It is within the Precincts of Parliament that there is the privilege of the immunity that we talk about. Of course, you can do Committee work and we have been doing it. For example, before I go to Mombasa, I can say something and I will be immune from what I have said. But if, for example, you are somewhere and somebody places a gun on your head, where will you get the immunity while you are out there? Or, for example, somebody appears and demands to influence you to vote or participate in a way. Or a simple area that the Deputy Speaker has talked about: There is that stranger in the House who insists that you must do certain things his or her way. These are things you must think about when you want to develop these guidelines.

Article 117 of the Constitution says that this is a House of free speech and debate. We must be robust and we need to be as free as we can to be able to express ourselves. So, even when we talk about that, we need to see how that enhances our freedom to debate. According to Article 126, Parliament is where the Speaker is. Where you see the convening presiding officer is where Parliament is. So, you can be wherever you are, but the *Hansard* and the record of this House will be taken to have come from the House. I was speaking to a Member from Uasin Gishu, my very good friend Hon. Chepkut. We were comparing our gadgets and we realized that we both have a ‘mulika mwizi’. ‘Mulika mwizi’ is a kind of phone that is not able to host some of these applications that we are talking about. The Leader of the Minority Party has never been on WhatsApp. He does not even know about it. If you ask him to operate it, he would not know how to do it. He does not know what Facebook means. You have to send him an SMS or call him. The Deputy Speaker is a person that I have known for long. He has the problems I have of digital compliance. So, even when you talk about these devices, there must be some standardisation of the devices so that there is quality assurance in the products.

So, the Parliamentary Service Commission has a facilitative role. We may go back to the debate we had in the 11<sup>th</sup> Parliament when we said that Members should carry a tablet or an iPad. There were heated discussions, with people saying we had increased our allowances and now we wanted to walk with iPads. We were just creating a situation in which Members are better equipped to be able to participate in the proceedings of the Assembly. In one of those rules on the use of technology, we have said that the Clerk shall facilitate the participation of Members. Meaning that we will have some standard device. By the way, I have been told that if you login on your phone to participate in the virtual proceedings and a call comes, the virtual proceedings are cancelled and you have to attend to the call. In other words, you must have another device other than the phone you regularly use to be able to participate in the virtual proceedings. These are some of the principles that we have in this Report, and I urge Members to support it.

We have also come up with a distinction between what is deliberative and what is the business of the House. A Member is free to join in from wherever he or she is and deliberate on those issues which do not call for a vote. For example, statements or debate on adjournment of the House on an urgent matter. But on issues which call for a vote, remember no jurisdiction on earth has a virtual voting system. You can challenge me on this. No jurisdiction on earth, including America and Britain, has a virtual voting system. They still fall back to physical voting. So, even if Members are out there debating, we must have some guidelines that bring in Members, even if in batches, to vote. One group may come in and vote, followed by another group, until we have all the votes and we are able to verify those votes. That is the only time we will know that what we discuss here comes from the will of the people because we are the representatives of the people. That is the principle of the Constitution.

Otherwise, Hon. Speaker, allow me to second this Motion. When we develop the guidelines, we will have a way in which all Members will be consulted in some kind of stakeholder engagement so that they are able to give us their views on how they want these guidelines to be. The Speaker will rely on the recommendations of the Committee.

Thank you so much, Hon. Speaker. I second.

**Hon. Speaker:** I commend the members of the Committee for doing that and for appreciating some of the issues in the Constitution and, more particularly, in Article 122.

*(Question proposed)*

**Hon. Speaker:** Let us now hear the Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I rise to support this Motion. This is very unique. We have never done this. Why are we doing this? We are doing this because of COVID-19. The reason I really want to thank members of the Procedure and House Rules Committee is that we do not want to work haphazardly. You have seen our colleagues voting through proxies despite Article 123 of the Constitution, which is unconstitutional. So, the Procedure and House Rules Committee decided to bring to this House proposals on the use of technology on matters quorum, voting, orderly conduct, among other provisions, across all committees, so that the Departmental Committee on Health cannot do one thing while the Departmental Committee on Energy does its own. We want to have uniformity.

As Hon. T.J. Kajwang' has said, being the 'first world' country in Africa, we have been one of the few Parliaments, and more so the National Assembly, which have been offering benchmarking opportunities. I am sure many parliaments will come and learn from us, because

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

this has never happened and the situation is very common in many countries. I am sure the House of Representatives in the US Congress are trying to see how to deal with these matters. Same to the House of Commons and the South African Parliament.

Such rules will ensure that there is uniformity, especially among committees, with regard to remote participation of Members in the proceedings of a committee. There is, however, an important element I need to mention particularly, what was happening with the Zoom technology. Please, the moment you want to participate using this technology, you must make sure that your mind, heart and physical presence are there. How you play what you are wearing, where you are and what you are talking to is very important. I am sure Hon. Musimba will tell you. He knows this area. So, if you decide to participate in what we are doing, then the whole of you must be on that business. Otherwise, it can cost you your seat. I am serious. You cannot scratch some places you are not supposed to. When your microphone must be mute, it must be mute. This is the reason I decided to speak.

Hon. Deputy Speaker and Hon. T.J. Kajwang' spoke from a technical point of view. Even at home, there are times when you see some...I agree, I do not have a *WhatsApp* account. I wish I could join him. When you do not have a *WhatsApp* account, you lead a very good life in Kenya. He has none. If I have to look for him, I do so through text messaging. Please, let us make sure that our minds and everything else are focused on what we are doing.

Secondly, as it has been noted, there is no legislature which has fully embraced these kinds of proceedings on a substantive legislative business. Whereas some Committees, including the Procedure and House Rules Committee have had hybrid sitting, each managed the issues individually. I am sure you will not vote. You will not be allowed to vote this way. What if your girlfriend or wife votes? Your vote represents the people. Your wife does not represent the constituency. The only constituency you can represent is your family – your home. That is the only way you can delegate. Further, you need to introduce electronic technology where you can vote biometrically. That is when we can confirm it is not your son, daughter, house girl or houseboy but you who voted.

Hon. Deputy Speaker, Members will also agree with me that everyone in the country is looking at how the national leadership will tackle the raging pandemic. This is an important step towards offering a national example through application of social distancing protocols using technology. Parliament has led by example. We want to make sure that we implement social distancing using technology.

People say that Parliament is not working. I am repeating because people tomorrow will say that Parliament is not working. They will say that we have gone for recess for one month. What is going on recess? Let me go on record that it is only the plenary sittings that do not take place when we are on recess. Parliament will be busy throughout May from what the Chair of Budget and Appropriations Committee has said.

A work programme has been drawn commencing the week starting 14<sup>th</sup> May 2020 to the first week of June, when the House will be back. Committees will be interrogating the Financial Estimates submitted by the National Treasury. The Finance and National Planning Committee has extra work of interrogating the Finance Bill. I am sure that the Committee on Delegated Legislation will deal with more regulations coming from the national Government. The National Assembly is not going on holiday. This is how the National Assembly works, being the budget-making House of the Parliament of Kenya. Before the Minister for the National Treasury presents his Budget in Parliament, Committees of the National Assembly must interrogate the Estimates. The Budget and Appropriations Committee must bring a report to this House and upon the approval of that report,

the Minister will read the Budget in the second week of June. So, this is a very good step. I, really, want to thank the Committee.

With those many remarks, I beg to support and ask Members to support this amendment to the Standing Orders.

**Hon. Speaker:** Hon. Musimba, you have the Floor.

**Hon. (Dr.) Patrick Musimba** (Kibwezi West, Independent): Thank you, Hon. Speaker for this opportunity. Once again, I want to echo words of congratulations to the Committee and, indeed, to Parliament because we have shown progress. Ever since the COVID-19 pandemic started, we have risen to the occasion. Through the Clerk's Office and your able leadership, the National Assembly has shown great courage in making us stand out, not just in Kenya but the entire world is embracing the Information and Communication Technology as an enabler. In reviewing our rules in line with our Constitution, which is very specific, when it comes to the budget-making process, it has timelines.

We are dealing with lives and livelihoods. These are great measures that we have taken as a House in terms of moving ahead. That is exactly to echo what the Leader of the Majority Party said. We also need to move progressively and see how we can move to the realm of voting through biometrics. As a House, we already have a biometric register in line with Article 127 of the Constitution, which the seconder, Hon. T.J. Kajwang' spoke about; in terms of facilitation of Members and in terms of devices and standardisation. We are at a time when provision of ICT infrastructure, like fibre optic networks, has become seamless. Today whether a Member is here or is on his way to parliamentary business around the world, he can still follow what is going on back home. Even after we reconvene and things get to normalcy, we will have made great strides in ensuring that every idea of an hon. Member is actually captured.

As a House, we have always been progressive, especially in terms of provision for persons with disabilities. We are the first to have made our House disability-friendly. This will make great strides in supporting people who are blind in future to enable them to participate through braille and all these other devices that will be encompassed. As I support this initiative, and indeed the Report, we look forward to taking this to another level.

Hon. Speaker, I believe in your rule. As the Chairman of the African Chapter of the Commonwealth Parliamentary Association, I think you will continue to be a beacon of hope, having spearheaded a great discourse on the way forward for legislatures and their respective nations.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Mbarire.

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Thank you, Hon. Speaker for giving me a chance to also contribute to this important Motion.

I want to start by thanking the Committee, and especially the secretariat for doing a lot of background work for this Committee in terms of research on what is happening in other jurisdictions and giving us the necessary information that assisted us in making decisions. I also thank the Chair, Hon. Cheboi, who also gave us quite some good leadership throughout the whole process. We are happy that we finally brought a document for this House to consider.

Obviously, we thought that we should pass these particular Standing Orders specifically for the extraordinary time we are going through, but we said we never know about the future. No one thought we could get to a point where we are all at home and unable to meet like we used to do. If anybody had told us that Kenya and the world would be the way it is today, many of us would have doubted that this is practically possible. However, we are now facing a reality. So, it

is important that whatever it is that we legislate, be it on our Standing Orders or laws, we must make sure that it is something that can withstand the test of time, so that even those who will come after us will be able to deal with any situation of this nature in a better way.

Hon. Speaker, let me also say that we have had a first-hand experience of having some of our Committee Members participating virtually. Hon. Wamuchomba participated from Kiambu. Hon. Ruweida participated all the way from Lamu. Hon. Zuleikha, the Kwale County Woman Representative, participated all the way from home. Hon. Dawood participated all the way from Meru.

Hon. Speaker, it shows that it is possible for us to carry out useful legislative or parliamentary business without having to be physically present, if circumstances demand so, and we have that first-hand experience...

Earlier on, I heard two Members of the Health Committee speak and I would want to add my voice to that of the Chair, Hon. Cheboi. As they were sitting, one of them was participating virtually and he came carrying a drink - I do not want to mention it - and made the rest of the Committee Members thirsty and totally disrupted them. He says he had no idea that he was being seen.

Therefore, I agree with Hon. T.J. Kajwang' that we will definitely need some rules and guidelines on how to do this so that people dress well and we do not have disruptions from families. In our Committee we did have Hon. (Ms.) Wamuchomba busy talking to her children in her native language. She did not know she was online.

So, we will need some form of decorum and a way of doing it so that we do not end up getting embarrassed or disruptive to proper proceedings of the House. Otherwise, it is time for us to go digital. We started by voting. We are always a fast nation especially in Africa in terms of adopting technology. This is a great move for this Parliament and obviously you will go down in history as having helped us get into the digital world going forward.

With those many remarks, I beg to support .

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

**Hon. Godfrey Osotsi** (Nominated, ANC): Thank you, Hon. Speaker for this opportunity to also support this Motion. This amendment to the Standing Order to introduce virtual sittings is long overdue. As you know, the Inter Parliamentary Union (IPU) which we are Members of has been engaging on how to encourage Parliaments across the world to adopt e-parliament. So, this will help us fasten this process towards the achievement of e-parliament in future. Most importantly, these guidelines will not interfere with the norms and traditions of Parliament. They are also in line with our Constitution in terms of voting, quorum and many aspects of Parliament.

Many parliaments have adopted virtual sitting especially at this point in time of COVID-19. I think we are not far off from many other parliaments across the world such as the British Government which even before the COVID-19, were thinking about digital service as part of their parliamentary processes. In future as this process matures, we need to think about how we will run a virtual parliament without having to sit in one location and at the same time observing the rules and guidelines. I am also happy that the Standing Orders also refer to the guidelines which will be formulated to look at issues of access by the public such as public participation and to look at the issues of conduct of proceedings such as voting, division and even ascertaining the votes. This is very important that whatever technology we adopt should not veer off the rules and laws that guide the functioning of Parliament.

Hon. Speaker, choice of technology will be key because of hackers. The other day we heard complaints that the Zoom technology that is being used for e-learning gets hacked and is given

very bad content such as pornography. So, you can imagine if Parliament is in session then in the middle of it a pornographic content pops up. That will not be something good. So, the choice of technology must take into account cybercrime concerns so that we can manage security aspects. As some Member has said, though we are in a COVID-19 crisis, it is also an opportunity for accelerated technological development.

The Judiciary has adopted virtual court sessions. Parliament is now adopting virtual sessions. I am happy we are starting the budget-making process and we need to think about how to enhance the infrastructure for technology so that issues such as e-learning, operation of Government functions, Parliament and courts can run smoothly.

The current set up of things is not possible. For instance some Members come from very remote areas where there is no electricity and infrastructure. So, as we engage on the issues of Budget, let us also consider how to invest more on ICT infrastructure.

With those few remarks, I support.

**Hon. Speaker:** Let us have Hon. Mutua Barasa from Kimilili Constituency.

**Hon. Didmus Barasa** (Kimilili, JP): Thank you Hon. Speaker, I also rise to support this Motion. Parliament is very important in discharging its duties whether during the pandemic or not. We must make everything possible as we continue to transact our business.

Hon. Speaker, as we move towards this virtual technology we also need to bring on board some of the problems that we saw when we were doing this meeting. It was clear that nearly 90 per cent of the Members who participated online were doing it from their cars and the farm.

So, these are some of the challenges, even the gracious lady Hon. Member for Lamu was in some kind of a farm and her six year old son kept coming and going. So, we should have guidelines when we are developing these regulations. This matter is not difficult. The Parliamentary Service Commission (PSC) pays offices for Hon. Members; they can as well pay for gadgets in boardrooms which can be configured to ensure that we make contributions from our constituency offices, link through the *Hansard* and go a notch higher.

The challenges of catching the Speaker's eye when you are attending the meeting virtually need to be addressed. If you have something important or if you are an expert in a subject matter you can write to the Hon. Speaker so that he goes through before the session begins. That way, you know that Hon. TJ Kajwang', for example, has a very good write up then you can give him priority. There is no way this House can fail to transact business for whatever circumstances.

Without Parliament the Executive becomes rogue and may turn around the Constitution. Without Parliament, the Executive cannot know what is in the mind of Kenyans. The aspirations and wishes of Kenyans are communicated to the Executive through their representatives.

Therefore, this House is very important and no matter the circumstances, we are the last line of defence for Kenyans. We should therefore be the last people to close doors for whatever circumstances. This is because the Constitution gives power to Kenyans.

As we move forward, we should do so with speed. I want to encourage Members if they have good suggestions, they can forward them to the Committee so that when it sits to deliberate on how to go about this matter, it will have a pool of resources from the MPs to tap in.

With those few remarks, I support.

**Hon. Speaker:** Hon. Makali Mulu.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Speaker for giving me this opportunity. Let me start by appreciating the work of the Committee. A lot of things have been said by my colleagues in terms of this important area. Since we are in extraordinary times, it is very important to see such initiatives coming from this House.

Hon. Speaker, I am sure all of us are aware that you are the Chair of the Commonwealth Parliamentary Association (CPA) Africa Executive Committee. When we see this coming from the Kenya National Assembly, it will work very well for us because you are providing leadership. I hope by passing this Motion, we will also be sending a very clear signal to the rest of the Parliaments in Africa that it is doable.

I want to agree with those who are saying the issue of voting will not be an easy one. I think the Committee will have to take a lot of time to think through how voting will be conducted. This is because when you have some people in a room and others out there, it will not be easy. But to me, things like where to conduct these kinds of meetings will be easier once we agree on the Motion because it is clear that people will have to dress officially. They will have to know the timings of the meetings so they can look for a right place to avoid interruptions from other family members as has been said.

I also want to prepare the country that by passing this Motion it will be calling for additional resources to the National Assembly so that we have the right environment to conduct such meetings.

With those remarks, I want to urge my colleagues to support this Motion and then we move to the next level of implementation.

Hon. Speaker, I support.

**Hon. Amos Kimunya** (Kipipiri, JP): On a point of order, Hon. Speaker.

**Hon. Speaker:** What is your point of order Hon. Kimunya?

**Hon. Amos Kimunya** (Kipipiri, JP): On a point of order, Hon. Speaker. I rise pursuant to Standing Order No.95. Listening to the accolades that have been showered to the Committee and the concurrence in terms of why we need this virtual technology and why it is timely, even if we are to continue talking we will not necessarily be saying anything different. Therefore, would I be in order to move that the Mover be called upon to reply?

**Hon. Speaker:** Well that appears to be the mood in the House.

**Hon. Members:** Yes.

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

**Hon. Speaker:** Mover, the Deputy Speaker.

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Speaker, I want to thank my colleagues for supporting this particular Motion. I want to clarify that the Chair of the Committee is the Speaker himself. He graciously donates his powers many times. So, most of the work we do in the Committee is under his guidance as the Chair.

Hon. Speaker, with those remarks, I beg to reply.

*(Question put and agreed to)*

**Hon. Speaker:** Serjeant-at-Arms, I can see there are some Members who are going to the other holding room. There are several empty spaces in here. I can see some Members coming and going to the lounge. They can be told there is space, unless they want to consult further out there.

Next Order!



**REPORT AND THIRD READING**

## EQUALIZATION FUND BILL

**Hon. Speaker:** Hon. Members, what remained on this Motion is for the Question to be put, which I hereby do.

*(Question put and agreed to)*

Next Order!

**COMMITTEE OF THE WHOLE HOUSE**

*(Order for Committee read)*

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

## IN THE COMMITTEE

*[The Chairman (Hon. Moses Cheboi) took the Chair]*

## THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL

**Hon. Chairman:** Hon. Members we are starting with the Public Finance Management (Amendment) Bill (National Assembly Bill No.2 of 2020).

*(Clause 2 agreed to)*

*Clause 3*

**Hon. Chairman:** Hon. Limo, you have an amendment to this one.

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Chairman.

**Hon. Chairman:** Yes, what is it Hon. Leader of the Majority Party?

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Chairman. I thought you made a communication this morning that Clause 3 was withdrawn.

**Hon. Chairman:** That is a very good observation. Hon. Limo is that the position which you want to confirm on record?

**Hon. Joseph Limo** (Kipkelion East, JP): Yes, Hon. Chairman. As per the position of the Leader of the Majority Party, it was communicated in the morning that this clause was withdrawn. So, it means our amendment stands withdrawn.

**Hon. Chairman:** Very good. So, that one is withdrawn. Thank you, Leader of the Majority Party, for being very keen on that one.

*(Proposed amendment to Clause 3 by  
Hon. Joseph Limo withdrawn)*

*(Clause 1 agreed to)*

*(Title agreed to)*

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

**Hon. Chairman:** Let us have the Mover to move reporting.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, I beg to move that the Committee do report to the House its consideration of the Public Finance Management (Amendment) Bill (National Assembly Bill No.2 of 2020) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

**Hon. Chairman:** That marks the end of that particular one. We go now to the Equalisation Fund Bill (National Assembly Bill No.43 of 2019). We are now dealing with re-committal of Clause 7.

#### THE EQUALIZATION FUND BILL

*(Re-committal of Clause 7)*

*Clause 7*

**Hon. Chairman:** Hon. Limo, you have something to this one.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Chairman, I beg to move:

THAT, the Bill be amended in Clause 7—

(a) by deleting subsection (1) and substituting therefore the following new subsection—

(1) The Board shall comprise of—

(a) a chairperson, who shall be appointed by the President with the approval of the National Assembly;

(b) the Principal Secretary in the Ministry for the time being responsible for matters relating to water or a person designated in writing by the Principal Secretary;

(c) the Principal Secretary for the time being responsible for matters relating to roads or a person designated in writing by the Principal Secretary;

(d) the Principal Secretary for the time being responsible for matters relating to health or a person designated in writing by the Principal Secretary;

(e) the Principal Secretary for the time being responsible for matters relating to the national Treasury or a person designated in writing by the Principal Secretary;

(f) the Principal Secretary in the Ministry for the time being responsible for Arid and Semi-Arid Lands or a person designated in writing by the Principal Secretary;

(g) four persons appointed by the Cabinet Secretary; and

(h) the Chief Executive Officer, who shall be an *ex-officio* member and secretary to the Board.

(b) by inserting the following new subsection immediately after sub-section (1)—

(1a) Where there is a tie in the voting of the Board the chairperson shall have a casting vote.

What we are doing here is that the Bill was proposing that the chairperson will come from the marginalised communities. However, we are now re-committing and amending it so that the chairperson will come from any part of Kenya, regardless of where that person is coming from.

The other one under sub-section (b) we are also saying that the number is an even number. Therefore, when there is a tie it will be a problem. We are amending so that the chairperson can take a vote in case of a tie.

Finally, there is a further amendment. We have proposed to...

**Hon. Chairman:** I want to be clear on this one. We are dealing with the amendment. So, is there any further amendment?

**Hon. Joseph Limo** (Kipkelion East, JP): Yes, there is a further amendment. There is a proposal on a fine when there is an offence. The fine was at Kshs10,000. However, we had proposed to move it to Kshs100,000 so that we introduce sub-section (c) to take care of that enhanced fine to make it more reasonable for the board.

Those are the only things which we are re-committing.

**Hon. Chairman:** You have to be very clear on that one, Hon. Limo, because the second one, which you are referring to as a further amendment is actually what is already captured as (b) but you could be having something else.

**Hon. Joseph Limo** (Kipkelion East, JP): It was not actually captured properly on the Order Paper. However, that was adopted in the House during the Committee of the whole House.

**Hon. Chairman:** Please go on record specifically on that one so that when a Question is put and it is taken, then it will be captured in the manner that you want. So, what is it that you want on that particular one? Is it the issue of the fine?

**Hon. Joseph Limo** (Kipkelion East, JP): It is the issue of the fine, to move the fine from Kshs10,000 which is in the Bill to Kshs100,000 to make it more reasonable. This is because Kshs10,000 is on a lower side. We need to make it Kshs100,000 in case of an offence by the board members.

**Hon. Chairman:** So, is that in that particular sub-clause (b) or in another place?

**Hon. Joseph Limo** (Kipkelion East, JP): It will now be moved to sub-clause (c) because sub-clause (b) will be taken over by the introduction of the chairperson to vote in case of a tie.

**Hon. Chairman:** I hope that is clear. Hon. Members, as I propose the Question, it should be clear to Members that the proposed amendment by Hon. Kassait Kamket will not be considered if the amendments of the chairperson are...

Just a minute. Hon. Chair, you have something?

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Chairman, maybe I bring to your attention that we discussed with Hon. Kamket and he is in agreement with my amendment.

*(Question of the amendment proposed)*

**Hon. Chairman:** I will give the first opportunity to Hon. Kamket, if he is interested because he had something on it. Hon. Kamket, do you want to speak to this?

**Hon. Kassait Kamket** (Tiaty, KANU): Thank you, Hon. Chairman. I am in full agreement with the Committee Chairperson.

**Hon. Chairman:** Is that Hon. Nyikal?

**Hon. (Dr.) James Nyikal** (Seme, ODM): My Order Paper is different. There was another raft of amendments under that where you are asking the person designated by the Principal Secretary instead of the Principal Secretary alone. And all the way down and where we are adding (d), there is a (da), where we are adding the Principal Secretary for the time being responsible for matters relating to the National Treasury. Are these now not part of the amendments?

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Chairman.

**Hon. Chairman:** What is it, Leader of the Majority Party?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, we are only dealing with the re-committal. I think you better provide information.

**Hon. Chairman:** That is what I wanted to do. Hon. Nyikal, we are dealing with the re-committal which is Clause 7 and Hon. Limo has moved.

Lastly, let us have the Member for Kitui Central.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Chairman. I really thank the Chair of the Departmental Committee on Finance and National Planning and also Hon. Kamket for agreeing to this amendment. This is because the last time we discussed this Bill, we said this was unconstitutional. So, I am very happy when I see that they have taken care of that interest and I support it.

**Hon. Chairman:** Lastly, let us have Hon. Maanzo.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Thank you, Hon. Chairman, for the opportunity to contribute on this very important one. I do support the moving of the fine from Kshs10,000 to Kshs100,000 because it makes it more serious and preventive.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Question, that the words to be inserted be  
inserted, put and agreed to)*

**Hon. Chairman:** Let us have the Mover to move reporting. Actually, Hon. Limo is the one who moved that amendment, but the Bill is Hon. Kamket's. So, you are the Mover.

**Hon. Kassait Kamket** (Tiaty, KANU): Hon. Chairman, I beg to move that the Committee do report to the House its consideration of the Equalisation Fund Bill (National Assembly Bill No.43 of 2019) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*(The Temporary Deputy Speaker (Hon.  
Christopher Omulele) in the Chair)*

## REPORTS AND THIRD READINGS

## THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Public Finance Management (Amendment) Bill (National Assembly Bill No.2 of 2020) and has approved the same with amendments.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, I beg to move that the House do agree with the Committee in the said Report.

I request the Chairperson of the Departmental Committee on Finance and National Planning, Hon. Joseph Limo, to second the Motion for agreement with the Report of the Committee of the whole House.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Speaker, I second.

*(Question proposed)*

*(Question put and agreed to)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, I beg to move that the Public Finance Management (Amendment) Bill (National Assembly Bill No.2 of 2020) be now read a Third Time.

I also request the Chairperson of the Departmental Committee on Finance, Hon. Joseph Limo, to second.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Speaker, I second.

*(Question proposed)*

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): We will now deal with the Equalization Fund Bill (National Assembly Bill No.43 of 2019).

## THE EQUALIZATION FUND BILL, 2019

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Equalization Fund Bill (National Assembly Bill No.43 of 2019) and approved the same with amendments.

**Hon. Kassait Kamket** (Tiaty, KANU): Hon. Temporary Deputy Speaker, I beg to move that the House do agree with the Committee in the said Report.

I also request Hon. Joseph Limo, the Chairperson of the Departmental Committee on Finance and National Planning to second the Motion for agreement with the Report of the Committee of the whole House.

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

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Speaker, I hereby second.

*(Question proposed)*

*(Question put and agreed to)*

**Hon. Kassait Kamket** (Tiaty, KANU): Hon. Temporary Deputy Speaker, I beg to move that the Equalization Fund Bill (National Assembly Bill No.43 of 2019) be now read a Third Time. I request Hon. Joseph Limo to second.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Speaker, I second.

*(Question proposed)*

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

## MOTIONS

### OTHER MEASURES TO ADDRESS THE EFFECTS OF COVID-19 PANDEMIC

THAT, aware that the World Health Organization (WHO) declared the Coronavirus Disease 2019 (COVID-19) a global health pandemic and that the pandemic has led to an unprecedented global health crisis;

Cognizant that the Government, non-governmental institutions, well-wishers and health authorities globally have joined hands and put in place a number of measures to contain the pandemic, mainly through travel and behavioural restrictions, provision of necessary protective facilities, equipping existing health facilities, availing resources; and providing necessary assistance and information;

Appreciating the policy measures and interventions being undertaken by the Government, through the multi-agency National Emergency Response Committee on Coronavirus (NERC) led by the Ministry of Health, to contain the spread of the pandemic and cushion Kenyans against its social and economic effects;

Further cognizant of the legislative measures proposed by the Executive, including the establishment of the COVID-19 Fund, the reduction of the Value Added Tax, amongst others;

Further appreciating the role of National Assembly in taking necessary legislative interventions and offering the necessary political and legislative support, whenever required;

Concerned that, COVID-19 pandemic has disrupted the country's economy and that economic development outcomes are expected to be seriously affected by the interruption caused by the virus both globally and locally;

Deeply concerned that, the Government faces significant fiscal challenges as the national economy faces contraction because of the effects of COVID-19 pandemic, a

situation made worse by the depreciation of the shilling, and the Government may in the current financial year not be able to meet its loan obligations;

Now therefore, this house resolves –

(a) to laud and appreciate the Government of the Republic of Kenya for the action and policy measures undertaken so far in combating the spread of the virus, and addressing the economic effects of the virus in the country to cushion ordinary Kenyans from its effects;

(b) to commend and appreciate all healthcare workers and service providers in the country for their selfless efforts, commitment to service, care and compassion towards persons who have been infected and/or affected by the virus;

(c) to urgently put in place modalities of facilitating the continuity of the business of the House remotely using modern technology whilst upholding the constitutional requirements on public access and participation, quorum, and voting in Parliament; and,

(d) that, the Government considers waiving charges payable by persons who are under mandatory quarantine, excluding those isolated due to violation of social distancing and curfew requirements;

(e) that, the Government of Kenya should urgently engage multilateral and bilateral lenders with a view to renegotiate loan obligations, with emphasis on waivers of interest and extensions on the repayment period, as well asking for total waivers on some of the loans so as to free up money to enable the Government to contain the spread of the pandemic, cushion Kenyans against its social and economic effects, and address economic impact of the pandemic;

(f) that, to supplement the COVID-19 Fund and other measures put in place, the Budget and Appropriations Committee reviews the proposed Annual Estimates for the FY 2020/2021 with a view to allocating funds towards cushioning the country further from the short-term and long-term effects of COVID-19, particularly allocating and ring-fencing funds for –

- (i) the provision of personal protective equipment (PPE), testing and medical equipment, including adequate ventilators;
- (ii) the establishment of suitable health facilities for the treatment and management of infectious and viral diseases such the COVID-19; and,
- (iii) the establishment of suitable health facilities for the treatment and management of infectious and viral diseases such as COVID-19.

*(Hon. Aden Duale on 29.4.2020)*

*(Resumption of Debate interrupted on 29.4.2020-Afternoon Sitting)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, on this Motion, there was a balance of 20 minutes.

Hon. (Dr.) Tecla Tum, Member for Nandi.

**Hon. (Dr.) Tecla Tum** (Nandi CWR, JP): Hon. Temporary Deputy Speaker, I support the Motion on adoption of other measures to address the effects of the COVID-19 pandemic.

We have passed legislation in this House in relation to public health and ways of safeguarding the national economy and the people of Kenya in the wake of this pandemic.

However, there are many issues that are pending. Payment of quarantine fee by the less fortunate has to be looked into. If there was a partial lockdown in Nairobi, mass testing would have been done in all the estates in the metropolitan area so that we know the state of COVID-19 in Nairobi. We also need to be told why testing kits or reagents are lacking because some money has been provided by well-wishers from Kenya and abroad. The Government has received Ksh1.3 billion from the World Health Organization (WHO) and Ksh705 million from the United States of America (USA) as well as other donations from other well-wishers.

The people who own hotels in this city were told to reopen. There was a discussion on the issue of permits. How would they pay again yet they had already paid? Where will they get the money at a time like this? Those are pending issues.

The businessmen and businesswomen who sell *mbogas* and the *boda bodas* do not have masks. The Government of Kenya is able to buy masks for those people. The Cabinet Secretary for Health has to put in place money for the less fortunate, especially the *mama mbogas* and the *boda boda* men and women in this nation.

We know very well that 100,000 people have been displaced because of floods and landslides and 194 people have passed on in this country. When we are focused on COVID-19, who is talking about the 100,000 displaced people in Tinderet - where I come from - in Nandi County and in Bungoma? We need to know and discuss those issues. This is a good Motion.

Today, the Cabinet Secretary said that 47 people tested positive for Coronavirus. We have 581 cases. We cannot cheat ourselves that those are the only people who have tested positive in Kenya. Let us go to the 47 counties. Let the 47 counties be given money so that they can conduct mass testing. Let us not cheat ourselves. We do not have a large number of medical personnel who will handle the issues of COVID-19 when it becomes widespread in this nation. We have personnel who are ready to work, but they are not provided with the monies so that they can do what is required.

I support the fact that the police are to be given equipment. They are risking their lives. If we lose the security men and women in this nation, Kenya will not be the same again. As the Cabinet Secretary gives us the number of people who have passed on every day, let him be proactive. We are tired of being given figures yet nothing tangible is happening in the nation concerning COVID-19. We do not want to be wiped out as a nation because of something we can deal with.

Finally, we need to pray as a nation. First, it was locusts and now we have COVID-19 and floods. We cannot cheat ourselves. We need to repent as a nation. God is not pleased with us. Let us call for true prayers where the leadership of the nation repents and then it will come to Parliament and then to the village elder.

I support the Motion.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): The Hon. Member for Nandi said “locusts” not “lakers”. The Leader of the Majority Party was questioning her. I heard her clearly say “locusts”.

Hon. Kaluma, you have something to say to this. You have an amendment I believe.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Speaker, I had proposed an amendment before we broke in the morning session. I do not know whether it was processed by the Table Office. The amendment I wanted to make was merely to not direct the Government to consider waiving but to waive the quarantine fees. The amendment may be taken as tried subsequently. I request that if that small amendment is not on the Table, then the Mover of this particular Motion be called upon to reply.



**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well, Hon. Kaluma. I will, therefore, call upon the Mover to reply.

**Hon. Aden Duale** (Garissa Township, JP): I beg to reply.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, having ascertained that we have the requisite numbers, I will now put the Question.

*(Question of the Motion as amended put and agreed to)*

*Resolved accordingly:*

THAT, aware that the World Health Organization (WHO) declared the Coronavirus Disease 2019 (COVID-19) a global health pandemic and that the pandemic has led to an unprecedented global health crisis;

Cognizant that the Government, non-governmental institutions, well-wishers and health authorities globally have joined hands and put in place a number of measures to contain the pandemic, mainly through travel and behavioural restrictions, provision of necessary protective facilities, equipping existing health facilities, availing resources; and providing necessary assistance and information;

Appreciating the policy measures and interventions being undertaken by the Government, through the multi-agency National Emergency Response Committee on Coronavirus (NERC) led by the Ministry of Health, to contain the spread of the pandemic and cushion Kenyans against its social and economic effects;

Further cognizant of the legislative measures proposed by the Executive, including the establishment of the COVID-19 Fund, the reduction of the Value Added Tax, amongst others;

Further appreciating the role of National Assembly in taking necessary legislative interventions and offering the necessary political and legislative support, whenever required;

Concerned that, COVID-19 pandemic has disrupted the country's economy and that economic development outcomes are expected to be seriously affected by the interruption caused by the virus both globally and locally;

Deeply concerned that, the Government faces significant fiscal challenges as the national economy faces contraction because of the effects of COVID-19 pandemic, a situation made worse by the depreciation of the shilling, and the Government may in the current financial year not be able to meet its loan obligations;

Now therefore, this house resolves –

(a) to laud and appreciate the Government of the Republic of Kenya for the action and policy measures undertaken so far in combating the spread of the virus, and addressing the economic effects of the virus in the country to cushion ordinary Kenyans from its effects;

(b) to commend and appreciate all healthcare workers and service providers in the country for their selfless efforts, commitment to service, care and compassion towards persons who have been infected and/or affected by the virus;

(c) to urgently put in place modalities of facilitating the continuity of the business of the House remotely using modern technology whilst upholding the constitutional requirements on public access and participation, quorum, and voting in Parliament; and,

(d) that, the Government considers waiving charges payable by persons who are under mandatory quarantine, excluding those isolated due to violation of social distancing and curfew requirements;

(e) that, the Government of Kenya should urgently engage multilateral and bilateral lenders with a view to renegotiate loan obligations, with emphasis on waivers of interest and extensions on the repayment period, as well asking for total waivers on some of the loans so as to free up money to enable the Government to contain the spread of the pandemic, cushion Kenyans against its social and economic effects, and address economic impact of the pandemic;

(f) that, to supplement the COVID-19 Fund and other measures put in place, the Budget and Appropriations Committee reviews the proposed Annual Estimates for the FY 2020/2021 with a view to allocating funds towards cushioning the country further from the short-term and long-term effects of COVID-19, particularly allocating and ring-fencing funds for –

(i) the provision of personal protective equipment (PPE), testing and medical equipment, including adequate ventilators;

(ii) the establishment of suitable health facilities for the treatment and management of infectious and viral diseases such the COVID-19; and,

(iii) the establishment of suitable health facilities for the treatment and management of infectious and viral diseases such as COVID-19.

#### ESTABLISHMENT OF AD HOC COMMITTEE ON MANAGEMENT OF COVID-19

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Proceed Hon. Ngunjiri Wambugu.

**Hon. Ngunjiri Wambugu** (Nyeri Town, JP): Thank you very much, Hon. Temporary Deputy Speaker. I stand to push the Motion for the establishment of an ad-hoc committee on COVID-19 prevention, response and management.

THAT, aware that the Coronavirus Pandemic (COVID-19) was declared by the World Health Organization (WHO) to be a public health emergency of international concern;

Deeply concerned on the serious threat posed to the health and socio-economic lives of Kenyans by the continued spread of the pandemic;

Appreciating that both the National and County Governments have put in place some targeted interventions to respond and manage the COVID-19 pandemic through among others, enhanced medical and public health actions, mitigating socio-economic shocks arising from the impact of the pandemic, creation of a National Emergency Response Fund to foster the national response to the pandemic, and formation of a National Emergency Response Committee on Coronavirus which is tasked with among other things, to coordinate Kenya's preparedness, prevention and response to the threat of COVID-19, and develop mitigation strategies with regard to the disease.

Cognizant that some of the policy measures and targeted interventions put in place by the Government are yet to be anchored in legislation and/or approved by Parliament;

Now therefore, this House resolves as follows:

- (i) to acknowledge and appreciate individuals and corporate entities, development partners and multinational institutions for local and international technical, financial and human assistance efforts and support in response to the pandemic;

- (ii) to establish an ad-hoc Committee to be known as the Select Committee on the COVID-19 Prevention, Response and Management, whose mandate will be as follows:
- (a) develop necessary legislative measures on COVID-19 prevention, response and management through which the Government would anchor the mechanisms to prevent, combat and respond to the pandemic, and to any other pandemics in the future, including but not limited to, ensuring enhanced medical and public health actions and facilities, strategies for cushioning the country from the effects of such pandemic on the social support system, economic stimulus for the Micro, Small and Medium Enterprises, and national public order measures for the maintenance of specific and competent functions during and after such pandemic;
  - (b) coordinate closely with the National Emergency Response Committee on COVID-19 which is tasked with among other things, coordinating the country's preparedness, prevention and response in the actions and measures taken to ensure that the Committee delivers on its mandate more effectively; and
  - (c) consider funding needs and requirements on COVID-19 prevention, combat, response and management; and,
  - (d) report and make recommendations on the item under paragraphs (a), and (c) and any other related matters within thirty (30) days, and make weekly progress reports on item (b) to the House, until the end of the pandemic.
- (iii) that the membership of the Committee be as follows:
- a) The Hon. M. D. Ngunjiri Wambugu, M.P.
  - b) The Hon. (Dr.) Amos Kimunya, EGH, M.P.
  - c) The Hon. (Dr.) Makali Mulu, M.P.
  - d) The Hon. Yusuf Hassan, M.P.
  - e) The Hon. (Ms.) Alice Wahome, M.P.
  - f) The Hon. Florence Mutua, M.P.
  - g) The Hon. (Ms.) Peris Tobiko, M.P.
  - h) The Hon. Peter Kaluma, M.P.
  - i) The Hon. Mishi Khamisi, M.P.
  - j) The Hon. Beatrice Nyaga, M.P.
  - k) The Hon. (Ms.) Janet Ong'era, M.P.
  - l) The Hon. (Dr.) Otiende Amollo, M.P.
  - m) The Hon. (Ms.) Gathoni Wamuchomba, M.P.
  - n) The Hon. Godfrey Osotsi, M.P.
  - o) The Hon. Didmus Barasa, M.P.
  - p) The Hon. Joshua Kandie, M.P.
  - q) The Hon. (Dr.) Daniel Kamuren Tuitoek, M.P.
  - r) The Hon. Patrick Munene, M.P.
  - s) The Hon. Anthony Oluoch, M.P.
  - t) The Hon. John Kiarie, M.P.
  - u) The Hon. Abdi Omar Shurie, M.P.

- v) The Hon. Major (Rtd.) Bashir Abdullaih, M.P.
- w) The Hon. Teddy Mwambire, M.P.

Hon. Temporary Deputy Speaker, we are going on recess after the end of today and I was listening to the Leader of Majority keenly. One of the things that will be happening over the next four weeks is that a lot of our established committees will be dealing with the pandemic.

Today, as a country, we have over 500 confirmed infected cases. In the last 24 hours, we have had 47 people infected, the highest spike. The COVID-19 pandemic will not wait for us to come back after 30 days. The challenge we have is that we have a crisis that does not fit into any of the existing structures of how we engage, not just as a House, but also even as a country. For the first time, school children are at home and religious institutions are closed. I do not know in the history of this country if we have ever had a situation where religious institutions are closed. I do not know whether we have ever had a situation where the whole country is on curfew for over 21 days, public service vehicles (PSVs) operating at 60 per cent and businesses closed. When I walk around, I get the people I represent doing everything they can to survive this pandemic. They ask me as their Member of Parliament what I am doing to help them.

We have many Committees in the House. I am a Member of the Departmental Committee on Administration and National Security. We have very strong and powerful Committees in the House. But, we have a crisis that has the capacity to affect an average of six to seven departmental Committees at the same time. Let me give the example of the mask. Right now every Kenyan is expected to wear a mask. Let us assume we have 40 million masks out there. At some point we will have to figure out what to do with them. The person who decided that every Kenyan needs to wear a mask is the Ministry of Health. The person enforcing everybody to wear a mask is the Ministry of Interior and Coordination of National Government. The person who is supposed to tell us the quality of the mask we are supposed to wear is the Ministry of Industry, Trade and Cooperatives. The person who is supposed to ensure that once a mask is used is disposed effectively is either the Ministry of Health or Ministry of Environment and Forestry. We are in a situation where Kenyans are being told that if they are not wearing a mask they will be arrested.

A gentleman who is part of street children in my constituency told me that he could not afford a mask. We have passed a law that says that he must wear a mask, but we have not told him the kind of mask he is supposed to wear. If he takes a headscarf to cover his mouth and nose would he be arrested? Most likely he will not. But is he fulfilling the expectations of that mask? He is not.

In this House, when I think about the things that come before, I recall recently, a question was asked about food. The Member asked the Departmental Committee on Administration and National Security that I sit in and I stood on a point of order and pointed out that the food that was being distributed was given by the Ministry of Agriculture and distributed by the Ministry of Interior and Coordination of National Government. These are some of the things that bring me to the point of suggesting that as much as we are going on recess, as the Leader of the Majority Party and Hon. Speaker emphasised earlier, we are not going home but, we are going to work. We have said multiple times that this House works through Committees. They are our engine as a House. I ask myself and this House that today as we go home, over the next month, which Committee we have in the House that will be working on the issue of COVID-19. Which Committee of this House will be telling *matatu* owners why they need to be carrying 60 per cent of passengers?

(Applause)

Which Committee of this House will be telling people why they have to be wearing masks and what standard of mask is supposed to be worn? Which Committee of this House is going to introduce a Bill on COVID-19 pandemic management?

We have been crucified by the media. We have been told that we are not responsive; we have been told that we hid ourselves and that we went into quarantine. I have listened to Statements that have been produced in this House by the Chairperson of the Departmental Committee on Health. The leader of Government business was the first person to raise an issue with those Statements.

*(Applause)*

Today I listened to a Statement made here by the Chairperson of the Departmental Committee on Education and Research. Even those of us who are from the ruling party were raising questions about those Statements. Part of the problem of the COVID-19 pandemic is its multifaceted effects. As a House, do we actually have a Committee that has the capacity to effectively engage with the multifaceted effects of this pandemic? This *ad hoc* Committee is not competing with other Committees. This *ad hoc* Committee is complementing the work of other committees. Over the next 30 days, as other Committees deal with the Budget, we will be looking into what it is that needs to be done with regard to this pandemic.

As we proceed on recess, some people think that we work in the plenary only. This House must have decided whether or not we have created a structure to deal with the extraordinary circumstances we find ourselves in because extraordinary circumstances call for extraordinary solutions. Do we have an extraordinary solution that can help us, as a House, to do what we need to do with regard to this pandemic? I do not think we have such a mechanism as of now. If we had it, we would be here for eight weeks. What is it that the structure that exists has done during these eight weeks?

As I sit down, I ask Members to think through this thing. This is not my Motion. It is for all of us. I would like to ask Hon. (Dr.) Otiende Amollo to second the Motion. I hope Members will support it.

Thank you very much, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Ngunjiri Wambugu, you have not moved the Motion.

**Hon. Ngunjiri Wambugu** (Nyeri Town, JP): I am sorry, Hon. Temporary Deputy Speaker. I beg to move and I ask Hon. (Dr.) Otiende Amollo to second.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. (Dr.) Otiende Amollo.

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): Thank you, Hon. Temporary Deputy Speaker. Today we face an invisible enemy. It is an enemy which cannot be fought by conventional weapons. We face an enemy which has created not a crisis of health, economy, education, culture or religion, but it has created a crisis for humanity. The COVID-19 is not a health issue. It is a multi-sectoral problem that must be addressed through a multi-sectoral forum.

*(Applause)*

The nearest comparison can only be the HIV/AIDS pandemic when it broke out several years ago.

I was privileged to be part of the team that spent three years persuading the Moi regime that HIV/AIDS was a crisis of humanity and, therefore, needed to be addressed holistically. I am proud to say that after three years of persuasion, 21 years ago, I was in the team that had the opportunity to draft the HIV/AIDS Act. That Act covers 14 different sectors. Let us expand our thinking with any intervention that must come in terms of COVID-19. Let us understand that this is a crisis beyond any individual departmental Committee. Indeed, it is a crisis that touches on all the Committees, which means that if we are to address it, we must think outside the box.

It is not a question of supplanting the jurisdiction of any Committee, but a question of supplementing their jurisdiction. It is a question of having a centralised organ...

*(Loud consultations)*

Hon. Temporary Deputy Speaker, please protect me from heckling around here. It is a crisis that requires us to have a centralised mode of response. It is important to understand that...

*(Hon. (Ms.) Gladwell Cheruiyot and other Hon. Members consulted loudly)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Otiende is well within his right to contribute and you cannot heckle him. We cannot have hecklers in the House. Is that the Member for Baringo I see directing her mouth towards Hon. (Dr.) Otiende Amollo?

*(Laughter)*

Member for Baringo, please allow Hon. (Dr.) Otiende Amollo to contribute.

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): Secondly, we must remember that we are a House with many roles, but our key role is legislation. Since the first positive case of COVID-19 was reported on 13<sup>th</sup> March 2020, what have we done? We must have a vehicle with which we ask certain pertinent questions. First, do we need new legislation to deal with COVID-19? Currently, the pandemic has been dealt with under the Constitution, the Public Health Act and the Public Order Act. Are those legislations sufficient? If they are, what about the regulations that have come under those pieces of legislation?

It is a sad admission that regulations were made on 12<sup>th</sup> March 2020 before they were brought to Parliament. They were brought here much later and the Committee on Delegated Legislation only endorsed them last Thursday, 30<sup>th</sup> April 2020. For two months, illegal regulations were being applied to Kenyans. Kenyans were being detained, those without masks quarantined and some asked to pay Kshs20,000, yet we did not have a law in place. Where was Parliament when all that was happening? We must ask ourselves; is it not possible to consider a consolidated legislation that is holistic to deal with the various aspects that arise in the wake of COVID-19? If we do, is it not possible that you need a centralised Committee to look into all those aspects and come up with a consolidated legislation?

Hon. Temporary Deputy Speaker, it must be remembered that any possible legislation on COVID-19 is likely to be a money Bill because every intervention will require money. Sometimes we all forget that it is the Senate that cannot initiate a money Bill under Article 10 of the Constitution. A money Bill must come from here. If we abdicate...

Hon. Temporary Deputy Speaker, please add me two minutes that were taken away by your ruling and the heckling. We must remember that any such initiative must come from the National

Assembly. If we do not seize that opportunity, then the Senate will unlawfully and unconstitutionality fill that gap, and we will have no one to blame. This is the opportunity for us to do something. We must look at all the interventions and the discussions that we have had here. You will remember that every initiative has come from the Executive. As a House, we are yet to have an initiative of our own. Why are we ceding?

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Otiende, I will add you a minute.

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): Let us seize that opportunity. We need a centralised Committee that can bounce up all the ideas and issues. This is a Committee that is time-bound and will become otiose either upon getting a vaccine or upon containing the virus.

I second the Motion, and request Members to support us.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Otiende, you have used a word that I, at times, like to use - otiose

*(Question proposed)*

The first go will be by the Leader of the Majority Party.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): On a point of order.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Sabina *wa* Chege, what is out of Order?

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Speaker, I am on a point of order. I want to be guided by you. This House is guided by the Standing Orders and the guidance of the Speaker, through....

*(Hon. Aden Duale spoke off record)*

I would like to have your ear, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): You will definitely have the Speaker's ear, Hon. Sabina Chege.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you. This House is guided by the Standing Orders and the Speaker through numerous communications from the Chair. I wish to bring to the attention of this House that during the last Session of Parliament, on 3<sup>rd</sup> December, 2019; the Speaker was requested to make a ruling on a Motion by Hon. Moses Kiarie Kuria, the Member for Gatundu South, on a proposed amendment of an *ad hoc* committee to investigate and inquire into the borrowing trends of the Government in the past 20 years. In his ruling, the Speaker cited several issues. If I may quote him, he said, "Hon. Members, for a select committee to be set up to inquire into any matter, it would be expected that the matters proposed to be considered either cannot be adequately addressed by the existing committees or the matters are cross-cutting, making it impossible to be considered by a specific committee or the matters are beyond the mandate of existing committees." So, I want to ask...

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, Hon. Sabina is on a point of order. Allow her to prosecute it. She has to finish.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Speaker. Noting the proposed mandate of the proposed *ad hoc* select committee against the mandates of existing committees, the Speaker declined to approve the Motion on grounds of conflict with mandates of existing committees and conflict with Standing Order No.86.

Hon. Temporary Deputy Speaker, the mandate of this *ad hoc* committee as proposed in the Motion – I do not want to take Members through it because they know it – squarely falls in the Second Schedule of the Standing Orders that are granted to existing committees of this House. Specifically, matters to do with taxation, economic stimulus package and COVID-19 emergency funding are currently active before the Departmental Committee on Finance and National Planning.

*(Applause)*

Matters related to regulations on COVID-19 are still being handled by the Committee on Delegated Legislation.

*(Applause)*

Matters related to social support systems and related matters are currently active and being handled by the Departmental Committee on Labour and Social Welfare.

*(Applause)*

Matters dealing with public health and medicare are being handled by the Departmental Committee on Health, which has submitted several statements to the House on the updates on the fight against the COVID-19 pandemic.

It is for these reasons that I humbly seek your direction and consideration on the admissibility of this Motion in its current manner. This is a House of records. I would like to know why we have this Motion as it is on the Floor of this House. Once we know, we shall debate.

I beg to submit.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Sabina Chege, your point of order is noted. This is the direction. This is a Motion that has been approved by the Speaker. This Motion has received the consideration of the House Business Committee (HBC) and was allocated time for its consideration by this House.

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

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Junet, you are out of order. The Speaker is on his feet. He cannot be out of order. I am giving directions. When the Speaker has the microphone, he is on his feet. Go back and read the procedures of this House.

Hon. Sheikh, hold your horses. I am giving directions on Hon. Sabina's point of order. This particular Motion has received the Speaker's seal of approval. It has received the seal of approval of the House Business Committee and was allocated time for debate before this House.

*(Applause)*



Therefore, it is the business of this House to decide one way or the other – whether it will approve it or not. So, this business will be debated. I, therefore, direct the Leader of the Majority Party to proceed and make his contribution.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker ---

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

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

**Hon. Junet Nuh** (Suna East, ODM): Hon. Temporary Deputy Speaker, I wanted to bring to your attention the fact that, even though we passed a Motion to sit until the conclusion of this business, the Constitution also states that there must be quorum of 50 Members. As we speak, the House does not have quorum. We cannot transact any meaningful business without quorum. We should ring the bell and wait for five minutes. And we must count first. We are 41 Members.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, Hon. Junet has raised a valid point. We must properly quorate. I, therefore direct that, in accordance with our Standing Orders, we ascertain the number of Members in the House.

*(The Clerk-at-the-Table physically counted Members in the House)*

Hon. Members, I have been advised that we do not have the requisite numbers. I, therefore, direct that the Quorum Bell be rung for 10 minutes.

*(The Quorum Bell was rung)*

*(Loud consultations)*

Order Members. Leader of the Minority Party and other Members in the gangway, no Members will leave the Chamber. You know the rules. The Members in the House will not leave the Chamber. The Member for Baringo, the Member for Lari—those Members who are arguing with the Serjeant-at-Arms, please note if you leave the Chamber you will be out of order. If any Member exits the Chamber, he will be cited to be out of order. The Member for Lari, resume your seat. No Member will leave the Chamber during the ringing of the bell.

The Serjeant-at-Arms are directed that I would like to have the name of any Member who leaves the Chamber so that he or she can be cited for disorderly conduct.

*(Loud consultations)*

Order Members. Order Members. Hon. Kaluma, order. Order Members. I would like to remind you that even as the bell is ringing you must observe social distancing. Members in the House must observe social distancing.

**An hon. Member:** There are no Members!

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): No! Even if there are no Members, they were in the House before. You must observe social distance.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Order Hon. Members. I now direct that the bell stops ringing. Hon. Members resume your seats.

Hon Junet, social distancing is something that is important to all of us. Take your seats. Before I rule on the issue that I directed the bell to be rung, allow me to make this Communication from the Chair.

### COMMUNICATION FROM THE CHAIR

#### THE NATURE OF EQUALISATION FUND BILL, 2019

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, you will recall that during the morning sitting of Wednesday, 13<sup>th</sup> November 2019, the Minority Party Deputy Whip, Hon. Chrisanthus Wamalwa, sought direction of Speaker on the nature of the Equalisation Fund Bill, 2019. At the time, the House was considering the Motion for Second Reading of the Bill which is sponsored by the Member for Tiaty, Hon. William Kassait Kamket.

In his request, he sought guidance on whether, after the passage of the Bill by this House, the Bill would be forwarded to the Senate for consideration. It was the contention of the Member that whereas the Memorandum of Objects and Reasons to the Bill states that the Bill does not concern county governments, the administration of the Equalisation Fund as proposed under the Bill affects the powers and functions of county governments. In this regard, he was of the view that the passage of the Bill would require the participation of the Senate. When debate on the Second Reading of the Bill resumed on Wednesday, 20<sup>th</sup> November 2019, the Chair undertook to provide guidance in due course, after the Bill is considered at the Third Reading.

Hon. Members, noting that the Bill proceeded for consideration in Committee of the whole House and was read a Third Time today afternoon, I will hereby proceed to give my guidance, as follows:

1. First, the provisions of Article 204(3) (b) of the Constitution empowers the National Government to utilize the Equalization Fund “either directly, or indirectly through conditional grants to counties in which marginalised communities exist”. The Equalisation Fund Bill, 2019 seeks to operationalise the said provision. Clause 3 of the Bill outlines that its provisions apply to the direct use of the Fund by the National Government to provide the various services required under Article 204 of the Constitution. The rest of the Bill establishes a framework through which the services are to be provided to the marginalised areas determined by the Commission on Revenue Allocation in their report prepared pursuant to Article 216 of the Constitution;
2. Second, the Bill further proposes the establishment of local committees in each ward within the marginalised areas tasked with identifying projects for funding in consultation with local communities. The Bill also establishes a board to oversee the administration of the Fund.
3. Article 110 (1) of the Constitution defines a Bill concerning county governments as, and I quote:
  - (a) a Bill containing provisions affecting the functions and powers of county governments set out in the Fourth Schedule;
  - (b) a Bill relating to the election of members of a county assembly or a county executive; and,

- (c) a Bill referred to in Chapter Twelve affecting the finances of county governments.

4. The provisions of the Equalisation Fund Bill, 2019 seek to operationalise Article 204 of the Constitution by outlining the mode of administering the Fund when used directly by the National Government. I note that it touches on the following functions and powers which are concurrently exercised by both levels of government:

- (a) Provision of water, which is function exercised by both levels of government pursuant to Paragraph 22 (c) of Part 1 and Paragraph 11(b) of Part 2 of the Fourth Schedule to the Constitution, respectively;
- (b) Provision of roads, which is also a function exercised by both levels of government pursuant to Paragraph 18 (b) and (c) of Part 1 and Paragraph 5(a) of Part 2 of the Fourth Schedule to the Constitution, respectively;
- (c) Provision of and regulation of health facilities, which is a function exercised by both levels of government pursuant to Paragraph 23 of Part 1 and Paragraph 2 (a) of Part 2 of the Fourth Schedule to the Constitution, respectively; and,
- (d) Provision of and planning for electricity, which is also a function exercised by both levels of government pursuant to Paragraph 31 of Part 1 and Paragraph 8 (e) of Part 2 of the Fourth Schedule to the Constitution, respectively.

5. Article 110(3) requires the Speaker of the Senate and I to jointly resolve any question as to whether a Bill concerns county governments, and if it does, whether it is a special or an ordinary Bill. Standing Order 121(3) provides that the Speakers may agree on an appropriate framework to actualise that provision.

Having said that Hon. Members, with respect to the question before the Speaker, there is no doubt that the administration of the Equalisation Fund affects the functions and powers of county governments in terms of Article 110 (1) (a) of the Constitution. In this regard, the Equalisation Fund Bill, (National Assembly Bill No. 43 of 2019) sponsored by the Member for Tiaty and which was passed by the House today afternoon, clearly concerns county governments and the participation of the Senate in its passage is therefore mandatory.

Hon. Members, that is the Speaker's considered opinion which he undertakes to also share with the Speaker of the Senate in furtherance to the provisions of Standing Order 121(3), when forwarding the Bill to the Senate, now that it has been passed and read a Third Time today afternoon.

The House is accordingly guided.

I thank you.

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Leader of the Majority Party what is your point of order.

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Speaker. On procedure, I do not want to challenge you on the communication you have made. But the House is not properly constituted and we cannot deal with the Motion. I do not want to say you are out of order. But is it okay for you to read a communication from your Chair when the House is not properly constituted?

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Leader of the Majority Party resume your seat. You know that the Speaker had not pronounced himself on the question of quorum. It is only the Speaker who can pronounce himself on that question. I will

proceed to pronounce myself on that question in this matter. That, we do not have quorum as advised by the Leader of the Majority Party.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Therefore, Hon. Members, the time being 7.49 p.m., the House stands adjourned until Tuesday, 2<sup>nd</sup> June 2020, at 2.30 p.m.

The House rose at 7.49 p.m.