

# PARLIAMENT OF KENYA

## THE NATIONAL ASSEMBLY

### THE HANSARD

Thursday, 2<sup>nd</sup> December 2021

The House met at 9.30 a.m.

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

PRAYERS

QUORUM

**Hon. Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, I direct that the Quorum Bell be rung for 10 minutes.

*(The Quorum Bell was rung)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, you can now take your seats. We can now stop ringing the Bell. We now have the numbers to commence business.

### COMMUNICATION FROM THE CHAIR

#### TREE PLANTING EVENT TO BOOST FOREST COVER

Hon. Members, there is a Communication from the Chair on a Tree Planting Event to Boost Forest Cover on Friday, 3<sup>rd</sup> December 2021.

Hon. Members, I wish to notify the House that the Speaker of the National Assembly has been invited to grace a tree-planting event dubbed the National Tree Planting, to be held tomorrow, Friday, 3<sup>rd</sup> December 2021. The event is organised by the Ministry of Environment and Forestry, the Kenya Forest Service, the County Government of Kajiado, the leadership of the Church of Jesus Christ of Latter-Day Saints, the local community, among others. The event is in support of the national agenda of achieving and maintaining 10 per cent forest cover by the end of 2022.

In this regard, the Speaker of the National Assembly has agreed to grace the said national tree-planting event tomorrow, Friday, 3<sup>rd</sup> December 2021 adjacent to Upper Matasia Primary School within Kahara Area of Upper Matasia near Ngong Hills, from 9.00 a.m. to 11.00 a.m.

Given the critical role of this House in the management of forest resources and as part of our corporate social responsibility, I, hereby, invite the entire membership of the House to this noble event.

## PETITION

There is a Petition by Hon. Mwalika Mboni.

### IRREGULAR TRADING ACTIVITIES BY DYER AND BLAIR INVESTMENT BANK

**Hon. David Mboni**, (Kitui Rural, CCU): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to read Public Petition No.072 of 2021 regarding irregular and fraudulent trading activities by Dyer and Blair Investment Bank.

I, the undersigned, on behalf of Ngei Mativo of National ID No.8364930, a resident of Kitui Rural, draw the attention of the House to the following:

THAT, at some point in February 2015, Mr. Ngei Mativo moved his share portfolio and cash to Dyer and Blair Investment Bank through its Central Depository and Settlement Corporation Account No.1042653 with a view to saving and investing in shares in various marketable securities listed in the Nairobi Securities Exchange in order to earn profits from the said trading.

THAT, on 26<sup>th</sup> February 2015, Mr. Ngei deposited a sum of Ksh328,500 to the Dyer and Blair Investment Bank Account No.010000647033 held at Stanbic Bank and deposited a further Ksh8 million to the same account on 16<sup>th</sup> March 2016.

THAT, on 25<sup>th</sup> March 2015, Mr. Ngei transferred these shares from ABC Capital Limited valued at Ksh3,349,675 and other shares from Kingdom Securities valued at Ksh15,609,307 to Dyer and Blair Investment Bank.

THAT, by the end of March 2015, Mr. Ngei had entrusted and transferred to Dyer and Blair Investment Bank a sum of Ksh27,287,545, being a share portfolio valued at Ksh19,959,045 and cash of Kshs8,328,500.

THAT, the terms of engagement consummated in the agreement between Ngei and Dyer and Blair Investment Bank were that the Bank would hold any money or investments deposited in Mr. Ngei's investment account on his behalf and transact only according to his orders and his own express instructions.

THAT, since transferring the share portfolio and cash to Dyer and Blair Investment Bank in March 2015, Mr. Ngei has never issued any instructions to the broker to trade, utilise or even use any investment assets.

THAT, in spite of him not having instructed the Bank to make any transactions on his behalf, in May 2015, Mr. Ngei was shocked to learn that during the months of May and August 2015, the Bank had committed his shares in a wash sale scheme where profits of shares had been sold for low value and repurchased for higher value within a trading period of 30 days as follows:

- (i) On 28<sup>th</sup> May 2016, without Mr. Ngei's authority, Dyer and Blair Investment Bank sold 22,700 shares of Kenol-Kobil Limited at Ksh.8.80 each and repurchased 8,300 shares in the same company at Ksh.8.90 per share on 29<sup>th</sup> May 2015. They then further sold 80,500 shares of the company on the same date at Ksh.8.60;
- (ii) On 3<sup>rd</sup> August 2015, Dyer and Blair Investment Bank, again, without express instructions or authority from Mr. Ngei, bought 200 shares of Equity Bank at Ksh37.75 each. On 6<sup>th</sup> August 2015, the Bank repurchased 100,000 shares from Equity Bank Limited at Ksh40 each and repurchased a further 7,300 shares in the said Bank for Ksh42 each on 13<sup>th</sup> August 2015.

THAT, by engaging in the above reckless, fraudulent, irregular and unregulated trading activities, Dyer and Blair Investment Bank exposed Mr. Ngei to a colossal loss of Ksh19,388,817.59.

THAT, when Ngei inquired from the Bank about the unexpected differentiation of his shares at the end of 2015, the Bank forcefully associated it with devaluation of shares.

THAT, contrary to the claim by the bank that Ngei established from CDSC that the Dyer and Blair Investment Bank....

*(Several Members walked out of the Chamber)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Mboni, just hold on. Hon. Members, I would like you to just hold on. There are some matters on the Order Paper that require your vote and we will need Quorum. If you can just be patient so that we handle that business, you can go to attend to the other matters out there. Kindly, just hold on for a little while. I will reorganise the Orders.

Proceed, the Hon. Mboni.

**Hon. David Mboni** (Kitui Rural, CCU): Thank you.

THAT, contrary to the claim by the bank, Mr. Ngei established from the CDSC that the Dyer and Blair Investment Bank had fraudulently traded in his shares without his knowledge.

THAT, on 18<sup>th</sup> August 2015, Mr. Ngei launched a claim with the Capital Markets Authority (CMA) which is the regulator of capital markets.

THAT, whereas Section 13(b) of the Capital Markets Authority Act requires the CMA to investigate a complaint and impose an interim measure to prevent further damage pending completion of complaint to cushion an investor from suffering irreparable damage as a result of activity committed and act, the CMA is yet to take action on Mr. Ngei's matter since 2015.

THAT, in spite of the subsequent follow up made by Mr. Ngei on 30<sup>th</sup> November 2020 and 12<sup>th</sup> January 2021 to have his complaint addressed, the CMA is yet to act.

THAT, the inaction by the CMA in the abdication of duty contemplated in Section 25(a)(v) of the Capital Markets Authority Act, and has exposed his hard-earned investment to imminent loss.

THAT, none of these issues raised in this Petition is pending in a court of law, a constitutional body or any other legal body.

Therefore, your humble Petitioner prays that the National Assembly, through the Departmental Committee on Finance and National Planning:

- (i) Inquires into the circumstances under which the Dyer and Blair Investment Bank fraudulently traded in Mr. Ngei Matibo's shares without his express authority or knowledge and caused him to lose Kshs19,388,819.59 with a view to ensuring that Mr. Ngei is paid his dues.
- (ii) Inquires into the circumstances under which, for six years since 2015, the CMA has inordinately failed to address the complaints by Mr. Ngei against the Dyer and Blair Investment Bank Ltd. for the fraudulent trading activities and commend prosecution of those culpable of this serious abdication of duty.
- (iii) And make any other recommendation it deems appropriate in addressing the issues raised by the Petitioner.

And your Petitioner will ever pray.

INTERVENTION OVER THE INCESSANT INSECURITY  
AND BANDITRY ATTACKS IN LAIKIPIA COUNTY

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): There is a second Petition, Petition No. 78 of 2021, seeking intervention over the incessant insecurity and banditry attacks in Laikipia County.

Hon. Members, Standing Order 225(2)(b) requires the Speaker to report to the House any Petition other than those presented by a Member. Further, Article 119 of the Constitution provides for the right of any person to petition Parliament to consider any matter within its authority, including petitioning the House to enact, amend or repeal any legislation.

In this regard, I wish to report to the House that my office has received a Petition signed by Mr. Benson Nasku of National Identification No. 29487007 on behalf of the residents of Laikipia County, seeking intervention in the incessant insecurity and banditry attacks in Laikipia County. The Petitioner avers that there has been a state of incessant chaos and terror in various regions in Laikipia County, particularly Ol Moran, Githiga, Sosian and Mukogodo, Munanda, Mirango, Kahuho, Ratia, Kamwenje, Miteta, Rubere, Nagum and Survey villages. He claims that the unrest is being orchestrated by bandits alleged to hail from the neighbouring Baringo County with the intention to raid livestock and seize grazing land and water points for livestock.

The Petitioner states that since 24<sup>th</sup> July 2021 when the spate of attacks began, several people, including police officers, have been injured or killed and over 50 cows have been stolen. The Petitioner states that residents of affected areas are living in anxiety and their social and economic order has been disrupted. School-going children have been indefinitely withdrawn from Kabati, Mihang'o and Wangwaci Primary Schools in Ol Moran area due to lack of tranquillity.

The Petitioner is concerned that the unabated banditry attacks in Laikipia County have resulted in violation of the rights and fundamental freedoms of residents, particularly in Articles 26, 27, 28, 29, 39, 40, 43, 47 and 53 of the Constitution, and have also caused loss of lives and property. The Petitioner therefore prays that the National Assembly:

- (i) Inquires into the causes of incessant banditry attacks and recommend prosecution of perpetrators of the heinous acts;
- (ii) Recommends to the relevant national Government ministry and/or State agencies to urgently deploy the Kenya Defence Forces in Laikipia County to supplement the National Police Service in containing the security situation in the Laikipia County and adjoining counties;
- (iii) Recommends the establishment of a permanent military base in Laikipia County so as to facilitate a swift response to future attacks;
- (iv) Recommends to the Ministry of Interior and Coordination of National Government to develop and adopt a multi-sectoral security approach in conflict resolution and peace-building in Laikipia County;
- (v) Recommend to the Ministry of Lands and the National Land Commission to fast-track issuance of title deeds to *bona fide* owners in order to stem conflicts arising from land ownership;
- (vi) Recommends to the relevant ministry to drill more boreholes across the county so as to reduce conflicts arising from water disputes;
- (vii) Recommends to the Ministry of Interior and Coordination of National Government to urgently vet and re-arm Kenya Police Reservists in the area and deploy more

police officers in Laikipia County in order to enhance security surveillance and response.

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

You may recall that on Wednesday, 6<sup>th</sup> October 2021, I reported to this House a Petition by one Tema Saaya Karmushu calling for urgent resolution of recurrent land disputes in Laikipia County occasioned by historical and emerging acts of injustice. Given that some of the issues raised in the said Petition relate to those contained in this Petition, the Committee is at liberty to consolidate the two Petitions or consider them separately.

I thank you!

Hon. Members, according to our Standing Orders, I see some Members are interested in making some comments on this. The first one on the list is the Hon. Dawood Rahim, Member for North Imenti.

**Hon. Rahim Dawood** (North Imenti, JP): Thank you, Hon. Temporary Deputy Speaker.

I join my colleague, Hon. Mboni, in supporting that the Dyer and Blair Investment Bank is bound by law to have a fiduciary duty to compensate the client. I hope we get it done fast and paid with interest as well.

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

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Temporary Deputy Speaker. I rise to comment on the Petition you read on behalf of the Petitioner concerning the insecurity in Laikipia. If you can remember, I once brought an Adjournment Motion to discuss the insecurity in Laikipia. This issue must be solved once and for all. The petitioner has raised pertinent issues on pasture, water and land ownership by residents who have bought land. The Cabinet Secretary for the Ministry of Interior and Coordination of National Government appeared before a committee of this House and claimed that the Deputy President ---

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Sankok, I am not stopping you, I will still allow you to say what you have to say. For the convenience of the House and for the reasons I had stated earlier considering the things we need to do today, being the last day of this session, allow me to reorder the Order Paper so that we can go to the businesses that require us to take a vote. We will come back to this and you will have priority speaking to this Petition. Members will then be free to attend to the committees' meetings that are being held out there to polish some of these things. I, therefore, direct that before we consider Orders No. 5,6 and 7, we reorder the Order Paper so that we consider order No. 8, 9 and 10 then we will go back to Order No. 4 where Hon. Sankok had the floor. Let us go to order No. eight.

## MOTIONS

### APPROVAL OF NOMINEES TO KIAMBAA CONSTITUENCY COMMITTEE

THAT, pursuant to the provisions of section 43(4) of the National Government Constituency Development Fund Act, 2015 and paragraphs 5(2) and (10) of the National Government Constituencies Development Fund Regulations, 2016, this House approves the list of nominees for appointment to the Kiambaa Constituency Committee of the National Government

Constituency Development Fund, laid on the Table of the House on Thursday, November 11, 2021 as follows –

NO.	NAME	CATEGORY	STATUTORY PROVISION FOR ASSUMPTION OF POSITION
1.	George Muiruri Wambui	<i>Male Youth Representative</i>	Fresh appointment, pursuant to Sec.43(2)(b)
2.	Geoffrey Ndigi Mukora	<i>Male Adult Representative</i>	Re-appointment, pursuant to Sec.43(2)(b)
3.	Isabell Murugi Kinyanjui	<i>Female Youth Representative</i>	Fresh appointment, pursuant to Sec.43(2)(c)
4.	Elizabeth Wambui Gitau	<i>Female Adult Representative</i>	Re-appointment, pursuant to Sec.43(2)(c)
5.	Anne Nduta Kariuki	<i>Representative of Persons with Disability</i>	Re-appointment, pursuant to Sec.43(2)(d)
6.	Jackson Mbugwa Kinyanjui	<i>Nominee of the Constituency Office (Male)</i>	Fresh appointment, pursuant to Sec.43(2)(e)
7.	Rose Wanjiku Nganga	<i>Nominee of the Constituency Office (Female)</i>	Fresh appointment, pursuant to Sec.43(2)(e)

*(Hon. Hon. Wafula Wamunyinyi on 25.11.2021)*

*(Debate concluded on 25.11.2021)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Before I put the Question, I will allow the Hon. Member for Kiambaa to have a brief comment on this. Member for Kiambaa.

**Hon. Njuguna Wanjiku** (Kiambaa, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity, again. I take the opportunity to put it on record that when this matter was brought on the Floor of the House yesterday, I rushed out to pick a call from the director of The Kenya Rural Roads Authority (KeRRA) due to a pertinent issue that has been a thorn in the flesh of Kiambaa Constituency in regards to the Power Karura-Kihara and the Gachie-Gacharage Roads. I weighed between the two issues and I felt that because this Motion will be referred to today in the House, It will be prudent for me to deal with the KeRRA matter and ensure we solve it once and for all with the Director of KeRRA. He assured me that before 15<sup>th</sup> of this month, a contractor who has been contracted to build that road will be on site to ensure that he puts this matter to rest.

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I am one child who was born and forced to crawl, walk and talk on the same day because of the short time that I have. I want to believe that come next year, we will come back to this House. In the hustler nation, we are strong believers in the power of God the Almighty and the power of the people. I am sure that we will come back by God's Grace. As Martin Luther King Jr. Said, "If you can't fly then run, if you can't run then walk, if you can't walk then crawl, but whatever you do you have to keep moving forward."

I take this opportunity to request the House to approve these names so that we can work for the people of Kiambaa within the shortest time possible and deliver the promises that we made to them.

I want to be on record that the matter of that road has been a thorn in the flesh. I had requested a statement from the Departmental Committee on Transport, Public Works and Housing. However, I am now sure that that matter has been put to rest and we will continue to serve the people of Kiambaa in the shortest time possible.

Thank you, I support.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well. The Hon. Member for Kiambaa, you will also remember that the great Martin Luther King Jr. said that in these great lands, the children of these lands will walk all of them hand in hand so that all of us are children of one God.

*(Question put and agreed to)*

May the people of Kiambaa now receive the services of the National Government Constituencies Development Fund(NG-CDF) Hon. Member for Mavoko, just hold on for a few minutes. Let us move to Order No. 9.

#### THANKS FOR EXPOSITION OF PUBLIC POLICY

THAT, pursuant to the provisions of Standing Order 24(6), the thanks of this House be recorded for the exposition of public policy contained in the Address of H.E. the President delivered in Parliament on Tuesday, November 30, 2021 and further that this House notes the following Reports submitted by H.E. the President, laid on the Table of the House on Wednesday, December 1, 2021-

- (i) The 8th Annual Report on the Measures Taken and Progress Achieved in the Realisation of National Values and Principles of Governance, submitted in fulfilment of the provisions of Article 132(1) (c) of the Constitution;
- (ii) The 8th Annual Report on the Progress made in Fulfilling the International Obligations of the Republic of Kenya, submitted in fulfilment of the provisions of Article 132(1) (c) of the Constitution;
- (iii) The Annual Report to Parliament on the State of National Security submitted in fulfilment of the provisions of Article 240(7) of the Constitution; and,
- (iv) The Kenya Business Climate Reforms Milestones Report for the year 2020/2021.

*(Hon. Amos Kimunya on 1.12.2021)*

*(Debate concluded on 2.12.2021)*

*(Question put and agreed to)*

Next Order.

### PROCEDURAL MOTION

#### CONSIDERATION OF CERTAIN BUSINESS RECEIVED DURING THE RECESS PERIOD

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I beg to move:

THAT, notwithstanding the provisions of Standing Orders 120, 122 and 126 relating to Publication, Procedure upon Publication and First Reading of Bills and Standing Order 210(2) relating to Tabling of Statutory Instruments, this House orders that during the Long Recess of the Fifth Session (3rd December, 2021 – 24th January, 2022) –

(i) should a Bill be published during the said period, or a published Bill become due for First Reading, the Speaker shall, upon lapse of at least three days following the publication of the Bill and following a determination that such Bill is of priority, forthwith refer such Bill to the relevant Committee for consideration pursuant to the provisions of Standing Order 127 (Committal of Bills to Committees and public participation) and cause the Bill to be read a First Time upon its next Sitting and the Second Reading may be taken forthwith, or on such other day as the House Business Committee may determine;

(ii) should any statutory instrument be transmitted for tabling before the House during the period, the Speaker shall, following a determination that the statutory instrument is of priority, forthwith refer the statutory instrument to the relevant Committee for consideration and cause the statutory instrument to be tabled in the House upon its next Sitting in accordance with the provisions of section 11 of the Statutory Instruments Act (No. 3 of 2013); and,

(iii) should any Paper be transmitted for tabling before the House, the Speaker shall, following a determination that the Paper is of priority, forthwith refer the Paper to the relevant Committee for consideration and cause the Paper to be tabled in the House upon its next Sitting.

Hon. Members, this is a routine Motion that we pass at the adjournment of every session to facilitate how business will be handled, because we will not have opportunity for a Bill to be read a First Time so that it can be referred to the relevant Committee for processing. So, any Bill that will come during this period, including the private Members' Bills that you will generate for next year, once it is determined they are of priority, will then be referred to the relevant Committee as if it had been read the First Time to be processed. When we next assemble, we can proceed automatically to the Second Reading of that Bill. This is basically to ensure there is no lapse in terms of process. And we do this every recess period. I seek your endorsement of this Motion so that as we leave today we are able to do things on a continuous basis.

I beg to move and ask Hon. Sankok to second.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Temporary Deputy Speaker. I beg to second.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, this is a procedural Motion.

*(Question proposed)*

**Hon. Members:** Put the question.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Members at the door may walk in. Is it the mood of the House that we put the question?

**Hon. Members:** Yes.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well. Those Members who have walked in may take their seats, kindly.

*(Question put and agreed to)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, for the convenience of the House, we shall resume from Order No. 4, where Hon. Sankok had the Floor. You may proceed to comment on the petitions.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Temporary Deputy Speaker. I was commenting on the petition you read on the issue of insecurity in Laikipia. I had brought an Adjournment Motion on the same. It is high time that this House pronounced itself on the issue. Our people are dying. We must safeguard lives and property of those in Laikipia. The Cabinet Secretary for Interior and Coordination of the National Government is on record in this House claiming that there are 15,000 acres of land owned by the Deputy President, William Samoei Ruto. The Deputy President denied owning the land. And I had asked a question on the same. The Chairman of the Departmental Committee on Administration and National Security is here. On three occasions, I have been called from Narok, but whenever I come my question is not answered. It has been postponed every time. I think, Hon. Temporary Deputy Speaker, that you should pronounce yourself on the matter so that my question is answered. We should know the truth so that we do not make false accusations. We can allow people to lie on the streets. But to lie on the *Hansard* is totally unacceptable.

Hon. Temporary Deputy Speaker, I support.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Rasso, Member for Saku.

**Hon. Ali Rasso** (Saku, JP): Thank you very much, Hon. Temporary Deputy Speaker. The petition by residents of Laikipia is important. The issue of insecurity is not isolated to Laikipia. It is in Marakwet, Marsabit and Samburu. The question that we begin to ask ourselves—and this is endless—is: Is this thing deliberate? Is it planned? Why are we turning a blind eye to the killings, maiming and destruction of properties in that part of the country?

Hon. Temporary Deputy Speaker, if we continue this way, the next administration will be forced to endure so many litigations by citizens claiming compensations for failure by the Government to comply with the Bill of Rights.

Secondly, I beg to comment on Hon. Mboni's Petition on Dyer and Blair. There is no institution that is above the law. No institution should try to abrogate the virtues of the Constitution when the Constitution is for all and sundry. This House is the people's representative. The rich, poor, strong and the weak must have a voice in this House. For that reason, Dyer and Blair must pay.

Thank you.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Shakeel Shabbir, Member for Kisumu East.

*(An Hon. Member spoke off record)*

Has he commented on this one? No, he has not.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Hon. Temporary Deputy Speaker, I have not commented on this one. The proponent of the bottom-up economic model seems to have gotten the menace.

*(Loud consultations)*

My comment relates to the fact that this illegal action is taking place and people are being shot dead. Last week, I buried one officer from the police unit. He was my constituent. He was shot in Laikipia as a result of insecurity. Insecurity must be brought to an end. It is born out of the quest for land and grazing rights. Before the colonialists came and turned that area into highlands and subsequently left it for a selected few, it was grazing land for the Maasais and other pastoralists. No person who wishes to live in harmony with his neighbours should cause such harm to others.

Not long ago, a rancher shot a so-called “trespasser” whom he said was poaching. That kind of attitude is neo-colonialism in a different way. Nowadays most of the land owners in Laikipia are still the elites, the neo-colonialists. They may not be white. Many of them are Kenyan natives, whom we call “black from outside” but “white from inside”. They must now start to realise that those thousands of acres that they have is Kenyan land. The decision to re-establish order in Laikipia is necessary.

In India, where my great grandfather came from, nobody is allowed to own more than 100 acres or 200 acres of land, be it the Prime Minister, the President or whoever. In this country individuals own tens, hundreds and thousands of acres of land yet the communities that are already there have been marginalised and tortured, and their livestock have been killed. As a result of all these injustices, they are now foreigners on their own land. I speak for the Maasai as an adopted member of that community.

*(Applause)*

It is no longer acceptable that territories which were used by pastoralists – be they the Maasai, the Samburu or people from Northern Kenyan and others – should be taken away and the owners deprived of the right over those territories just by a title deed. The title deed was introduced in Kenya by the British after the conquest of our land. That means we have borne some of that problem. The sooner the ownership of that land reverts to its original communities, the better.

Thank you.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Finally, on the comments, Hon. Kalasinga Majimbo, Member for Kabuchai.

**Hon. Kalasinga Majimbo** (Kabuchai, FORD-K): Thank you very much, Hon. Temporary Deputy Speaker. Security is everything. It allows a country to produce, sell, make money and develop. There is underdevelopment where there is insecurity, Laikipia being a reference.

I support this Petition. The Chairman of the Committee should sanction the Cabinet Secretary for Interior and Coordination of National Government to give the people of Laikipia total hearing because they are Kenyans. Outside this country, for example, in the United States of America and the United Kingdom, the identity of Kenya is the Maasai cloth. That cloth is more of our national flag everywhere in the world. If tourists come to this country to see how the Maasai people live and find that they are not secure, the image they will have is that the whole country is insecure. I would, therefore, like to support this Petition for the Cabinet Secretary to tell us what is happening in Laikipia. There are areas in this country where policemen only chase *changaa* and *busaa* drinkers. Let those policemen be redeployed in Laikipia to bring peace to that region.

On the first Petition, Kshs19 million is not change to keep. They must look at the shares that have been fraudulently transferred. The owner of the money should be compensated with interest.

We, the people of Kabuchai, support this Petition.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well. The Petition by Hon. Mboni stands committed to the Departmental Committee on Finance and Planning. The one by Mr. Benson Nasku of National Identification No.2948707 stands Committed to the Departmental Committee on Lands.

Next Order.

### PAPERS LAID

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): There are Papers to be laid by the Chairlady of the Departmental Committee on Finance and Planning but I am not seeing her in the House. The Leader of the Majority Party will inform her.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, the Chairlady of the Departmental Committee on Finance and Planning has talked to me. She is actually waiting to sign the Report which is being collated because it is relevant for discussion this afternoon. She has asked that you give guidance on whether she can table the Report in the course of the proceedings this morning. I would also appreciate that situation so that Members can interact with the Report as we debate the Proceeds of Crime and Anti-Money Laundering (Amendment) Bill this afternoon. I, therefore, beg your indulgence so that she tables it whenever it is approved by the Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well. I direct that the Report by the Chairlady of the Departmental Committee on Finance and Planning may be tabled in the course of the proceedings when it is ready. We understand the kind of pressure and timelines that we are working with. So, those directions are given. When she is ready, she can table it.

### ORDINARY QUESTIONS

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): We have very many Questions. Members are interested in raising matters that affect their constituents. We cannot ignore that. The first Question is by Hon. Musimba, Member for Kibwezi West, who has requested that his Question be deferred. So it is accordingly deferred.

*Question No. 497/2021*

## IEBC PREPAREDNESS FOR 2022 GENERAL ELECTIONS

*(Question deferred)*

The second Question is by Hon. Charles Njagua, Member for Starehe. I see a letter from him requesting that Question No.506 be deferred and it is accordingly deferred.

*Question No.506/2021*

## MANDATORY COURSE FOR TEACHERS BY TSC

*(Question deferred)*

Next is Question No.508 by Hon. Danson Mwashako, Member for Wundanyi. I can see him in the House.

Please, proceed.

*Question No.508/2021*

## OPERATIONS OF M/S SAMRUDDHA RESOURCES (KENYA) LIMITED

**Hon. Danson Mwashako** (Wundanyi, WDM): Hon. Temporary Deputy Speaker, I rise to ask the Cabinet Secretary for Petroleum and Mining the following Question: -

- (i) Could the Cabinet Secretary explain why *M/s Samruddha Resources (Kenya) Limited*, an iron ore mining investor in *Kishushe Location*, Wundanyi Constituency, has been operating for the past four years without remitting to the community the mandatory one per cent of total revenue collected, contrary to the provisions of the Mining Act, 2016 and the Mining Regulations, 2017?
- (ii) Could the Cabinet Secretary provide the computation of the said revenue and indicate the total amount owed to *Kishushe* community for the years 2018, 2019, 2020 and 2021, with particular reference to a letter dated 13<sup>th</sup> September 2021 by the firm to the Ministry on the matter?
- (iii) Could the Cabinet Secretary explain why the firm has declined to acknowledge the Community Development Agreement Committee (CDAC) and facilitate its meetings as required by law?
- (iv) Could the Cabinet Secretary clarify whether the firm has a valid mining licence to carry out mining activities in *Kishushe Location*, and if so, what is the Ministry's position regarding the request for transfer of mining rights from *M/s Wanjala Mining Company Limited* to *M/s. Samruddha Resources (Kenya) Limited*?

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): That Question will be replied to before the Departmental Committee on Environment and Natural Resources.

The next one is by Hon. Dr. Irene Kasalu, Member for Kitui County.

*Question No.513/2021*

## STATUS OF SPORTING FACILITIES IN THE COUNTRY

**Hon. (Dr.) Irene Kasalu** (Kitui CWR, WDM-K): Hon. Temporary Deputy Speaker, I rise to ask the Cabinet Secretary for Sports, Culture and Arts the following Question: -

- (i) What is the status of sporting facilities in the country, particularly those in Kitui County?
- (ii) What measures has the Ministry put in place to improve sporting facilities in the country to international standards?
- (iii) What steps has the Ministry put in place to boost the morale of Kenyan athletes?

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): That Question will be replied to before the Departmental Committee on Sports, Culture and Tourism.

The next Question is by Hon. Daniel Rono, Member for Keiyo South.

We will move to the next one, hoping that he will come back to the House before we finish this business.

The next Question is by Hon. Daniel Mulyungi, Member for Mwingi Central, who has requested Hon. Dr. Kasalu to ask it on his behalf.

*Question No.523/2021*

## RELIEF FOOD SUPPLIES TO DROUGHT-STRICKEN RESIDENTS

**Hon. (Dr.) Irene Kasalu** (Kitui CWR, WDM-K): Hon. Temporary Deputy Speaker, I rise to ask Question No.523/2020 on behalf of Hon. Gideon Mulyungi. The Question is directed to the Cabinet Secretary for Public Service, Gender, Senior Citizens Affairs and Special Programme.

- (i) Considering that Kitui County, particularly Mwingi Central Constituency, has been experiencing prolonged drought over the last one year, what action is the Ministry taking to ensure provision of adequate relief food supplies to the drought-stricken residents?
- (ii) What measures has the Ministry put in place to ensure adequate food supplies and uninterrupted school feeding programmes in primary and secondary schools in the Constituency?
- (iii) What interventions is the Ministry putting in place to provide a permanent solution to ensure sustainable water supply for irrigation in the Constituency to end the perennial drought experienced in the area?

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): That Question will be replied to before the Departmental Committee on Administration and National Security.

The next Question is by Hon. John Waluke, Member for Sirisia. Let us hope that before we finish this business he will come and ask it.

The next one is by Hon. Caleb Amisi, Member for Saboti.

*Question No.528.2021*COMPLIANCE WITH THE PROVISIONS OF THE REGULATION  
OF WAGES (GENERAL) AMENDMENT ORDER

**Hon. Caleb Luyai** (Saboti, ODM): Hon. Temporary Deputy Speaker, I rise to ask the Cabinet Secretary for Labour and Social Welfare the following Question: -

- (i) Could the Cabinet Secretary explain why the following companies *Khetias Supermarket, Transmat Supermarket, Khetias Wholesalers, Khetia Godown, Gerelam Wholesaler, GHT Turner Wholesaler, Swam Hardware, Quick Market Supermarket in Kitale Town Trans Nzoia County* have not been complying with the provisions of the Regulation of Wages (General) Amendment Order by paying its employees the stipulated minimum wages?
- (ii) Could the Cabinet Secretary also explain why the said supermarkets have not been complying with the provisions of the Labour Laws with regard to the management of employee welfare by failure to give workers due annual leave days and sick leaves, non-payment of overtime allowances, failure to submit employees' statutory deductions, amongst other irregularities?
- (iii) Could the Ministry institute action against the companies for failure to adhere to the provisions of the Regulation of Wages (General) Amendment Order and the Labour Laws?

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well. He is concerned for his constituents. Hon. Amisi, that Question will be replied to before the Departmental Committee on Labour and Social Welfare. We shall revisit for a second time the Questions by Hon. John Waluke, Member for Sirisia and Hon. Daniel Rono, Member for Keiyo South whom I had earlier seen in the House. Very well, it looks like they are no longer interested in pursuing the Questions. Therefore, they stand dropped. We move on to the next business.

*Question No.525/2021*

#### AVAILABILITY OF COUNSELLING SERVICES IN LEARNING INSTITUTIONS

*(Question dropped)*

**Hon. Owen Baya** (Kilifi North, ODM): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Baya Yaa, do you have a point of order?

**Hon. Owen Baya** (Kilifi North, ODM): Yes, Hon. Temporary Deputy Speaker. Last week I rose in this very House to raise a matter of great importance. I requested for a Statement on the disconnection of power by Kenya Power at the Baricho Water Works due to power bills. This has led to a lack of water for two weeks in Kilifi and Mombasa counties. After lengthy negotiations, power was restored and the water has been flowing. Unfortunately, I received information last night that Kenya Power went to Baricho Water Works and disconnected power again. This disconnection flies on the face of the fundamental rights of the people of Kenya. Water is a fundamental right.

Leader of Majority Party, I requested for a Statement and this is Statements Time. I want to follow-up. The same thing has happened again and people are now suffering. Schools and hospitals will be closed and people will not have water. It is the responsibility of the Government

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to progressively ensure that there is water because it has invested over Kshs3 billion in pipelines, water tanks and water reticulation in Kilifi and Mombasa Counties. Today that investment is going to waste because of improper planning or synchronisation of Government functions between the Ministry of Water and that of Energy. For the next two weeks, the people of Kilifi will not have water - life will be disrupted. I would like to ask Government to ensure that they think through the process. If they invested heavily on reticulation of water and ensured that there are water pipelines, they should also ensure that there is a source of power to pump the water. It is only in the Coast region where water must be pumped using electricity because it comes from a lower region.

Hon. Temporary Deputy Speaker, I ask for your indulgence on this matter so that Kenya Power and the Ministry of Energy can be compelled to reconnect the water despite the bills. Negotiations can take place as power is reconnected. People must not be disconnected from water because it is a source of livelihood. The Leader of the Majority Party is here. I am sure he will take up this matter and ensure that today or tomorrow power is reconnected at Baricho Water Works so that water can start flowing. You cannot give special tariffs to street lights and deny people a tariff for power. It is very hurtful...

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Baya Yaa, I do not think the Speaker has got powers to order for reconnection of water. Let me consult. The Member for Keiyo South has arrived at the tail-end of Question Time. You are lucky that I had seen you earlier in the House before you went out. Therefore, under Standing Order No.1, I allow you to ask your Question.

Please proceed.

*Question No.518/2021*

LENGTH IN KILOMETRES OF ROADS TARMACKED  
BY THE NATIONAL GOVERNMENT

**Hon. Daniel Rono** (Keiyo South, JP): Thank you, Hon. Temporary Deputy Speaker. Apparently, the Order Paper I picked was indicating that my Question is coming in the afternoon. When I heard you calling me, I certainly had to come back to the House.

I beg to ask the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works the following Question: -

- (i) Could the Cabinet Secretary state the consolidated length in kilometres of roads tarmacked by the national Government across the country from 2013 to date, including a breakdown of the length per sub-county and county?

*(Hon. Kipyegon Nge'eno consulted loudly)*

Hon. Temporary Deputy Speaker, protect me from my neighbour.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Ng'eno, I am sure the Question the Member for Keiyo South is asking is very relevant to all of us. Allow him to do it.

**Hon. Daniel Rono** (Keiyo South, JP): It is really relevant. I will repeat for avoidance of doubt.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): No, you do not need to repeat, just move on. You are on record.

**Hon. Daniel Rono** (Keiyo South, JP): Okay, Hon. Temporary Deputy Speaker.

(ii) What measures has the Ministry put in place to ensure that Nyaru-Kimwarer Road in Keiyo South Constituency, which has been earmarked for upgrading to bitumen standards, is expeditiously completed within the stipulated timelines?

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): That very good Question will be replied to before the Departmental Committee on Transport, Public Works, and Housing. I see the Chairman is seated right behind you and has listened to your Question. He is very able. He is one of the Committee Chairpersons who have shown good capacity for work. I am sure he will be up to it.

We will move on to Statements. There are Statements to be replied to and I am informed that the Chairman of the Departmental Committee on Administration and National Security will respond to two.

Proceed, Member for Lari.

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

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): I always confuse the two. You will forgive me for being partial to Lari because...

**Hon. Peter Mwathi** (Limuru, JP): Lari Constituency is a baby of Limuru. I am the Member for Limuru.

## RESPONSE TO STATEMENTS

### FAILURE TO SET ASIDE LAND FOR PROPOSED KOTETNI SECONDARY SCHOOL

**Hon. Peter Mwathi** (Limuru, JP): Thank you, Hon. Temporary Deputy Speaker. This is the response to a Statement in regard to the land allegedly set aside for proposed Kotetni Secondary from Kodiaga Prison Land.

Hon. Temporary Deputy Speaker, the Member for Kisumu West Constituency, Hon. John Olago Aluoch, sought a Statement on the reported failure by the Ministry of Interior and Coordination of National Government to set aside land for the proposed Koteni Secondary School from Kodiaga Prison Land. In particular, the Member sought to be informed on the following...

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Member for Limuru, without interrupting you, I am sure that is Kotetni Secondary School.

Very well, proceed.

**Hon. Peter Mwathi** (Limuru, JP): Well, it came out differently as I read and should be interpreted as per the Statement sought. So, I will refer to it as Kotetni as you have rightly guided me.

He sought to be informed on the following:

- (i) To confirm that a decision had been made around 2011 to excise part of Kodiaga GK Prison land for the creation of a secondary school for the community;
- (ii) Whether the Government is aware that the creation of such a school would ease the pressure on secondary school admissions in the surrounding area and would offer

places for people in Kodiaga, Chike Prison Primary School, Kotetni Primary School and other primary schools in the vicinity.

- (iii) Whether the government is aware that the proposed secondary school would offer places not just to students of the staff of Kodiaga Prison but members of the surrounding community, which would then translate to corporate social responsibility by the department of correctional services and would improve the relationship between the department and the local community.

Hon. Temporary Deputy Speaker, I beg to respond as follows:

There are no records at Kenya Prison Service indicating that there was a decision in 2011 to excise part of Kodiaga Prison land for the creation of a secondary school for the community.

That is as short as it came and therefore having no decision being made in 2011, the other two questions were irrelevant.

Thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Omulele): Member for Kisumu West, Hon. Olago Oluoch

**Hon. Olago Aluoch** (Kisumu West, FORD-K): Thank you Hon. Speaker. I must say that the answer is not just adequate, but it is also not correct. In 2011, I was personally in negotiations with the then Vice-President, Hon. Kalonzo Musyoka and his Personal Secretary (PS) and we came to an agreement. There is a letter they wrote to me confirming what I have asked. I would like to ask for time so that I can look for that letter.

If assuming that there was no such letter, this answer does not address parts (ii) and (iii) of my request. I would say that the statement is, in my view, contemptuous of the question.

**The Temporary Deputy Speaker** (Hon. Patrick Omulele): Member for Limuru.

**Hon. Peter Mwathi** (Limuru, JP): Thank Hon. Speaker. I hear Hon. John Olago Aluoch whom I served with in the Commission in the 10<sup>th</sup> Parliament. Looking at this answer, I just wish there was some evidence in the manner that you have now said so that I could pursue it further. Now that you are saying there is that kind of a letter, I think we can resurrect this matter when we resume by way of provision of that letter and then I will be able to take it up with the Cabinet Secretary.

With regard to parts (ii) and (iii), this morning, I sought a verbal explanation as to why it was so short. Since there was no decision, then those two questions were not applicable – that is, the explanation to set aside that land. So, there was no consideration of whether that school would be beneficial to the community and there were no discussions as such. That is a verbal explanation that I was given. Once that letter comes, the whole scenario will change and I will be able to pursue the matter in line with parts (ii) and (iii) of the request.

Thank you

**The Temporary Deputy Speaker** (Hon. Patrick Omulele): Very well. Chairperson, Departmental Committee on Administration and National Security, I do agree with the Member for Kisumu West that the answer is worrying and contemptuous. I want to agree with him and allow him to bring the specificity that he has alluded to with the letter and discussion that he held so that maybe the relevant agency can look into its archives and respond with better particulars to the question that has been asked by the Member for Kisumu West.

I think that is fair. We can level it there for the time being. Considering that the Chairperson also seems to agree with us that it is a bit cut the way it was done, we can do better.

Those are the directions of the Speaker.

ENTRY OF LARGE NUMBER OF FOREIGN  
NATIONALS INTO THE COUNTRY

**Hon. Peter Mwathi** (Limuru, JP): Hon. Temporary Deputy Speaker, next is a Statement on entry of large numbers of foreign nationals into the country sought by the Member for Kisumu East Constituency, Hon. Shakeel Shabbir. He sought to be informed on the following: -

- (i) Whether proper due diligence was undertaken by the Immigration Department before allowing such large numbers of foreign nationals transiting through the country;
- (ii) The security and health measures that were employed to safeguard Kenya from illegal immigrants who may infiltrate mass transit groups;
- (iii) Whether the Ministry has traced and identified the Kenyan agents and organisations both in Kenya and Pakistan who organised the transit;
- (iv) How much money was realised through such transiting groups by the Immigration Department in terms of visa fees;
- (v) Measures being taken to ensure that foreign nations do not pose a health risk to Kenyans.

I beg to respond as follows:

The Directorate of Immigration Services issues visas to foreign nationals pursuant to Kenya Citizenship and Immigration Act 2011, Section 5, paragraphs 1-4 and the Fifth Schedule to the Kenya Citizenship Immigration Regulation 2012. All border operations are undertaken by a multiagency team which comprises of officials drawn from Immigration, Directorate of Criminal Investigations, National Intelligence Service, Kenya Revenue Authority and Kenya Airports Authority and port health, among others, with Immigration taking the lead in matters of clearing of travellers.

Due diligence was undertaken by the Directorate of Immigration Services by applying a raft of security and health measures to safeguard Kenyans from any threat of whatever nature posed by international travellers. The Pakistan nationals chose to transit through Kenya because Kenya is not on the red list of Saudi Arabia. The directorate did not receive any negative advisory from security agencies or any other arm of Government against Pakistanis to warrant denial of their entry.

The following precaution measures are normally undertaken during the clearance process:

(i) On security precautions, all the passengers entering the country are subjected to the Personal Identifications Secure Comparison Evaluation System, which checks them against watch listed persons alert list. In addition, passenger physical profiling is also undertaken as well as document examination before entry or exit is allowed. All foreign nations who require visas to enter Kenya must apply online. This is a requirement which must be met before coming to Kenya.

(ii) On health precautions, in the process of clearance, the Immigration officers at the port of entry confirm that every passenger is in compliance with Corona Virus Disease (COVID) -19 protocols by producing a negative COVID-19 certificate.

(iii) Other precautions undertaken are as follows:

To be allowed to enter into the country, which is the case with Pakistanis, a traveller must:

- (a) be in a possession of a valid passport;
- (b) be in possession of a valid onward visa to the country of destination;
- (c) be in possession of a valid onward and return ticket to the country of destination;

(d) demonstrate that they have adequate funds for their subsistence while in Kenya; and,

(e) give details of their host or booking reservations for hotel accommodation.

The Kenyan visa costs USD50 and there were 18,322 Pakistanis who visited the country from June 2021 to date, which translates to USD916,100. Meanwhile, 18,373 Pakistanis have departed the country during the same period. The number includes those that may have visited the country earlier.

Thank you, Hon. Temporary Deputy Speaker.

**Hon. Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Shakeel.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Hon. Temporary Deputy Speaker, I thank my colleague for the answer but he has definitively not responded to one or two issues that were raised. He states that the 18,236 Pakistanis who abnormally came into the country within a short period of four months were here legally. Then why were they arrested? Why were they harassed? Why were they taken to a police station at a later stage and then released under very questionable circumstances? That is the first point.

Secondly, I asked, in my Statement Request, whether it is normal for any country to receive 18,000 people from one country within such a short period of time at a time when the area from which those people are coming is experiencing unrest. Remember, some Afghans went to Uganda and other countries. So, we wanted to question whether these were genuine Pakistanis who were going to Saudi Arabia. If so, why is this the first time in the history of Kenya that we are vetting thousands of people from the same country coming into the country? Some of them were dumped in some apartments and were walking around begging for water.

Thirdly, I asked whether the authorities had been able to trace the Kenyan and Pakistani agents. I can assume that they do not know how to trace the Pakistani agents. However, it is shown that for each one, a minimum of USD5,000 was paid. Eighteen thousand (18,000) times USD5,000 is USD90 million. Of those USD90 million, how did Kenya benefit after exposing this country to a great risk of hosting 18,000 foreigners? Most of them stayed in Kajiado area. My friend is on the phone, but he understands that the fallout of COVID-19 could have been disastrous.

So, if I am being told that this is normal and all things were taken in good perspective and we are going to do this, which other country has done this in Africa? So, we do not mind...

*(Hon. Peter Mwathi spoke off record)*

So, we have done it? If everything is normal, then why did they arrest them? Those are the questions we need to ask, and I keep asking: What happened to the money? Has it gone into the Consolidated Fund or has somebody benefited? Why has the Government been so quiet on this issue over the last six months? It has been very quiet.

You will not find any country taking in 18,000 people at once unless it is the United States of America, which takes thousands of people. Taking in 18,000 people in Kenya from one country is questionable as to what happened. However, God knows. I hope we have been able to observe the COVID-19 restrictions and we have had no real spike. So, God has been with us. It has damaged our reputation with other countries like Pakistan. We are getting a very bad reputation in Pakistan and Saudi Arabia. We are seeing the Immigration Department and other agencies bringing in people without following the protocols. That is my only response.

I think this is a whitewash, but if they are saying that all protocols were observed, and that these people were in Kenya legally as they came in like all other tourists, that is not possible.

Where did the 18,000 tourists go to? Did they go to the Maasai Mara? They were begging for food here. They were poor people. They had no money. They could not even afford water. Is that how we treat tourists? If we are very good to refugees, it is very nice... If we are being used as a transit centre, then we should be paid good money and let us have a centre where they come in and be isolated from the rest of the community, after which they leave the country. We can even have big hotels ready for them, but not the way we have done it.

So, as much as the answer is there, I feel it is not satisfactory. If they were legally here, why were they arrested and harassed for the period they were here? Eighteen thousand three hundred (18,300) people is not a joke.

Thank you.

**Hon. Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Shakeel, your concerns are noted. Maybe those tourists wanted to see the new apartments that had been built on Waiyaki Way.

Departmental Committee Chairman, do you have a final comment?

**Hon. Peter Mwathi** (Limuru, JP): Yes, Hon. Temporary Deputy Speaker. I appreciate the very deep concerns from the Hon. Member, but he seems to come from a point of information that he did not articulate in the Request for the Statement, especially the issue of arrest. I am looking at the five points that he raised. In fact, it bordered on asking how much money we got, which the Cabinet Secretary (CS) has actually enumerated to be over USD900,000. However, as to whether they were arrested and harassed, it did not come out. It should have been the case if you had asked why they were arrested, harassed and so on, which was not part of the issues raised. I do not have such an answer. I am unaware whether that happened. However, from the hind side, he seems to know it.

More significantly, looking at the last part of the answer – I am just deducing from what I am reading because I am not the Cabinet Secretary. I only transmit what the Cabinet Secretary brings to the Committee – it says that there were 18,322 Pakistanis who visited Kenya between June 2021 and to-date but 18,373 Pakistanis left Kenya around the same time. So, it is like some were leaving while others were coming in. As to whether they all came in at the same time or they came in between June 2021 and to-date in small numbers, I am not aware. So, the question of balancing the numbers of those coming in with those going out is almost at par. In fact, those who left were more than those who came in. That is what I can deduce from the answer.

Thank you.

**Hon. Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well. Chairperson, Departmental Committee on Administration and National Security, we should guard our national borders and our integrity a little more jealously. The people who are assigned this special duty should take it a little more keenly so that we can have our dignity as a nation. We may be poor, but there must be dignity even in poverty. That is just my opinion as the Temporary Deputy Speaker and not the opinion of anyone.

Hon. Members, we move on to the next Order. Before that Order is considered, allow me to give some guidance.

*(An Hon. Member stood along the gangway)*

Just take your seat. It is okay.

**COMMUNICATION FROM THE CHAIR****CONSIDERATION OF THE KENYA ROADS (AMENDMENT)  
BILL IN THE COMMITTEE OF THE WHOLE HOUSE**

Hon. Members, this is Guidance from the Chair No.49 of 2021 on the consideration, in the Committee of the whole House, of certain proposed amendments to the Kenya Roads (Amendment) Bill (National Assembly Bill No.13 of 2021).

Hon. Members, before we proceed to Order No.11, being the consideration of various Bills in the Committee of the whole House, I wish to guide the House as follows with regard to certain proposed amendments to the Kenya Roads (Amendment) Bill, 2021.

I have received the amendments proposed by the Nominated Member, Hon. Godfrey Osotsi, seeking to amend Clauses 2 and 3 of the Bill and to insert New Clause 5. The proposed amendments to clauses 2 and 3 seek to vary the term of office and the qualifications of the Director-General respectively.

My perusal of the amendments is that the first two amendments are a direct negative of the contents of the Bill as published. This is in contravention of Standing Order 56(2) which prohibits consideration of proposed amendment whose effect is a direct negative of the principal Motion. It is for this reason that I declined to approve the proposed amendments by the Member on clauses 2 and 3.

With respect to the proposed new clause 5, it is observed that the effect of the amendment is to declare the offices of the Directors-General in the road sector vacant upon coming into force of the proposed law. However, taking into account the provisions of Article 47 of the Constitution providing for fair administrative action, the House must refrain from legislating in the manner proposed by the Member.

The declaration of vacancies is a definite removal from office of the current office holders and amounts to administrative action prompted by the House by way of legislation.

*(Hon. Kipyegon Ng'eno spoke off-record)*

Member for Emurua Dikirr, just a little bit and I will be done.

The constitutional provision as read together with the Fair Administrative Action Act, 2015, the requirement for public participation set a high threshold for administrative action.

In this regard, the proposed amendment is contrary to Articles 47 and 118 of the Constitution and the Fair Administrative Action Act, 2015, to the extent that it does not provide for notification to the office holders, nor transitional arrangements for the offices and public participation has not been undertaken on this drastic proposal having not been part of the Bill as published.

Further, Standing Order 133(5) prohibits amendments to Bills that unreasonably or unduly expand the scope of the Bill as published, taking into account the need for public participation as contemplated under Article 118 of the Constitution. For these reasons, I have disallowed the proposed amendments by Hon. Godfrey Osotsi and order their exclusion from the Order Paper.

The House is accordingly guided. I thank you.

*(Applause)*

**COMMITTEE OF THE WHOLE HOUSE**

*(Order for Committee read)*

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

**IN THE COMMITTEE**

*[The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya) took the Chair]*

**THE ASIAN WIDOWS' AND ORPHANS' PENSIONS BILL**

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Order Member! We are now in the Committee of the whole House for consideration of several Bills. We shall start with the Asian Widows' and Orphans' Pensions Bill (National Assembly Bill No. 29 of 2021).

*(Clause 3 agreed to)*

**Clause 4**

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): We have a proposed amendment. Let us have the Mover, Hon. Mwalika.

**Hon. David Mboni** (Kitui Rural, CCU): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended in clause 4 by inserting the following new paragraph immediately after paragraph (e)-

(f) the Auditor-General shall, within one year of the coming into operation of this Act, submit to the National Assembly a terminating audit report of the Fund

The reason for this amendment is to ensure the Auditor-General submits a terminating audit report of the Fund to the National Assembly within a year. Thank you, Hon. Temporary Deputy Chairlady.

*(Question of the amendment proposed)*

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

*(Clause 4 as amended agreed to)*

*(Clause 2 agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): I now call upon the Mover of the Bill to move reporting. That should be the Leader of Majority.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the Asian Widows' and Orphans' Pensions (Repeal) Bill (National Assembly Bill No. 29 of 2021) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Hon. Members, we shall go to the next Bill.

THE PROVIDENT FUND (REPEAL) BILL

*(Clause 3 agreed to)*

*Clause 4*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): We have a proposed amendment here. I call upon the Mover to move the amendment. Hon. Mwalika.

**Hon. David Mboni** (Kitui Rural, CCU): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended in Clause 4 by inserting the following new paragraph immediately after paragraph (e):

(f) the Auditor General shall, within one year of the coming into operation of this Act, submit to the National Assembly a terminating audit report of the Fund.

The reason for this amendment is to ensure that the Auditor General submits audited reports on the Fund to the National Assembly within a year of audit.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Is that Hon. Dawood?

**Hon. Rahim Dawood** (North Imenti, JP): Hon. Temporary Deputy Chairlady, I think the Chair of the Departmental Committee on Finance and National Planning has not explained. It is a terminating report and not every year report. He should say it is a terminating report because it is the whole Fund being terminated. That is what he has to report on. It is terminating and not every year one.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Hon. Mwalika, do you want to clarify that?

**Hon. David Mboni** (Kitui Rural, CCU): I agree with Hon. Dawood. It is a terminating report.

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

*(Clause 4 as amended agreed to)*

*(Clause 2 agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): I go on to call the Mover of the Bill to move reporting.

**Hon. Amos Kimunya** (Kipipiri, JP): I beg to move that the Committee doth report to the House its consideration of the Provident Fund (Repeal) Bill (National Assembly Bill No. 30 of 2021), and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

#### THE KENYA ROADS (AMENDMENT) BILL

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Members, we will move on to the next Bill, which is the Kenya Roads (Amendment) Bill (National Assembly Bill No.13 of 2021).

Yes, Hon. (Dr.) Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Hon. Temporary Deputy Chairlady, there was a guideline given by the Temporary Deputy Speaker before regarding Hon. Osotsi's amendment to the effect that it was changing the scope of the Bill in such a way that it would not be in line.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Which Bill?

**Hon. (Dr.) James Nyikal** (Seme, ODM): It is the Kenya Roads (Amendment) Bill. Some of us had not seen those amendments. They sounded like very important amendments except that they were brought late. It would have been better if we were informed of what those amendments are. We are not revisiting. It is better if we were informed of those amendments so that we consider the rest of the Bill in the context of that. The details were not indicated in the advice. It is those details that I am keen to hear.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Order, Hon. Nyikal. As it stands, the amendments have not been approved by the Speaker and so, we cannot even talk about them. Hon. Nyikal, let us not talk about something which is not there. It is not on the Order Paper. Let us move on. Hon. Dawood, do you have something to say about that?

**Hon. Rahim Dawood** (North Imenti, JP): Yes, Hon. Temporary Deputy Chairlady. If Hon. (Dr.) Nyikal was very particular when the Speaker was reading the request by Hon. Osotsi, he would note that the Speaker mentioned that it had been rejected and so, there are no changes which can be done even if Hon. (Dr.) Nyikal wants it. The Speaker has overruled Hon. Osotsi's amendments. It was on the Floor and it is on the *Hansard* as well.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Hon. (Dr.) Nyikal, you probably could have missed the discussion around the amendments.

**Hon. (Dr.) James Nyikal** (Seme, ODM): The import of what I am saying is that, if the amendments are so gross that they change the whole Bill, it is reasonable. You cannot then bring it in but then Members could consider. If that is the consent, we may even have a consideration of rejecting the whole Bill when we come to Third Reading. That is something that, as Members, we must really take into consideration. Historically, we may reach a situation where we may reject the whole Bill on account that what was being amended was so important that if it cannot be brought in, then we do not accept the whole Bill. That is the import of my statement. Members need to be fully informed before they make a decision. We make these laws for posterity.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Okay, Hon. Nyikal. Your point is noted but, we have to cross that bridge when we get there. Let us move on.

*(Clauses 2, 3, 4 and 5 agreed to)*

*New Clause 6*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): I now call upon the Mover to move the new clause.

**Hon. David Pkosing** (Pokot South, JP): I thank you, Hon. Temporary Deputy Chairlady. I beg to move:

THAT, the Bill be amended by inserting the following new clause-

Transition. 6.A person who, immediately before the commencement of this Act, held office as a Director-General shall be deemed to be appointed under this Act and serve for the unexpired period of his or her term.

This is a transitional clause. The import of this is to make sure that the employees of the authorities do not lose their jobs with the passage of this Bill. Secondly, I have just spoken to Hon. Nyikal. I want to clarify his concern on the Floor of this House. If the House can recall, initially, through public participation, the opening of the Director-General position to other fields was proposed in the Bill so that it is not only engineers who can take it. The position should be open to human resource persons, lawyers, doctors like Dr. Nyikal and other professionals. Hon. Nyikal's concern was if that had been addressed. I addressed that when I was moving the Motion and Hon. Nyikal was not present. I want to assure the House that through our addendum, that was cleaned up. Therefore, going forward, the Director-General position will only be reserved for engineers as it was in the original Bill. That caters for Dr. Nyikal's concern. He is my good friend. I am going to his constituency on Sunday. I am going to help him to be re-elected. I have clarified that with him. He is my doctor.

Thank you.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

Is that Hon. Kisang?

**Hon. William Kisang** (Marakwet West, JP): Thank you, Hon. Temporary Deputy Chairlady. I rise to support New clause 6 proposed by Hon. Pkosing. I remember most engineers

had concerns that this is a technical area that needs a road engineer to be the Director-General. I know that there are specific laws that we passed in the past that required we open up the position to other professions. It seems like since the advent of the 2010 Kenya Constitution, lawyers want to be everywhere. We need to leave some specific technical areas to engineers. The Director-General of Kenya Rural Road Authority (KeRRA), Kenya Urban Roads Authority (KURA) and Kenya National Highway Authority (KENHA) sign. They cannot sign if they do not have knowledge in that particular area. So, this is an important amendment.

On the earlier amendment that I wanted to contribute on, you cannot change the current CEOs. That was not part of the original Bill that underwent through public participation. That was unconstitutional.

I support.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuyu): Hon. Kisang, you are talking like an engineer.

*(Laughter)*

Let us have the Hon. Dawood.

**Hon. Rahim Dawood** (North Imenti, JP): Hon. Temporary Deputy Chairlady, I want to concur with my Chairman, hon. Pkosing. Initially, we had said that the Director-General can be any executive who has a degree. He does not have to be an engineer. On further consultations with stakeholders, we decided that he should be an engineer. However, the amendment that we are debating today is to safeguard somebody who is in office so that he is not removed when this Bill comes into force as an Act of Parliament. They are serving the country. They should not be removed until their term expires but that does not mean that if they are re-engaged, the term starts afresh like what happened with the CEO of the National Government Constituencies Development Fund (NG-CDF) who had served for nine years in acting capacity and when he was substantially appointed, he will serve for another six years. I support.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuyu): Hon. Kipyegon, Member for Emurua Dikirr.

**Hon. Kipyegon Ng'eno** (Emurua Dikirr, KANU): Thank you, Hon. Temporary Deputy Chairlady. I support the amendment. We need to professionalise all these departments so that when people are assigned duties to perform, they perform as per their profession. When you look at the Director-General for roads, when we are appointing directors, for example, for the Kenya Medical Training College (KMTTC), they should be doctors so that people can perform properly according to their professions. I support.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuyu): Hon. Omulele.

**Hon. Christopher Omulele** (Luanda, ODM): Thank you, Hon. Temporary Deputy Chairlady. I want to echo the same remarks and thank the Chair for taking in the counsel of many Members to climb down on this amendment. We need - as the Member for Emurua Dikirr has said - to make these professions count for something. The Director-General of these agencies takes minutes, considers proposals to build roads and infrastructure in this country and he is expected to give technical advice to the board of directors and yet, we were proposing that he should not be an engineer. We were getting it wrong. Now we are on the right track. Let us keep it that way. I support.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuyu): Hon. Nduati.

**Hon. Joseph Nduati** (Gatanga, JP): Thank you, Hon. Temporary Deputy Chairlady. At the outset, I support the amendment that has been proposed by the Chairman. It is going to ensure

that there is continuity and stability within the sector. This amendment will also ensure that many projects that are done by Government are completed on time, especially the Expressway, the Mau Mau roads and the Rironi-Mau Summit Road that the President has said it is going to start soon. I thank the Chairman. His Committee recently appointed the Director-General of KENHA. It did not create any gap. I propose that the director of KeRRA should be appointed immediately as well because his task is enormous. He is doing many roads, but he is not sure whether he is going to get that job. In the little time remaining, I want you, Chairman, to make sure that the Director-General is appointed. I support the new Bill.

I want to congratulate the Chairman for saying that all the directors must have degrees in engineering. What was being proposed that lawyers and human rights activists can be Director-Generals was not right. When you are a professional, you execute your work in a better way than a general practitioner. Apart from the engineering sector, it is also a requirement for contractors. They are required to be professionals in the area if they are to do a serious job. I am a good example; I joined the construction sector and within a short time – because I was professional – I won an award as the third best African contractor in Kenya in 2008.

*(Applause)*

I want to encourage our professionals and the young people – and Hon. Sankok that is what I was saying the other day – to join the Technical Vocational Education and Training (TVET) institutions to do technical courses so that they can emerge as great people.

With those few remarks, I support.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuyu): Hon. Sankok.

**Hon. David ole Sankok** (Nominated, JP): Hon. Temporary Deputy Chairlady, I support the Chairman of the Departmental Committee on Transport, Public Works and Housing, Hon. Pkosing. We were together in ICC. We have come a long way. This is a win for professionals and for all Kenyans. If you are a professional engineer, there is no possibility of you being lied to on pricing of infrastructure.

We have seen cases in this country where a road that is supposed to cost Kshs3 billion costing over Kshs10 billion. We have seen dams which have not been completed because of hiking of prices. When we have a professional engineer as the CEO, it will be simple for him or her to go through the bills of quantities and understand what is needed and their prices. If you have a lawyer as the CEO and BQs are brought, he may not understand what is happening. It is like putting someone who is not a doctor as the CEO of KNH. There is a possibility that somebody may claim supplying penicillin while he only supplied Panadol. Because you do not have the know-how, you may be lied to. So, this amendment is a win for professionals. Our professional children and youth will be confident that they will be recognised as professionals in their fields. It is not good to say a holder of any degree may head the institution in charge of constructing roads. So, I supported my colleague at the ICC. He knows what we did there. We did a good job.

Thank you.

**The Temporary Deputy Chairlady** (Hon. Soipan Tuyu): Hon. Koske.

**Hon. Gideon Koske** (Chepalungu, CCM): Thank you very much, Hon. Temporary Deputy Chairlady. I support the amendment. I am an engineer by profession. You remember we had issues with the Bill in the first place. Our able Chairman listened to us and withdrew the Bill to allow further consultations. I want to congratulate him.

You can imagine an engineer leading lawyers. It would have made our profession a funny one. This is a win for the country and for all professions. Let engineers be. Let lawyers be. Let medics be. Let people respect their professions. I thank the House, our Chairman and the Committee for listening to the public on the contentious issues that were in the Bill.

Thank you very much.

**The Temporary Deputy Chairlady** (Hon. Soipan Tuya): Hon. Mose.

**Hon. Shadrack Mose** (Kitutu Masaba, JP): Thank you, Hon. Temporary Deputy Chairlady. At the outset, this is a great day for this country. We really thank the Chairman and the entire Committee for a job well done. I support the amendment. The net effect of the amendment is to ensure there is continuity.

Secondly, it is important that we appreciate professionalism. Engineers are best suited to deal with this particular issue. On the issue of what my colleague Hon. Kisang raised, I think lawyers are always satisfied. In the law profession, the President of the Law Society of Kenya is a lawyer. Therefore, it is not that they want to be everywhere. Let professionalism be appreciated in this country. This is a worthy amendment.

Thank you, Hon. Temporary Deputy Chairlady. I support.

*(Question, that the new clause be read a Second Time, put and agreed to)*

*(The new clause read a Second Time)*

*(Question, that the new clause be added to the Bill, put and agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Chairlady** (Hon. Soipan Tuya): I call upon the Mover to move reporting.

**Hon. David Pkosing** (Pokot South, JP): I thank you, Hon. Temporary Deputy Chairlady.

I beg to move that the Committee doth report to the House its consideration of the Kenya Roads (Amendment) Bill (National Assembly Bill No. 13 of 2021) and its approval thereof with amendments.

I thank you, Hon. Temporary Deputy Chairlady.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Chairlady** (Hon. Soipan Tuya): Let us move to the next Bill, which is the County Governments Grants Bill (Senate Bill No. 35 of 2021).

## THE COUNTY GOVERNMENTS GRANTS BILL

*Clause 3*

**The Temporary Deputy Chairlady** (Hon. Soipan Tuya): There is a proposed amendment. Hon. Shinali.

**Hon. Benard Shinali** (Ikolomani, JP): Hon. Temporary Deputy Chairlady, I beg to move: THAT, Clause 3 of the Bill be amended in paragraph (a) by deleting the expression “for the financial year 2021/2022” appearing after the word “allocations”.

This amendment is to prevent double allocation of resources to county governments as these funds are already provided for in the FY 2021/2022 through the County Allocation of Revenue Act, 2021. The Bill provides for a framework for disbursement of additional resources from the National Government’s equitable share to county governments.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. Soipan Tuya): The Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Chairlady, for the record of the House, the Bill that came from the Senate included two bits: the generic Bill on how additional funds to county governments will be processed and, erroneously, allocations for the FY 2021/2022. It tried to do the two things together, which in effect would have meant that we would double allocate resources. This House has already appropriated money to county governments through the County Allocation of Revenue Act.

In the original Bill, the Senate Bill had allocated money for 2021/2022 and the future framework. This amendment is deleting the reference to Financial Year 2021/2022 and only leaving the generic frameworks to be used year after year. I just wanted to put on record. I know the Vice-Chair of the Departmental Committee on Finance and National Planning is still internalising it. Unfortunately, the Chair is out there campaigning but, House work must continue.

*(An Hon. Member spoke off-record)*

I do not know if that is the official position for the Chair; it could be speculative.

*(Hon. Sankok spoke off-record)*

What is out of order, Hon. Sankok?

**Hon. David ole Sankok** (Nominated, JP): Hon. Temporary Deputy Speaker, it is important that we take the business of this House as important because we are being paid a salary to be here at specified times and dates. This is one of the days that we are supposed to transact business in the House. When we hear that some chairpersons of committees are busy doing campaigns and yet they earning a salary to be in this House... As a Member of Parliament, you are supposed to legislate, oversight and represent which can only be done here; not in funerals and those *barazas*.

Hon. Temporary Deputy Chairlady, when you assume the Speaker’s seat, you should pronounce yourself so that people can earn a genuine salary after work is done.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Order, Hon. Sankok. The Leader of the Majority Party might have been pre-empting. The fact of the matter is that there is a Mover in the House, and properly so. The Chair has not recorded herself as being away campaigning. Let us leave it at that for now.

*(Question of the amendment proposed)*

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

*(Clause 3 as amended agreed to)*

*Clause 4*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): I call upon the Mover to move the amendment.

**Hon. Benard Shinali** (Ikolomani, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 4 and substituting therefor the following new clause—

Additional  
allocation to  
the county  
governments.

**4.** (1) Additional grants shall be funds agreed upon by the national and the county governments during the consideration of the Budget Policy Statement and shall comprise of—

- (a) resources required for transfer of functions to counties from the National Government as provided for under Article 187 of the Constitution;
- (b) conditional and unconditional allocations provided for under Article 202(2) of the Constitution; and
- (c) loans and grants from development partners.

(2) Additional funds allocated under this section shall be included in the respective county governments' appropriation bills.

(3) The National Treasury shall facilitate any agreement between a county government and a development partner and shall table the agreements in the National Assembly and the Senate before inclusion in the Budget Policy statement.

The reason is that Clause 4(1)(a)(b)(c) provides the definition of additional resources to counties from the National Government's share pursuant to Articles 187 and 202(2) of the Constitution as well as loans and grants from the development partners. Clause 4(2) provides for the procedure of additional resources being factored in the respective County Governments Appropriation Bills. Clause 4(3) provides for the National Treasury to facilitate agreements between development partners and county governments. In addition, the agreements must be tabled in both Houses before submission of the Budget Policy Statement.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Hon. Nduati.

**Hon. Joseph Nduati** (Gatanga, JP): Thank you very much, Hon. Temporary Deputy Chairlady. I support the amendment but it would be important for the Committee to come up with a clear framework of how those additional grants are being transferred from the national

Government to the counties. We have seen cases where the PS transfers money from the national Government to the county, but there is no clear framework for monitoring or even evaluating the performance of that project. Again, it is not clear how auditing is done. I would, therefore, propose that, as the Chair sits down with his Committee, we need a clear way of auditing those funds. The counties are not accountable to those funds and yet, a lot of money is being transferred.

I have heard Members complain here. I also support them that you cannot compare what is done by the national Government to counties because where we come from, we are not able to see what they are doing.

Thank you very much.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Hon. Sankok.

**Hon. David ole Sankok** (Nominated, JP): It is very important to have a clear way of how that money is going to be transferred and how it would be monitored because county governments are notorious. Whatever the national Government has done, they will claim to have done using other funds. From the Consolidated Fund, and the money that has been sent to them, you may never know whether it is from their collection or a national Government project.

I have seen a road that has been launched by His Excellency President Uhuru Kenyatta and also launched by the Governor of that particular county claiming that it is theirs. You may never know this during auditing. Those audit reports should be followed by the amount of money that has been transferred so that we know which projects have been funded by the national Government and which ones are by county governments. We should have a clear way of transferring, monitoring and even labeling the projects specifically.

Thank you, I support.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Hon. Nangabo.

**Hon. (Ms.) Janet Nangabo** (Trans Nzoia CWR, JP): Thank you, Hon. Temporary Deputy Chairlady. I agree with my colleagues that county governments do not use their own money. When we go to there, they just talk about the schools or those nurseries that they have built but, when you ask them to account for it, they are not even clear. As my colleagues have said, we need proper accounting for the money that is being used from the national Government and label the projects that they are doing. We also urge the Senate, when it is overseeing the counties, to be clear. Tell us and even report to the National Assembly that this is what we found out after money was released to the counties.

Thank you.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Hon. Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Chair, I support this. However, the need for details is extremely important on how the funds are used. Not only that, if you look at Clause 4(3), it says that the National Treasury shall facilitate an agreement between county government and development partner. That is a very huge agreement. I agree that county governments should start accessing funds, even from development partners directly, but the process that the county government reaches this agreement may also be of importance. So, a lot of details will be needed in this section. We are opening a big thing for the county governments which is good for them, but structures will be needed to protect it.

I, therefore, support.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Hon. Kisang.

**Hon. William Kisang** (Marakwet West, JP): Hon. Temporary Deputy Chair, I rise to support this last part especially where it says the Treasury is going to facilitate the agreement between the donors and county governments. I remember in 2013 some governors then tried to

open embassies as though they were different from the national Government. I believe it is important and soon as the Bill is passed and signed into law, we will need to have proper regulations to clarify what Hon. Nyikal was saying, so that it is very clear. We do not expect county governments to deal directly with international donors, but they need to go through the National Treasury, so that they can be assisted. It is important and this is a good piece of legislation by the Senators.

I support

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Hon. Kipyegon.

**Hon. Kipyegon Ngeno** (Emurua Dikirr, KANU): Thank you, Hon. Temporary Deputy Chairlady. I also support this particular amendment only that like most of my colleagues have said, we need to have structures in place that could be assuring the public that the money which has been sent as grant does the best job. We also do not want to look like we are speaking with two tongues. We need to look at how much we leave at the national level, how is it being used, how many projects are set up in the country vis-a-vis the amount. We should not just be looking at the county governments and failing to look at the national Government.

Secondly, the Senate must put up structures of overseeing county governments, so that the overseeing is not just left to MCAs especially when it comes to grants which are sent to the particular counties. This should be overseen by the Senate and not MCA's. I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Wario.

**Hon. Ali Wario** (Bura, JP): Thank you, Hon. Temporary Deputy Chair, as I support, there is a lot of misuse of public funds. We can build a classroom with Kshs1 million from the NG-CDF, but counties exaggerate their figures. There is also the issue of labelling projects of the national Government. It should be done because governors sometimes go where roads have been built by the national Government and claim them as county roads. That happens to water projects too. Therefore, I support, but this thing should be separated, properly audited and observed because there is a lot of misuse in county governments.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Let me give, Hon. Limo a chance, and then Hon. Mwaniki. Be brief.

**Hon. Joseph Limo** (Kipkelion East, JP): This is a very important amendment, Hon. Temporary Deputy Chair. Whereas grants are important, we are not able to control the donors, and the best is for county governments to be put under performance contracting where the donor only gives on the basis of performance, the way World Bank is doing. The World Bank has put most Governments under performance contracting where they reimburse what has been used to do a certain project which they are committed to do. So, as long as county governments have not been put under serious scrutiny on their performance, we will still have serious issues on accountability.

Finally, I want to also make a comment. In fact, I will look at it myself and propose to this House that we propose that we revert all county governments to a model which is similar to the NG-CDF, where at the end of the financial year, the projects which had been planned by county governments will never collapse. All projects planned must be implemented even if it takes four years, so that they are auditable and fixed. That is why we have success in the NG-CDF because it is fixed. Once you have planned something, you must do it. It is auditable even if you do it after five years. But in the counties, every year projects collapse and that is where we lose projects.

Thank you, Hon. Temporary Deputy Chairlady.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Finally, let us have Hon. Mwaniki.

**Hon. (Ms.) Wangari Mwaniki** (Kigumo, JP): Hon. Temporary Deputy Chair, I want to thank you for this chance. I just want to echo what my colleague, Hon. Limo, has said. I am very concerned with Clause 4(3) which says that the National Treasury shall facilitate any project. So, it means any project can be facilitated and it looks like we are tying the hands of the Treasury to facilitate any project. Knowing how our county governments have been behaving, we may be condemned to carry burdens and debts which are not regulated. So, I am wondering whether there should have been a rider to say that “subject to regulations that would be set out by the Treasury.” If we leave it like this, when we say “any”, then it means we may end up with so many debts out there with the counties. That is my worry, although I see the Leader of the Majority Party seems to oppose, but that is a concern I seriously have.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Okay, let us move on.

*(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)*

*(Clause 4 as amended agreed to)*

*(Clauses 5, 6 and 7 agreed to)*

*Clause 8*

**Hon. Bernard Shinali** (Ikolomani, JP): Hon. Temporary Deputy Chair, I beg to move:

THAT, Clause 8 of the Bill be amended -

- (a) by deleting paragraph (a);
- (b) by deleting paragraph (a); and;
- (c) in paragraph (c) by deleting the proposed New Section 191 B.

The amendment is just to align with the provisions of Article 202 of the Constitution, and Section 138 of the Public Finance Management Bill 2012.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): The Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Chair, again for the record, I note that on the Order Paper, at Page 1577, there is a typing error in part (b). In part (a), it is amending by deleting paragraph (a), and in (b), deleting paragraph (b), but it reads as paragraph (a). So, I just want to have that recorded that, indeed, it is deleting paragraph (a), and (b), by deleting paragraph (b). The (c), is a deletion of the New Section. We should have it on record that it is (a), and (b) are being deleted, not (a), being deleted twice.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Hon. Sankok.

**Hon. David ole Sankok** (Nominated, JP): Hon. Temporary Deputy Chairlady and the future governor of Narok County, I also noticed that typing error, which should be corrected.

Again, this one is just aligning it with the Constitution which is normal. I implore upon Members that we should support this one.

I thank you.

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

*(Clause 8 as amended agreed to)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): There is supposed to be an amendment by Hon. Oundo and he seems to be absent. So, it is going to go under the bridge.

Hon. (Dr.) James Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Hon. Temporary Deputy Chairlady, I do not know, but this is subject to your decision. Hon. Oundo sent a message to me and called me and indicated to me that I should move this on his behalf. In terms of procedure, we leave it to you whether that would be in order or not. I am ready and willing to move it so long as you give the permission that it can be done.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): The procedure is that he has to give you written authorisation and a copy to the Speaker. Without that, then you cannot carry it.

Let us move on.

#### *Clause 9*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): This has no amendment.

*(Clause 9 agreed to)*

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Chairlady, I just want to draw your attention to the fact that Clause 9 makes references to the allocations for 2021/2022, which we have already deleted. So, it is overtaken by events and it should not even exist. Reference to 2021/2022 was already deleted, anyway. So, we have two choices; we can just negate it and it will die rather than just deleting it administratively. Just for the purposes that this is something that is overtaken by events and voting for it is otiose, we must as well negate and get it off the Bill.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): So, I will put the Question, so that we can expend with it.

*(Clause 9 negated)*

#### *First and Second Schedule*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Leader of the Majority Party, do you have a word on this?

**Hon. Amos Kimunya** (Kipipiri, JP): Yes, Hon. Temporary Deputy Chairlady. Again, consequential to the amendments that we have made to Clauses 4 and 8, which basically removes

any references of allocation of money in this generic Bill, the First Schedule and the Second Schedule have been overtaken by events and need to be removed. In the absence of an amendment by the Committee, I want to ask the Committee of the whole House to reject these two Schedules, so that we clean up the law.

*(First and Second Schedule negatived)*

*Clause 2*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): We have a proposed amendment.

Mover.

**Hon. Benard Shinali** (Ikolomani, JP): Hon. Temporary Deputy Chairlady, I beg to move: THAT, Clause 2 of the Bill be amended in the definition of “conditional allocation” by deleting the word “conditional” and substituting therefore the word “additional”. This is just to reword the Bill. It has nothing much to change the Bill.

*(Question of the amendment proposed)*

*(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)*

*(Clause 2 as amended agreed to)*

*Title*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): There is a proposed amendment. Mover.

**Hon. Benard Shinali** (Ikolomani, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting the title and substituting therefore the following new title—

“COUNTY GOVERNMENTS ADDITIONAL ALLOCATION BILL, 2021”

This to remove the whole title of the Bill and put “additional” instead of “conditional”. You will realise that conditional limits, but additional includes even conditional and non-conditional allocations.

*(Question proposed)*

*(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)*

*(Title as amended agreed to)*

*Clause 1*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): I call the Mover to move amendment.

**Hon. Benard Shinali** (Ikolomani, JP): Hon. Temporary Deputy Chairlady, I beg to move: THAT, Clause 1 of the Bill be amended by deleting the word “grants” and substituting therefore the following words “additional allocation”.

Hon. Temporary Deputy Chairlady, we are just amending by deleting the word “grants” and putting “additional allocations”. The word grants is specific to grants alone and additional allocation includes even grants and any other conditional and non-conditional allocations.

*(Question proposed)*

*(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)*

*(Clause 1 as amended agreed to)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): I call upon the Mover to move reporting.

**Hon. Benard Shinali** (Ikolomani, JP): Hon. Temporary Deputy Chairlady, I beg to move that the Committee do report to the House its consideration of the County Governments Grants Bill (Senate Bill No.35 of 2021) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Hon. Members, we now move to the final one, which is the Kenya Industrial Research and Development Institute Bill (National Assembly Bill No.44 of 2020).

THE KENYA INDUSTRIAL RESEARCH AND DEVELOPMENT INSTITUTE BILL

*(The Temporary Deputy Chairlady (Hon. Soipan Tuya)  
consulted the Clerk-at-the-Table)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Hon. Members, we shall defer consideration of the Kenya Industrial Research and Development Institute Bill in the

Committee of the whole House until the Afternoon Sitting, so that we can move on to the next business of reporting.

*(Consideration of the Bill in Committee*

*of the whole House deferred)*

*(The House resumed)*

*[The Temporary Deputy Speaker  
(Hon. Soipan Tuya) in the Chair]*

## REPORTS

### THE COUNTY GOVERNMENTS GRANTS BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Members, we can start with the County Governments Grants Bill. I call upon the Chairperson to report to the House.

**Hon. Benard Shinali** (Ikolomani, JP): Hon. Temporary Deputy Speaker, I beg to move that the House do agree with the Committee of the whole House in the said Report. I also request...

*(Hon. Amos Kimunya spoke off record)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Come again, the Chairperson.

*(Loud consultations)*

Yes, the Chairperson is to report to the House. So, I call upon the Chairperson to report to the House. Let us get the Report on the County Governments Grants Bill to the House.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the County Governments Grants Bill (Senate Bill No.35 of 2021) and approved the same with amendments.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): The Mover of the Bill to move the agreement with the Report. Hon. Shinali.

**Hon. Benard Shinali** (Ikolomani, JP): Hon. Temporary Deputy Speaker, I beg to move that the House do agree with the Committee in the said Report. I also request Hon. Ruth Mwaniki to second the Motion for agreement with the Report of the Committee of the whole House.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Mwaniki.

**Hon. (Ms.) Wangari Mwaniki** (Kigumo, JP): Hon. Temporary Deputy Speaker, I beg to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): I order that we defer the putting of the Question until later in the afternoon. Let us move to the next Bill.

*(Putting of the Question deferred)*

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## THE ASIAN WIDOWS' AND ORPHANS' PENSIONS BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Chairperson, report to the House.

**Hon. Benard Shinali** (Ikolomani, JP): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Asian Widows' and Orphans' Pensions (Repeal) Bill (National Assembly Bill No.29 of 2021) and approved the same with amendments.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): The Mover.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to move that the House do agree with the Committee in the said Report. I also request Hon. Nduati to second the Motion for agreement with the Report of the Committee of the whole House.

**Hon. Joseph Nduati** (Gatanga, JP): Hon. Temporary Deputy Speaker, I second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Once again, we will defer the putting of the Question until the next Sitting. Next!

*(Putting of the Question deferred)*

## THE PROVIDENT FUND BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Chairperson.

**Hon. Benard Shinali** (Ikolomani, JP): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Provident Fund (Repeal) Bill (National Assembly Bill No.30 of 2021) and approved the same with amendments.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): I call on the Mover to mover on agreement with the Report.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to move that the House do agree with the Committee in the said Report. I also request Hon. (Dr.) Nyikal to second the Motion for agreement with the Report of the Committee of the whole House.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. (Dr.) Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Hon. Temporary Deputy Speaker, I second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Once again, we will defer the putting of the Question until later in the afternoon. I think we are done.

*(Putting of the Question deferred)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): What is Hon. Shinali doing? We have the Kenya Roads (Amendment) Bill. Let us have the Chairperson.

## THE KENYA ROADS (AMENDMENT) BILL

**Hon. Benard Shinali** (Ikolomani, JP): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Kenya Roads (Amendment) Bill (National Assembly Bill No.13 of 2021) and approved the same with amendments.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, on behalf of the Chair of the Departmental Committee on Transport, Public Works and Housing, I beg to move that the House do agree with the Committee in the said Report. I also request Hon. Ruth Mwaniki to second the Motion for agreement with the Report of the Committee of the whole House.

**Hon. (Ms.) Wangari Mwaniki** (Kigumo, JP): Thank you, Hon. Temporary Deputy Speaker. I beg to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Like with the others, we will defer putting the Question until later when it comes on the Order Paper.

*(Putting of the Question deferred)*

Next Order. The Chairperson of the Departmental Committee on Finance and National Planning, you can go on to table your Report.

## PAPERS LAID

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

Reports of the Departmental Committee on Finance and National Planning on its consideration of the Proceeds of Crime and Anti-Money Laundering (Amendment) Bill (National Assembly Bill No.39 of 2021).

The Petroleum Products Taxes and Levies (Amendment) Bill (National Assembly Bill No.42 of 2021).

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Chair, complete the process.

## ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order, Members. Hon. Members, we shall go on to adjourn the Sitting. The time being 12.43 p.m., this House stands adjourned until Thursday, 2<sup>nd</sup> December 2021 at 2.30 p.m.

The House rose at 12.43 p.m.