

# PARLIAMENT OF KENYA

## THE NATIONAL ASSEMBLY

### THE HANSARD

Tuesday, 29<sup>th</sup> June 2021

The House met at 2.30 p.m.

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

### PRAYERS

### PETITIONS

#### STREAMLINING OF JUDICIARY SERVICES DURING COVID-19 PANDEMIC

**Hon. Speaker:** There are still other Members who have not yet settled. You have to remain standing.

Hon. Members, Standing Order No.225 (2) (b) requires the Speaker to report to the House any petition other than those presented by an Hon. 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, Hon. Members, I wish to report to the House that my office has received a Petition from one Kevin Ndoho Macharia, who is an advocate of the High Court of Kenya, calling for implementation of various interventions aimed at streamlining access to justice during the ongoing COVID-19 pandemic.

Hon. Members, the petitioner states that the ongoing COVID-19 pandemic and other administrative bottlenecks are stifling proper administration of justice, occasioning tremendous difficulty in obtaining mention or hearing dates before courts, delays in obtaining outcomes on certificates of urgency application, failure to cause list matters having mention or hearing dates, difficulties in securing certified typed proceedings, among other challenges.

In a bid to address these frustrations, Hon. Members, the petitioner proposes, among others, the following interventions:

- (i) amendment to the Civil Procedure Act to provide for the utilisation of automated systems for fixing of court dates, automatic scheduling of court dates on a cause list once dates are issued, and to provide for a time limit of four hours for determination of applications filed under certificates of urgency;
- (ii) amendment to the National Council for Law Reporting Act to re-engineer the mission of the Kenya Law; and
- (iii) the enactment of the Court Reporters Act to secure provision of trained and certified court reporters to instill professionalism in management of typing and recording of court proceedings.

Hon. Members, having determined that the matters raised in the Petition are well within the authority of this House, and pursuant to the provisions of Standing Order No.227(1), the Petition stands committed to the Departmental Committee on Justice and Legal Affairs. The Committee is required to consider the Petition and report its findings to the House and to the petitioner in accordance with the provisions of Standing Order No.227(2).

I thank you.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, I beg to lay...

**Hon. Speaker:** There is an intervention from the Member for Kiminini. What is it about, Member for Kiminini?

*(Hon. (Dr.) Chris Wamalwa spoke off-record)*

I have given you a chance to speak. Do not press anything.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Speaker. It is a tradition that at times, you allow us to ventilate. I was just keen about the Petition that you have just read. It has been a concern by many other advocates and some had already approached me over the same. I really thank you because you have mentioned it.

At a time like this of the pandemic, delivery of justice has been affected. We just wanted to support the fact that the pandemic has affected this, and if possible, the Chief Justice, wherever she is, should move with speed for purposes of systems automation because people are suffering. For instance, in my constituency, issues of land have been pending in court and the excuse has been the issue of the pandemic. With the allocated money for the National Government Constituencies Development Fund (NG-CDF), we need to start building and you know that when it stays for long, we are forced to start doing reallocation.

It is true this is a serious matter and the Chief Justice and the President of the Supreme Court must move with speed, so that they can automate their services. It does not mean that during this time of the COVID-19 Pandemic everything comes to an end. So, it is, indeed, important that the judicial service systems are enhanced.

Thank you, Hon. Speaker. I support.

**Hon. Speaker:** Are all these interventions about comments on the Petition?

Hon. (Dr.) Pukose, is it about the Petition?

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Speaker. That Petition, as you have determined, being rightful before the House, shows that we are faced with new circumstances. The pandemic has also affected our Standing Orders on how we should contribute during proceedings in the House. For instance, the other time when we were voting, some Members were even voting from distant places. This is a new circumstance that would force us to ask whether we should be voting within the Chamber or not. That is not even provided for within our Standing Orders. So, this is a new area that our Departmental Committee on Justice and Legal Affairs should look at. They should look at how Kenyans access justice. Justice delayed is justice denied. So, the Petition before the House is very timely. It will be good for the Departmental Committee on Justice and Legal Affairs to move with speed, so that this matter can be addressed.

**Hon. Speaker:** Member for Kisumu West.

**Hon. Olago Aluoch** (Kisumu West, FORD-K): Thank you, Hon. Speaker. The matter, as you have ordered, will go to the Departmental Committee on Justice and Legal Affairs where I

have the privilege of serving. I want to tell the House that most of what the Petition is asking for are matters that could be dealt with by a committee of the court. The real meaning of what he is asking for would be that we change the law. *(Inaudible)*... it is to the House, in my view, because of the dysfunctionality of the Law Society of Kenya (LSK) Council. The LSK Council is no longer able to deal with issues that are raised by the petitioner. That is why the House is being asked to step in. As we deal with this matter, I urge members of the LSK Council to take their work seriously and deal with issues that members need to attend to.

**Hon. Speaker:** Member for Aldai, is it about this Petition?

*(Hon. Adan Keynan gestured)*

Member for Laikipia North, is it about this Petition?

**Hon. (Ms.) Sara Korere** (Laikipia North, JP): No, Hon. Speaker.

**Hon. Speaker:** Member for Marakwet East, is it about this Petition?

**Hon. Kangogo Bowen** (Marakwet East, JP): Yes, Hon. Speaker. I want to support the Petition. As the Committee looks into this Petition, they also need to consider the internet security. Remember, we are dealing with court cases, some of which are about some very serious issues. As the Committee deliberates on this issue, they need to also seek expertise, especially from an information systems analyst or such expert. Even as our courts go online, we should consider the fact that internet security is very important when deliberating court issues.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Sankok, is it about this Petition?

**Hon. David ole Sankok** (Nominated, JP): It is about the second one.

**Hon. Speaker:** The second one? Is this Hon. Njagagua? You seem not to have a card. How is it that I found you?

**Hon. Charles Njagagua** (Mbeere North, JP): Thank you, Hon. Speaker. I wish to have a say on this one and support it. We must appreciate that what the Counsel is seeking has been done by the previous Chief Justice, Hon. Maraga. He automated the court systems. The current Chief Justice is also on record as saying that she is going to enhance matters of ICT in the court systems. Unfortunately, she mentioned something yesterday which caught my attention that we have less judicial officers. So, in as much as we are going ICT, we need to have more judicial officers to deal with these matters. Of course, we also know the tactics of lawyers. They try to adjourn matters unnecessarily. So, as much as we are saying that we must automate court systems, lawyers must also change their ways in terms of adjourning cases unnecessarily.

**Hon. Speaker:** Very well. The Petition is committed to the Departmental Committee on Justice and Legal Affairs.

Next Order.

### PAPERS LAID

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Report of the Auditor-General and Financial Statements in respect of the Kenya Ports Authority for the year ended 30<sup>th</sup> June 2019 and the certificate therein.

Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2020 and the certificates therein:

- (i) National Council for Nomadic Education in Kenya;

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- (ii) University of Nairobi Enterprises and Services Limited; and,
- (iii) Kenya National Examinations Council.

**Hon. Speaker:** Chairman of the Budget and Appropriations Committee.

**Hon. Kanini Kega** (Kieni, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Budget and Appropriations Committee on its consideration of the Supplementary Appropriations Bill (No.2) (National Assembly Bill No.33 of 2021).

**Hon. Speaker:** Next Order.

### ORDINARY QUESTIONS

**Hon. Speaker:** Hon. Members, the first segment is on Questions. The first Question is by the Member for Nakuru Town East, Hon. Gikaria. The Member is not ready.

**Hon. David Gikaria** (Nakuru Town East, JP): Hon. Speaker, I have just arrived.

**Hon. Speaker:** I can see you are struggling to do something. Let me move to the next Question, which is by the Member for Belgut, Hon. Koech. No response from the Member. Member for Malava, Hon. Injendi.

#### *Question No. 213/2021*

#### MEASURES TO SECURE COMPREHENSIVE MEDICAL COVER FOR THE NATIONAL FOOTBALL TEAM

**Hon. Moses Injendi** (Malava, JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Sports, Culture and the Arts the following Question:

- (i) What plans, if any, has the Government put in place to secure a comprehensive medical insurance cover for football players who are in the national team and their dependents?
- (ii) Could the Cabinet Secretary state the assistance the Government has extended to Mr. Patrick Matasi, or his dependants, who plays for the national team, the Harambee Stars, following a road accident which occurred on 11<sup>th</sup> May 2021?

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Sports, Culture and Tourism.

The next Question is by the Member for Bomet Central, Hon. Tonui. No response from the Member. For the second time, Member for Nakuru Town East.

#### *Question No. 210/2021*

#### REHABILITATION OF OLD NAKURU-NAIROBI HIGHWAY

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you for your indulgence, Hon. Speaker. I rise to ask the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works the following Question:

- (i) Could the Cabinet Secretary provide the identity of the contractor(s) awarded the contract to rehabilitate the old Nakuru-Nairobi Highway and details of the

contract, including the contract sum and how much has been paid to the contractor to date?

- (ii) What steps is the Ministry taking to ensure that the said road is motorable for users within Nakuru Town and its environs?
- (iii) Could the Cabinet Secretary provide details on the amount of funds that were allocated to compensate the residents affected by the rehabilitation of the said road?

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Transport, Public Works and Housing.

For the second time, Member for Belgut, Hon. Nelson Koech, otherwise, known as “Very Good”. Member for Belgut.

*Question No. 211/2021*

#### POLICY GOVERNING FORM ONE ADMISSION

The Member being absent, the Question is dropped.

*(Question dropped)*

*Question No. 214/2021*

#### RETIREMENT BENEFITS FOR TEACHERS AND CIVIL SERVANTS

For the second time, Question by the Member for Bomet Central, Hon. Ronald Tonui. The Member being absent and not desiring to be present, the Question is dropped.

*(Question dropped)*

We will move to the next segment on the requests for Statements and the first one is by the Member for Wajir East, Hon. Rashid Kassim.

#### REQUESTS FOR STATEMENTS

##### PETITION ON PARDON OF MR. HASSAN A. ALI UNDER THE POWER OF MERCY

**Hon. Rashid Kassim** (Wajir East, WDM-K): Hon. Speaker, before I proceed, allow me to thank you, on behalf of the people of Wajir, for visiting Wajir County despite your busy schedule as we rolled out some development initiatives.

*(Applause)*

Hon. Speaker, pursuant to Standing Order No.44(2)(c), I rise to request for a Statement from the Chairperson, Departmental Committee on Justice and Legal Affairs regarding a Petition for pardon of Mr. Hassan Abdi Ali, Identification Number 22534307, under the power of mercy as provided for by Article 133 of the Constitution.

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Hon. Speaker, Article 133 of the Constitution provides that the President may exercise the power of mercy to pardon any convicted persons by granting a free or conditional pardon to a person convicted of an offence, substituting a less severe form of punishment. Any person may petition the President through the Advisory Committee on Powers of Mercy seeking for pardon of a convicted person on various grounds as stipulated in the Power of Mercy Act of 2011. A Petition on behalf of Mr. Hassan Gedi Abdi Ali, ID Number 22534307 was submitted to the President, through the Advisory Committee on the Powers of Mercy, in August 2016 seeking that the President exercises the power of mercy and grants a relief to him on grounds of mental health among others as recommended by the psychiatrist for his release.

Hon. Speaker, it is on this background that I seek a Statement from the Chairperson, Departmental Committee on Justice and Legal Affairs on the following:

- (i) Could the Chairperson provide a report on the number of convicted offenders who have been granted pardon and those whose requests have been rejected as provided for in Article 133 of the Constitution and Powers of Mercy Act in the last five years, and when this was done?
- (ii) What is the status of all petitions lodged with the President, through the Advisory Committee on Powers of Mercy, for purposes of granting pardon as provided for in Article 133 of the Constitution and the Powers of Mercy Act, 2011?
- (iii) Could the Chairperson provide information regarding a Petition lodged in August 2016 on behalf of Mr. Hassan Gedi Abdi Ali, Identification No.22534307 as provided in Article 133 of the Constitution?
- (iv) Could the Chairperson explain the challenges that the Advisory Committee on Powers of Mercy is facing in executing its mandate including updating the House through the submission of annual performance reports as provided in Section 29 of the Act?

Thank you, Hon. Speaker.

**Hon. Speaker:** Chairperson. Hon. Amin, is your request to JLAC?

**Hon. Rashid Kassim** (Wajir East, WDM-K): Yes, the request is to the Departmental Committee on Justice and Legal Affairs Committee.

**Hon. Speaker:** Very well. Hon. Muturi Kigano. What has happened? He has suddenly disappeared. Who is the current Vice-Chairperson? Is it Hon. Kajwang'? Since both the Chairman and the Vice-Chairman are not present for whatever reasons, your request will be channeled through the Leader of the Majority Party.

The next request is by the Member for Malava, Hon. Malulu Injendi.

#### INDEFINITE SUSPENSION OF REGISTRATION OF SCHOOLS IN THE COUNTRY

**Hon. Moses Injendi** (Malava, JP): Hon. Speaker, pursuant to Standing Order No. 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Education and Research regarding indefinite suspension of registration of schools in the country.

Hon. Speaker, the Ministry of Education, through the State Department of Early Learning and Basic Education in a circular dated 15<sup>th</sup> June 2021, suspended indefinitely the registration of schools citing a number of reasons, among them that the Ministerial Committee on Registration of Schools does not conduct verification of the data provided.

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

(i) Could the Chairperson explain the plans put in place to provide a clear framework regarding registration of institutions of basic education?

(ii) Could the Chairperson explain whether there are guidelines to be developed by the Director of Quality Assurance and Standards to particularly address the existing lacuna in the operations of education matters?

(iii) Could the Chairperson explain how long the suspension will take and when it is expected to be lifted?

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Florence Mutua, how long are you going to take before you respond?

**Hon. (Ms.) Florence Mutua** (Busia CWR, ODM): Thank you, Hon. Speaker. That matter is very urgent because I have informally received many requests from Members. I want to assure the Member that we will deliver the response in a week's time.

**Hon. Speaker:** Hon. Malulu Injendi, are you comfortable with the commitment from the Chairperson?

**Hon. Moses Injendi** (Malava, JP): Did she say one week?

**Hon. Speaker:** Yes.

**Hon. Moses Injendi** (Malava, JP): That is okay.

**Hon. Speaker:** The next request is by Hon. John Olago Aluoch.

#### POLICY ON RECRUITMENT OF UNSKILLED AND SEMI-SKILLED LABOUR BY KENYA RAILWAYS CORPORATION

**Hon. Olago Aluoch** (Kisumu West, FORD-K): Hon. Speaker, pursuant to Standing Order No. 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Transport, Public Works and Housing regarding failure by the Kenya Railways Corporation to engage casual labourers in the rehabilitation and reconstruction of the Kisumu–Butere railway route and the Kisumu-Lela railway section.

In the ongoing rehabilitation and reconstruction of the Kenya Railways network, the corporation has been engaging the services of the National Youth Service (NYS) to complement other professionals in undertaking casual and unskilled services. The cadre of unskilled labour is recruited from the local areas where the rehabilitation and reconstruction is being undertaken. This has worked very well in most areas in the country. However, since the corporation commenced works on the Kisumu-Butere line, it has been using unskilled labour from as far away as Nakuru while ignoring locals especially in the Kisumu-Lela section of the line. It is against this background that I seek a Statement from the Chairperson to address the following issues.

i) Could the Chairperson explain the policy/criteria that the corporation is applying in recruitment of unskilled and semi-skilled labour in the ongoing rehabilitation and reconstruction of the railway network?

ii) Could the Chairperson provide the expected completion date of the reconstruction and rehabilitation of the Kisumu-Butere line?

iii) Could the Chairperson provide a detailed account of the total number of unskilled and semi-skilled workers engaged in the Kisumu-Lela section and a breakdown based on sub-county?

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Pkosing.

**Hon. David Pkosing** (Pokot South, JP): Thank you, Hon. Speaker. That is a very weighty request. I thank Hon. Olago Aluoch for representing his people and Kenyans. We can respond to the request in two weeks.

**Hon. Speaker:** Hon. Olago Aluoch, are you comfortable with the time?

**Hon. Olago Aluoch** (Kisumu West, ODM): Hon. Speaker, the Chairperson has indicated two weeks. I know the House could possibly go on recess next week, but I will be contacting him even during recess to know what is going on. I have no problem at all.

**Hon. Speaker:** In two weeks, we will still be here. The next request is by the Member for Meru County, Bishop Kawira Mwangaza.

## PERSONAL STATEMENT

### ILLEGAL DEMONSTRATIONS IN MERU COUNTY

**Hon. (Ms.) Kawira Mwangaza** (Meru CWR, Independent): Thank you, Hon. Speaker. Pursuant to Standing Order 84, I wish to make a Personal Statement regarding an illegal public demonstration in Meru County believed to have been funded by the County Government of Meru against the character of my person.

*(Applause)*

On 28<sup>th</sup> June 2021, a handful of staff and some nominated Members of the County Assembly of Meru organised and participated in an illegal demonstration fully funded by the County Government of Meru against the character of my person on alleged protest that I was abusive to the Governor of Meru County. Wild allegations were levelled against me in sections of print and social media that I am a thief and a prostitute, among others.

**Hon. Members:** Shame! Shame! Shame!

**Hon. (Ms.) Kawira Mwangaza** (Meru CWR, Independent): Hon. Speaker, I want to offer a public alibi that the said demonstration was illegally organised by my political opponents, both perceived and real, in order to malign my name and derail my political ambitions. It is sad that the imagination that my expression to contest for the position of Governor of Meru County has become a matter of public notoriety. As a matter of fact, the regulations and protocols of COVID-19 outlaw large gatherings of such nature, but it is unfortunate that the said demonstration was conducted in total disregard of the said protocols in full support and knowledge of security officers in the region who were instead supposed to enforce such protocols. Many people were injured in the melee and others exposed to the risk of contracting COVID-19 besides disrupting transport and business activities of the residents of Meru County.

I want to refute and condemn in the strongest terms possible and categorically state that the said demonstrations and allegations levelled against me and my family were mere fabrications of my opponents who have already sensed defeat, so as to tarnish my name and portray me as a bad leader ahead of the 2022 General Elections. I also wish to reassure my



supporters, friends and the entire nation that I am strong, God-fearing and my hands are clean against the wish of my opponents.

Considering that general elections are usually characterised with high emotions, I wish to implore the security and intelligence agencies to investigate and apprehend persons, including Meru County Government employees found culpable of organising such dangerous demonstrations that are likely to put Meru County on the brink of election-campaign related violence. Finally, I take this opportunity to urge all my supporters to maintain peace, calm and continue praying for our county of Meru and our nation, Kenya.

Thank you, Hon. Speaker.

*(Applause)*

**Hon. Speaker:** Very well. Hon. Members, that was a Personal Statement. There is no debate on it. I can see the Member for Laikipia North, Hon. Sara Korere, has pressed intervention.

**Hon. (Ms.) Sara Korere** (Laikipia North, JP): Thank you, Hon. Speaker. I was just listening to and following the Personal Statement by my friend and good neighbour, Hon. Kawira Mwangaza. It is surprising and worrying the length to which people can go to malign women who seek leadership in this country, and the kind of character assassination. Thank you for giving me this opportunity to speak.

**Hon. Speaker:** I hope it is not about the Personal Statement.

**Hon. (Ms.) Sara Korere** (Laikipia North, JP): It is about the Personal Statement.

**Hon. Speaker:** No, it is a Personal Statement. She stood under Standing Order 84. There is no debate. You had pressed the intervention button, but I thought you had something else you wanted to say.

**Hon. (Ms.) Sara Korere** (Laikipia North, JP): You know, Hon. Speaker, you are the spokesperson of Mt. Kenya and the whole country.

*(Laughter)*

**Hon. Speaker:** But Hon. Duale, we are still bound by the rules of the House. A Personal Statement does not elicit debate.

**Hon. (Ms.) Sara Korere** (Laikipia North, JP): Thank you, Hon. Speaker. As I conclude, it is a wake-up call that women seeking elective positions, especially in single-member constituencies and governor and senator positions need a lot of protection. I speak like that because I know. I am the wearer of that shoe. I am being threatened with guns and bullets. So, we are crying that the Ministry of Interior and Co-ordination of National Government and security agencies should give us the protection that we require.

Thank you, Hon. Speaker.

*(Applause)*

**Hon. Speaker:** Now, the following Members have placed interventions. I hope it is not about this matter. Let me just follow the order as it is. I can see the one who is next is already standing. How did he know he is the next one? Hon. Sankok, how did you know you are next?

*(Laughter)*

*(Hon. David ole Sankok spoke off-record)*

**Hon. David ole Sankok** (Nominated, JP): Hon. Speaker, I am Nominee 001 and so, I am always number one in this House. Again, after they finish with women, next will be persons with disabilities (PWDs) and that is why I am very worried.

*(Laughter)*

Hon. Speaker, you are not only the spokesperson of Mt. Kenya, but also for the whole country. I think you have just travelled back from Isiolo. I am sure you will be in Narok on 3<sup>rd</sup> July. We are anointing you as a Maasai elder.

*(Laughter)*

So, kindly, protect women and also the PWDs in equal measures. I have finished. There is no point of order.

*(Laughter)*

**Hon. Speaker:** Hon. Pukose, you are next.

### POINT OF ORDER

#### THE KENYA FOOD AND DRUGS AUTHORITY BILL PENDING BEFORE DEPARTMENTAL COMMITTEE ON HEALTH

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Speaker. On 2<sup>nd</sup> May 2019, my Bill on the Kenya Food and Drugs Authority was committed to the Departmental Committee on Health. You have given, on several occasions, direction that this Bill needs to be debated in the House. I am asking for your direction because it has taken very long. This is the Year 2021. When a Bill is almost two years in the hands of a Committee, it is not right. It should have been dispensed with. This is a very important Bill. It seeks to establish the Kenya Food and Drugs Authority and transform the Pharmacy and Poisons Board into a national Authority, especially now that we have issues of COVID-19. When dealing with issues of COVID-19, we also need to deal with pharmacovigilance, that is, approval of drugs and vaccines in the country.

As it is today, our health is at risk. Who gives the direction on any of the vaccines in this country? When you refer the matter to the Ministry of Health, it will not stand as an authority to determine that. The same goes for approvals. That is why we are having a lot of challenges. It is high time this House dispensed with this Bill so that we can have a direction like other countries in the region.

Just for your information, Uganda, Rwanda and Tanzania have an operational National Drugs Authority. Why is it that in Kenya we cannot move forward? My prayer to you, Hon. Speaker, is that you give direction on this matter of the Kenya Food and Drugs Authority, so that we can dispense with the Bill.

**Hon. Speaker:** Can we get the Chairperson, or the Chairman, as the case maybe, of that Committee?

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Probably, Hon. Nyamai would want to add something. She is my former Chairperson of the Committee.

**Hon. Speaker:** But you know, it is important to note that the Bill was referred to the Committee on 2<sup>nd</sup> May 2019. If, indeed, it was not for the special resolution which was passed by the House at the tail end of the last Session, that Bill by now would have died. Our rules are that a Bill should not be before the House for more than two sessions. Save for the special resolution that the House passed in December on account of the COVID-19 Pandemic of last year. That is the reason the Bill was saved! Now, we are at the tail end of June 2021. In fairness, the Committee should give us some response. I do not see the Chairman. Is it the Chairwoman or Chairlady? Whatever the title.

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

Where is the Vice-Chair? Let me get a comment from the ranking Member of that Committee, Hon. (Dr.) Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): That Bill for sure came before the Committee once. There was a lot of interest, including matters to do with agriculture, veterinary medicine, and particularly the Ministry of Health. They expressed interest to have a serious contribution on the Bill even if it meant having another Bill. Since then, it has not appeared before us. What I can undertake is to pick it up with the Chair and the Vice-Chair. The way it is going, it is not right for the Committee. It had appeared once and those other interests came up. We should make a decision even with those interests and bring it before the plenary. I undertake that it will be taken up with the Chair and the Vice-Chair.

Thank you, Hon. Speaker.

**Hon. Speaker:** Committees, please, I have instructed that on Thursday, this week, I have to get a report. It will be done publicly here. Let the country know which committees are sitting, or apparently, frustrating fellow Members' legislative initiatives.

*(Applause)*

It is not right that we continue with this kind of lamentation. Whatever interests anybody has, let them go and state them before the Committee. Let the Committee bring a report here. The report will inform the debate that will happen, so that at the Committee of the whole House, Members will know whether to propose whatever amendments based on both the proposals in the Bill and the report of the Committee, which will have interacted with various other stakeholders. So, various committee Chairs, kindly, take note that on Thursday this week, there will be a report here. We want the status report. There are too many Members who are even writing to me complaining about their Bills which have kind of died. Of course, I know most committees have been saying that they are busy with the budgets, but now we are through. So, you have no excuse now. Do not even give the excuse of the COVID-19 Pandemic because life is still going on. I think God has been magnanimous and gracious enough that you are there. So, please, do not frustrate the effort of your colleagues.

Hon. Wamalwa, is it on the same issue?

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Thank you, Hon. Speaker. The matter that has been raised by Hon. Pukose is critical. I listened carefully. In many jurisdictions, like United States of America, the Food and Drugs Authority is under the Ministry of Health. However, when you go to other jurisdictions, the moment you talk of drugs and add food, there is an interest from the Departmental Committee on Agriculture and Livestock. How I wish, on a matter like this, the agricultural sector also has a say.

I agree with Hon. Nyikal where he mentioned that the Ministry of Agriculture, particularly, the area of veterinary medicine, came up. In this country, when it comes to matters of human medicine, whether importation or whatever the case, the Pharmacy and Poisons Board is involved. However, when it comes to matters of veterinary, there is a new body that was created. They were separated. For purposes of inclusivity, it would add more value if the Departmental Committee on Agriculture and Livestock can also be given an opportunity to look into this matter and table a report like many other jurisdictions.

I thank you.

**Hon. Speaker:** Nobody stops any Committee even if it is the Departmental Committee on Agriculture and Livestock. The Bill is out there for anybody to make whatever input they may think they have. Hon. Nyamai, as the immediate former Chair, kindly, have the Floor.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Speaker, I just wanted to say that this is not the first time that this Bill is coming before the Departmental Committee on Health. Towards the end of the 11<sup>th</sup> Parliament, Hon. (Dr.) Pukose brought the same Bill. We realised that this Bill has a lot of interest. As the other Hon. Members were discussing this, I overheard the former Leader of the Majority Party, Hon. Duale, saying that it has so many interests that in a way, he participated in ensuring that it did not move forward.

*(Loud consultations)*

Let me just finish. Maybe, I can withdraw that part.

Okay. He says I can continue because it is true he said that. It touches on agriculture, trade and so many parastatals. It is a Bill that must come here so that Kenyans can benefit from the standards that are required. There is a lot that can be achieved through this Bill. We interacted with the Bill and identified all the stakeholders that were to be involved. Indeed, it has taken too much time. I fully understand why Hon. (Dr.) Pukose is raising the matter that he has raised.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Nyando.

**Hon. Speaker:** Let us have the Member for Nyando.

**Hon. Jared Okelo** (Nyando, ODM): Thank you, Hon. Speaker. It behooves this House to either kill or pass the Bill. It does not lie with an individual or the Committee. In 2018, I did a Bill that was targeting people being unilaterally held at various health facilities, maybe in detention camps. That Bill was to address the issue of people languishing in health facilities for long just because of failure to pay. It is now three years and I do not know where the Bill is. I remember the Budget and Appropriations Committee asked me to appear before them, which I did. I presented my case and believed they were convinced, but up to now, my Bill is somewhere in limbo. So, I thank you for your ruling that we need to fast-track these Bills. No committee or individual, regardless of interests being perpetuated, should stop a Bill from seeing the light of

day in this House. If it is a Bill that is not in sync with the people in this Parliament, it will die at that stage, but no one should stifle our rights to present Bills in this House.

I thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, it was because of those concerns that I earlier on in the House Business Committee indicated that we needed to get a feedback, so that any Member who has made legislative proposals is apprised on the stages of their initiatives. There are some people who think that debate or working in Parliament is a matter of rising on a point of order. They think that is business. It takes so much time for somebody to come up with a Bill such as the one Hon. (Dr.) Pukose has come up with and many others. I know this week we have prioritised some Private Members' Bills.

Let me hear Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, you have said it well. I told Hon. Sankok to allow Members to have free thoughts. So, Hon. (Ms.) Nyamai was right. When she was the Chair and I was the Leader of the Majority Party, we tried to bring Government together, namely, the Ministry of Agriculture, Ministry of Health, Principal Secretary Mochache and PS, (Prof.) Boga. We tried to ask the Government to bring their amendments to this Bill. Even the Departmental Committee on Health, without imputing any improper motives, their interest within that Committee... That Bill is so voluminous. A lot has gone into it in terms of research. It touches on very critical sectors of the economy particularly health, the Pharmacy and Poisons Board, veterinary, vaccine production and basic things. It is very unfortunate, and you need to give direction that the Bill comes to the House. Just like they used to do previously, they would bring their amendments through the Leader of the Majority Party or the Chairperson, but that Drug and Food Authority Bill is important. It should come. It is two years now and you should give that direction.

It is good that you are also going back to our old days where once in a week, Chairs give status reports of the Bills before them. You have seen what *Mzalendo* is writing. Maybe he is writing that because Private Members' Bills are not being given priority. So, it is good that Private Members' Bills come to the Floor. That is the time Members contribute on Wednesday mornings from 10.00 a.m. So, from this week, when we start Private Members' Bills, we will see more Members speak on the Floor of the House.

**Hon. Speaker:** Very well. In that case, the Departmental Committee on Health should take note. Hon. (Dr.) Nyikal, it is fair that we do it on Thursday this week. Due to COVID-19 issues, remember it is Thursday afternoon as was passed by the Special Motion. We have reserved Thursday afternoon for Private Members' Bills. The Committee on Health should specifically give a progress report on what it is it has done on that Bill. So, Hon. (Dr.) Nyikal, I give you that responsibility to liaise with your Chair. If they are not available, please, give us an update on what you have done on that Bill on Thursday afternoon.

There is an intervention by Hon. Millie Odhiambo.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Speaker. My intervention is just in relation to the issue of Bills. I wanted to bring to the attention of the House that at times, it may not necessarily be the fault of the Committee. I thank you because through your intervention, the Assisted Reproductive Technology Bill that I sponsored is now in Second Reading, but two of the Bills that I have sponsored, other than the Child Justice, which is in the Departmental Committee on Justice and Legal Affairs, the Committee keeps saying they will invite me to appear before them and they do not do that, I have a Reproductive Health Care Bill that seems to be nowhere. Nobody can trace it. I think our Legal Department must also up their

game and help us in tracking the Bills. Members do a lot of good work here and it is a tragedy that we are going to next year and many of the Bills that have been passed by the Budget and Appropriations Committee just fizzle out at the end of its term. At times, Members complain about this Committee when it is not their problem. So, we can find a different tracking system to help us trace exactly where Bills are. Sometimes it may be the department or other processes once it leaves the department.

I thank you Hon. Speaker.

**Hon. Speaker:** I think the Clerk will deal with that one. Let us have Hon. (Ms.) Leshoomo.

**Hon. (Ms.) Maison Leshoomo** (Samburu CWR, KANU): Asante sana, Mhe. Spika. Nilikuwa nataka kumsaidia mama mwenzangu, Mheshimiwa wa Meru, kwa sababu...

**Hon. Speaker:** Huu si Mswada wala Hoja.

**Hon. (Ms.) Maison Leshoomo** (Samburu CWR, KANU): Sijakuelewa Mhe. Spika.

*(Kicheko)*

**Hon. Speaker:** Hairuhusiwi mtu kuchangia, hata kama unataka kumsaidia.

**Hon. (Ms.) Maison Leshoomo** (Samburu CWR, KANU): Wajua Mhe. Spika, kile kitu anashuhudia ni yale sisi tumepitia sote. Basi ningeomba tu kusema akina mama wapewe ulinzi wa kutosha. Ninamwambia mwenzangu ajaribu juu chini kwa sababu hilo ni jambo la maana. Hayo si mambo ya kulegea bali ni ya kuendelea. Sisi sote tumepitia hayo na ndiposa tuko katika hili Bunge.

Asante Mhe Spika.

**Hon. Speaker:** Basi tieni bidii.

*(Laughter)*

Hon. Members, I now want us to go to business.  
Next Order.

### PROCEDURAL MOTION

#### REDUCTION OF PUBLICATION PERIOD OF A SPECIFIED BILL

**Hon. Kanini Kega** (Kieni, JP): Hon. Speaker, I beg to move the following Procedural Motion:

THAT, notwithstanding the provisions of Standing Order 120, this House resolves to reduce the publication period of the Supplementary Appropriation (No.2) Bill (National Assembly Bill No.33 of 2021) from seven to two days.

As clearly indicated, it is purely a Procedural Motion to reduce the period from seven to two days. We are one day to the end of the financial year. If this is not concluded, we will run into a crisis. As it had earlier been said, we need to relook at this issue especially where matters have properly been canvassed on the Floor. Let us reduce from seven to two days or less.

I beg to move and ask the Leader of the Majority Party to second.

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

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Speaker. I need some protection here.

I beg to second the reduction of publication period from seven to two days. Members should be aware that we went through the whole of this last week and hence today is putting the numbers to the debate that we already approved. There is nothing much we are supposed to do. Whether we take seven, 10 or 20 days, the numbers will not change. So, the earlier we do it, the better. Like we said last time, it is high time we reconsidered this.

Hon. Members, as I second, I also want to confirm to you the discussions we have been having with the National Treasury concerning our NG-CDF money. There was a balance of Kshs5.714 billion which had not been released as at this morning. I want to confirm to the Members that I have received confirmation from the National Treasury at 2.08 p.m. and I have no reason to doubt that, indeed, the money has been released. The difference will be the movement of the money from the National Treasury account to the NG-CDF account. The balance we required was Kshs5.714 billion

Hon. Members, you asked me to ensure that the money moves from the National Treasury to the NG-CDF Board. The money is now not with the National Treasury, but with the Board. So, the rest is how it moves to the constituencies and that will be a disbursement issue. This is a good thing because for a long time, we have never closed the year with the full amount paid. Members are aware that last year, Kshs13.7 billion had not been disbursed at the end of the year and was brought to the previous supplementary budget.

That money has now been disbursed and we have Kshs41.7 billion for the year 2020/2021 and Kshs13.7 billion, which was paid in respect of last year. There is some amount that pertains to arrears of 2013/2014 and 2014/ 2015, which our NG-CDF Committee needs to resolve with the auditors. So, we can see how to factor this in the first supplementary budget because it is too late to do so in the absence of some tangible audit. Some of these figures are not paid these days because of such issues.

So, with the Board having paid about Kshs2.2 billion this year in respect of those arrears, Members had not expected to receive the Kshs13.7 billion. This is something we are working on and at the earliest opportunity, we will ensure whatever is agreeable with the auditors is ratified in the first opportunity and disbursed. I am happy with their commitment and the rest is for the NG-CDF Committee to ensure that the money is disbursed and the arrears are looked into to see which ones need to be ratified. I have been in contact with the NG-CDF Committee Chairman and we have been discussing this afternoon.

Hon. Members, I wanted to give you this information so that you are aware and start planning in terms of what you will do when we go on recess. In the meantime, going back to the schedule, I urge you to take as little time as possible. This is not just by reducing time for this Motion, but also in terms of processing the Appropriation Bill. This is something we have agreed and we need to make progress with other pending matters that we hopefully need to clear this week.

With those remarks, I beg to second.

**Hon. Speaker:** If I could get the restless Members to take their seats, including the Member for Nyando and Hon. Melly. Hon. Members, I am only assuming that many of you have listened to the Mover and Seconder of this Procedural Motion.

*(Question proposed)*

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

*(Question put and agreed to)*

**Hon. Owen Baya** (Kilifi North, ODM): On a point of order, Hon. Speaker. Let us go to the next Order before that intervention.

## BILLS

### *First Reading*

#### THE SUPPLEMENTARY APPROPRIATION (NO.2) BILL

*(Order for First Reading read - Read the First Time - Ordered to be read the Second Time today by leave of the House)*

**Hon. Speaker:** Next Order!

Before we undertake, let me hear the intervention from the Member for Kilifi North.

**Hon. Owen Baya** (Kilifi North, ODM): On a point of order, Hon. Speaker. I wanted to follow-up on what the Leader of the Majority Party has said about the NG-CDF. I would like to get an assurance whether one, all the money we expect to get into accounts for the financial year has been given to us, and two, students will be joining Form One in August...

**Hon. Speaker:** No! We cannot start dealing with high schools.

**Hon. Owen Baya** (Kilifi North, ODM): They are part of the supplementary.

**Hon. Speaker:** No, it is not because the Leader of the Majority Party proffered information. I think he is just being a good messenger by giving information. He talked of a figure of Kshs5.714 billion.

**Hon. Owen Baya** (Kilifi North, ODM): I just wanted confirmation if that is all the money. He said the money will not hit our account and the financial year is coming to an end.

**Hon. Speaker:** How does it hit your account when you are here? Is he in the Central Bank of Kenya (CBK) to say it is hitting?

**Hon. Owen Baya** (Kilifi North, ODM): He is the Leader of Government Business.

**Hon. Speaker:** No, it does not matter. He is not in CBK to say if it is hitting or falling off.

**Hon. Owen Baya** (Kilifi North, ODM): Hon. Speaker, the financial year is coming to an end tomorrow.

**Hon. Speaker:** Hon. Kandie is like you, a doubting Thomas. I think he needs somebody to be nailed so as to see physically. What will we do to get these doubting Thomases like Hon. Owen Baya and Kandie to believe what is being said?

**Hon. Owen Baya** (Kilifi North, ODM): We need confirmation if there will be money tomorrow.

**Hon. Speaker:** It looks like there is another one, Hon. Serem. Are you also in the category of doubting Thomases?

**Hon. Cornelly Serem** (Aldai, JP): Thank you, Hon. Speaker. The Leader of the Majority Party knows very well that this House has a NG-CDF Committee Chairman and I am a very active Member of that Committee.

**Hon. Speaker:** Can you go and call your Chairman? You can call your Chairman.



**Hon. Cornelly Serem** (Aldai, JP): Hon. Speaker, for the record, the Board has not received a penny of the Kshs5.7 billion. It is good for all of us to know that what the Leader of the Majority Party is telling us is word of mouth. There is no document tabled before this House. There is no document from which we can confirm that the money is in our accounts. The Chief Executive Officer of the NG-CDF Board has confirmed that there is no money given to the Board.

**Hon. Speaker:** Hon. Serem, just a minute. If people are to believe you, table what you are saying. You want people to believe what comes through your mouth, but not to believe what comes from the mouths of others. So, I do not know what I am going to do with these mouths.

**Hon. Cornelly Serem** (Aldai, JP): Hon. Speaker, I was responding to the allegations.

**Hon. Speaker:** Which mouths should we believe?

**Hon. Cornelly Serem** (Aldai, JP): Mine, Hon. Speaker. I am a Member of the Committee. The Leader of the Majority Party is not a Member.

**Hon. Speaker:** Hon. Serem, honestly, the National Treasury is not going to transact business through all these mouths, including yours. It is unlikely to transact through all these mouths. Let us trust that the National Treasury will transact through some channel. In the meantime, since your Chairman is not here... Where is he? Hon. Serem, yes, you are a Member of the Committee. Hon. Serem, let us hear for the second time from the Leader of the Majority Party, Hon. Amos Kimunya, so that it is on record.

**Hon. Amos Kimunya** (Kipipiri, JP): If Members could stop consulting so that I do not have to repeat this.

*(Hon. (Ms.) Esther Passaris walked into the Chamber)*

**Hon. Speaker:** Member for Nairobi County, when you walk in, you do not start throwing other things. You are now throwing things all over. Please, let us listen so that everybody can hear.

**Hon. Amos Kimunya** (Kipipiri, JP): For the benefit of those who were not listening to what I was saying, as of 2.08 p.m., this afternoon, I received confirmation from the Cabinet Secretary for the National Treasury, which confirmation I have no reason to doubt, that Kshs5.714 billion has been released to the NG-CDF Board by the National Treasury. This followed a lengthy discussion that we had this morning and over lunch time. We had similar discussions with the Chair of the NG-CDF. What remains is how the money flows from the National Treasury, through the CBK, to the Board, but the instructions were given through a conference call to the Accountant-General and the confirmation has been sent to me. That is the only thing I can confirm to you for now. The rest we will wait for tomorrow to see the money flowing from the Board to the respective accounts.

*Asante.*

**Hon. Speaker:** Many of you go to places of worship. You do not have to be fed like people who are receiving vaccines. If it matters, let us be content with the confirmation that has been given by the Leader of the Majority Party. We can now move to the general campaign which was happening. Hon. Serem was the Chair of the movement, supported by Hon. Owen Baya and Hon. Kandie. I can see they are contented now.

Let us move to the next Order.

*Second Reading*

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## THE SUPPLEMENTARY APPROPRIATION (NO.2) BILL

**Hon. Kanini Kega** (Kieni, JP): Hon. Speaker, I beg to move that the Supplementary Appropriation Bill (No.2) Bill (National Assembly Bill No.33 of 2021) be read a Second Time.

Hon. Speaker, I assure this House that I will be extremely brief because we had already prosecuted this matter last week when we did the Committee of Supply. However, on behalf of the Members of the Budget and Appropriations Committee as mandated by Article 223 of the Constitution, Section 44 of the Public Finance Management Act, the Public Finance Management Regulations No. 42 and Standing Order No. 244B, it is my pleasure to present to this House the Committee's Report on the Supplementary Appropriation Bill (No.2) Bill (National Assembly Bill No. 33 of 2021).

Through the Committee of Supply, the House, by a resolution passed on Thursday, 24<sup>th</sup> June 2021, approved the Report of the Budget and Appropriations Committee on the second Supplementary Estimates for the Financial Year 2020/2021. In reviewing the Bill, the Committee held one meeting where extensive deliberations were held. I will try as much as possible to be brief because this is a matter that we had addressed last week.

There were key observations. One, there seems to be a missing communication link between the National Treasury and the ministries, departments and agencies (MDAs) in terms of budget preparation and implementation. The Committee urges the National Treasury to adopt a framework of consultations whereby each spending agency is considered on its own merit and the impact on any reduction or increment is fully assessed so as not to hamper the operations of the MDAs.

Hon. Speaker, as we were interrogating the document, we received quite a number of documentation from even the ministries. The ministries have said that they were not properly consulted by Treasury. Moving forward, this is something we need to keep on repeating every other time, that, the Treasury should consult the line ministries.

Secondly, the Committee is concerned that the supplementary budget process is proving to be disruptive to the policy directions contained in the annual Budget due to the frequency of the supplementary budgets, the level of adjustments and lack of proper consultations. As a result, the Budget Policy proposals may not achieve the intended purpose.

Thirdly, the Committee observed that the submission of the second Supplementary Budget was brought to the House so close to the end of the financial year that it inhibits the oversight role of the National Assembly given the tight timelines within which scrutiny of the same has to be undertaken. We are two days to the end of the financial year. In fact, in some of the cases, we do not even believe that the agencies will utilise the funds. One of the recommendations we have made seeks to ensure that the latest date when the Treasury can submit a supplementary budget for consideration by the House is 30<sup>th</sup> April of every financial year, so that we have at least two months to interrogate the document to make sure that whatever we approve here is implemented because Parliament does not act in vain.

The Supplementary Appropriations Bill of 2021 reflects the contents of the approved Report of the Budget and Appropriations Committee on the second Supplementary Estimates. In the Estimates, the Report approved a decrease to the Recurrent Expenditure by Kshs16,657,599,945 and an increase of the Development Expenditure by Kshs8,480,921,681.

Further, the House approved an overall decrease in the total Budget for the 2020/2021 Financial Year by Ksh8,176,677,264. According to the National Treasury, the second

Supplementary Budget has been necessitated by the need to provide for the COVID-19 related expenditure. In this Supplementary Budget, we have Ksh7.6 billion that will go towards purchasing of the COVID-19 vaccines. As we are seated here, I have also seen from 411 that the World Bank has also approved another Ksh14 billion towards the same course.

Hon. Speaker, the other issue is on Appropriations-in-Aid, the salary adjustments and the changes in development partner financing projects. Additionally, the Budget also seeks to regularise approved additional expenditure and reallocations already expended under Article 223 of the Constitution amounting to Ksh26.8 billion, majority of it going towards infrastructure. It was actually going towards paying pending bills.

As I conclude because this is a matter that we have already canvassed here, the Committee recommends that this House resolve to:

- (i) Reverse the proposal of the Budget and Appropriations Committee Report on the Supplementary Estimates No.2 for the 2020/2021 Financial Year to reallocate Ksh150 million meant for Oloolua Dam to various water pans in Kajiado South Constituency.

There was no single piece of land that they were able to acquire so that they could build the Ksh150 million dam. So, they decided that they split it into small water pans.

- (ii) Approves the Second Schedule attached in the Supplementary Appropriations Bill (National Assembly Bill No.33 of 2021) with very minimal amendments, as contained in the Order Paper. The proposed amendments are provided in Annex 1.
- (iii) That the various ministries, state departments and agencies prioritise payment of pending bills within the current resource for the 2020/2021 Financial Year.

The Cabinet Secretary (CS) for National Treasury and Planning was here making his remarks on the revenue raising measures and the Budget highlights. He was very categorical that the ministries have been directed to pay all pending bills by tomorrow. He also directed the county governments to also pay the pending bills by tomorrow. We have not seen this coming through because we have not seen any provision towards the same.

Moving forward, this is a serious issue; this is a cancer that is slowly developing in our country whereby Government agencies are provided with services and goods but they are not paying. Every other year we are accumulating pending bills. There are too many traders. Every Monday, if you look at newspapers you see about seven or so pages of Kenyans being auctioned. Their only mistake was to supply services to Government agencies. We will repeat this until they listen: The first charge should always be pending bills but it is not happening. You will see new projects being done but nothing being done on the pending bills. We have continued pushing it.

Hon. Speaker, some few cases like in the Ministry of Health have a lot of pending bills. If you go also to the Ministry of Energy, the Kenya Electricity Transmission Company Limited (KETRACO) has many pending bills. If you go to National Youth Service (NYS), despite the history of NYS, there are very many people who did genuine business with Government but they have not been paid. So, this is something that we need to keep on pushing.

With those few remarks, I also want to give notice that there are a few amendments that I will be moving in the Committee of the whole House. Basically, some of them are to make sure that we tidy up the document. With that, I beg to move and request the Leader of the Minority Party, Hon. John Mbadi to second.

I thank you.

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

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. Allow me to second this Motion.

First, I want to start by saying that Supplementary Budget II, at one point III, has become the tradition, something that was unheard of up to the last Parliament. It is a clear indication of lack of proper planning at the National Treasury. The National Treasury being the department that was rated number one in terms of performance, should demonstrate it by example in planning properly so that we are sure that when we pass the Budget in this country, it is going to survive for the 12 months. Otherwise, what we are doing in this House is to put a Budget which ends up being changed three times in a financial year. That cannot help a country move forward. This House must send a very strong warning that going to 2021/2022 Financial Year, we are not likely to support multiple supplementary budgets because, clearly, it is a case of lack of proper planning.

Hon. Speaker, the Supplementary Budget was prepared with two objectives. Number one was to provide funds to support the fight against COVID-19. At least that was met by the provision of Ksh7.6 billion to supply vaccines to the Kenyan public. However, there is a catch. We are providing funds, but I hope we are not providing opportunity for fraudsters, for people who like to take advantage of miseries of the citizens of this country to make billions and become billionaires. I want to repeat that it is through supplementary budgets that mega thefts in this country have been perpetuated. I just hope that our relevant committees, more particularly the Departmental Committee on Health and to some extent the Public Accounts Committee (PAC), will ensure that the money that we are allocating...

The Ksh7 billion plus is not pocket change, it is a lot of money. Kenyans should now be laughing in the next one month because everyone should get vaccinated. Those who should be vaccinated should get vaccinated because finances have been provided. The World Bank is adding more. Much as we hail the steps taken by the National Treasury to provide more funds, we want to caution those who are going to take advantage and swindle these funds that this House will be watching. I hope our oversight committees will not disappoint us on that.

Hon. Speaker, the other objective was the issue of pending bills that has not been addressed even though it was supposed to be one of the objectives for this Supplementary Budget. The Cabinet Secretary should not entertain Kenyans with rhetoric. If you are talking about payment of pending bills and putting timelines, it should be backed by action through budgetary provisions. If you look at the Supplementary Budget II, there is no specific allocation to take care of these pending bills. You can find some amounts dropped here and there in the Ministry of Interior and Coordination of National Government and in the Ministry of Education, but a serious attempt to make sure that ministries, departments and State agencies, settle the pending bills which have become a thorn in the flesh of Kenyans, is lacking in this Supplementary Budget and it continues to lack in all budgets that are prepared and presented to this House.

Until when will we be talking about pending bills without action? Action needs to be taken. In fact, a policy is already in place. The Public Finance Management (PFM) Act has not been amended which clearly stipulates that pending bills become the first charge wherever any ministry, department, State agency and any county government receives money from national Government or own source revenue, the first settlement should be the pending bills. I do not even understand this argument where ministries are still saying that they have not been provided with money to settle pending bills, yet they have a budget. They should first settle the pending bills and legal pending bills.

Again, the concern we have is that pending bills have become a conduit; they have become a system through which embezzlement of funds take place in this country. Unless some policy direction is given and until some action is taken against those who are misusing these pending bills, we will not end pending bills. Since people have discovered that that is the route to quickly make money, we will not clear pending bills in this country. The agencies that deal with matters of economic crime need to look at the issue of pending bills. All ministries, departments and agencies need to look into that and find out how those pending bills came about and why they cannot be cleared. Some people just do not want pending bills to be cleared. You can see that in all the counties where people are fighting. Some members of county assemblies are fighting with their executives because they want some pending bills to be paid. This happens even at the national level. You will be surprised that some people are canvassing around for pending bills, including those of the Legislature, to be paid. This is an issue that needs to be addressed.

I do not want to go beyond that, but there is just one thing that I wanted to point out. A dam could not be constructed in Kajiado and that money was now split and given to so many water pans. We were not so sure whether those dams have been constructed because the supplementary budget provides for money that has already been spent. There is only one day left. The Chair said two days but it is one day because tomorrow is 30<sup>th</sup> June. On Thursday, we will be in another month and another financial year. Why would we provide Kshs20 million for a water pan construction which has not been started?

There is something which the Chair said and I want to add to it. The Cabinet Secretary for the National Treasury and the National Treasury in general need to confirm with ministries and State departments whether amounts that are reflected as having not been spent have not been committed. You find that they recommend reallocation of such funds when they have already been committed and contracts awarded. The Cabinet Secretary for the National Treasury is my friend but he does not want anything in the Budget to be changed. It then becomes a fight. It is very untidy coming from the Executive. The Executive must speak with one voice. It is one Executive chaired by the President who chairs the Cabinet. Why is it that the Cabinet Secretary for the National Treasury is saying one thing and the Ministry is saying something different?

With those many remarks, I beg to second.

*(Question proposed)*

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

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I stand to support the Supplementary Appropriation (No.2) Bill.

Let me go on record. Hon. Amos Kimunya was once the Minister for Finance in the 10<sup>th</sup> Parliament. Hon. Mbadi will agree with me that there is no Minister for Finance that brought a Supplementary Appropriation Bill to the National Assembly two days to the end of the financial year. It has never happened. It is illegal. Read the Public Finance Management Act. Why is it illegal? It beats and undermines the credibility of the budget process. It leads to low absorption. If you give money today, how do you expect the accounting officer to spend that money in two days? This kind of Supplementary Appropriation Bill creates a loophole for misappropriation of funds by technocrats who work in Government. If you read all the Supplementary Appropriation Bills that come at the tail-end of the financial year, that is where you will find all the theft. Hon. Mbadi will agree with me because he was in the

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Budget and Appropriations Committee. It is during consideration of a Supplementary Appropriation Bill that we rejected to pay the Ruaraka land deals. The House refused. It is in this kind of Supplementary Appropriation Bill where the Cabinet Secretary uses Article 223 to pay huge sums of money outside the powers given to him and then he comes to sanitise the payments.

Let me say two things. First, I have seen that Kshs7.6 billion has been allocated for the purchase of COVID-19 vaccines. That translates to US\$10 per vaccine. That will provide vaccines for close to 10 million Kenyans. We want to see that money buying vaccines and 10 million Kenyans getting the jab. We do not want monkey business. The World Bank has today given us Kshs14 billion to buy vaccines. In the 2021/2022 Budget, we have allocated Kshs14 billion towards vaccines. That is equal to Kshs28 billion. When you add the Kshs7 billion in the Supplementary Appropriation Bill, it comes to Kshs35 billion allocated towards the purchase of vaccines. That will ensure that close to 70 per cent of Kenyans are vaccinated. We are going for elections. We want Kenyans to be vaccinated so that we go and sell everything to them, including the hustler economic model. We want to go and sell our policies. We want to go and sell the bottom-up economic model. In Washington, people are not wearing masks because the United States of America has vaccinated its people. China has vaccinated 1 billion people.

Second and most important, the Cabinet Secretary for the National Treasury stood on the Floor of this House and went on record that by the end of tomorrow, all pending bills must be paid. We do not want a Government of deceit and lies. You cannot pay pending bills, even for the National Assembly, if you have not allocated money towards that. I want us to be told what the amount of money is. Every accounting officer who appears before the Public Accounts Committee knows that there is a huge paragraph known as pending bills. I am sure the Chairperson, Hon. Wandayi, would agree if he was here. A pending bill is a debt owed by the Government on behalf of the people of Kenya. The Government is ready and has committed to pay the debts it owes the Chinese. It pays the debt it owes the World Bank and all multinationals. A debt is a debt. A pending bill is a debt.

The Government must pay back the money that it owes to Kenyan citizens. Our economy can only improve and our people's lives can only change if the monies of Kshs4 million, Kshs5 million and Kshs10 million that the thousands of small and medium traders in the so-called hustler world are owed by the Government are paid. The Government is only paying the big multinationals. It is paying the big Chinese companies who are building the Expressway and the roads. What about the *mamas* in Gikomba? What about Kenyans who are supplying computers?

You know that Muslims do not publicise funerals. You die and within the next two hours, you are sent to go and live with your God and argue your case. If you open a newspaper today and look at the number of pages set aside for auctioneers and the number of Kenyans who have died from COVID-19, they have increased. The number of pages that Kenyans pay for funeral announcements is equal to the number of pages paid for by auctioneers. Auctioneers are selling the properties of innocent Kenyans. We want to tell the Cabinet Secretary for the National Treasury that if you have made a commitment to the country in this House, please, ask governors to pay the pending bills which is money owed to Kenyans. Ask your accounting officers. They all fall under you. Please, pay Kenyans their money. When money is paid to those Kenyans, the economy will grow and expand. They will pay their taxes and school fees. They will inject more liquid cash into the economy.

As I conclude, the biggest hurdle and threat to our economy, more so, the more resilient informal sector which is made up of the small and medium enterprises, people who make

between Kshs10 million to Kshs200 million and do business, is the pending bills that are owed to them by the Government. The Government debt to them makes up 70 per cent of the pending bills.

I support the Bill. Going forward, this House should not be used as a rubberstamp. Bringing a Supplementary Appropriation Bill at the tail-end of the financial year with two days left...I hope that we will finish today. The Directorate of Legal Services and Clerk's office will make the vellum at night. Maybe, the President will sign the Bill tomorrow on 30<sup>th</sup> June 2021. He has no choice. If the President signs it tomorrow, the Cabinet Secretary will have 15 days until 15<sup>th</sup> July. However, I feel that he can do better. It is good to receive the second Supplementary Estimates in April. The current President, Hon. Kimunya, Mr. Rotich and Mr. Mwiraria were Cabinet Secretaries for the National Treasury. You can read this in their website. Let us not allow Supplementary Estimates to be passed on the last day of the end of a financial year.

I support the Bill.

**Hon. Speaker:** Let us now have the Member for Funyula.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Speaker. I stand to support the Supplementary Appropriation (No. 2) Bill with a lot of reservations. As we mentioned earlier, this Supplementary Budget which has been brought at the tail-end of the financial year is indeed a very well-designed and choreographed process to steal public funds. You cannot absorb the funds that are being requested for at this particular time. Therefore, it seems that the intention of the Supplementary Budget is to pay for bills or expenditure that has already been incurred against the tenets of public finance management. Therefore, this is to literary cover up some aspects that many of us do not know.

We have a situation that seems to be fairly or extremely funny. Most MDAs and Semi-Autonomous Government Agencies (SAGAs) complain non-stop of lack of disbursement of funds from the National Treasury. There was an argument that there was no absorption of funds which were committed to these particular MDAs and SAGAs. How did MDAs, State Departments and SAGAs spend money that they did not have? We have a situation where the pending bills can be clever creation by the National Treasury to capacitate quite a number of MDAs. As my colleagues have stated here many times, pending bills are killing this economy. The Government is the biggest spender in most Third World countries. When it does not spend, there is no money in the economy. The economy contracts continuously. If they do not spend, there is no purchasing power. Many of these traders and suppliers used loans, personal savings and other forms of financing to fund supply and undertake various construction contracts for the various arms of Government. Failing to pay them is a sure way of literary killing and impoverishing them.

The county governments are notorious. Many of the contractors or suppliers have been demanding for payments which date back to previous financial years and the first term of devolution. There is dire situation outside there. We urge the Budget and Appropriations Committee to be hard on the National Treasury. Under Article 225 of the Constitution, they should urge the National Treasury to stop payment or disbursement of funds to any particular SAGA or MDA that has refused to pay small-scale suppliers and dealers. The pending bills have become a very lucrative business. The lobbyists can lobby for pay, bribe or kickback for pending bills to be prioritised in various SAGAs. We cannot create a situation where corruption entrenches itself continuously and underhand deals become the order of the day to get paid.

We trust and believe that Kshs7.6 billion that has been set aside for vaccines will truly be used to purchase them. The continued containment measures because of COVID-19 make people suffer all over the country. They are unable to work or do anything. When you close open air markets where ordinary traders go to exchange goods, you kill that particular locality. When you close social places which are the major employers of low-skilled and semi-skilled workers, you kill those particular families or households. There are many cases of children who have dropped out of school because parents cannot afford to pay because their jobs have been killed. The Government cannot remain oblivious to the suffering of Kenyans. That is why it is important that Kshs7.6 billion and Kshs14 billion that have been granted by World Bank should urgently purchase vaccines, so that all Kenyans can be vaccinated. Despite the fact that we have Coronavirus, this will open up the economy. We will have COVID-19 with us for many years to come. It is important that we learn to live with it. As medics have advised, the only way we can do that is to get as many people as possible to be vaccinated. It should be an act of emergency to vaccinate everybody.

With those few remarks, Hon. Speaker, I support the Bill. I hope that the Government will learn to do their things in a more organised and sober manner. Thank you.

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

**Hon. Ali Rasso (Saku, JP):** Thank you very much, Hon. Speaker. I wish to add my voice to this Supplementary (No. 2) Bill. I have listened to the Chairman of the Budget and Appropriations Committee. I am also a Member of that Committee. They have told us clearly that this Supplementary Budget is out of place. At the same time, they have told us to support it. We cannot speak from both sides of the mouth.

Supplementary Budget is important. It is within our Standing Orders and the Constitution. What is the purpose of this particular second Supplementary Budget? Is it about COVID-19 or economic stimulus? What is it about? This House can blame the Executive for what we can respond to in an appropriate manner. If the Budget and Appropriations Committee was not satisfied with the second Supplementary Budget, they would have said that they do not recommend it. They have only told us that it is bad but we should pass it. We, as legislators, must work for our people. We must do the right thing.

When the Executive crosses the red line, this House has the legislative mandate to oppose their proposal. The purpose of a Supplementary Budget is in the realm of emergency. That is something that cannot wait because the budget process takes a long time. Money will be available to the ministries and Parliament in September. That is why the issue of this Supplementary Budget has come about. However, we are not getting those answers.

Secondly, supplementary appropriation arbitrates the budget process. It is an easy means of the Executive to get hard cash. As far as Article 223 of the Constitution is concerned, this is money that has already been spent. Who spent it? So, why ask us? Clearly it is said that they bring the Supplementary Estimates as soon as the House comes into Session, but we are finishing the Session and getting a Supplementary Budget.

Hon. Speaker, I do not want to be the odd one out. I support it.

*(Laughter)*

**Hon. Speaker:** Let us hear Hon. Nyikal



**Hon. (Dr.) James Nyikal** (Seme, JP): Thank you, Hon. Speaker. I rise to support this Bill for two reasons: one, which seems like it is going to work and the other one which we have doubt.

First are vaccines for COVID-19. I still do not believe we are taking COVID-19 as serious as it is. I am certain that the figures we see on television are less than 1 per cent of the reality. People are dying in the rural areas. I have just come from home and I can tell you people who are over 60 years are dying. We are getting laboratory reports. A large number of those who have been tested and admitted are dying. In the countryside, we are told, for instance, that an old man had malaria and pneumonia. This time round, when you hear that there is malaria and pneumonia in an old man, know that is COVID-19. This is what is called case definition. In a pandemic or epidemic, you cannot use the lab to make diagnosis because the numbers of victims are too large. So, what we do is to get a clear case definition: when we see particular symptoms, we take that as the case and that is what we use. If we consider that, I can tell the House that the situation is dire.

Some places are even running out of coffins. We do not know of that because it is not being reported. So, if we are going to vaccinate people, we need to do it urgently. We need to vaccinate everybody. There is difficulty when it comes to adhering to the guidelines. Even here in the Assembly, we quickly remove the mask. How hard is it for people outside to do the same? So, the only solution we have for COVID-19 is vaccination. For that reason, I support.

Second, is the issue of pending bills? There is another cause of death in this country from pending bills, particularly small and medium businesspeople who do business with counties. There are people who are literally dying; there are businesses that have died and, there are children not going to school. The Government is the main source of funding in most countries. That is why when we do an economic stimulus we put a lot of money out. If people have spent money... They have borrowed money from banks to do business, but they are not being paid. What are we doing? I am sad to note that although this Bill addresses it, we are not sure whether the money is there. That is something we must do. Kenyans cannot die from two things simultaneously: from COVID-19 and those in business are dying from pending bills. They are being driven to poverty and their properties are sold. We cannot!

Third, I was a Permanent Secretary for some time. With the new Constitution, we have several Supplementary Budgets. In my view, if we have many Supplementary Budgets two things must be wrong: the implementation of the budget process, or the preparation of the budget process. It cannot be that you do a Budget and within one year you are doing three Supplementary Budgets. It means we did not do it right, or it is not being implemented rightly. When the Chair was moving, he said that there is lack of communication between the National Treasury and MDAs. How can you run a financial system if the MDAs are not communicating with the National Treasury? As a PS, the first thing you do every early morning is to go to the Office of the PS, National Treasury to see how your money is coming. If there is no communication, that is a grave problem. The Executive cannot stand in front of us and say there is lack of communication between the National Treasury and the MDAs. That is not acceptable.

Then there is the legal provision in Article 223 of the Constitution. To a large extent, this Supplementary Budget is based on Article 223 of the Constitution because a lot of the money has been spent. If we decrease the allocations, it means that there was either lack of absorption or lack of release of the Exchequer. Sometimes we say the MDAs are not able to use the money but the reality is there was no money released to them. So, we are sanitising that here now. We cannot accept that. If we increase, it means we need more money. Article 223 of the Constitution

is very clear on that. It talks about when the money that was budgeted is not sufficient, or when a need has arisen. In this Supplementary Estimates, the only need that has arisen is COVID-19. So, that is what we should be doing the Supplementary Budget for.

Again, I ask the Budget and Appropriations Committee that before they present the Supplementary Estimates before us, they must make sure it adheres to Article 223 of the Constitution. They must show that a need has arisen. They should give us the details. We all do not read. There is a debate as to whether we are able to read or not, and whether we should be able to read or not. There is need for that now. They should tell us clearly that a need has arisen and what it is. They should also tell us that the money that was provided was not sufficient and for which project the money was not sufficient. We should not go over it quickly and pass it. There is also a time limit; it must be within two months. That is what Article 223 of the Constitution says. The Budget and Appropriations Committee must let us know that that has been adhered to and if it has not, they should not bring it to us.

The third provision is the 10 per cent. Does it adhere to the 10 per cent rule? So, we go through these things and sometimes we see why people blame us and look down upon us that we do not read. I do not want to get to that debate whether people can read and understand, but most of us can and most of us should. So, if that is not adhered to, we should not bring it before us.

Hon. Speaker, I support the Bill because of COVID-19, pending bills and adherence to Article 223 of the Constitution. I support, Hon. Speaker.

**Hon. Speaker:** Hon. Keter.

**Hon. Alfred Keter** (Nandi Hills, JP): Thank you, Hon. Speaker. At the outset, I support.

Like it has been raised by most Members, when we were interrogating the Supplementary Budget at the Committee level, we found out some cases that need to be corrected. One of the issues we raised is the timing. We made a proposal that the latest we can receive a Supplementary Budget is by 30<sup>th</sup> April. In as much as we are in extraordinary times which need extraordinary measures, there are issues that can be addressed when we are budgeting. COVID-19 did not break out within this financial year. This is the second year it has been there. The Ministry of Health should have a proper plan so that they understand issues to raise within a financial year which will be urgent, or any other upcoming issue. A Budget should be all inclusive to address all emerging issues.

Article 223 of the Constitution addresses the matter of insufficient funds and needs that have arisen. In most cases, it has been misused by many government officials. It is important for this Parliament not to cry a lot because this Supplementary Budget and the Budget is our responsibility. It is our mandate. It is something we should be doing. When dealing with the Supplementary Budget or even the main one, we should be free because the power is given to us in the Constitution. It is not like before the 2010 Constitution. The budget process is now owned by the National Assembly. The rest of other stakeholders make proposals. So, we should not cry a lot, but try to amend and add more inputs into this budgetary process so that we are not seen to be blaming an arm of Government that is outside. We are part of the Government. As provided for in this Constitution, we are free to propose amendments on all those proposals that are made by the Treasury or support where we feel it is necessary. We are free to even advise the Executive on some ways that they can improve on their budgetary process.

On this issue of pending bills, we realised that it is a grave concern. There are many Kenyans who are languishing in poverty because they have supplied the Government, but the MDAs or SAGAs are not in a position to clear the pending bills. Like it has been said by our Chairperson, Hon. Kanini, we have seen in the print media four pages of Kenyans being

auctioned. We have seen media houses hosting parties for auctioneers because they are giving them business. When we see that, you must realise that there are many Kenyans who borrowed money and now they are not in a capacity to repay the loan. That is why auctioneers are coming for their necks. We must address that.

Again, it is important for this House to note that we can also intervene when we are doing the budget process by putting resources to most of these SAGAs and MDAs where there are huge pending bills. We saw the case of the NYS which I know from history, were issues to do with corruption but it is not that every individual who supplied goods to NYS has not been paid. In fact, the big ones were paid, but the small suppliers who supplied very ordinary small things were not paid. We need to address that because it is about a whopping Kshs7 billion to Kshs8 billion. Most of them supplied very small items worth Kshs100, 000, Kshs200, 000, *etcetera*, but they have not been paid. It is now about five to six years down the line. We should try to sit and see what we can do.

Thank you, Hon. Speaker, I support.

**Hon. Speaker:** There is an intervention from Hon. (Dr.) Pukose.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Speaker. Listening to Members' contributions, most of them are supporting and anticipating Order No. 11. We will be going to the Committee of the whole House which will still be continuation of this. So, if Members can hold their horses considering that the period between now and tomorrow for this Bill to be signed is very limited, under Standing Order No. 95, I request that the Mover be called up on to reply.

*(Applause)*

**Hon. Speaker:** Very well.

*(Loud consultations)*

Members were looking for the Member for Kanduyi earlier on. I think he conveniently decided to go to the Members' Lobby. The Member for Endebess, Hon. (Dr.) Robert Pukose, has risen in his place and claimed, under Standing Order No. 95, that the Mover be called upon to reply.

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

Mover.

**Hon. Kanini Kega** (Kieni, JP): Thank you, Hon. Speaker. I take this opportunity to thank Members who have contributed and also those who did not contribute. We have heard your sentiments, and moving forward, we will make sure that we put our feet down.

I beg to reply.

*(Applause)*

*(Hon. George Sunkuyia and Hon. (Ms.) Maison Leshoomo stood along the gangway)*

**Hon. Speaker:** Order, Hon. Sunkuyia and Hon. Leshoomo! Is that Hon. Lomunokol who is up and doing some little bit of...

**Hon. Members:** Hon. Limo.

**Hon. Speaker:** Hon. Limo, you could participate.

*(Question put and agreed to)*

*(The Bill was read a Second Time and Committed to a Committee of the whole House today by leave of the House)*

Next Order!

### COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

### IN THE COMMITTEE

*[The Temporary Deputy Chairman (Hon. Patrick Mariru) took the Chair]*

### THE SUPPLEMENTARY APPROPRIATION (No.2) BILL

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Members! We have two Bills in the Committee of the whole House, but we shall do one after the other. We shall start with the Supplementary Appropriation (No. 2) Bill (National Assembly Bill No. 33 of 2021).

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

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): We have an amendment by the Chairperson.

**Hon. Kanini Kega** (Kieni, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Bill be amended by deleting Clause 2 and substituting therefor the following new Clause—

Issue of 22,856,387,726  
out of the Consolidated  
Fund and apply it  
towards the supply  
granted for the service  
of the year ending on

the 30<sup>th</sup> June 2021.

2. The Treasury may issue out of the sum of twenty-two billion, eight hundred and fifty-six million, three hundred and eighty-seven thousand, seven hundred and twenty-six shillings out of the Consolidated Fund and apply it towards the supply granted for the service of the year ending on the 30<sup>th</sup> June 2021.

Hon. Speaker, the justification is simple, it is a structural correction to ensure that the figure reflected here corresponds to what is reflected in Treasury warrant. The original figure on the Bill was a net including both recurrent and reductions, but the new figure being proposed in this amendment is gross total increment. So, it is basically a structural correction.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let us have Hon. Makali then we put the Question. Proceed, Hon. Makali.

**Hon. Makali Mulu** (Kitui Central, WDM - K): Hon. Temporary Deputy Chairman, I do not know whether I heard the Chairman right but he is moving the amendment for Clause 2, and not the Schedule. We might be getting it wrong if we go that way. So, can you clarify whether he has moved the amendment for the Schedule or Clause 2?

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Chair, just for the record, we are dealing with the First Schedule. We will come to Clause 2. We are on the First Schedule.

**Hon. Kanini Kega** (Kieni, JP): Hon. Hon. Temporary Deputy Chairman, I do not have an amendment to the First Schedule.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): The First Schedule is on the Order Paper. Just take your time. Just refer to your papers. Thank you, Hon. Makali, for that clarification. Proceed and make it clearer.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Just to help him, there is an amendment on the allocation of the Cooperatives Department and Management—the amendment of the Kshs20 million. That is what he should be moving.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Chair, just take your time. It is okay to consult and refer to your papers so that we do the right thing. There is nothing for deliberation now until the Chair moves the amendment in the right form.

*First Schedule*

**Hon. Kanini Kega** (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move:  
THAT, the First Schedule be amended as follows:

R1173 - STATE DEPARTMENT FOR COOPERATIVES

*Programme 0304000 Cooperatives Development and Management*

(i) By deleting the figure in respect to Supply, Kshs80, 000,000 and substituting therefor with the figure Kshs60, 000,000.

(ii) By effecting the consequential amendments in the relevant Class Sub-Total.

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## D1173 - STATE DEPARTMENT FOR COOPERATIVES

*Programme 0304000 Cooperatives Development and Management*

(i) By deleting the figure in respect to Supply, Kshs141,300,000 and substituting therefor with the figure, Kshs161,300,000.

(ii) By effecting the consequential amendments in the relevant Class Sub-Total.

The justification is that we are moving Kshs20 million from recurrent to development expenditure.

*(Question of the amendment proposed)*

Let us have one or two Members then we make progress. Hon. Chris.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Thank you, Hon. Temporary Deputy Chairman. We have the Order Paper so that Members can follow it logically. What we are handling is very important. The new Chairman of the Budget and Appropriations Committee needs to understand that we are not here to just rush things. Members need proper explanations. I am happy that Hon. Makali Mulu brought up this matter. I expected the Departmental Committee Chair to give further justification, particularly in terms of the differences in the amounts but he never mentioned it. When it comes to the Committee of the whole House, if you are making any amendment or change, you must give justification. He has just indicated the effect on the Recurrent and Development expenditures, but there is discrepancy in terms of the amounts.

*(Loud consultations)*

Hon. Alfred Keter, I can see you. It is okay. If he said, maybe, I did not get it right but this is just to say that as we move forward, if you bring amendments, it is important to give proper justification at the Committee of the whole House. That is so that Members can buy into what you are amending.

I thank you and I support.

**Hon. Martin Owino** (Ndhiwa, ODM): I am not rushing to oppose this amendment but when you move Kshs20 million from Recurrent Expenditure to Development Expenditure knowing that we have human crisis even in terms of development, can you also enlighten us what programmes or positions you are destroying as you move the Kshs20 million? That kind of detail helps us to move this money quickly.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Chair, can you take a minute then we make progress.

**Hon. Kanini Kega** (Kieni, JP): These are funds that were going to the Kenya National Trading Corporation that is buying rice. They said in their report that they require the Kshs20 million for a particular purpose.

*(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)*

*(First Schedule as amended agreed to)*

*(Second Schedule agreed to)*

*Clause 2*

**Hon. Kanini Kega** (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 2 and substituting therefor the following new Clause—

Issue of 22,856,387,726  
out of the Consolidated  
Fund and apply it  
towards the supply  
granted for the service  
of the year ending on  
the 30<sup>th</sup> June 2021.

2. The Treasury may issue out of the sum of twenty-two billion, eight hundred and fifty-six million, three hundred and eighty-seven thousand, seven hundred and twenty-six shillings out of the Consolidated Fund and apply it towards the supply granted for the service of the year ending on the 30<sup>th</sup> June 2021.

This is more of a structural correction to ensure that the figures reflected here correspond to what is reflected in the National Treasury warrant. The original figure of the Bill was a net total, including both increments and reductions. The new figure being proposed in this amendment is the gross total increment.

I beg to submit.

*(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 agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we are done with the Bill.

Mover.

**Hon. Kanini Kega** (Kieni, JP): Hon. Temporary Deputy Chair, I beg to move that the Committee do report to the House its consideration of the Supplementary Appropriation Bill (No.2) (National Assembly Bill No.33 of 2021) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon Chairperson of the Committee of the whole House.

### CONSIDERATION OF REPORT AND THIRD READING

#### THE SUPPLEMENTARY APPROPRIATION BILL

**Hon. Patrick Mariru** (Laikipia West, JP): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Supplementary Appropriation (No.2) Bill (National Assembly Bill No. 33 of 2021) and approved the same with amendments.

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

**Hon. Kanini Kega** (Kieni, JP): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I want to request Hon. Emmanuel Wangwe to second.

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

**Hon. Emmanuel Wangwe** (Navakholo, JP): Hon. Temporary Deputy Speaker, I second.

*(Question proposed)*

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

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Is it the mood of the House that I proceed to put the Question?

**Hon. Members:** Yes.

*(Question put and agreed to)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, we shall move to the Third Reading stage. Let us have the Mover.

**Hon. Kanini Kega** (Kieni, JP): Hon. Temporary Deputy Speaker, I beg to move that Supplementary Appropriation (No.2) Bill (National Assembly Bill No. 33 of 2021) be now read a Third Time. I want to request Hon. Jimmy Angwenyi to second.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): The father of the House.

**Hon. Jimmy Angwenyi:** Hon. Temporary Deputy Speaker, I beg to second.



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

*(Question proposed)*

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

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Is it the mood of the House that I proceed to put the Question?

**Hon. Members:** Yes.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well, Members. Having confirmed that we have the requisite quorum in the House for purposes of making this decision, I proceed to put the Question.

*(Question put and agreed to)*

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

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

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

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, I want to seek the indulgence of the House that we still have some consultations going on with the Public Private Partnerships Bill that we were to go back to the Committee of the whole House. I want to step it down and have it back after finalising the consultations.

I also want to ask that the WAQF Bill under Order No. 12 be stepped down for now so that we move straight to Order No. 13.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Leader of the Majority Party, just move one item at a time.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, I want to seek the indulgence of the House that we step down the Committee of the whole House on the Public Private Partnerships Bill (National Assembly Bill No. 6 of 2021) because of the reason that I have explained above. There is still a door for consultations.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): That is in order. I accede to your request that the business listed as Committee of the whole House on Public Private Partnerships Bill (National Assembly Bill No. 6 of 2021) is stepped down from the order of business for the day.

*(Consideration of the Public Private Partnerships Bill in Committee of the whole House deferred)*

Leader of the Majority Party, you can move to your second request.

## **BILLS**

### *Second Reading*

## THE WAQF BILL

**Hon. Amos Kimunya** (Kipipiri, JP): I want to seek your indulgence and that of the House that we step down the moving of the WAQF Bill (National Assembly Bill No. 73 of 2019) because there are Members who were critical of the formulation of the Bill and I would wish to have them here. They have requested that we debate it tomorrow when they will be available to give background information so that Members can appreciate what this Bill is about beyond what I will be saying. I would like to step it down.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Member for Suba North, what is out of order?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Speaker, I am concerned with the reasons that the Leader of the Majority has given for stepping down the WAQF Bill, that there are Members who have special interest in it. I also have very special interest in it and that is why I am here and I can even give you my points and issues that I think are unconstitutional unless they relate to personal law. Why would you consider that some people have more special interest in a Bill than others? It will make sense if he is not prepared but not because some Members have more interest than others. We all have similar interests unless somebody has requested for a special reason to be given a chance. We can speak and stand in for other Members because we have all the time.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Millie that is enough. This is the business of the Leader of the Majority Party and he can request to step it down at any time. He has done so and I will accede to his request. The business listed as No. 12 is taken out of the Order Paper for the day.

*(Second Reading of the WAQF BILL deferred)*

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): The reason is wrong.

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

*Second Reading*

## THE COUNTY GOVERNMENTS (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): The Chairperson, Departmental Committee on Administration and National Security.

**Hon. Peter Mwathi** (Limuru, JP): Hon. Temporary Deputy Speaker, I beg to move that the County Governments (Amendment) Bill (Senate Bill No. 13 of 2018) be now read a Second Time.

The County Governments (Amendment) Bill (Senate Bill No. 13 of 2018) was read the First Time on Wednesday, 24<sup>th</sup> April 2019.

**Hon. Emmanuel Wangwe** (Navakholo, JP): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Just hold on Chairperson. There is a point of order from the Member of Navakholo.

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**Hon. Emmanuel Wangwe** (Navakholo, JP): Hon. Temporary Deputy Speaker, this is a House of records and decorum. You have made a ruling that when we come here we must be dressed in a particular manner. I want to address myself to the learned but not so educated colleague, Hon. Kaluma. He is pointing at us with his chest. Is he in order to dress in that particular manner?

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Kaluma, the Speaker is satisfied. Order, Hon. Members. Hon. Kaluma is properly dressed for the House. Hon. Kaluma, you are properly dressed. Please resume your seat.

Proceed, Chair of the Departmental Committee on Administration and National Security.

**Hon. Peter Mwathi** (Limuru, JP): Thank you, Hon. Temporary Deputy Speaker. Allow me to take this again because of the slight interruption. I was saying that the County Governments (Amendment) Bill (Senate Bill No. 13 of 2018) was read for the First Time on Wednesday, 24<sup>th</sup> April 2019 and subsequently committed to the Committee pursuant to provisions of Standing Order 127(1) to report to this House. The Committee considered the Bill in its sitting held on Friday, 16<sup>th</sup> August 2019 and adopted its report on Thursday, 5<sup>th</sup> September 2019.

The principal object of this Bill is to amend section 58 of the County Governments Act (No. 17 of 2012) to provide for the following:

- (a) To remove the qualification of a secretary to the board as one who is certified public secretary of good professional standing.
- (b) To provide certainty on the role of the secretary to the board as one who has no right to vote at any meeting of the board.
- (c) To obligate the governor to observe constitutional principles in nominating or appointing persons as members of the board.
- (d) To provide for additional stipulations and requirements for one to be eligible to serve as a chairperson, such as being a registered as a human resource management official and have at least 10 years working experience.

The Committee noted the following:

- (a) On the amendments relating to the secretary to the county public service board, in all government institutions, a secretary to a board does not need to have qualifications of certified public secretary. This qualification should be provided as an added advantage where there is advertisement of such a position. There is need to provide for qualifications of the secretary of the board in order to curb endorsement of persons who are not qualified by a governor who would probably pick somebody who does not have qualifications that can endear him to that job.
- (b) On amendment relating to new Clause 1B, the principle of gender equity, ethnic and other diversities of the people of Kenya and representation of persons with disability should be deleted for the simple reason that they are mere repetition of Articles 10, 27 and 232 of the Constitution. Secondly, there is need to qualify paragraph (b) to provide that the governor should take into account the national values and principles of governance as set out in the Constitution to the extent practicable. That means we are obligating the governor to adhere to the national values and principles of governance as set out in the Constitution.

- (c) With regard to sub-section (3)(c), there is need to include qualifications of a vice-chairperson with that of a chairperson, the reason being that a vice-chairperson is to carry out duties of the chairperson in the absence of the latter. That means if you have a vice-chairperson with less qualification, then the output might not be as intended by the law. The proposed paragraph (2) inordinately curves and fixes the position of only human resource management professional as persons qualified. The reasoning behind this is that there are people who can hold managerial positions but who necessarily do not have to be human resource management professionals as a qualification. Therefore, that is going to be one of the amendments that the Committee is going to propose.

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

*[The Temporary Deputy Speaker  
(Hon. Patrick Mariru) took the Chair]*

I wish to confirm to this dignified House that public participation on this Bill was undertaken by way of advertisement in all local dailies. The views that came from the public were incorporated in the observations that the Committee made. The views largely support the amendments except where the amendments are specific to a certain profession where they feel other people are going to be disenfranchised. Therefore, they asked that qualifications that point to specific professions be dropped and that those who qualify by virtue of being in managerial positions and having been to institutions of higher learning be considered while filling these positions. Those were the observations of the Committee. We were dealing with only two clauses. At the Committee of the whole House, we shall move to drop some of the amendments that tailor-make these positions to certain cadre of professionals.

I beg to move and ask a member of the Committee, Dr. Makali Mulu, to second.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Dr. Makali Mulu.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you very much, Hon. Temporary Deputy Speaker. This is a fairly short amendment. As you can see, it is a Senate Bill. The main object is to streamline operation of the county public service boards. These boards play a very key role at the county level. They oversee all recruitment in the counties. On that basis, it is important that we get the right people to manage the boards.

One of the amendments, as my Chair has said, is the issue of secretary to the board. The Senate proposes that the person must be a professional with certified secretary qualification. What we are saying is that just like in any other profession, in any position you will have the minimum qualification and if you have a professional qualification it might be an added advantage. So what we are saying as a Committee is that this person must be trained in this area but if he has a professional qualification, then that becomes an added advantage. A bachelor's degree is required, but if you have a master's degree then that is an added advantage.

The other important point in this matter is the issue of voting. The Bill clearly says the secretary will have no voting rights. So, when it comes to making decisions, the secretary should not participate in voting. This is one of the best international practices. It is just like when the

Speaker says he has no voting rights. He only oversees what happens in the House. This amendment is in line with that.

Hon. Temporary Deputy Speaker, on the issue of the governor, what has happened overtime is that some of our governors have taken advantage of some of the boards. At times, they appoint people who are very weak to chair the boards. I am talking about the people who do not have the requisite qualifications. There are those who have gone past retirement age. Such people are not going to add value to the boards. Through this amendment, governors are going to be required by law to make sure that they appoint people who have the right qualifications and who can carry out the duties that are expected of them.

This is a very short Bill. What I have observed - and it is also happening to us here - is that, as we legislate, there are Bills that we keep on saying that whatever appointment is going to happen, it will take care of the gender, the disabled and all the other marginalised groups. However, this is a constitutional provision. In the Constitution, Articles 10, 27 and 232 take care of that. So, there is no need of repeating it when we are dealing with Bills in this Parliament. Instead of repeating that at this level, why do we not just say: "As per the constitutional provision in Articles 10, 27 and 232?" Indeed, that will take care of such things.

The other important thing is what the Chair has talked about, that is, public participation. This amendment was subjected to public participation and we got input from different stakeholders. As we go to the Third Reading, we will be proposing some amendments. At some point, there could be need to have a mediation committee in place. If we push for some amendments and they go through in this House then, automatically, we would have disagreed with the Senate and there would be need for a mediation committee. I do not see anything wrong with that for as long as we get a law that can serve the county service boards in the most effective and efficient manner.

With those many remarks, I beg to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. ole Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity to support. At the outset, I support the Committee led by my former Chairman, Hon. Peter Mwathi. They have done a thorough job. I am sure Hon. Mwathi, being the leader that we know, he is *Muthuri wa Muthigi* and they are only three in this country. The President, the Speaker and himself.

I support this Report because, looking at the status of the board and the position of secretary to the board, the qualifications are set out properly. As the Chairman has alluded, we will bring an amendment in the Committee of the whole House. Clause 1(b) takes into account the national values and principle as set out in Articles 10 and 27 of the Constitution, and the issue of gender and regional balance. We need to capture the issue of inclusion of PWDs as Hon. Makali Mulu has indicated. We need to bring into play the issue of PWDs in line with Article 54 of the Constitution.

In the past, we have had governors appointing secretaries to the board from all directions - retirees and political competitors without going to the detail of their qualifications. In the process, they deny so many Kenyans who are more qualified that opportunity. As we go towards our ten-year mark of devolution, we have to review what has worked and what has not.

The Report of the County Governments (Amendment) Bill, (Senate Bill No.13) of 2018), addresses some of those challenges. It is trying to cure some of the challenges that we have been having, especially the issue of a bloated wage bill in our county governments where people have been employed anyhow.

There is the issue of the chairperson being required to be a registered human resource management official and, at least, have 10 years working experience in a managerial position. This Bill wants to amend that so that the qualification of the vice-chair is at par with the qualification of board members.

It is common sense that when the chairman is not there, the vice-chair takes over. If he is not as qualified as the board members, he may not be able to chair and may suffer inferiority complex. That is why we normally have conflict within the board and that brings a lot of problems within the management of county governments.

This Report, as per what I have seen, beats the threshold to be before this House in terms of public participation. There were adverts in the newspapers and memoranda from stakeholders. This Report is rightfully before the House.

With those many remarks, I support and congratulate the Committee for having done a thorough job in coming up with this Report.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Nyenze Edith, Member for Kitui West.

**Hon. (Ms.) Edith Nyenze** (Kitui West, WDM-K): Thank you, Hon. Temporary Deputy Speaker. At the outset, I support the County Governments (Amendment) Bill, (Senate Bill No.13 of 2018). We need to have a qualified County Government Board. The board is in charge of employing people in the county governments. The board needs to be qualified. We should have continuous improvement. This Bill has come at the right time to show that we need to improve governance in the county governments. We need to have continuous improvement in the way county governments are run. I support the amendments which the Committee has come up with.

In the past, we have seen in most counties, including mine, people who have been proposed to be appointed to the boards, but who are not qualified. It is done so that governors can have control over the board. You know if they have control over the board, then governance will not be the right one.

I support the view that the County Government Board Secretary does not need to be qualified as a Human Resource person because even other people with the right qualifications can also do the same job and do it very well. We should also have inclusivity in the board. It should reflect gender balance and also have PWDs represented. If we have the right people serving in the board, governors will not take advantage of it. I also note that proper public participation was done.

I support the County Governments (Amendment) Bill (Senate Bill No. 13 of 2018). Thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Wachira Kabinga, kindly, have the Floor.

**Hon. Josphat Kabinga** (Mwea, JP): Thank you for giving me this chance to contribute to this Bill.

At the outset, I would like to correct Nominee 001. He said there are only three people who are *Wazee wa Muthigi*. I want to let you know that I am one of them.

Hon. Temporary Deputy Speaker, this particular Bill is very simple and yet, it is very important. If we want to succeed in the area of devolution, we must be professional in all areas to

ensure that we do not place human resource under the carpet. I say this because we know that when it comes to appointments out there, the major consideration is political support. If we go that way as a country, we will never succeed in our devolution. This Bill is encouraging professionalism in the County Service Boards (CSBs). It must be recognised that CSBs are the equivalents of the Public Service Commission (PSC). The board members are basically equivalent to the commissioners that we have at the national level.

It is, therefore, very important that these members of the board have a sense of human resource as a scale for them to execute their mandates as stated. Therefore, by requiring that the chairperson and the vice-chair have at least a minimum of a bachelor's degree and also to be of the human resource profession is simply saying that those service members will not select the right people in the various categories of the county governments for them to execute their mandates in the right way.

Also, we no longer give to the county governors the leeway of using political support as a way of rewarding their people. If they do so, let them do it professionally by placing the right people in those service boards. We also hope and believe that the PSC is working very closely with those service boards. I am aware of that having been a member of the Departmental Committee on Administration and National Security. The PSC has been working closely with the service boards to ensure that they have the right capacity.

That effort by the PSC can only bear fruits if we have the right people in those boards. If we do not have the right people, we are not likely to have fruits out of that effort. It is because of this that I strongly feel that this Bill is even long overdue. We need to also continue looking at other categories of the county governments to ensure that they have the right skills to execute the mandate that is out there. We know that there has been replication of the structure of the national Government at the county government level but, because of lack of capacity, we find that some of the mandates being undertaken by the county governments are not being executed in the right way.

We, therefore, urge that there be exchange of skills between the national Government and county governments in the area of public works so that we can also build the capacity of public works officers in the county government so that they can also execute as much. So, this is just the beginning. I hope that this Bill will serve as an example of what needs to be done with the other levels of the county governments.

Hon. Temporary Deputy Speaker, with those few remarks, I support this Bill.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. Odhiambo Akoth, Member for Suba North.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. I support, but I need to comment on a few things that are of concern to me.

If you look at Clause 2, it states that in nominating or appointing a person as a member of the board, the governor shall observe the principle of gender equity, ethnic and other diversities of the people of Kenya. Providing for gender equity and ethnic diversities of the people of Kenya is a good provision which is constitutional. However, I am just wondering how practical it might be. Most of our counties are employing people from the same county, which is a factor that is recognised in the National Cohesion and Integration Act - which is the next Bill that is coming up for overhaul. So, I do not know whether that will change the legislative framework but, if it does not, then it is one of the areas where that constitutional provision is allowed. They may not provide totally for the ethnic inclusion that we seek.

If you go to Kiambu County for instance, probably they speak in Kikuyu in most of the offices. Similarly, if you go to Homa Bay County, most of the offices would be using Luo. So, I am hoping that the new Bill that is coming - which will be replacing the National Cohesion and Integration Act - will carefully relook at the issue of integration of other ethnic communities, so that devolution should not serve to increase ethnic divisions in the country or create ethnic enclaves, but ensure that specific counties have the face of Kenya. There is no excuse why Kiambu should not have people from Homa Bay County and *vice versa*.

The other issue is that I am calling on the Committee and hopefully myself... Because of the other issues of ethnic diversities within the counties, you need to add the issue of ethnic minorities so that you say that they shall provide an equal opportunity for persons with disabilities and ethnic minorities. Why do I say so? It is good that they are providing for persons with disabilities in this Bill.

However, in a situation like Migori, if you do not check carefully, you will find that a community like the Kuria may not be included. In Homa Bay, if you are not careful, you may find that the Subas may be excluded. In the last county government, we had two County Executive Committee Members (CECMs) from Suba. We had two other senior officers from Suba. All the four were removed in the new regime and none was replaced by a Suba. As an ethnic minority, if that is not entrenched in the law, you will discover that there are areas or certain communities that will be left out. It is a good thing that there is provision for academic qualifications. In sub clause (b) it says:

“In section 3 by deleting paragraph (c) and substituting with the following—  
In the case of the chairperson; possess a minimum of bachelor’s degree from a university recognised in Kenya.”

Even though this sounds like a good provision, my only concern is how consistent it is with the current debate that is going on where we are saying it is discriminatory to require Members of Parliament and Members of County Assemblies to have degree certificates.

If we do not want MPs and MCAs to have degree certificates, why then do we want a chairman to have one? Why do you want to set a bar much higher for a chairman than for an MP or an MCA? So, let us be consistent especially on issues of principle. If we do not want MPs to have degrees, then a chairman should not have a degree. What will they discuss that is much greater than what the MPs will be discussing in this House? Having said this, I want to indicate that, as I am speaking, my dear sister Hon. Eve Obara is telling me this is not correct and I have the Bill. She does not have one because it clearly states that the chairman should possess a minimum of a bachelor’s degree from a university recognised in Kenya. Another issue which is very clear and on record in this House is that people have called for the lowering of a degree to a certificate...

**Hon. (Ms.) Pamela Ochieng** (Migori CWR, ODM): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Akoth. What is out of order Hon. Ochieng, the Member for Migori?

**Hon. (Ms.) Pamela Ochieng** (Migori CWR, ODM): I think it is not in order for the hon. Member to refer to the rumours that are going on about people who are calling for non-degree qualification for MPs in this discussion. I think she is a ranking Member and way back in 2013, this House passed that MPs should at least hold a degree. So, I do not think it is right to make the debate that is going on out there a point of reference when she is talking about chairs or members of the board having a certain qualification.



**The Temporary Deputy Speaker** (Hon. Patrick Mariru): I must have missed that. Hon. Millie, what is the issue?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): I can respond and congratulate Hon. (Dr.) Pamela Odhiambo because she is doing well as a person who is new. She has raised a very good point of order that we should not rely on hearsay. I want to tell her that this matter has been canvassed on the Floor of this House. So, she will catch up eventually because I am talking about issues that have been canvassed by Members on the Floor of this House that form part of the records of this House.

The law has not been changed but I can allude to what Members have talked about. If you listened to me very carefully, I am saying this because people might have misunderstood. That, when we provide a very high bar for MPs, MCAs and the same level for chairmen, this may be okay. But we cannot provide a lower standard for MPs and MCAs and expect a chairman to have a higher level. So, should we agree with that level for MPs and MCAs, then the chairman should be lowered.

My only challenge is that if we put a very high standard for MCAs, we will be excluding very many women who can be MCAs and have not had the opportunity to get that education. So, in future, I encourage we stagger that law we passed to enable women go back to school and get degrees so that they can vie and we do not exclude them. It is a gender issue and even though my time was taken, I support and will bring certain amendments. Thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon Adagala Kahai, Member for Vihiga.

**Hon. (Ms.) Beatrice Adagala** (Vihiga CWR, ODM): Thank you, Hon. Temporary Deputy Speaker. I wanted to inquire on what Hon. Millie has just clarified here. I think it will be discriminatory to the women the way she has said. I will be ready to speak on the next one.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): The next business. That is fine. We shall go to the next person in line to my right, Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Bill by the Departmental Committee on Administration and National Security. Looking at it, it is talking about the issues of succession. It is addressing the worry the public has in terms of when a new governor comes in and some staff leave while others remain. Therefore, because of that fear, we are making the County Public Service Board very strong, independent and professional. This will give confidence to the voters and the counties shall have life after a particular governor.

In this House, there are various candidates for governorship and I feel this should be good news to them. They will absorb the professionals who will run the county governments on a going concern basis. They will mirror what is happening at the national Government where presidents and leaderships come and go, but the offices and institutions remain intact. This Bill tends to share the county resources in terms of distribution of appointments with respect to the board itself and in terms of gender, persons with disability and ethnicity.

Without this provision, Member No.001 could not be in this House. But now he is here and he is one of the key people who are contributing very well in this House. Therefore, it is important we recognise persons with disabilities and encourage governors to do the same. On that element, I want to anchor myself on the issue of ethnicity. It comes in the direction that counties are made up of various sub-counties. The governor might come from a particular area of the county and all the appointments are likely to end up being from one section of the county.

For instance, you will find the deputy governor and the County Executive Committee Member in charge of Finance and Economic Planning come from the same area.

The board will now look at issues of appointment in terms of distribution of resources. This is a good thing which I support. On the issue of disparities in terms of remuneration of staff, this is at the mercy of the governor to consider whom to employ and for what purpose. I want to be very clear that some counties have appointed officers in charge of prayers, who are in the form of advisers to the governor in charge of spiritual development. The issue is: How do you pay those kinds of staff? How do you measure spiritual development in terms of payment of salary? This is tricky and difficult.

Therefore, if the service board shall endeavour to pursue the doctrine of professionalism in terms of engagement and remuneration of public service works, this will be a good thing. The board will separate politics from work. We want, after having done politicking and are elected, we now come down and work. Therefore, the element and line of human resource shall all be left to the board to ensure it guides the new governor who will know how to run his affairs using the right staff.

Also, it is good to remove the qualification of the board chair of being a certified public secretary of good public standing. I feel the inclusion of a degree is a good thing. It is not just an issue of degree, but it gives leeway to the kind of professionals to be picked upon in terms of hiring for that position, so that it does not appear to be discriminative against anybody who would want to vie or be eligible for appointment to this position.

Hon Temporary Deputy Speaker, the other good thing is the issue of relegation of the qualifications in terms of the vice-chairperson so that he is on the same level with other members. You will agree with us that in this House, vice-chairs and chairs are just equal members elected from various constituencies that have been elevated. It is a good thing. It will just be a conglomeration of equals but one has to leave the other. Therefore, it is good that a vice-chair shall now have the same qualifications as those of members.

Considering all this, I feel this is a good Bill. We should support it so that the county governments can come forward. They have done well for the last 10 years. Yes, they have struggled. They were in the inaugural stages but the way forward as they mature in terms of financial management and administration, let them also mature and come out with human resource processes which will now enable the county governments to come forward. Let them endeavour to separate politics from administration. We wish to see that our county governments work harder to take our country to the next level in terms of development.

With those many remarks, I beg to support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Wamalwa.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Thank you, Hon Temporary Deputy Speaker for giving me this opportunity. Indeed, this is a very important Bill. The core function of the county public service board is human resource management. This is a body that is in charge of hiring and firing staff. It is, indeed, a staffing function. It is very important that we get, at least, one person with human resource management expertise. It is good the proposal has been put in place that you must have a degree from a recognised university. But a degree in which area? Looking at the academia, we now have people with degrees in human resource management. We have not had human resource management as a stand-alone discipline previously. So, I do not feel comfortable when we say that the county secretary does not need to be a member of the Human Resource Management Institute.

We have had many instances when we wanted a person who is a lawyer and who is a member of the Law Society of Kenya. That way, at the click of a button, you will know the qualifications, the membership and whether one is of good standing. The secretary of the board is the chief executive officer. I find it very frustrating for the Chairman to tell us that, as secretary of the board, you do not have to be a member of the Human Resource Management Institute. It is very wrong. We want counties to embrace professionalism. You cannot compare political processes – like the ones we undertake here, where we have a chairperson and a vice-chairperson of a committee – with the administrative functions bestowed upon the secretary of the board. This one is not an election. This is a professional body that is responsible for hiring and firing of staff at the county governments. We must embrace professionalism. I will bring an amendment during the Committee of the whole House to provide that the secretary to the board must be a member of the institute. Why do we have those professional bodies? There is something called “continuous professional development.” We do not want to have a personal secretary who is a CEO. The chairman is just there to chair meetings. The secretary of the board is there to provide technical expertise as far as human resource management is concerned. If you are a member of the institute, you will be aware of any emerging issues in the human resource management field.

So, we must amend it. We have members of staff in many county governments who do not have the requisite skills as far as job description is concerned. As we move forward, it is important. The Salaries and Remuneration Commission (SRC) should be listening. We must have job evaluations even at the county government level. Job evaluation is for purposes of evaluating jobs, and not people. As far as job description is concerned, you must match it with the skills and know how to scale. The secretary of the board is the CEO. So, we must amend this law and bring back that specific requirement – that, besides one having a university degree, one must be a member of the Human Resource Management Institute to qualify for appointment as secretary to a county public service board. That is very critical. I know anybody can be a speaker of an assembly but when it comes to matters of interpretation of the law, being a lawyer makes a difference.

Hon. Temporary Deputy Speaker, you are seated there because you are a lawyer. Our Standing Orders are very clear that we can raise matters of constitutionality at any time as we debate. You are able to read the Constitution and interpret it. That is the extra skill that you have.

So, if we want to embrace professionalism in the county governments, it is indeed important that the secretary must be a member of the Human Resource Management Institute. As I move forward, there are also many other models...

**Hon. Peter Mwathi** (Limuru, JP): On a point of order, Hon Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Wamalwa. What is it, Hon. Mwathi? What is out of order?

**Hon. Peter Mwathi** (Limuru, JP): Hon Temporary Deputy Speaker, I have been listening to Hon. Chris. What he is alluding to is that it is wrong for me to come and state a position. That is what he has said, and the *Hansard* will bear me witness. I wonder to what extent he is right in terms of imposing on us his views as he opposes what the Committee has decided. The Committee has just done its work. It would be enough for him to say that he will bring amendments. You cannot say I am wrong to bring the Committee’s position to this House. We have discussed this matter as a committee. If he has issues with it, he can only deal with it by introducing an amendment at the right time, but not through saying that I am wrong. I cannot be wrong to state what my Committee has decided.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): You know, Hon. Mwathi and Hon. Wamalwa are both veterans in this House. When the veterans clash in that manner, what will Hon. Sankok do?

Proceed, Hon. Wamalwa.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Hon Temporary Deputy Speaker, I never said he is wrong. These are semantics. You must know that a Committee Report can be brought here and this House can reject it. I want it to be very clear that if a Committee has not done thorough work, this House has veto powers. We can reject the Report. So, it does not necessarily mean that, as the Committee Chair, once you bring a Report here, then this House is obligated to approve it. The Report must be convincing. In the scholarly world, and more so in the field of human resource management, there are new models, like the balanced score card, which are used in performance management. A non-human resource expert cannot apply such models. There are things like performance appraisal. These are critical issues in the management of human resource. So, you need somebody who has expertise when it comes to job recruitments, performance appraisal as well as reward and punishment. It is because of the mess we have in the county governments that I support the requirement of having professionals to give technical advice to the boards on matters of the human resource function.

I never said the Departmental Committee Chair is wrong though the performance of a Committee has a positive correlation on the chairperson. It is true. It has a positive correlation when it comes to performance. So, if your report comes here and this House rejects it, it actually reflects badly on the chairperson. You can note the concerns of Hon. Mwathi. This is a House of debate. I am happy you are here as the Chair. You are listening and when you are told to respond, you will respond to these issues.

We have just cleared the Supplementary Appropriation Bill. When the Chairman, Hon. Kanini Kega, rose to respond, he never responded to issues that were raised on the Floor of the House, which are very fundamental. When we call upon the Mover to reply, you are supposed to respond to the issues that have been raised by Members on the Floor of this House during the debate.

I think some Members need some orientation so that we know specifically on that aspect. As we move forward, when we debate, we debate in brief. We do not come here to please people. We come here as a team to improve the debate and improve...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. (Dr.) Chris Wamalwa! It is fair to ask what is out of order from Hon. Peter Mwathi. It is not a crossfire. What is out of order?

**Hon. Peter Mwathi** (Limuru, JP): It is not a crossfire. I am listening to what Hon. (Dr.) Chris Wamalwa, with all due respect, is saying. He has shifted from the Departmental Committee on Administration and National Security and he has started attacking the Chairperson of Budget and Appropriations Committee for having not responded to issues which he knows were raised at that time, which debate is already concluded. Is that in order?

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Well, Hon. (Dr.) Wamalwa had just stepped out of that line of debate. I almost stopped him but he seems to have gotten out of that. He is quite experienced and he should know.

*(Hon. (Dr.) Chris Wamalwa spoke off-record)*

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD – K): As I respond to them as we move forward... Gender is very critical.

Hon. Temporary Deputy Speaker, some things under Article 10 and Article 27 do not need to be entrenched. I agree with Hon. (Ms.) Odhiambo-Mabona that in some scenarios, it is important to entrench these things in this law because they can be abused particularly in counties where we have people who are marginalised. It is important that it must be entrenched in law so that, at that particular time, it must be followed to the letter. How many people refer to Article 10 which talks about the core values and the principles of governance?

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Your space is gone. Hon. Mwathi is quite an experienced Member as well. I am sure that the points you have raised on him, but you have tea... I can tell you are agreeing over tea.

Hon. (Ms.) Ruweida Obo.

**Hon. (Ms.) Ruweida Obo** (Lamu CWR, JP): Ahsante, Mhe. Naibu Spika wa Muda, kwa kunipatia nafasi. Naunga mkono.

Ni vizuri tuwe na wafanyakazi wa kaunti ambao wana stakabadhi zinazohitajika. Tunaona mambo mengi katika kaunti yanafanyika kiholelaholela saa zingine. Hayafanyiki vizuri. Tukipata yule ana hizo *qualifications* zote hapa, zikifuatwa na zichukuliwe hizi sheria zimeandikwa hapa, itasaidia sana. Utaona mara nyingine, kwa mfano, saa hii kuna kaunti ambazo zimepata pesa nyingi ambazo zinafaa zizitumie zizimalize na ni mkopo wa Serikali kutoka kwa World Bank. Lakini kwa sababu sijui ni wale walioko hawana zile *qualification* au ni uzembe, utaona zile kazi hazifanyiki vizuri. Saa zingine mtu anaweza kuwa na *qualifications* zinazohitajika lakini pia akawa hafanyi kazi vizuri. Kwa hivyo, utaona kama wakati huu, tumepewa pesa nyingi kama Kaunti ya Lamu na World Bank lakini utaona kuwa kaunti zimebakisha pesa zaidi ya shilingi milioni mia tatu ambazo hazijatumika na watu wana njaa. Kama wangepea *women representatives* pesa kama hizo zingekuwa zimetumika vizuri sana katika vikundi.

Mhe. Naibu Spika wa Muda, ule mradi unaitwa *Climate Smart*, mwezi ujao ndio mwisho. Hizo pesa zitabidi zirejeshwe na Serikali ya Kenya inalipa *loan*. Tukipata wafanyakazi ambao wana *qualifications* na hizo *qualities* zote ambazo zimewekwa hapa kama *integrity*, waweke watu wa kutoka jamii mbalimbali, kila wadi ipate nafasi yake, wale walemavu pia wapate nafasi yao, *youth* na akina mama, naona itaweza kusaidia sana.

Ahsante.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. (Dr.) Christine Ombaka. Okay, not present. Then Member for Migori County.

**Hon. (Ms.) Pamela Ochieng** (Migori CWR, ODM): Thank you, Hon. Temporary Deputy Speaker. With your permission, can I remove this thing a bit?

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): No! You may not remove it.

**Hon. (Ms.) Pamela Ochieng** (Migori CWR, ODM): Most obliged, Hon. Temporary Deputy Speaker.

Thank you, Hon. Temporary Deputy Speaker, for giving me a chance to contribute to this debate. First, allow me to congratulate the Committee, beginning with the Senate to this House, on bringing this amendment. To be honest, this amendment brings a lot to the table; that we cannot just debate about it casually and pass it just like that. As somebody who just left the university the other day and has had the opportunity to train all sorts of human resource beginning with accountants, businesspeople, procurement officers and human resource, I think it is a very interesting and important amendment that we are discussing here this afternoon.

I support this amendment from the very outset. However, I would plead with the Committee and even all of us to give constructive contributions that can make this amendment even better. If you look at the reasons why Kenya had to bring in devolution, it was to bring development and services everywhere equally within the boundaries of our country Kenya. The sad news is we are almost 10 years down the line of devolution and still when you go to some parts of this country, you can classify Kenya into five Kenyas. There is Kenya one, Kenya two, Kenya three, Kenya four and even Kenya five in terms of infrastructure and facilities that are to be availed to our people. That makes me want this Bill to go little more.

In fact, this Bill should be amended to include how political parties settle on their presidential and gubernatorial candidates. In this one person, beginning with the president but now we are discussing the governor, that guy should be a leader; somebody who is capable of taking serious risks. This person should be a manager, somebody who can implement and follow up to know whether what is being implemented is being achieved, and also a politician for that matter to know the right buttons that must be pushed and punched so that things can happen.

Hon. Temporary Deputy Speaker, in my opinion, on that section of Clause 2, we should agree that the chairperson of the board should not only be a highly qualified person in human resource issues, but somebody who also has experience. There are things that we teach in class, but there are things that managers get to know when they are already at work. The deputy should be highly qualified as well. More so, the secretary of that board, especially as Hon. (Dr.) Chris Wamalwa was trying to put it, although at some stage he was going a bit overboard, that all the members of the board should be serious professionals. The county executive committee (CECs) members and directors should be professionals who are not only professionals, but people who are results-oriented and people who are go-getters to have the development mandate of the county and the services to the people delivered on time.

The county service board is the replica of the Public Service Commission (PSC) of Kenya at the county level. This is something that is important. When we are looking for the chairperson of the Public Service Commission of Kenya, we get professionals, people who have had first-hand experience on positions of management, and so are the members of that board. This is something that we can replicate in the counties without fear or favour.

Hon. Temporary Deputy Speaker, it is important to note that the county service boards should not be the only appointing authority that we are talking about, as far as the governor is concerned, but all those other appointive posts.

For example, you may find that in a hospital they are struggling to build a maternity wing and then from the sub-county administrator to the ward, there is a village administrator. That person is then appointed to supervise that kind of work. Those are some of the things that are frustrating our development agenda at the counties.

I am just amazed and hope nobody will misunderstand me. The debate going on out there about Members of Parliament having degrees or not is a very tricky one. In this very House, we have talked about how in Kenya today, we are churning out so many graduates from the universities and yet, they are all jobless. I do not think it is accurate for us to stand here and say that we cannot get women with degrees in some of our villages. In Migori County, which I represent, if you gave me a chance, two days from today, I can appear with a list of girls who have graduated from universities and are still “tarmacking” because they do not have jobs. I am struggling to get the balance between playing to the gallery, so that we can get votes outside there, and speaking facts as they are in the file.

I totally support this amendment Bill and wish it could have even come earlier in 2018 or even 2015 because this is what has killed our counties. When you go to see some of those country roads, you will find somebody just removing grass and shrubs, shaking the soil and saying that the road has been made. When the wind blows, the soil is blown away. When it rains, there are potholes. Some of our rural counties which are raw in terms of development are in a pathetic situation.

As I conclude, at the university where I have a lot of experience, there is a regulation when admitting students. There is the overall academic qualification mark that a child must score. For example, in Kenya, it currently stands at C+ (plus). However, as you admit those children to various courses such as medicine, architecture, engineering, education and business, which I represent, there are what we call subject clusters which are some other requirements that they must meet in certain subjects. We should borrow from that.

I ask my Committee not to rush this Bill just because it has come from the Senate. We can add to it and make it better so that by the time it leaves our hands, we have a Bill that can make the dreamers of devolution, led by Raila Amolo Odinga, to finally one day rest in peace with their forefathers while smiling. This is because they would have attained a Kenya where we not only have the Thika Superhighway containing all those vehicles, but when we go to Turkana and Migori at the border, we get the same roads, hospitals and facilities. It should be similar to what they have in the United States of America.

With those few remarks, I support the Bill.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. Cheruiyot Jesire, Member for Baringo.

**Hon. (Ms.) Gladwell Cheruiyot** (Baringo CWR, KANU): Hon. Temporary Deputy Speaker, I request for your protection. There are some people who are harassing me before I talk.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): You have the Floor. Do not worry. Do not even listen to them.

**Hon. (Ms.) Gladwell Cheruiyot** (Baringo CWR, KANU): Your protection is needed, especially from Nominee 001.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Please proceed. Hon. Sankok will do you no harm.

**Hon. (Ms.) Gladwell Cheruiyot** (Baringo CWR, KANU): Thank you, Hon. Temporary Deputy Speaker. He does not know me.

Hon. Temporary Deputy Speaker, thank you so much for giving me this chance to also discuss this Bill in the House, together with my colleagues. At the outset, the amendment Bill is good despite the fact that there are a few things that need to be looked into and many Members have discussed them. This Bill seems to have come late. We have been asking questions on how things are being transacted down there in our counties. It is high time we checked what is happening through Bills and other methods that we can use.

As a Parliament, is it really in order for us to do budgets for county governments but, when it comes to checks and balances, we are not even able to come up with Bills or amendment Bills that can ensure that the money that we give to them helps the people? The county service boards can be compared to the Public Service Commission at the national Government. We know that when devolution came, county governments were given the right to employ. However, for a long time, people have not been happy about it because we have seen a lot of ethnicity at the county service boards. County service boards are employing people of certain tribes, rewarding political friends and leaving professionalism aside. When we talk about

professionalism, my colleague, Hon. Chris Wamalwa, was so particular that a human resource person should be the secretary of the county service board. I want to know if that is a replica of what happens at the Public Service Commission or are we reinventing the wheel for the county governments? If at the national Government we have a secretary with no specific technical or skillful qualifications, why would we expect so much for the county governments?

I support the Woman Representative for Migori that the minimum qualification for those positions should be a degree. We do not lack people who have those qualifications. There are so many degree-holders flooding the country. There are many people who have degrees. There is no shortage of people who have degrees. It only becomes a problem when people become a bit selfish and want to set the qualifications in a manner that is skewed towards a particular person that they want to give the position. Even for MPs and MCAs, it is no longer an excuse. In any case, the postponement has given people enough time to get a degree. If you wanted to go and study, by now you would have a degree. Therefore, we should now be discussing the minimum qualification being a degree in any field.

With regard to ethnicity, it is very unfortunate that even though the Constitution is very clear on those matters, the fact remains that devolution is equated to *majimbo* in the way things are happening in terms of employment. When you go to a certain county - and I want to give the example of my county so that I am not attacking anybody - you might find that everyone who is employed is a Kalenjin. I tend to believe that this is what is happening elsewhere. How will this Bill treat that? We also have the Kamaus, Onyangos, Mohammeds and many other communities who were born in Baringo. How will this Bill treat that?

The other matter is that it is high time that the Government realised that a county government has a perpetual life. It does not end with a sitting governor who has been voted out. You should be a lawmaker when you come to this House. For that reason, I suggest that there should be a trustee for the county governments to take care of the resources that are left by a governor who is voted out. When you are voted out as a politician, the projects that you started remain as white elephant and are never completed.

Hon. Temporary Deputy Speaker, the incoming governor will run away from those projects. Eventually, it is a great loss to this country and development.

The other big issue is the wage bill. It overrides development in our counties. Every governor who comes in wants to reward and please his people. The only way to do that is to give job opportunities. By doing that, a huge amount of the allocation that goes to the county governments is now taken up by wages. How does this Bill treat this? What is the remedy? The wage bill is over 50 per cent in some counties. When will we attain development? It is a big matter that we need to address.

I also have something that happens in some of the counties. When the term of a particular office of the county public service board ends, it takes quite some time for the governor to appoint another one. It delays development. Some counties take as long as even one year. What does the Constitution say? How is it treated? Within which time should it be replaced? Those are some of the things that we need to look into, so that our counties develop and our country grows.

I agree with Members that governors or the county officers should not misuse the autonomy that is given to the county governments. They should not bring things that please them and run the county in a manner that cannot realise development because eventually, that is the main goal. Special groups are in dire need. The truth of the matter is that there is no person living with disability in the county public service boards. We want to include them there. We also have



other groups that we need to look into going forward - the widows and widowers. I will introduce that. They are also special groups.

I support this Bill. I also support the Members that we need to look at the amendments of this Bill so that we can come up with something that will work for us.

Thank you, Hon. Temporary Deputy Speaker.

*(Hon. Jude Njomo consulted loudly)*

**Hon. Ndindi Nyoro** (Kiharu, JP): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Passaris Rosanna, Member for Nairobi City. Hon. Jude Njomo, give Hon. Passaris the space to contribute.

**Hon. (Ms.) Esther Passaris** (Nairobi CWR, ODM): Thank you, Hon. Temporary Deputy Speaker. I stand to support the County Governments (Amendment) Bill (Senate Bill No. 13 of 2018).

*(Hon. Jude Njomo sat in an undesignated seat)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Passaris! What is out of order, Hon. Ndindi?

**Hon. Ndindi Nyoro** (Kiharu, JP): Thank you very much, Hon. Temporary Deputy Speaker. I am just wondering whether Hon. Njomo is in order to sit where he is seated and yet, the seats are labelled very correctly where the Member should sit. We should take the COVID-19 protocols very seriously and lead by example.

**Hon. Members:** Yes.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): I always know Hon. Jude Njomo to be an extremely careful Member. However, on this one, he is not. I am sure that the Hon. Member who is on the Floor will be... Let me not say what I want to say. Hon. Jude Njomo, please, sit in the right place. You do not have to say anything.

*(Several Members spoke off-record)*

There is no jealousy here. Hon. Passaris, you have the Floor. Hon. Jude Njomo should sit in the right place.

**Hon. (Ms.) Esther Passaris** (Nairobi CWR, ODM): Thank you, Hon. Temporary Deputy Speaker. Being dyslexic and having Attention Deficit Hyperactivity Disorder (ADHD), I have all this confusion which makes me lose my train of thought. However, I will try and do the best that I can.

I stand to support the County Governments (Amendment) Bill (Senate Bill No. 13 of 2018) for the simple reason that ethnic divisions tear us apart and do not let us live to the dreams of our forefathers in terms of what nationhood means for Kenya. This is what informed the President when we decided to have the *handshake* and unite the country, so that we could all be one nation. I know that the county governments employ people from their region, which is wrong. We need to have a situation where every county is compelled to, at least, employ 30 per cent of people from other ethnic communities from across the country. We have to put a figure to it. We cannot leave it open-ended. If you are in Kisii County, you can employ people of both genders from all over the country.

**Hon. Ayub Angatia** (Lugari, ANC): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Passaris! There is a point of order by Hon. Angatia Savula.

**Hon. Ayub Angatia** (Lugari, ANC): Thank you, Hon. Temporary Deputy Speaker. I need to correct my colleague, the Woman Representative of Nairobi County that, we have the National Cohesion and Integration Commission (NCIC).

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Is that a point of information, Hon. Angatia?

**Hon. Ayub Angatia** (Lugari, ANC): It is a point of information, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Whom do you want to inform?

**Hon. Ayub Angatia** (Lugari, ANC): 30 per cent....

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Angatia! We must ask Hon. Passaris whether she will accept your information. Hon. Passaris, do you want to be informed by Hon. Angatia?

**Hon. Ayub Angatia** (Lugari, ANC): There is a law....

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Angatia!

**Hon. (Ms.) Esther Passaris** (Nairobi CWR, ODM): No.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Unfortunately, Hon. Angatia, your information is not needed by Hon. Passaris. Proceed.

**Hon. (Ms.) Esther Passaris** (Nairobi CWR, ODM): Hon. Temporary Deputy Speaker, with due respect to my honourable colleague, I agree that we have the NCIC. We also have laws and regulations on how we interact as counties. At the end of the day, if we do not have the budget to ensure proper monitoring and evaluation to look at who is being employed in every county, we cannot say that we have ethnic inclusion.

All the governors in all the counties come from the communities in the counties that they represent. If we had proper ethnic inclusion, then you would find, for instance, a governor who is a Kikuyu in Nyanza and a Luo in Mt. Kenya region. That is when we can say that we have ethnic inclusion. You vote for a leader because he or she lives in your communities. For instance, we have seen one or more Members of Parliament who have been given positions in the Government, but they are not many. We need to ensure that Kenyans look at leaders because they are good, but not because of their communities.

We need to ensure that integration and inclusion is monitored and evaluated in the county assemblies. We should not only look at ethnic inclusion but also gender inclusion. We aim at not having more than two-thirds of one gender. Is it being adhered to in the counties? We need 10 per cent of people living with disabilities in the counties. Is that also being adhered to by the counties? This Bill should ensure that there is a way to monitor and evaluate those issues. The counties that are not doing the right thing, in terms of inclusion and the spread of the communities, should pay a penalty. They should be told that they have more men than women in particular jobs. Hence, they need more women. County governments do not have people living with disabilities. We have many people who are disabled and are unable to get jobs. Who monitors and evaluates that? For that to happen, you need bodies to be put in there.

As much as we support this Bill because it is good, we also have to realise that one of the biggest problems that we have in this county is corruption. When you mix people, it is very difficult to have corrupt tendencies. Inclusion will help us deal with corruption. It will also help

us deal with respect of other communities. When we used to have Kikuyu night, Kamba night and Maasai night, we saw that there was so much to celebrate in other communities. If we agree to work together even in our places of work in the various counties, we will respect each other's communities and food. I believe that this Bill is very good. We extend the issue of education. We said that we would give it more time in 2017.

I really support what Dr. Pamela Odhiambo has said; that we have very many Kenyans who have gone to university and have degrees but are tarmacking. Let us ensure that if one wants to be a leader, one has to go for a degree. If we say that the chairman requires a degree, the member of county assembly should also have a degree and so should the MP. It is not very difficult to get a degree. If a leader does not follow the law, which we said we were going to extend to year 2022 and we now want further extensions... For me, education guides the leader. It expands one's mind and knowledge so that one can serve people better. I believe that if we are going to require chairmen to have a degree, then the MCA also should have a degree. There is no way we can say that we are not going to find MCAs with degrees. We will find leaders with degrees applying for those vacancies. Those who do not have a degree and want to be leaders, go get a degree. That is important.

We talked of 2017 to 2022. I sincerely hope we can do something about the level of education that we have. We have seen how county assemblies behave. How they throw chairs and tables around and how debates end up in boxing matches. If one is educated, one gets a certain sense of etiquette because it is part of the education. It is important that we support what we ourselves have said we stand for. If they do not have degrees, that is too bad and they can try in 2027.

With those remarks, I support. Thank you.

**Hon. Ndindi Nyoro** (Kiharu, JP): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): What is your point of order, Hon. Ndindi Nyoro?

**Hon. Ndindi Nyoro** (Kiharu, JP): Thank you very much, Hon. Temporary Deputy Speaker. I have been sitting here for quite some time and I rise under Standing Order No. 95. We have exhaustively debated this Bill and we are now repeating ourselves. I rise under Standing Order No.95 that the Mover be now called upon to reply.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Members. It is the right of Hon. Ndindi Nyoro to stand on that point of order. But, it is also my responsibility to establish the mood of the House.

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

Hon. Jennifer Shamalla.

**Hon. (Ms.) Shamalla Jeniffer** (Nominated, JP): Thank you Hon. Temporary Deputy Speaker. I thought, maybe, that Hon. Ndindi Nyoro knew I would be the next one to speak and so, he wanted to end debate.

Hon. Temporary Deputy Speaker, with ultimate respect to Hon. Mwathi and his Committee, I have great reservations about these amendments. When Kenyans overwhelmingly

passed the Constitution in 2010, devolution was one of the greatest prizes. However, it was ambitious. The World Bank defined it as being one of the most rapid processes of decentralisation to occur anywhere in the world. The people of Kenya were optimistic, but today devolution has become the greatest disappointment. I concur with Hon. Wamalwa as to why we cannot raise the standards. Why is it that we cannot have specialists? Why is it that when you run a corporation, you will ask for the best and insist that you have a certified public secretary? At this point, I wish to state and declare my interest. Over and above being an advocate of the High Court of Kenya, I am a Certified Public Secretary. But I have no intention of applying for that particular position. In countries where specialisation is key, you do not advertise for a pilot for Boeing, specialised in Boeing 747, and go for any kind of pilot. When we get to the Committee of the whole House, this matter will be handled robustly. I will request, humbly, that Chair and the Committee consider the submissions made by myself and Hon. Wamalwa.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Mbogo Menza, Member for Kisauni. He is not there. The next is Hon. Angatia Savula.

**Hon. Ayub Angatia** (Lugari, ANC): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to also add my voice to the County Governments (Amendment) Bill of 2018. The Bill seeks to cure the non-professionalism that has existed in county governments, especially at the county service board level.

The Bill seeks to make the secretary of the board *ex-officio*; meaning that the board will operate autonomously without direct influence of a governor or a politician managing it. This is because the *ex-officio* secretary will not have the powers to participate in voting or decisions of the board.

In nominating or appointing a person as a member of the board, the governor shall consider the following qualities and principles: Gender, equality and ethnicity, and ideally much on ethnicity. This Bill seeks to cure the problem that has been existing in county governments, especially in employment of workers. The National Cohesion and Integration Commission Act is very specific that any government institution, be it a parastatal, the national Government or a county government, must have 30 per cent of the employees from outside that community. However, if you look at employment in county governments, especially of the CECs and the chief officers, the county governments do not follow this Act. Audits are normally done every year by the National Cohesion and Integration Commission, but we do not see clear results that the Act works. So, this Bill will enforce ethnicity requirements by making county governments work and adhere to the 30 per cent provision that the workforce in a county must be from other ethnic communities.

I also support the issue of national values as provided under Articles 10, 27 and 232 of the Constitution. I thank Hon. Millie and Hon. Martha Karua who brought us the amendment to the National Cohesion and Integration Commission to meet those constitutional provisions. I thank Hon. Millie who is seated next to me.

I also beg to support Hon. Shamalla on the issue of possession of a bachelor's degree. It has to be specific, not just any bachelor's degree. I also support Hon Chris Wamalwa that the institution that is responsible for registering members of the profession must be included in the provisions. How do we leave it out? If it is a lawyer, it must be the Law Society of Kenya; and, if it is a doctor, there is the Pharmacy and Poisons Board or something like that.

Lastly, as we move forward, we are looking at the younger generation taking over the leadership of this country.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Angatia, I thought the other time you wanted to inform Hon. Passaris.

**Hon. Ayub Angatia** (Lugari, ANC): I am not interested in that information now.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Proceed.

**Hon. Ayub Angatia** (Lugari, ANC): Lastly, I emphasise the issue of a 10-year working experience. Ten years of working experience is a very long time. Employees in this country at the level of CEOs are employed for a term of three years, renewable once. That is a maximum of six years. When we talk about 10 years of experience, we are talking about old people. The CEOs operating now are between 36 years and 46 years of age. So, we will be creating the chairman's position specifically for the aged and yet, we want to employ the youth in the counties. I will propose an amendment to this one.

Thank you very much, Hon. Temporary Deputy Speaker. I support. Now you can give me your information.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): That route, Hon. Pamela, you want to go, is unknown - the route of informing the whole House. Hon. Angatia case is gone and he has concluded.

I can tell there are a number of Members who want to speak to this. The good news is that we are not concluding this now. There will still be another opportunity for Members to engage because it is now 6.30 p.m., and the House must rise.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, the time being 6.30 p.m., this House stands adjourned until today, Tuesday, 29<sup>th</sup> June 2021, for the Evening Session at 7.00 p.m.

The House rose at 6.30 p.m.