



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT**

**NATIONAL ASSEMBLY**

**THE HANSARD**

**VOL. II NO. 40**

## THE HANSARD

Thursday, 4<sup>th</sup> May 2023

The House met at 2.30 p.m.

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

### PRAYERS

**Hon. Speaker:** Hon. Members, we have quorum to transact business. Clerk.

*(Several Members walked into the Chamber)*

Order, Hon. Members! Take the nearest seats. Hon. Mbadi, take the nearest seat.  
Order, Hon. Members! I have a short Communication to make.

### COMMUNICATION FROM THE CHAIR

#### ANNUAL NATIONAL PRAYER BREAKFAST

Hon. Members, this is in relation to the Annual National Prayer Breakfast of this year 2023. As you may be aware, the Bunge Prayer Fellowship Group shall host the 20<sup>th</sup> Annual National Prayer Breakfast on Wednesday, 31<sup>st</sup> May 2023 at the Safari Park Hotel in Nairobi. The theme of this year's Breakfast is Reconciliation with God and with men, and I believe with women as well, as anchored in the Book of 2 Corinthians Chapter 5:18.

The Prayer Breakfast is expected to be attended by over 2,500 guests from our own country and also from across the world, including leaders from the political class, top Government officials, members of the Diplomatic Corps, the clergy, the business community and Kenyans from diverse backgrounds.

Hon. Members, this year's Prayer Breakfast, just like the previous ones, is an inter-denominational prayer meeting organised by Members of the Bunge Prayer Fellowship, whose membership is drawn from both Houses of Parliament. The Hon. Samuel Chepkong'a, CBS, MP, and Sen. Daniel Maanzo, MP, are the Co-Chairpersons of the Fellowship.

Hon. Members, you are all invited to this very important event which shall provide an opportunity to meet and seek divine intervention for Kenya at such a time as this. Towards this end, Members are requested to confirm attendance with the Office of the Clerk by Friday, 26<sup>th</sup> May 2023 to facilitate seating arrangements. For orderliness, you will be issued with invitation cards to the event.

Hon. Members, you may contact Hon. Samuel Chepkong'a, CBS, MP, or Sen. Daniel Maanzo, MP, for any further clarification on the event.

I thank you.

Hon. Members, I also have a ruling that I will deliver at 3.30 p.m.

### PAPERS

**Hon. Speaker:** Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. You know when you read out the Communication about the Prayer Breakfast, many Members around me were doubting those prayers because of the inclusion of Hon. Chepkong'a.

*(Laughter)*

I have assured them he is a very prayerful person, and a committed Christian.

## PAPERS

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, I beg to lay the following papers on the Table:

1. The Multilateral Convention to implement Tax Treaty related measures to prevent base erosion and profit shifting from the National Treasury and Economic Planning.
2. Reports of the Auditor-General and Financial Statements in respect of the following institutions for the Financial Year ended 30<sup>th</sup> June 2022, and the certificates therein:
  - (a) Lands Limited.
  - (b) Kenya Fisheries Service.
  - (c) Kenya Veterinary Board.
  - (d) Pest Control Products Board.
  - (e) Kenya Tsetse Fly and Trypanosomiasis Eradication Council.
  - (f) Kenya Development Corporation.
  - (g) National Government Constituencies Development Fund Board.
  - (h) Water Resources Authority.
  - (i) Tourism Promotion Fund.
  - (j) National Environment Trust Fund.
  - (k) Hydrologists Registration Board.
  - (l) Egerton University.
  - (m) Machakos University.
3. Report of the Auditor-General and Financial Statements on revitalizing Irish Potato Production for COVID-19 affected Small-Scale Producers Project (IFAD Grants No.2000003589 and 20000039600) for the 14 months' period ended 28<sup>th</sup> February 2023, and the certificates therein from Agriculture and Food Authority.

Thank you, Hon. Speaker.

**Hon. Speaker:** Can we have a member from the Committee on Delegated Legislation? Hon. Emmanuel Wangwe, have the Floor.

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Hon. Speaker, I beg to lay the following paper on the Table:

Report on the Kenya delegation to the Entrepreneurship and Financial Training Programme for women entrepreneurs and certification ceremony held in Addis Ababa, Ethiopia on the 27<sup>th</sup> February to 3<sup>rd</sup> March 2023.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Emmanuel Wangwe. Let us have the Chairperson, Committee on Public Petitions. Leader of the Majority Party, who is your Chairperson in the Committee on Public Petitions? Is there any Member of that Committee? Where is your Chairman?

**Hon. Maisori Kemero** (Kuria East, UDA): Hon. Speaker, the Chairman is around. It is only that he has not walked into the Chamber.

**Hon. Speaker:** Okay. We will come back to that. Chairperson, Departmental Committee on Health.

Leader of the Majority Party, you are always privy to the Order of Business. Please ensure that any Chairperson of a Committee reflected on the Order Paper must be in the Chamber by 2:30 p.m. We have discussed this matter in the House Business Committee (HBC).

Chairperson, Departmental Committee on Health, Hon. (Dr.) Robert Pukose.

**Hon. (Dr.) Robert Pukose** (Endebess, UDA): Hon. Speaker, I beg to lay the following papers on the Table:

Reports of the Departmental Committee on Health on:

1. The 2<sup>nd</sup> Public Health Conference in Africa held from 13<sup>th</sup> to 15<sup>th</sup> December 2022 in Kigali, Rwanda.
2. The 14<sup>th</sup> Network of African Parliamentary Committees on Health (NEAPACOH) meeting held from February 22<sup>nd</sup> to 23<sup>rd</sup> 2023 in Kampala, Uganda.
3. Universal Health Coverage bench marking visit to Thailand from 7<sup>th</sup> to 12<sup>th</sup> March, 2023.
4. The bench marking visit to South Africa Medical Research Council, University of Cape Town, and Centre for the Aids Programme of Research in South Africa from 13<sup>th</sup> to 23<sup>rd</sup> March 2023.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. (Dr.) Robert Pukose. Chairperson, Departmental Committee on Environment, Forestry and Mining. Where is the Chairperson? Yes, Hon. David Gikaria, go ahead.

**Hon. David Gikaria** (Nakuru Town East, UDA): Hon. Speaker, I beg to lay the following papers on the Table:

Reports of the Departmental Committee on Environment Forestry and Mining on its consideration of the ratification of the following:

1. The amended Nairobi Convention and the Protocol for the Protection of Marine and Coastal Environment of the Western Indian Ocean from Land-Based Sources and Activities.
2. The Kigali amendments on the Montreal Protocol on the substances that deplete the Ozone Layer.
3. The Bamako Convention on the ban of the importation into Africa and the control of trans-boundary movement and management of hazardous waste within Kenya.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. David Gikaria. Next is the Chairperson, Departmental Committee on Blue Economy, Water and Irrigation. Hon. Marwa Maisori, are you the Chairperson?

**Hon. Maisori Kemero** (Kuria East, UDA): I am the Vice-Chairman.

**Hon. Speaker:** Okay. Go ahead.

**Hon. Maisori Kemero** (Kuria East, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Blue Economy, Water and Irrigation on its attendance of its 2<sup>nd</sup> Edition of the Southwest Indian Ocean Ministerial Summit held from 5<sup>th</sup> to 7<sup>th</sup> April 2023 in Seychelles.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you. The Chairperson, Departmental Committee on Housing, Urban Planning and Public Works. Hon. Johana Ng'eno, is it you? Please, go ahead.

**Hon. Johana Kipyegon** (Emurua Dikirr, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Housing, Urban Planning and Public Works on its participation at the World's Congress Forum held in Vada, United States of America.

I thank you.

**Hon. Speaker:** Thank you. Chairperson, Committee on Public Petitions.

**Hon. Nimrod Mbai** (Kitui East, UDA): Thank you, Hon. Speaker. First, I want to apologise to you and the House for coming late. I am aware that I had been called earlier.

**Hon. Speaker:** Go ahead.

**Hon. Nimrod Mbai** (Kitui East, UDA): Hon. Speaker, I beg to lay the following paper on the Table:

Report of the Public Petitions Committee on its considerations on the Public Petition No.7 of 2022 by Hon. Samuel Atandi, MP, regarding probable loss of investment by Cytonn High Yield Solutions Platform.

**Hon. Speaker:** Thank you, Hon. Nimrod Mbai. Next Order, Chairperson, Departmental Committee on Environment, Forestry and Mining, Hon. David Gikaria.

### NOTICES OF MOTIONS

#### ADOPTION OF REPORT ON RATIFICATION OF THE KIGALI AMENDMENTS TO THE MONTREAL PROTOCOL ON SUBSTANCES DEPLETING THE OZONE LAYER

**Hon. David Gikaria** (Nakuru Town East, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Environment, Forestry and Mining on its consideration of the Ratification of the Kigali Amendments to the Montreal Protocol on the Substances that Deplete the Ozone Layer, laid on the Table of the House on Thursday, 4<sup>th</sup> May 2023, and pursuant to the provisions of Section 8(4) of the Treaty Making and Ratification Act, 2012, approves the ratification of the Kigali Amendments to the Montreal Protocol on the Substances that Deplete the Ozone Layer.

#### ADOPTION OF REPORT ON RATIFICATION OF THE AMENDED NAIROBI CONVENTION AND PROTOCOL ON PROTECTION OF MARINE AND COASTAL ENVIRONMENT

**Hon. David Gikaria** (Nakuru Town East, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Environment, Forestry and Mining on its consideration of the ratification of the amended Nairobi Convention and the Protocol for the Protection of Marine and Coastal Environment of the Western Indian Ocean from Land-Based Sources and Activities, laid on the Table of the House on Thursday 4<sup>th</sup> May 2023 and, pursuant to the provisions of Section 8(4) of the Treaty Making and Ratification Act of 2012, approves the ratification of the amended Nairobi Convention and Protocol for the Protection of Marine and Coastal Environment of the Western Indian Ocean from Land-Based Sources and Activities.

ADOPTION OF REPORT ON RATIFICATION OF THE BAMAKO  
CONVENTION ON THE BAN OF IMPORTATION AND CONTROL OF  
HAZARDOUS WASTE WITHIN AFRICA

**Hon. David Gikaria** (UDA, Nakuru Town East): Hon. Speaker I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Environment, Forestry and Mining on its consideration of the Ratification of the Bamako Convention on the ban of the importation into Africa and the control of trans-boundary movement and management of hazardous waste within Africa, laid on the Table of the House on Thursday, 4<sup>th</sup> May 2023, and pursuant to the provisions of Section 8(4) of the Treaty Making and Ratification Act of 2012, approves the ratification of the Bamako Convention on the ban of the importation into Africa and control of trans-boundary movement and management of hazardous waste within Africa

**Hon. Speaker:** Thank you. Leader of the Majority Party, give your usual Thursday Statement.

### STATEMENT

#### BUSINESS FOR THE WEEK OF 5<sup>TH</sup> – 9<sup>TH</sup> JUNE 2023

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(a), I rise to give the following Statement on behalf of the House Business Committee, which met on Tuesday, 2<sup>nd</sup> May 2023 to prioritise the business for consideration during the week.

I wish to commend the leadership of this House and Members for the dedication and co-operation exhibited in the Session so far. We have certainly been able to meet the statutory timelines in respect of all the matters that were before us. We are now due for the long break commencing tomorrow, going by our Calendar of regular Sittings. The House is scheduled to resume regular Sittings on Tuesday, 6<sup>th</sup> June 2023 at 2.30 p.m.

Members may wish to note that this will be a particularly busy recess period for Departmental Committees and the Budget and Appropriations Committee, as well as the Departmental Committee on Finance and Planning as they engage with Ministries, Departments and Agencies (MDAs) on the budget estimates for the Financial Year 2023/2024, that were submitted in the course of this week. Additionally, there are various matters relating to Bills, treaties, approval hearings, inquiries and responses to Statements still pending before Committees. I, therefore, urge all our Committees, their Chairpersons and Members to be present and actively participate in ensuring that all these matters are concluded, and reports brought to the House upon resumption on 6<sup>th</sup> June 2023 at 2.30 p.m.

Hon. Speaker, upon resumption, the House is expected to continue with debate on Second Reading of the Statute Law (Miscellaneous Amendments) Bill, 2022, the general debate on the proposal to amend the Constitution and the Standing Orders, and the report on the United Nations Convention Against Corruption, should they not be concluded today. The House Business Committee will reconvene on Tuesday, 6<sup>th</sup> June 2023, to schedule the business for the rest of that week.

Hon. Speaker, I also note that Question Time in the Plenary in the past few weeks has proceeded well as Cabinet Secretaries appear in the Plenary to answer questions and expound on policies under their respective dockets. I would like to thank all Members for their continued participation in this process. Upon resumption of the House, I will notify Members on which

Cabinet Secretaries will appear in Plenary during that week and the questions that will be responded to then.

In conclusion, I wish Members a wonderful recess period as they spend time with their families, rejuvenate and also discharge their parliamentary and constituency obligations. As I have noted in this Statement, this is one of our long recesses in the second Session after the short recess that we had, and the four weeks that we will be on recess will be a four-week working recess. I wish Members time with their families since they will get home earlier than usual because, as you are aware, the House rises at 7.00 p.m. and at 9.30 p.m. on Wednesdays. Therefore, Members normally get to their families late but, during the recess, since the committees will be sitting from 9.00 a.m. in the morning, they will have much more time with their families. I want to ask them to make themselves available in committees, especially in consideration of the Budget Estimates and the Finance Bill and consideration of all the Bills, treaties, approval hearings and reports that are before them. Hopefully, when we resume on 6<sup>th</sup> June 2023, all these reports shall be ready for tabling and debate before the House.

I now wish to lay this Statement on the Table of the House.

Thank you.

**Hon. Speaker:** Hon. Leader of the Majority Party, in case it escaped your mind, yesterday the Speaker directed the Cabinet Secretary for Education to appear before the House on the first Wednesday after recess to continue answering the myriad of questions that were un-asked yesterday when he appeared. You may just include that in your Statement for purposes of the *Hansard*.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker, for that reminder. May I just include as you have stated. On resumption on 6<sup>th</sup> June 2023, on Wednesday, 7<sup>th</sup> June 2023, the Cabinet Secretary for Education, Hon. Ezekiel Machogu, will appear to answer to the questions that were left pending yesterday as directed by the Hon. Speaker.

**Hon. Speaker:** Thank you.

Next Order. Hon. Murugara, Chairman Departmental Committee on Justice and Legal Affairs.

## PROCEDURAL MOTION

### EXTENSION OF PERIOD FOR CONSIDERATION OF NOMINEES FOR APPOINTMENT AS MEMBERS OF THE JSC

**Hon. George Murugara** (Tharaka, UDA): Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of Section 13 of the Public Appointments (Parliamentary Approval) Act, 2011 relating to extension of period for consideration of nominees for appointment to a public office, this House resolves to extend the period for consideration of the nominees submitted by His Excellency the President for appointment as members of the Judicial Service Commission by a period of fourteen (14) days from 31<sup>st</sup> May 2023.

Hon. Speaker, yesterday, you made a Communication on nomination of persons for appointment as members of the Judicial Service Commission from His Excellency the President. Ms Caroline Nzilani King'oku Ajuoga and Hon. Isaac Kiprono Ruto were nominated to serve in the Judicial Service Commission. This evening, the House proceeds on recess for one month. Bearing in mind the provisions of the law under the Judicial Service Commission Act, we have seven days to approve the nominees, while under Section 8 of the Public Appointments (Parliamentary Approval) Act, 2012, we have 28 days. My calculation indicates

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that the 28 days will lapse on 21<sup>st</sup> May 2023, by which time this House will be on recess. Therefore, to ensure that there is sufficient time for the Committee to consider the two nominees through the vetting process and table a good report, we have deemed it necessary that we extend the period by 14 days. The 14 days will take us to after the House resumes.

With those remarks, I urge the House to pass the Procedural Motion and approve an extension of time by 14 days. I call upon Hon. Victor Koech of Chepalungu, popularly known in his constituency as 'Mandazi', to second the Motion.

Thank you, Hon. Speaker.

**Hon. Victor Koech** (Chepalungu, CCM): Thank you very much, Hon. Speaker. First, I congratulate the two nominees, especially His Excellency the first Governor of Bomet, who is known not only in Bomet, but the entire country for always fighting for devolution. He is a man who is known to have the Constitution at the back of his hand.

Today, we are proceeding for recess. For this reason, I urge the House to approve the extension of period for consideration of the two nominees. I equally wish the two nominees well as they prepare to appear before the Departmental Committee on Justice and Legal Affairs.

With that, Hon. Speaker, I second. Thank you.

*(Question proposed)*

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

**Hon. Speaker:** Is that the mood of the House?

**Hon. Members:** Yes!

*(Question put and agreed to)*

**Hon. Speaker:** Before I call the next Order, Hon. Members, allow me to acknowledge the presence of the following institutions, seated in the Public Gallery:

1. JKUAT Primary School in Juja, Kiambu County.
  2. ACC and Kigumo Parish in Kigumo, Murang'a County.
  3. PCEA Kariobangi South Parish in Embakasi West, Nairobi County.
- In the Speaker's Gallery, Kahara Gathithi and Family from Lang'ata in Nairobi County

*(Applause)*

Next Order.

## MOTION

### REDUCTION OF PUBLICATION PERIOD OF A BILL

**Hon. Speaker:** Chairperson of the Departmental Committee on Finance and National Planning.

**Hon. Jared Okello** (Nyando, ODM): On a point of order.

**Hon. Speaker:** Hon. Okello, what is your point of order?

## POINT OF ORDER

### WITHDRAWAL OF THE SECURITY OF MEMBERS OF PARLIAMENT



**Hon. Jared Okello** (Nyando, ODM): Hon. Speaker, I thank you for giving me the opportunity. I stand because of a matter that is dear to me and Members of this House. I acknowledge the role played by the Parliamentary Service Commission, a Commission that you Chair, that looks at the welfare, betterment, safety and comfort of Members of this House and the Senate, together with the Secretariat. The role of PSC also relates to security of Members of this House.

**Hon. Speaker:** Sorry, Hon. Jared. Could you please repeat? I was consulting with another Member. Order, Hon. Members. The Chair can hardly hear what the distinguished Member for Nyando is saying.

**Hon. Jared Okello** (Nyando, ODM): Hon. Speaker, I acknowledge the tacit role that you play as the Chair of the Parliamentary Service Commission. This is a Commission that looks after the welfare, security and comfort of Members of Parliament in this House and the Senate, together with members of the Secretariat.

A matter that is of great concern to my side of the political divide is that the National Police Service (NPS) unilaterally withdraws security of Members from my coalition each time there is a difference expressed as a matter of objectivity from our side. As the Chair of the Commission, I invite you to help us address this matter. The security of a Member of this Parliament is just as important as the security of any other Member.

Last week, about 20 Members from our coalition had their security withdrawn, but we have not heard any word from the Parliamentary Service Commission. Additionally, the leadership of the Azimio la Umoja Coalition – and that includes Hon. Raila Amolo Odinga, Hon. Kalonzo Musyoka and Hon. Martha Karua – had their security withdrawn without any reason. This is a unilateral decision that is constantly taken by the NPS. We had a similar experience during the previous regime.

As the Chair of the Parliamentary Service Commission, allow me to invite you to protect Members from this coalition so that we do not experience withdrawal of our security, which then exposes us so badly to the public, and, most importantly, to the leadership of the Azimio Coalition. There have been instances where Members from the other coalition have expressed threats to the leadership of the Azimio Coalition. When security is withdrawn amidst such threats, then we have cause to worry. I was reading the Constitution the other day on the role you play, as the Speaker. In the absence of the two top leaders, then the Speaker of the National Assembly takes over.

**Hon. Speaker:** You have made your point.

**Hon. Jared Okello** (Nyando, ODM): This is a matter that I invite you to delve into so that we can all be safe. We may have differences in opinion, but that does not warrant the withdrawal of security of any person within the Republic of Kenya.

Finally, the security provided to former leaders, especially former Prime Ministers, Presidents and Deputy Presidents, is enshrined in our laws. Therefore, let us act by the dictates of our laws and not whimsically make decisions that do not sit squarely with the Constitution that we subscribe to.

I thank you very much for the opportunity.

**Hon. Speaker:** Thank you. Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. Let me commend Hon. Walter Owino for raising that issue because it is, indeed, true.

**Hon. Speaker:** Jared Okello.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Jared Okello is the Member for Nyando. You know, Hon. Speaker, Nyando is a constituency that is very close to my heart. Their former Member of Parliament, Hon. Fred Outa, was a very good friend of mine. I have had occasion to visit Nyando Constituency with him several times. It is only that the current Member has not invited me for fear of the unknown.

But he has raised a very important issue on the security of Members. It is, indeed, true that you, as the Chairman of the Parliamentary Service Commission and the Commission have the responsibility of ensuring that all our Members of Parliament are secure, especially when carrying out their work as Members of Parliament. I was among the first victims of security withdrawal by the “Handshake” regime sometime during the 12<sup>th</sup> Parliament. I raised that matter on the Floor of this House. I remember then that several of our friends who were supporting the “Handshake” regime, especially those within the Orange Democratic Movement (ODM), celebrated the withdrawal of my security and that of other Members whom they then, in a very derogatory manner, referred to as *Tangatanga*. They told us: “You cannot be given security to *tangatanga* with”. However, I will not fall into that category of celebrating the apparent withdrawal of security officers for Members of Parliament. However, we must also responsibly use our privilege.

*(Hon. Babu Owino and Hon. Sabina Chege consulted loudly)*

Hon. Speaker, protect me from Hon. Babu Owino and the party leader of Jubilee.

**Hon. Speaker:** Hon. Babu Owino and the team around you...

**Hon. Kimani Ichung’wah** (Kikuyu, UDA): I was saying I want to avoid the route taken by my colleagues in ODM by celebrating my withdrawal of security. I am also saying that, as much as we are entitled to security... I remember that time they told us: “You are secure. And you do not need policemen. The police have ensured that everybody within the country is secure”. We stayed without security for almost four years because of our political persuasion. I will never support the withdrawal of a Member of Parliament’s security on account of his political persuasion.

Members of Parliament enjoy that rare privilege of having armed officers with us almost on a 24-hour basis, when most of our constituents are being terrorised by thugs and there is rampant insecurity around the country. It is a rare privilege given to us by the people of Kenya. Therefore, it must not be taken away by anybody. However, we also have a duty and obligation to make sure that we do not, in any way or manner, misuse those security officers. There have been occasions when we have misused that privilege as Members of Parliament. I am aware there is a Member of Parliament whose security officer was disarmed because of misuse of the firearm. Our officers are charged with the responsibility of protecting us to execute our duties as Members of Parliament without fear or without being intimidated by anybody on the streets. Our officers are not given to protect us in violent demonstrations and protests.

When I listened to the Cabinet Secretary, Ministry of Interior and National Administration on Monday, he directed officers to ensure there is law and order in Nairobi and in other urban centres where we had been threatened with violent protests. It is appropriate when the Cabinet Secretary and the Inspector-General of Police say that you have not conformed to the law and the Public Order Act... That is when you have not informed the police on where you want to picket, what roads you want to use, and at what times. As the Inspector-General of Police directs the police to ensure there are no violent demonstrations and protests, we are calling for anarchy in the country when we want to use our armed officers to face off with other armed officers.

As much as I said I will not celebrate the withdrawal of security on any Member; not even Hon. Nyikal, Hon. John Mbadi, or even Babu Owino, who even has a record of misuse of firearms himself and is still guarded by an armed officer, I will never and I shall never stand to support the withdrawal of their security. But we must, as leaders, act responsibly. We cannot be leading young men who are torching vehicles and trailers on the Southern Bypass and matatus. The Matatu that was torched by goons from Kibra on Ngong’ Road belongs to a young

man from Undire Village in my constituency. That young man tells me he is struggling to repay his loan.

It is sad when it is we, leaders, who are using police officers who have been seconded to us to protect us, to intimidate other police officers not to carry out their duties. Some people in ODM who are crying today were the first people to shout me down when I said it was rather perturbing to see a person of the stature of a former President commandeering goons. The goons were chasing away police officers who were carrying out their constitutional and legal mandate while he has armed security standing next to him. We are only putting our country in danger if we allow these things to happen.

Hon. Speaker, even as you consider the request by Hon. Jared Okello, who is the Member for Nyando, I request you to rule that we, as Members of Parliament, should act responsibly.

It is true you are within your rights to picket and demonstrate, even if you want to protest peacefully or violently. It is within your rights. However, do not misuse armed Government officers to face off with other armed Government officers under the same command. It is only fair that we also protect our officers because they are also human beings like us. Remember Kisumu the other day; we lost our young man from Nyamira County, a police officer who was killed by youths throwing stones. Nobody bothered to moan that police officer. People have lost property on account of those demonstrations.

*(Several Members rose on points of order)*

**Hon. Speaker:** He is on a point of order.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): That is why I went out of my way yesterday, together with the Leader of the Majority Party in the Senate, to call for sobriety. Yesterday, I said that we bend backwards to accommodate our colleagues so that we can continue to engage with each other in this House in an environment where we can consult and talk to each other and not at each other in the streets.

**Hon. Speaker:** Thank you.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Now that all these Hon. Members are not protesting with other people out there, I want to request... I am sure that by now they likely have their security officers. This is because one of them told me that their security had been withdrawn, and that is why many of them were hanging around the House here and not joining the demonstrations. It is because they did not have security. I asked the Cabinet Secretary of the Ministry of Interior and National Administration, and he told me they have not withdrawn anybody's security. They have only asked their officers not to participate in protests and demonstrations. Therefore, I would like to inform the Member for Nyando that officers were only instructed by their commanders not to participate in violent protests, but to protect the lives and property of the people of Kenya.

Finally, let me congratulate and thank the leadership of the minority party. When we engaged... It is good to indicate to the country that, indeed, we have been engaging with the minority leadership, including the leadership of the Orange Democratic Movement (ODM) and the parties in Azimio, as well as the party leader of Jubilee, Hon. Sabina Chege.

*(Laughter)*

Over the weekend when we engaged, we indicated that we were more than willing to get back to the negotiating table. From our side of the Kenya Kwanza Coalition, we are only going to engage at the table of negotiations, but not on the streets. Indeed, we implored our colleagues over the weekend and even as late as Monday night to call off the demonstrations. I

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congratulate and thank them for calling off the demonstrations because that is a mark of leadership. We are all elected and are capable in this House.

Without pre-empting debate, I know there is also the talk of extra-parliamentary, inter-parliamentary and within Parliament bi-partisan approaches. I want to encourage all the Members of the bipartisan team ably led by Hon. Otiende Amollo and Hon. Gitonga Murugara that we have the ability and capacity to engage on all the matters that have come before that Committee. We have capacity to resolve these issues without having to throw words at each other, protest or blackmail the country using violent protests. We can, indeed, engage and resolve all these issues. I want to trust that Hon. Murugara, who is the Chairperson of the Justice and Legal Affairs Committee (JLAC), and his colleague, who will be the co-chairperson, will steer these discussions in the right direction to ensure that we never have to engage again in the streets.

In closing, I take this opportunity to ask the Ministry of Interior and National Administration and the Inspector-General of Police that if there is any Member of Parliament whose security has been withdrawn for other reasons, they should consider reinstating that security. However, I must emphasize this: Please let us not misuse our officers. If you want to go for demonstrations or other errands at night, allow your officer to go home to his family while you take care of yourself and your other business not with armed police officers.

With that, Hon. Speaker I thank you.

**Hon. Speaker:** Hon. Members, I honestly do not want to open debate on this.

*(Loud Consultations)*

He is the leader of the majority party representing the Government. He has said that if there are any security details withdrawn, he is advising the Cabinet Secretary to return them. I will give the Senior Counsel, Hon. (Dr.) Otiende Amollo, one minute. I do not want to open an endless debate on this.

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): Thank you, Hon. Speaker. I have tremendous respect for Hon. Ichung'wah, the Leader of the Majority Party. However, my problem with him is that he probates and reprobates. He says good things and immediately after that, he says another very bad thing. Sometimes he says them without information. The first point of information, Hon. Ichung'wah, is that the police officer who died was not from Nyamira. He was from my constituency, a place called Nyakongo in Rarieda, the late Brian Odiwuor. The second point of information is that he was not beaten by goons or anybody else. He was run over by the very same land cruiser he was commanding and I have the autopsy report. In fact, we have sought compensation from the police for killing my constituent.

If you allow me one more minute on the substantive issue, I just want to confirm that this is not a matter of speculation as Hon. Ichung'wah might be saying. It is true that our security was withdrawn. However, let us just make this distinction: First, the withdrawal of security of a Member of Parliament must be different from the withdrawal of security of those whom the law mandates provision of security. For instance, Hon. Speaker, when you retire, you are entitled to security. This cannot be a matter of discussion by anyone. So, a former Vice-President, former Prime Minister and people of that calibre are by law entitled to security. That cannot be withdrawn and it is not a matter of discretion.

*(Applause)*

When it comes to a Member of Parliament, there is a good reason why Members of Parliament have security. In fact, this matter has been affirmed even by the High Court in a constitutional petition. So, I want to suggest to Hon. Ichung'wah that when you address this

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matter, do not address it and then you add “but” and “that you may be entitled, but only if you do the following.” That is not the case. I want to assure Hon. Ichung’wah that I have always stood firm. In the last Parliament, I was firm when our security and that of those who were perceived to be against the Government then were withdrawn. I have always maintained that a Member of Parliament is entitled to security at all times irrespective of what they say.

If police officers misuse their firearms, there is a provision of how to deal with it and the Police Act is very clear about that. You cannot stand and say “some Members of Parliament engage in violent demonstrations.” There is no single Member of Parliament in this House who has engaged in any violent demonstrations.

*(Applause)*

You cannot then come and start saying that “if you engage in violent demonstrations.” And in any event, the exercise of a constitutionally provided right cannot be irresponsible. I just want to emphasise this point, that even those who think it is a matter of discretion, if we lose one Member of Parliament... Right now, there are situations and there are people who have been tasked to deal with certain Members of Parliament including myself. It is these same people who will be lamenting on how much money we are using to do a by-election.

What I wanted to invite you to do is to make a very firm finding that irrespective of where you are, whether you are in the Government or not, minority or majority, a Member of Parliament is entitled to security until and unless there is misuse, in which case, they are dealt with under the Police Act.

Thank you, Hon. Speaker.

**Hon. Didmus Barasa** (Kimilili, UDA): On a point of order.

**Hon. Speaker:** Yes Hon. Didmus, what is your point of order?

**Hon. Didmus Barasa** (Kimilili, UDA): Hon. Speaker, I rise on Standing Order 91(1) which states thus:

“A Member shall be responsible for the accuracy of any facts which the Member alleges to be true and may be required to substantiate any such facts instantly.”

The Member for Rarieda has claimed that some people have been tasked to eliminate certain Members of Parliament. This is a very weighty allegation which the Member should be called upon to substantiate. He is a senior counsel in this country, even though I am aware that he is the one who misled Kenyans through the Committee of Experts in drafting some of the very useless chapters in our Constitution.

*(Laughter)*

He should be called upon to substantiate or withdraw.

**Hon. Speaker:** Hon. John Mbadi, you have one minute.

**Hon. John Mbadi** (Nominated, ODM): Just a minute?

**Hon. Speaker:** Yes.

**Hon. John Mbadi** (Nominated, ODM): Let me then choose what to say, Hon. Speaker. I wanted to put emphasis that where an Act of Parliament confers a benefit, privilege or whatever it is to an office, that must be respected. I was telling Hon. Ichung’wah that this law that confers the privilege of security to the former Prime Minister, Deputy President and former Hon. Speakers is a Bill that I personally sponsored in this House. I told him I cannot allow, while I sit in this House, to see anybody urinating on it.

*(Applause)*

That is something that is unacceptable and the Government must respect it.

Finally, Hon. Ichung'wah is saying that they were the first to experience a withdrawal of their security as *tangatanga*. That is a misrepresentation of facts. I will tell you that you cheered when our security was withdrawn, together with the current Hon. Speaker when he was the then Leader of the Minority Party in the Senate and I was the Leader of the Minority Party in the National Assembly.

When he was the Leader of the Minority Party in the Senate, and I was the Leader of the Minority Party in the National Assembly, our security was withdrawn. It was not just security alone that was withdrawn, even our Government of Kenya vehicles, which belonged to the Parliamentary Service Commission (PSC), were taken. One of them was taken at the roundabout next to the Parliament Buildings. Another one was picked from my house.

This misuse of power in this country must stop. Let us not entertain the misuse of power. Whether it was previously applied to *tangatanga*, to the National Super Alliance (NASA), and now to the Azimio la Umoja-One Kenya Alliance, it is wrong and should stop. They should stop this idea of some police officer sitting somewhere and looking at us attending press conferences, and then the next thing you know, your security has been withdrawn. That is what they did in my case on Monday evening, just because I attended the Azimio Press Conference. When did I leave the Azimio la Umoja-One Kenya Alliance such that I am now being barred from attending their meetings? It is irresponsible. I have never seen irresponsibility of this nature.

We also need to tell the Leader of the Majority Party that, as much as he hates Uhuru Kenyatta, he was the President of this country for 10 years. It is irresponsible for the Leader of the Majority Party, who represents the Government in the National Assembly, to continuously speak derogatively about a former president. We should not accept that as a country. You cannot say that the former President has led goons. No! That is irresponsible. You cannot talk like that. No!

*(Loud consultations)*

**Hon. Speaker:** Order, Members. According to Hon. Jared Okello, 22 Members... is it 20 or 22?

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

According to Hon. Jared Okello, 22 Members have had their security withdrawn. Unfortunately, you have not provided the Speaker with their names because we have many Members in the House. If you care to give the names of the affected Members, I will then direct the Leader of the Majority Party to get in touch with the Cabinet Secretary for Interior and National Administration to ensure that Members are secure.

As to members of the public, including the former Prime Minister, and the former Vice-President, they certainly do not fall within the Speaker's jurisdiction, as you know. Because Hon. Ichung'wah represents the Executive in this House, I would encourage you to forward the complaint to him, and I will advise him to get in touch with the Cabinet Secretary for Interior and National Administration to ensure that the law is obeyed as it is, so that these problems do not recur.

More importantly, all the things that you are saying boil down to one thing: As responsible elected leaders in this country, tone down on toxic politics.

*(Applause)*

Order, Members. This is a classic case of the pot calling the kettle black. Tone down on toxic politics. Conduct yourselves with decorum. You carry an enormous responsibility for 50 million Kenyans, who have given you a rare privilege. It is not your right to be in this House. It is a privilege bestowed upon you by Kenyans. When you come to this House and everywhere you go, remember that you are a public trustee carrying the responsibility for people who cannot come to this House to argue their case. They look to you to ensure that they have peace, they and their families are protected, their properties are protected, and the laws that you pass are obeyed and enforced against offenders in fairness, as it is required under the same laws.

Thank you.

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

Order, Hon. Jared. That matter is closed. What direction do you want? Yes? Give Hon. Jared Okello the microphone.

**Hon. Jared Okello** (Nyando, ODM): Hon. Speaker, thank you for that most informed ruling on this subject matter. However, we are breaking for our recess today. In the same breath, this matter transcends the National Assembly. It also affects Senators in the Senate. Perhaps, I will give names, but they may not be very comprehensive considering the fact that some of us will be out of this House within the next few hours, and may not be available until next month. Given your direction, Hon. Kimani Ichung'wah, the Leader of the Majority Party, knew that Members of this House from my side of the political divide had their security withdrawn. Therefore, he should take up the matter, as it is, without necessarily going through their names.

Additionally...

**Hon. Speaker:** Hon. Okello, you are now veering off-track. You categorically said that you know 22 Members whose security was withdrawn. There are close to more than 100 Members on your side of the House. It cannot be anybody and everybody. It is the 22 Members that you talked about. Just make a list and pass on the names to the Leader of the Majority Party. He has said that he will deal with the issue. Can we end it there?

Yes, Hon. Nimrod Mbai.

**Hon. Nimrod Mbai** (Kitui East, UDA): Thank you, Hon. Speaker, for giving me the opportunity to say something about this.

Speaking from a point of experience, I served as a security officer and a bodyguard to a Member of this House for five years – from 1998 to 2002. I want to speak from the point of experience of bodyguards or security officers who guard us. It is very unforgiving and awkward for an officer when your boss is engaged in riots or demonstrations, and your seniors from the police force are chasing your boss and lobbying teargas at him or her. You are left in an awkward position. There is no way you can say that you are a Member of Parliament, and you go out there to engage in unlawful picketing or rioting when you have a police constable as your escort. A police inspector then comes to...

**Hon. Speaker:** Yes...

*(Loud consultations)*

**Hon. Nimrod Mbai** (Kitui East, UDA): Protect me, Hon. Speaker.

**Hon. Speaker:** He is giving a personal testimony.

**Hon. Nimrod Mbai** (Kitui East, UDA): Hon. Speaker, the voices of police officers have to be heard.

**Hon. Speaker:** Yes. Thank you.

**Hon. Nimrod Mbai** (Kitui East, UDA): The voices of police escorts have to be heard. We cannot leave it at that.

**Hon. Speaker:** Thank you, Hon. Nimrod. You can end there.

**Hon. Nimrod Mbai** (Kitui East, UDA): Hon. Speaker, the officer is left in a very awkward position when he or she is a police constable and his or her boss, a police inspector, is lobbying teargas at the Member that he or she is guarding.

*(Loud consultations)*

**Hon. Speaker:** Order, Members. You know very well that very few of you are as candid as Hon. Nimrod Mbai, who can stand before you and tell you that he was once a police constable guarding a Member of Parliament. We must salute him for that candour.

*(Applause)*

Order, Members. That tells you that every ambition is valid.

*(Hon. Robert Mbui spoke off-record)*

Order, Hon. Mbui. It is a poetic case. The guard is guarded.

*(Laughter)*

Thank you, Hon. Nimrod. I salute you for your efforts to get to this House.

Hon. Members, I want to acknowledge the CUEA Law School students from Langata in the Speaker's Gallery. Is that the Catholic University of Eastern Africa?

**Hon. Members:** Yes.

**Hon. Speaker:** We have Students Association from Homa Bay Town in the Public Gallery. On your behalf and my own behalf, I welcome them to the House of Parliament.

Let us go to Order 9 and dispose it of quickly.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): On a point of order, Hon. Speaker.

**Hon. Speaker:** Yes, Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, I noticed that when you introduced students from Catholic University of Eastern Africa, Hon. Babu Owino whom I know is a young man, when we were cheering in the House...

*(Loud consultations)*

*(Hon. Babu Owino spoke off record)*

**Hon. Speaker:** Order, Hon. Babu Owino. Order, Members. Go ahead.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): This is a House of order and decorum. I rose on a point of order because I noticed something that is uncalled for by Hon. Babu Owino. It is a fact that he is a young man and a parliamentarian. He ought to be an example to those young students in the Gallery.

*(Hon. Babu Owino spoke off record)*

*(Loud consultations)*

**Hon. Speaker:** Order. Hon. Kimani Ichung'wah, take your seat. Order, Hon. Babu Owino. Can you withdraw those unparliamentary words? You are more decent than that.

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*(Loud consultations)*

Give him the microphone.

**Hon. Babu Owino** (Embakasi East, ODM): Hon. Speaker, I withdraw, but I do not apologise.

**Hon. Speaker:** Hon. Babu Owino, you were a senior student leader. Those students in the Speaker's Gallery and Public Gallery look up to all of you here as an example for mentorship and to emulate.

*(Applause)*

Even in the heat of the moment, avoid using unpalatable words. Your families and the whole country are watching the proceedings. It is not right. That matter is closed.

Let us go to Order No.9.

**Hon. Kuria Kimani** (Molo, UDA): On a point of order, Hon. Speaker.

**Hon. Speaker:** Chairperson, Departmental Committee on Finance and National Planning, we have gone to the next Order. Nobody has moved any business. So, there cannot be anything out of order. Go on.

## PROCEDURAL MOTION

### REDUCTION OF PUBLICATION PERIOD OF A BILL

**Hon. Kuria Kimani** (Molo, UDA): Thank you, Hon. Speaker. For the record, I am a young person aged 34 years and serving my second term. I am not afraid to be called a young person.

Hon. Speaker, I beg to move the following Procedural Motion:

THAT, pursuant to the provisions of Standing Order 120, this House resolves to reduce the publication period of the Finance Bill (National Assembly Bill No.14 of 2023) from seven days to six days.

We are guided by our Constitution in this House. Article 118 of the Constitution talks about public access and participation. It says that Parliament shall conduct its business in an open manner, and its sittings and those of its committees shall be in public.

It is a consideration of the Departmental Committee on Finance and National Planning that if we do not reduce our publication period from seven days to six days, we will be disadvantaged in listening to the entire public on matters contained in the Finance Bill. This is the first Finance Bill of the 13<sup>th</sup> Parliament. It is the first tax policy that will be passed by this honourable House or the 13<sup>th</sup> Parliament. It is our considered view that this House kindly considers reduction of the publication period from seven days to six days to give us sufficient time to listen to all members of the public and make sure that public opinion is considered in the passage of the Finance Bill of this Financial Year.

With those remarks, I beg to move the Motion.

**Hon. Speaker:** Who is seconding you?

**Hon. Kuria Kimani** (Molo, UDA): I ask Hon. Makilap, who is one of the key Members of my Committee, to Second.

**Hon. Joseph Makilap** (Baringo North, UDA): Hon. Speaker, I second the Motion.

*(Hon. Adan Keynan stood in his place when  
Hon. Speaker was on his feet)*

**Hon. Speaker:** Order, Hon. Keynan. Take your seat.

*(Question proposed)*

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

*(Question put and agreed to)*

**Hon. Speaker:** Next Order.

## BILLS

### *First Readings*

THE COUNTY GOVERNMENTS (REVENUE RAISING PROCESS) BILL  
(National Assembly Bill No.11 of 2023)

THE FINANCE BILL  
(National Assembly Bill No.14 of 2023)

*(The Bills were read a First Time and  
referred to relevant Committees)*

**Hon. Speaker:** Hon. Members, when I finish reading the ruling, we will re-organise the Order Paper and go to Order No.13. In the opinion of Hon. Speaker and Leader of the Majority Party who moved the Motion, this Motion has been sufficiently debated. We should take steps to move a closure, so that the Question on it is put. Then, we will go back to Order No.12.

Hon. Members, I have a ruling on the replacement of the Deputy Whip of the Minority Party.

*(Applause)*

## COMMUNICATION FROM THE CHAIR

### SPEAKER'S RULING ON REMOVAL OF DEPUTY WHIP OF THE MINORITY PARTY

**Hon. Speaker:** Hon. Members, you will recall that on Thursday, 13<sup>th</sup> April 2023, I issued a Communication notifying the House that I had received a letter from the Minority Party through the Leader of the Minority Party, Hon. Opiyo Wandayi, de-whipping Hon. Sabina Chege as the Deputy Whip of the Minority Party. I also informed the House that I had received another letter from the Member for Nakuru Town West, Hon. Samuel Arama, seeking the recognition of the Jubilee Party as a parliamentary party within the meaning of the Standing Orders.

You will also recall that during the particular sitting, I made reference to two letters dated 21<sup>st</sup> September 2022 received from Hon. Jeremiah Kioni who signed off as the Secretary-General of the Jubilee Party. The letters sought to notify the House on the leadership of the Jubilee Party and its nominee to the Chairperson's Panel outside the framework of its Coalition.

On account of the weight of the matter, I allowed Members to make general comments to inform my guidance.

Hon. Members, in the ensuing debate, several Members, including the Leader of the Majority Party, Hon. Kimani Ichung'wah; the Leader of the Minority Party, Hon. Opiyo Wandayi; Deputy Leader of the Minority Party, Hon. Robert Mbui; Hon. Sabina Chege; Hon. Adan Keynan, Member for Eldas; Hon. Rachael Nyamai, Member for Kitui South; Hon. Gathoni Wamuchomba, Member for Githunguri; Hon. Zamzam Mohammed, Member for Mombasa County; and many other Members spoke on the matter.

Notably, Hon. Sabina Chege observed that her proposed removal from the position of the Deputy Minority Whip was contrary to Article 47 of the Constitution which grants every person the right to administrative action that is lawful, reasonable and procedurally fair. Additionally, Hon. Chege was of the view that the proposed removal contravened Article 236(2)(b) of the Constitution which requires that due process of law should precede any removal from office.

I wish to inform the House that since reserving this matter for a Considered Ruling, my office has received further correspondence from the Jubilee Party signed by Hon. Kanini Kega as the Acting Secretary-General of the Party. In the correspondence, Hon. Kega has conveyed certain changes to the leadership of the Party, including the appointment of a new party leader. The letter raises issues on who the *bona fide* officials of the party are. I note that the letter is copied to the Registrar of Political Parties who I trust will exercise her mandate appropriately.

From the foregoing, I have distilled the following three issues requiring my guidance—

1. whether the proposed removal of Hon. Sabina Chege as the Deputy Minority Whip is contrary to Articles 47 and 236(b) of the Constitution and due process of law;
2. whether the proposed replacement of the Deputy Minority Whip complies with the Standing Orders of this House; and,
3. whether the Jubilee Party is a Parliamentary Party within the meaning of the Standing Orders.

At this stage, I shall refrain from addressing the first issue that I have isolated. This is because it touches on matters falling partly within the mandate of the House and partly within the mandate of other competent constitutional and statutory bodies. These bodies include the Judiciary, the Political Parties Disputes Tribunal and the Internal Dispute Resolution Mechanisms of Political Parties and Coalitions.

The centrality of the Bill of Rights in the architecture of our Constitution cannot be gainsaid. Indeed, human rights are one of the national values and principles of governance under Article 10 of the Constitution. Article 47 of the Constitution on the right to fair administrative action and Article 236(2)(b) of the Constitution which requires the due process of law to be followed before the removal of a holder of an office, finds their basis in the Bill of Rights. These rights accrue to every person, including Members of this House, and cannot be limited except in the manner provided for under Article 24 of the Constitution.

Hon. Members, whereas Article 22 and Article 165 of the Constitution confer the exclusive jurisdiction to determine the question of whether a right or fundamental freedom in the Bill of Rights has been violated, Article 3 of the Constitution obligates the Speaker to uphold, defend and respect the Constitution.

It is noteworthy that under Article 20 of the Constitution, the Bill of Rights binds all State organs and persons. Pursuant to Article 21 of the Constitution, every State organ is under a duty to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights. In this regard, where a question arises touching on the possible violation of a Member's fundamental right or freedom, the Speaker cannot fold his arms and fail to act in blindness of the express requirements of the provisions of the Constitution that I have cited.

However, as I have observed earlier, addressing this issue exhaustively requires the involvement of other competent constitutional and statutory bodies besides the Speaker. Whereas the Speaker may make interim interventions to facilitate the continuity of the business of the House, the final interpretation and enforcement of the rights and freedoms lies with the Judiciary as outlined under Article 165 of the Constitution.

On the second issue, I note that Standing Order 20A(4) provides that a decision of a parliamentary party replacing its whip or deputy whip shall be communicated to the Speaker in writing. In the case of the Minority Party, the decision is to be communicated by the Leader of the Minority Party. Please, note the emphasis of the Standing Orders on the use of the word “replacing”. Further, Standing Order 20A(5) obligates the Speaker to convey the decision of a party to replace its whip or deputy whip as soon as practicable following receipt of the decision.

Members at the door, take the nearest seats.

*(Several Members walked into the Chamber)*

Thank you.

In most multi-party democracy jurisdictions all over the world, party discipline is key to the very existence of political parties. It may rightly be said that without party discipline, the functionality of political parties and multi-party democracy would be prejudiced. Permit me to note that Standing Order 20A finds its basis in Article 4(2) of the Constitution which establishes Kenya as a multi-party democracy. Additionally, paragraphs (4) and (5) of the Standing Order on replacement of party whips are in line with the democratic right of parliamentary parties to enforce party discipline of its members as provided for in the Political Parties Act, 2011.

From a close reading of Standing Order 20A(4) and (5), it is evidently clear that the Azimio la Umoja One Kenya Coalition is fully entitled to discipline its Members and to determine the composition of its leadership in the House. The only condition to the exercise of this right is that it has to follow the process prescribed under Standing Order 20A.

*(Applause)*

During yesterday’s afternoon Sitting, the Leader of the Minority Party submitted that the Speaker should not be seen as interfering with the manner in which a parliamentary party elects to organise its affairs. I cannot agree more and I have no intention of interfering with any party. Indeed, this is the accepted practice, particularly in the Commonwealth. An examination of precedents from parliaments in comparative jurisdictions lends itself to the adoption of a delicate approach in resolving internal party matters in the chamber of the House. In New Zealand, the arrangements for the appointment of whips are internal matters for the respective parties to determine on condition that the Speaker is advised of the appointment of whips. This is from the Parliament of New Zealand, Standing Order 35(1)(b).

Similarly, in South Africa, the National Assembly of South Africa was recently confronted with a leadership and decision-making dispute in the Pan Africanist Congress of Azania Party (PAC). In the matter, PAC had one seat in the National Assembly, which was filled by the nomination of Hon. Mzwanele Nyhontso who had already been sworn in as the party’s representative in the House.

Hon. Members, subsequently, a dispute arose within the PAC regarding its leadership. There was uncertainty about communicating the membership of Hon. Nyhontso and, consequently, who should represent the party in the National Assembly. The guidance provided to the House by the Speaker was as follows:

- (a) The Speaker has no authority to adjudicate internal party disputes about membership to the National Assembly or its leadership.

- (b) Neither the Speaker nor the House gets involved in party political matters.
- (c) It is neither for the Speaker nor a House of Parliament to decide which is the legitimate leadership structure of a political party.
- (d) It would be incorrect for either the Speaker or House to recognise one structure as the legitimate leadership of a political party (the PAC) over another.

Hon. Members, you will agree with me that the foregoing guidance of the Speaker of the South African Parliament is relevant to the questions that confront us today, including the question of which formation of the Azimio Coalition or the Jubilee Party, the Speaker should recognise in this House.

Hon. Members, the determination of political party disputes is best left to the competent authorities outside Parliament as envisaged by the law. This House passed the Political Parties Act whose provisions you are all aware of. The House or, indeed, the Speaker, ought not to be called upon to arbitrate party matters. In the case of party leadership in the House, the Speaker only communicates party decisions as received through the authorised persons. It should not be lost to us that the question of who the authorised persons are with respect to the Jubilee Party is one of the issues lingering.

Hon. Members, Party Whips are and have been an invaluable cog to the continuity of parliamentary business. Erskine May, a renowned authority on parliamentary procedure notes:

“The efficient and smooth running of the parliamentary machine depends largely upon the Whips.”

Erskine May further outlines the nature of the duties undertaken by Whips that makes them deserving of this lofty status. In this regard, Erskine May also notes:

“Certain duties are common to Whips of all parties: to keep their Members supplied with information about the business of the House; to secure the attendance of Members; to arrange, when possible, for those of their Members who cannot attend divisions to ‘pair’ with others on the opposite side of the House so that their votes might not be lost; to suggest Members to serve on general and certain select committees; and to act as intermediaries between the leaders and the parliamentary membership of their parties in order to keep each informed of the views of the other.”

Hon. Members, this authority creates a very strong nexus between facilitation of the business of the House and the office of the Whip or the Deputy Whip. In this regard, I am of the considered view that the Standing Orders of the National Assembly are deliberately worded to ensure the continuity of parliamentary business.

A close reading of Standing Order 20A leads to the inescapable conclusion that once a parliamentary party has designated a Whip or a Deputy Whip, the only subsequent change that the parliamentary party may make with regard to the two positions is a “replacement” of the person designated as a Whip or Deputy Whip.

Hon. Members, according to the Oxford Learners’ Dictionary, the word “replace” means to remove someone or something and put another person or thing in their place. It, therefore, follows that a replacement has two components, that is, the act of removal and the act of substitution which must happen simultaneously. In the current scenario, the Minority Party has conveyed its decision seeking to remove one of its leaders without simultaneously offering a substitution. The letter by the Minority Party only partially meets the express requirements of the Standing Orders.

Hon. Members, the Speaker is also confronted by several correspondence from a constituent party of the Minority Party that is currently facing its own internal disputes. Any Speaker would be highly constrained to facilitate the continuity of the business of the House in an environment which raises pertinent questions that cannot be ignored, including:

- (a) Should the Speaker ignore correspondence that affects the rights of Members who collectively meet the threshold to constitute a parliamentary party?

(b) Should the Speaker take cognisance of the precedent of the House on access to pre-election and post-election coalition agreements affecting its leadership?

Hon. Members, to my mind, the matters at hand cannot be conclusively resolved without affording the affected parties adequate time to comply with the procedural requirements outlined in the Standing Orders. The affected parties basically have to put their affairs in order. The National Assembly is a House of order. Consequently, the Minority side and the Jubilee Party must organize their affairs. They should also endeavour to appear organised.

As per the Calendar, the House is scheduled to adjourn at the end of the sitting today for the May recess. I am inclined that we allow the Minority Party and the Jubilee Party 30 days within which to put their affairs in order. By the time the House resumes from recess, it is my expectation that my office shall be in receipt of communication from the Minority Party replacing its Deputy Minority Whip, if they so wish, in the manner contemplated under Standing Order 20A.

Hon. Members, the third issue for determination is whether the Jubilee Party is a parliamentary party within the meaning of the Standing Orders. You will recall that, in his letter, seeking the recognition of the Jubilee Party as a parliamentary party, Hon. Samuel Arama observed that Article 36 of the Constitution on freedom of association and Article 38 of the Constitution on political rights, confers upon each Member of the House the right to determine which entities they wish to be associated with and the right to make political choices.

Hon. Members, Standing Order 2 defines a “parliamentary party” as a party recognised by the Speaker as a parliamentary party pursuant to Standing Order 20A on recognition of parliamentary parties and designation of leaders and Whips. Standing Order 20A (1) provides that the Speaker shall recognise a party or coalition of parties consisting of not less than five per cent of the membership of the National Assembly as a parliamentary party. Now, five per cent of the membership of the National Assembly is eighteen 18 Members. From the records of the House and the Speaker, the membership of the Jubilee Party in the National Assembly, comprises 28 Members. In this regard and pursuant to Standing Order 2 and 20A (1), the Jubilee Party meets the threshold to be recognised as a parliamentary party. Whereas the Jubilee Party meets the threshold to be recognised as a parliamentary party, I am hesitant to invoke this provision given the myriad correspondence received from the party with respect to its leadership and the persons authorised to communicate on its behalf to the Speaker.

Hon. Members, in summary, my guidance is as follows:

1. That, the communication received from the Minority Party with regard to the replacement of the Hon. Sabina Chege as the Deputy Minority Whip is incomplete and, therefore, does not comply with the requirements of Standing Order 20A of the National Assembly Standing Orders.
2. That, I hereby grant the Minority Party a period of 30 days from today within which to convey the appropriate communication on the replacement of its Deputy Minority Whip, if it so wishes.
3. That, whereas the Jubilee Party meets the threshold to be recognised as a Parliamentary Party pursuant to a Standing Order 20A(1), I am hesitant to invoke this provision given the myriad correspondence received from the party with respect to its leadership and the persons authorised to communicate on its behalf to the Speaker. I also give them a similar time to put their house in order.

Hon. Members, I take this decision conscious of the fact that as your Speaker, my duty is to uphold the Constitution, any law, and the Standing Orders to the extent to which they relate to the management of the business of the House. It is not the duty of the Speaker to be involved in the management of the internal affairs of any political party. And the Speaker does not wish to do so.

I thank you.

**Hon. Speaker:** Yes, Robert Mbui.

**Hon. Robert Mbui** (Kathiani, WDM): Thank you, Hon. Speaker, for that ruling. I agree with a lot of things you have said. It is important to note you have confirmed Standing Order 20A is very clear about removal and you used the word ‘replacement’. The minute a process begins, and part of it has already been implemented by the coalition... I am surprised it does not meet the standards of removal because replacement starts with removal.

Hon. Speaker, I am a bit concerned about your ruling because we are going on recess and as you can see, only a few of us are seated here. You know during the recess period we will still transact the business of Azimio Coalition and require the Whips to assist us. Why not give us an opportunity to look for a replacement because we already communicated the removal? Allow us to get a replacement, if possible, today and allow removal because that is what we communicated. All we are asking is for you to allow the removal and give us an opportunity to provide a replacement.

**Hon. Speaker:** Hon. Mbui, the ruling is very clear. I have given you clear direction. So, go and make the correct communication. Also, I have given you the period within which we are in recess and the ruling of the Speaker is not subject to debate and will not be qualified. Thank you.

**Hon. Members:** Next Order!

**Hon. Speaker:** The Leader of the Minority Party, you are allowed to comment on something you did not hear.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Thank you, Hon. Speaker. I heard a substantial part of the Communication because I was standing there but you did not notice me. I was from another meeting to do with bipartisan engagements.

**Hon. Speaker:** Go ahead.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, the gist of your ruling has got two legs. One, if I heard you correctly is that...

**Hon. Speaker:** You have a duty to hear me correctly.

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): On a point of order, Hon. Speaker.

**Hon. Opiyo Wandayi** (Ugunja, ODM): One, is that the Azimio Coalition needs to go back and put its House in order. Two... Relax, Hon. Chepkonga. Two, is that under Standing Order 20...

**Hon. Speaker:** Sorry, there is a point of order from Hon. Chepkonga. Is he not on a point of order? I just give him time to speak. Go on.

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): Thank you, Hon. Speaker. One, you said the Leader of the Minority Party was not here. So, he is seeking to comment on something he never heard and is saying something you did not say. He said he heard 50 per cent, so he never heard the other 50 per cent and is misleading himself. Second, I know my very good friend Hon. Mbui and him are not lawyers. In the street terms, once a ruling has been given by a court of law... Hon. Speaker, as you know, you have powers similar to that of a High Court. Once a judge has delivered a ruling, if you are unhappy, you can appeal. However, there is no appealing here. Hon. Speaker, you cannot sit to hear an appeal on your ruling.

**Hon. Speaker:** You are right.

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): Hon. Speaker, you are a respectable lawyer and should not allow anybody to comment on your ruling at all. In fact, you should rule them out of order. This will be the first in the Commonwealth, where the ruling of a Speaker has been appealed and the Speaker himself is sitting on an appeal. This does not happen in common law.

**Hon. Speaker:** It does not. Order, Hon. Members! Hon. Chepkonga is right but I have given Hon. Wandayi a chance. I believe he is not challenging the ruling neither...

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, this is my third term in this House. Hon. Chepkonga had misfortune of missing the last term so he needs to relax. My point was on the second matter of my communication to you with regard to the replacement of the Deputy Minority Whip not being complete.

Hon. Speaker, with all due respect, we have difficulty agreeing with that position, but be that as it may, once we initiate the process of replacing our Deputy Minority Whip under Standing Order 20A... It would have been advisable you first confirm removal of Hon. Sabina Chege to give us opportunity to make her replacement.

**Hon. Speaker:** Order, Hon. Wandayi! Order! Take your seat, please. The ruling was very clear and does not need interpretation. The wording of the Standing Order is plain English. It talks of replacement and your letter talks of removal, which is not replacement. Replacement is to take out and put in another as I have said very clearly. Your right to do that has not been taken away and you will not be engaged in analysing here. You can do that out there in the coffee shop but not on the Floor. Analysing and challenging the ruling of the Speaker is not allowed under the Standing Orders. In any case you have said you only heard part of it. I will avail the whole of it to you to read and understand, then you can make your comments or write to me if you wish.

The Leader of the Majority Party.

*(Several Members walked out of the Chamber)*

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. Let me begin by congratulating you for that Solomonic ruling. Hon. Speaker, it is clear that in as much as you were not in this House when we enacted the Standing Orders... I can allow those walking out to do so quietly.

*(Loud consultations)*

**Hon. Speaker:** Go on, Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, I was congratulating you for having interpreted these Standing Orders and appreciating you were not a Member nor the Speaker of this House when we enacted these Standings Orders in the last Parliament. As you said, Standing Order 20A(4) is quite clear that a decision of a parliamentary party replacing its Whip or Deputy Whip shall be communicated to the Speaker in writing. Indeed, that is the right interpretation.

I want to draw reference or equate this to a football match. When you substitute or replace a player, you do not remove and not put in another player to play. Therefore, that was the gist of this Standing Order 20A(4). That you shall not remove without replacement but you shall replace as is akin in football matches where you substitute a player. Therefore, if either the Minority or Majority wants to replace their leader, Whip or Deputy Whip, they cannot remove.

It is also true that power abhors a vacuum and what we were being told to do was to remove and leave a vacuum. I want to ask our colleagues to exercise patience. Hon. Speaker, as you said, nothing stops them from writing to you and expressing their desire to replace any Member be it in a committee or leadership. They can do that even tomorrow. Therefore, I want to implore on our colleagues to exercise patience and conduct the affairs of this House with less emotions.

Hon. Speaker, when the Leader of the Minority Party raised that issue on the Floor yesterday, you tried to stop him because he was doing it at the wrong time, but he became very emotional. Hon. Atandi uttered some unpalatable words just like I have heard Hon. Rozaah Buyu do today and what Hon. Babu Owino was trying to. We need to conduct business in this



House with some decorum. When you want to raise a point of order, you do not need to shout from your seat. The only way you can invite the Hon. Speaker's attention is on matters that touch on decorum here in the House, just like I did. When you recognise students, who ought to be emulating us, it is because we have a tradition and a culture in this House. We are leaders and role models. All you ought to do is to foot thump but not to bang tables. And that is the matter I had wanted to raise about Hon. Babu Owino.

I want to implore on our colleagues in the Minority Party, as the Hon. Speaker has ruled in his Communication, please, put your house in order. We pray in as much as we are also hurt. I was a ranking and founder member of the Jubilee Party. I still have some feelings for my friends in there.

**Hon. Speaker:** It is called nostalgia.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): I still have some nostalgia, Hon. Speaker. I am nostalgic about Jubilee Party because we had great plans for this country. I had hoped that you would communicate that you recognise Jubilee Party as a distinct Parliamentary Party in your ruling which qualifies under the Standing Order 20A(1) because they have achieved that threshold. As hurt and nostalgic as I am about my former Jubilee Party, I agree with you that we give them time to resolve their leadership issues.

**Hon. Speaker:** I have given them 30 days.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): I would like to ask our colleagues in the Orange Democratic Movement (ODM) to be as gracious as we have been. Azimio la Umoja – One Kenya Coalition Party, I pray and hope that you will resolve the issues that are within your Coalition so that we engage as leaders on the basis of policies that we espouse. There are those of us in Government and you in the Opposition or Minority. When I say “engage” I mean without being too emotional or insulting to the Hon. Speaker.

I want to give notice that I will be moving a Motion, when we resume, to name Hon. Samuel Atandi over what happened yesterday. We ought to be a House that conducts business with decorum. Occasionally, Hon. Pukose and I would point at issues that are out of order. I must thank Hon. (Dr.) Otiende Amollo. He is very keen. He pointed out Hon. Didmus Barasa who was not properly dressed. And that is how we protect the dignity of this House. But when we start shouting at the Hon. Speaker and calling him unpalatable names from where we are seated simply because we are not on *Hansard*... I mean, like when Hon. Babu Owino said he is not my girlfriend. Honestly, Hon. Speaker, I cannot admire a man under any circumstances and even if I was to, it would not be the likes of Hon. Babu Owino. There are enough women in this country to admire. I cannot be in the business of admiring men.

*(Laughter)*

I take your ruling with some hurt but I agree with you. You have no business as the Speaker of the House to micromanage any political party be it Jubilee Party, Azimio la Umoja – One Kenya Coalition Party, United Democratic Alliance (UDA) where I belong, or your former party, FORD-Kenya. The moment you resigned as the Party Leader of FORD-Kenya, being the Speaker now, you cannot micromanage the members of FORD-Kenya who are now in Kenya Kwanza Coalition. I agree that it is within your rights to allow our colleagues within the Minority Party to put their house in order. I wish them all the best as we go on recess that they will be able to put their House in order. They should be in a position to give us a formidable Opposition.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. John Mbadi.

**Hon. John Mbadi** (Nominated, ODM): Hon. Speaker, I first want to congratulate you for the ruling. This is a very clear and elaborate ruling, which in my view need not be contested in any way. This is an objective ruling from the seat of the Speaker.

*(Applause)*

The Standing Order is clear on what Hon. Ichung'wah talked about with regard to the Jubilee Party. It says the Deputy Whip of the Minority Party. Minority Party cannot be Jubilee Party. It is Azimio la Umoja – One Kenya Coalition Party.

Hon. Speaker, thank you for allowing Azimio la Umoja – One Kenya Coalition Party time to do a replacement because management of political parties is left for their leadership. I thank and congratulate you for this ruling. You were spot on and I totally agree with you.

Let us become an honourable House. In as much as we disagree, we should not use some words in this House whether it is coming from Members of the Majority Party or the Minority Party. We need to respect ourselves. There are some words which when used here, it is a clear indication of lack of self-respect. I would not want to participate or sit in a House where people do not respect themselves.

Hon. Speaker, it is high time you became a bit harsh. In the absence of that, we lose it as a House. Whether it came from the Majority Party or the Minority Party, it is equally bad. Leaders of Majority Party and Minority Party, please, lead us in being examples to all of us by first behaving with decorum then the rest of us will follow. I, sometimes, have a problem with my friend, Hon. Kimani Ichung'wah. He is a young man – far much younger than me. I have been mentoring him, but sometimes he veers off the rail. He is now my leader in the House but he knows that I am his senior. I came here before him. I went to school before him and became an accountant before him.

*(Laughter)*

In all aspects, he has a lot to learn from me. The image he is giving me is that the person I am training is untrainable.

*(Laughter)*

I have been training the Leader of the Majority Party for a very long time. I want him to lead this House well. On a serious note, you are the Leader of the Majority Party of the National Assembly of the Republic of Kenya, including those of us in the Minority Party. You are the leader – the second in command to the Hon. Speaker of this House. Henceforth, I would like to see a total paradigm shift from Hon. Kimani Ichung'wah as the Leader of the Majority Party of this House. The Leader of the Minority Party, Hon. Wandayi, should also be here most of the time. We need leadership in this House.

With those many remarks, I thank you.

**Hon. Speaker:** Hon. Robert Pukose

**Hon. (Dr.) Robert Pukose** (Endebess, UDA): Thank you, Hon. Speaker. I have keenly listened to your ruling. Normally, once the Speaker has delivered a ruling, a Member cannot appeal it directly but may be allowed to make some comments. In his comments, Hon. Speaker, I expected the Leader of the Minority Party to be magnanimous enough, agree with your ruling and stay in this House and listen. In the first place, he did not listen to the first part of the Hon. Speaker's ruling. He was not in touch with what the Hon. Speaker had ruled. We used to have the late Hon. Jakoyo Midiwo in the 11<sup>th</sup> Parliament and he would sit throughout all the rulings. Hon. Mbadi came in the 12<sup>th</sup> Parliament and would sit here and listen to all the rulings. He

would even consult Hon. Aden Duale across the aisle. That is the missing link that we are observing in this House where the Leader of the Minority Party is too emotional. We need this House to be sober. We need leadership from him as the Leader of the Minority Party. He is the leader of the alternative Government in this House. Therefore, he is not just carrying his own personal emotions. He has been making comments here that are almost personal. That should not be the case.

Hon. Speaker, those are my observations. We need to learn from each other and respect each side of the House.

**Hon. Speaker:** Hon. Lilian Gogo.

**Hon. (Dr.) Lilian Gogo** (Rangwe, ODM): Thank you very much, Hon. Speaker. The ruling which you have made is facts on sheet. You have talked about wordings that are in the Standing Orders that guide this House. So, it implores all of us to listen.

As has already been said by those who have spoken ahead of me, this should be a House of order, respect, honour, and dignity; an august House. I had mentioned this earlier on, Hon. Speaker, that I like it when a ranking Member of Parliament in the person of Hon. John Mbadi gives his advice to his brother and the Leader of the Majority Party. But I also wonder because more often than not, I realise that the Leader of the Majority Party has the space to speak at whatever time he wishes, on whatever matter and for whatever length of time. It is sad that the Leader of the Majority Party speaks on anything and everything. Scarcity creates value. How I wish that on certain matters the Hon. Ichung'wah would go without mentioning names of Hon. Members as the Leader of the Majority Party. This is because he is dealing with Members of Parliament who are also politicians and when they are adversely mentioned in the House, they are bound to answer and that is what creates chaos. If we could have the Leader of the Majority Party and the Leader of the Minority Party sit together, this House would take a better direction in terms of its debates and our responsibilities to the nation.

I thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Murugara.

**Hon. George Murugara** (Tharaka, UDA): Thank you very much, Hon. Speaker.

**Hon. Speaker:** You have a minute each, please.

**Hon. George Murugara** (Tharaka, UDA): Hon. Speaker, allow me to laud your ruling. I listened carefully to every word you pronounced and I am fully in agreement with all matters of fact and all matters of law. We cannot appeal against that ruling. I doubt whether we can even seek a review unless there are cogent grounds upon which we can do so.

When it comes to decorum of the House, it is vitally important that we sustain the dignity of the House at all times. Of late, we have had Hon. Members who shout unprintable words across the aisle and that is dangerous. It must be discouraged because at all times we must preserve the seat of the Speaker. Hon. Speaker, you are the seat of Parliament.

**Hon. Speaker:** Okay. Hon. Keynan. One minute, so compose your words quickly.

**Hon. Adan Keynan** (Eldas, JP): Thank you, Hon. Speaker. We have been here in the past Parliament. This ruling is Solomonic. I may not agree with every bit of it, but as Jubilee Party we expected you to declare us a parliamentary party.

**Hon. Speaker:** I have given you 30 days.

**Hon. Adan Keynan** (Eldas, JP): But you have given us 30 days. I want to appeal to the mind of my good friend, Hon. Wandayi that the 30 days does not apply to Jubilee Party alone. Even Azimio Coalition must put its house in order and Jubilee is one of the constituent parties of Azimio. The ODM, by extension, will not be allowed to dominate.

Hon. Speaker, the reason we are called the august House is because this is a House of respect, tolerance, and traditions. Therefore, each one of us must subscribe to these tenets and respect the office of the Speaker. You have done something unprecedented. This is the first

time I am seeing the decision of the Speaker being discussed. I hope this is not going to lead us into something else that is unprecedented.

Finally, we as Jubilee Party believe that the ruling will have its own interpretation. My interpretation is that Azimio needs to put its House in order and accept the concerns of Jubilee Party. Jubilee Party as a constituent Party....

*(Hon. Adan Keynan spoke off-record)*

**Hon. Speaker:** Thank you. Hon. Members, I want to end here so that we go to other business. I just want to echo the words of Hon. Mbadi and the seniors in this House like Hon. Adan Keynan, those who have done at least three years and above. That, this House will be remembered because of your conduct. You will go down in history as either a Member of Parliament who came to House, clowning yourself for five years and then walked away. Wananchi are watching. I want to encourage the seniors from the Minority side, particularly Hon. Mbadi and Otiende Amollo, senior counsel, to implore upon their leadership to give a little more time to the House and to give a little more respect to the conduct of business in the House. Hon. John Mbadi, you are spot on.

I stand here as a father figure to many of you because of the longevity of my stay in this House. I first came to this House in 1992. As a very young person, I sat on the Speaker's Panel. I hit the ground running learning how to run the House. I sat on this Chair in the presence of greats like the late President, Hon. Mwai Kibaki, the late Hon. George Saitoti, the late Hon. Wamalwa Kijana, the late Hon. Mzee Moi, Hon. Moody Awori, Hon. Prof Rashid Mzee, Hon. Paul Muite and many others, including now the departed Hon. Mutiso. For Hon. Raila Odinga, we walked in this House for the first time on the same day. We had mercurial great debaters like Hon. James Orengo and many others. President William Ruto found me here and we worked together. Hon. Members, this journey is long and you will pass through some very slippery grounds. Sometimes, you may think you know everything when you know nothing.

*(Laughter)*

That is what gets us off the rails. Leadership is a privilege; it is not a right. Hon. Mbadi keep on talking to our colleagues in the manner you did. When you are given an opportunity to lead, please, lead.

I have been extremely courteous to every Member and I will continue doing so. However, I will try to enforce the rules of the House. There are three or four Members I have noted who are taking for granted the magnanimity of the Chair and that is not right. I saw one Member yesterday confront the Hon. Member for Dagoretti North asking her why she was sitting here when the rest had gone out. It is not your duty as a Member to picket with Members out of the House. Every Member is here on their own rights.

*(Applause)*

Hon. (Dr.) Otiende Amollo is here to represent the people of Rarieda, and that responsibility is not shared unless he wants to share it himself. At the end of the day, you answer questions to the people who cast the vote for you. For the time we have been here, even if we are slow at learning, we have learnt something. It is good to listen when we tell you what to do. I will administer this House without any fear or favour, and with absolute fairness.

*(Applause)*

We want a House that everybody out there looks at in admiration. That is why we have a host of students who come here and sit in the Gallery. When students, who are your children, sit up there and hear the words that Hon. Babu Owino uttered on this Floor, they shudder.

*(Loud consultations)*

I encourage Hon. Mbadi, Hon. Otiende Amollo and Hon. Keynan, because you are the seniors, to talk to these young colleagues and tell them that sometimes you may be quick to answer or quick to speak, but the good book of the Lord, the Bible, says, “Always be quick to listen and slow to answer.” That way, you will manage to get away with many things.

Hon. Kaluma, I am told you are also senior, and I acknowledge that.

*(Laughter)*

Next Order.

## MOTIONS

### GENERAL DEBATE ON PROPOSALS TO AMEND THE CONSTITUTION AND THE STANDING ORDERS

THAT, noting the contents of a Memorandum submitted to Parliament by His Excellency the President asking Parliament to consider initiating amendments to the Constitution; acknowledging that, actualisation of the proposals which relate to, inter alia, the composition of Parliament as provided for in Articles 97 and 98 of the Constitution in order to attain the two-thirds gender principle, the creation of the Office of Leader of Official Opposition in Parliament, and the inclusion of various funds in the Constitution, would necessitate amendment to the Constitution, while the restructuring of parliamentary oversight to allow for Cabinet Secretaries to appear before the Houses of Parliament to respond to Questions by Members would require the amendment of Standing Orders; further acknowledging that, the Speaker, vide a Notification issued on 9<sup>th</sup> December 2022 referred the matters raised in the Memorandum to the Departmental Committee on Justice and Legal Affairs with regard to proposals relating to the implementation of the two-thirds gender principle and the establishment of the Office of the Leader of Official Opposition; the Joint Parliamentary Ad-hoc Committee with regard to proposals to amend the Constitution to entrench the Constituency Development, Senate Oversight and National Government Affirmative Action Funds; and the Procedure and House Rules Committee with regard to proposals to amend the Standing Orders to strengthen parliamentary oversight of the Executive, so as to facilitate public participation pursuant to Article 118 of the Constitution; now therefore, pursuant to the provisions of Articles 1(2) and 95(2) of the Constitution, this House notes, considers and makes general comments on the proposals contained in the Memorandum by His Excellency the President.

*(Moved by Hon. Kimani Ichung'wah on 8.3.2023)*

*(Resumption of Debate interrupted  
on 8.3.2023 – Afternoon Sitting)*

**Hon. Speaker:** The mover of the Motion, the Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. I beg to reply to the Motion. As you mentioned, we have, indeed, interacted with this Motion for the better part of this Session. We even went ahead to amend the Standing Orders. That is why in the last three weeks we have had Cabinet Secretaries in the plenary. That is one of the issues that was in this Motion.

I had an engagement this morning with Cabinet Secretary Aisha Jumwa, the former Member of Parliament for Malindi, on the question of the two-thirds gender rule. I am aware that all women parliamentarians have been keenly following this debate and the work going on in the Executive and efforts of the civil society. I attended a forum of women parliamentarians at Radisson Blu Hotel sometime last month on this question of the two-thirds gender rule.

I plead with Members of the *ad hoc* Committee we established, under the Chairmanship of Hon. Chepkonga and the other leaders in the Senate, to now embark on the real work of ensuring that the two-thirds gender rule question is resolved constitutionally as well as creation of the Office of the Leader of Official Opposition.

Hon. Speaker, as Hon. Mbadi and you have said, it is time we got good and courageous leadership in the House. Leadership that will not abrogate its responsibilities by walking out of the House. We need leaders who will lead the Minority Party, whether they are outside or inside the House. That is why I strongly support the proposal to create the Office of the Leader of Official Opposition. It gives the country an opportunity to listen to policies and ideas alternative to those of the Government in office at any particular time.

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

*[The Deputy Speaker (Hon. Gladys Boss) took the Chair]*

As many Members said in their contributions to this debate, the Office of the Leader of Official Opposition is not being created for any particular individual. It is being created for posterity to deepen and enhance our democracy. I appeal to members of the *ad hoc* Committee to work with utmost speed to ensure that we get the Constitution amendment Bills before the House when we resume for the next part of this Session of the 13<sup>th</sup> Parliament.

The question of two-thirds gender rule is something that we have tried to resolve four times over the years and failed. I believe that, with the goodwill that I heard from Members here and in the Senate, we will see the actualisation of the two-thirds gender rule in this 13<sup>th</sup> Parliament.

On the question of the National Government Constituencies Development Fund (NG-CDF), I am aware that there are still court cases before the Judiciary. As those cases continue, it is important that we entrench NG-CDF in the Constitution so that in future, the National Government Affirmative Action Fund (NGAAF), NG-CDF or the proposed Senate Oversight Fund never get challenged in court on the basis of unconstitutionality.

In conclusion, I join the Speaker in imploring all of us to be good leaders, as much as we want to create other offices like that of the Leader of Official Opposition. In line with what the Speaker has said in his ruling, let the Minority Party and the Jubilee Party put their houses in order. I congratulate the many Members in the Minority Party who never followed their leadership in staging a walkout. Let us lead from the front. Let us come to this House. We are paid by our constituents. Those of us who are leaders enjoy a responsibility allowance to lead the rest of the teams. There is no time I will ever walk out of this Chamber because I do not agree either with the Speaker or a colleague in the Minority Party.

On the issue raised by Hon. Lilian Gogo, there is absolutely nothing wrong with a Member mentioning Hon. Zamzam by name. My name is mentioned in this House every now and then. Every Member of Parliament from the Minority Party who wants to make their name must mention the name Kimani Ichung'wah in their speech. I allow them. I do not get emotional about it. I bear a lot of insults from the Minority Party and I take it in my stride. I implore the leadership in the Minority Party to also have the patience and the emotional intelligence to deal with both the membership they lead and the membership on the side that I lead. Let us exercise patience and emotional intelligence to decipher what is meant for this Floor, what is meant for rallies out there, and what is meant for the streets. We should conduct ourselves with utmost dignity. Throwing barbs at the Speaker is something that we should never entertain.

When we create the office of the Leader of Official Opposition, we want it to be a respectable office. We should hold whoever will be in that office with esteem and respect, whether it will be our good friend Hon. Kalonzo Musyoka or our good friend Hon. Raila Odinga or Hon. John Mbadi or Hon. Kaluma or Hon. Caroli Omondi, a seasoned businessman and a respectable leader from Suba. Respect is two-way. If you demand respect, you must respect others. If you demand to be treated well, you must treat others well. We will have time during recess for the *ad hoc* committee. Hon. Chepkonga informed me that they are scheduled to sit today. I sought the Speaker's indulgence to re-order business so that we close this debate and allow the *ad hoc* committee and other interest groups interested in this matter to engage on all the items from the NG-CDF, the NGAAF, and the Senate Oversight Fund to the establishment of the Office of Leader of Opposition and the two thirds gender rule that I know you are keen on. You had a Bill, but when I requested you to indulge us, you were gracious enough to allow us time to debate this Motion. I want to assure you that we will push the *ad hoc* committee to actualise the two-thirds gender rule.

This House, with all the beautiful ladies here – together with many more who will join them – is rich. Our democracy is rich with them. Our gracious ladies exercise emotional intelligence more than many of us men in this House who tend to be forceful and insulting to each other. Our ladies, being mothers and our sisters, are more gracious. Therefore, our democracy will be better and richer by having more women participating in leadership as we continue to mentor our young girls who come to this House, like those who came from the Catholic University and the young student leaders from Homa Bay Town Constituency that is represented by Hon. Kaluma. As the Speaker noted, he is not just serving as a senior leader, but also as a Member of the Chairperson's Panel. I pray that he will emulate the Speaker so that at some point in future, he becomes the first Member of Parliament from Homa Bay County to serve as the Speaker of the National Assembly or the Senate.

*(Loud consultations)*

I said National Assembly or the Senate and not Homa Bay County Assembly.

**Hon. Deputy Speaker:** Hon. Members, we will put the Question at a later time.

*(Putting of the Question deferred)*

Next Order.

ADOPTION OF REPORT ON FINANCIAL STATEMENTS  
OF NG-CDF ACCOUNTS FOR COAST REGION

THAT, this House adopts the Report of the Decentralised Funds Accounts Committee on the consideration of the Reports of the Auditor-General on the

Financial Statements for the National Government Constituencies Development Fund for Twenty-Six Constituencies in the Counties of Mombasa, Kilifi, Kwale, Taita Taveta, Lamu and Tana River for financial years 2013/2014, 2014/2015 and 2015/2016, laid on the Table of the House on Tuesday, 25<sup>th</sup> April 2023.

*(Moved by Hon. Gideon Mulyungi on 2.5.2023)*

*(Resumption of Debate interrupted on 2.5.2023)*

**Hon. Deputy Speaker:** We shall resume debate on this Motion. Hon. Joseph Makilap, Member for Baringo North. He is not in.

Hon. John Kiarie, Member for Dagoretti South.

**Hon. John Kiarie Waweru** (Dagoretti South, UDA): Thank you, Hon. Deputy Speaker. I was keen to speak to an earlier issue, but the matter on the Floor of the House is of concern to every Member of Parliament. The issue of the NG-CDF is a matter I would like to add my voice to. Any Member here will tell you the import of this Fund called the NG-CDF. In fact, if there is one thing that this House should do, it is to take up the level of the NG-CDF to 2.0. Hon. Muriuki Karue came up with the idea of the NG-CDF, which has become a spectacle in this country. Internationally, people recognise that there is a way through which funds can be devolved to the furthest part of a country and they become effective. In the life of this Parliament, we must seek ways of taking the NG-CDF to a level where it becomes a leading light to the people who are running the counties.

A juxtaposition has been done over and over again. If you go to your constituency and compare the amount of money that goes there through the NG-CDF with the money that goes there in terms of devolved funds through the county government, the difference is like day and night. I want to imagine that this House will take advantage of this matter that has been brought to this House and not only debate it as a miscellaneous amendment Bill, but also when it gets to the Committee of the whole House, the House will put in good proposals that will bring up the NG-CDF to 2.0. We will not only establish it in law, but also build it up in terms of money allocated as a percentage of the national budget so that the NG-CDF keeps doing the good things that it does to the constituencies.

I appreciate this opportunity. I support.

**Hon. Jared Okello** (Nyando ODM): On a point of order, Hon. Temporary Deputy Speaker.

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

**Hon. Jared Okello** (Nyando ODM): Thank you, Hon. Deputy Speaker for the opportunity. Sometime back, I raised an issue of withdrawal of security by the police and I was directed by the Speaker to do a letter to the Leader of the Majority Party so that he could pursue the issue of reinstatement of security to Members who have been affected, like myself. I want to go public now as I deliver the letter to our Leader of the Majority Party, Hon. Kimani Ichung'wah. Please, receive your letter.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): On a point of order, Hon. Temporary Deputy Speaker.

**Hon. Deputy Speaker:** What is your point of order Leader of the Majority Party?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Deputy Speaker, I appreciate Hon. Jared Okello's attempt. However, he knows that the Leader of Majority Party is a constitutional office with an office. These theatrics are unnecessary in the House. I want to request that you rule him out of order. If he has a letter to deliver, he should deliver it to the Office of the Leader of the Majority Party and it will be duly attended to.



**Hon. Deputy Speaker:** I am sure that has been duly noted. Member for Molo, Hon. Kuria Kimani.

**Hon. Kuria Kimani** (Molo, UDA): Thank you very much, Hon. Deputy Speaker. I stand to support the general debate on the issue of the reports of the Auditor-General on the financial statements for the NG-CDF as per our Standing Orders. I have said severally on the Floor of this House that I am a product of the NG-CDF. When I completed my primary school education at Mwangi Muchiri Primary School in Mukinyai and got admitted to a national school, my grandfather who brought me up could not afford to pay school fees for me to join that school. As a result, I found myself at Kieni Secondary School – a mixed day secondary school – in Kiringero, Subukia Constituency.

Having been admitted to a district mixed day secondary school, we still could not afford school fees for that secondary school. My villagers had to fundraise. I remember one lady – we call her “Cucu Virginia” – who contributed everything she had because she did not have her own child to take to school. Thereafter, the then Member of Parliament for Molo, Hon. Mukiri Macharia, through his member of staff, Mr. Karanja Wangece from Witima, approached my grandfather and told him that he could apply for bursary funds to take me through secondary education. That is how I went through secondary school from 2002 to 2005. I was one of the first people in my secondary school to qualify to be admitted to a public university. I missed mean grade “A” in the KCSE exams with one point despite going through a mixed district day secondary school. For me, it is a personal matter every time the NG-CDF is discussed here. I empathise with the millions of students in this country who would like to be in a reputable boarding school, but cannot afford to get there. I mean schools like Precious Blood Riruta, Alliance High School, Alliance Girls High School or, closer home, the Molo Academy Boys Secondary School and Mary Mount Secondary School, or all those big named schools. Even affording transport to those schools is a nightmare. I really identify with those students.

When I took my candidature to the people of Molo to be their Member of Parliament in 2017, I made a commitment. In fact, my re-election bid in 2022 was based on my performance because the people of Molo have never re-elected anyone for the last 30 years until yours truly became the first person to be re-elected to the position of Member of Parliament for Molo Constituency. Our polling stations are either our primary schools or secondary schools. I told my people not to vote for me again if they went to where they voted for me, whether it is that primary or secondary school, and found it the same way it was when they voted for me in 2017. They voted for me again because all the polling stations where people went to vote from in the last election in my constituency had a difference. We had either renovated the school or put up the first permanent building in that school. If it was a day secondary school, I told them that I would make sure that we would have 100 per cent equipped and complete science laboratories in all the day secondary schools in Molo Constituency by the end of my five-years tenure. I am saying again here that I was re-elected on that merit.

When issues of NG-CDF come to this House and we are told that some managers have mismanaged the funds sent to their constituencies, I am saddened. Some are being applauded on basis of the equalisation done in our education system. Availability of infrastructure in our schools, and the existence of a Fund from which people who cannot afford to pay school fees benefit through bursaries and scholarships to ensure that their children go to school, becomes an equaliser in our society. Nobody wants to be poor. Nobody wants to be born poor. Certainly, nobody wants to die poor. It is not a choice of anyone in this country to be born poor. If asked, we would all be born in privileged families where we could have everything we would want. That is not the reality. The only way we could bridge that gap between those born in privileged families and those born in absolute poverty, underprivileged families or families of need, is making sure that the public education system works.

I meet some people who tell me that they went to school in Molo in my normal line of interaction. I always think, “Where in Molo did you go to school?” Someone will tell me “I went to Molo Academy. I went to Mary Mount School, like my wife did. I went to Elburgon Secondary School.” Those people are doing very well in their careers. I met someone who told me, “I went to school in Turi” in one instance. Turi is one of the rural wards in my constituency. My town wards are Elburgon and Molo town. I got very curious to find out which schools they went to in Turi, only for him to tell me it is St. Andrews School. In my imagination, I did not count St. Andrews School Turi one of the schools in my constituency until someone told me they went there. I would have thought they went to Turi Secondary School, St. Brendan’s Primary School or Mianzini Secondary School. They told me they went to St. Andrews School.

I got more surprised during one of my travels facilitated by Parliament, while waiting at an airport in Paris, I met a former Cabinet Secretary for Finance in Nigeria. I told him I am a Member of Parliament for Molo Constituency in Kenya and he told me that he knew Kenya, Molo to be specific, because all his children have gone to St. Andrews Turi School. That is when I realised that St. Andrews School is such a respectable school across the region. Many respectable people across the globe take their children there. That was in 2018. Owing to these findings, I have endeavoured to ensure that the schools in Molo Constituency possess such a repute as St. Andrews School Turi. We are not there yet, but 99 per cent of my schools in Molo Constituency have complete and equipped science laboratories, courtesy of the NG-CDF.

In light of the digitisation of the economy, I have made a commitment with my people that every secondary school will have an equipped and complete Information and Communications Technology (ICT) laboratory within the current five-year term that we started in August. In the new system of junior secondary schools, I will also make sure all have science laboratories so that education becomes an equaliser.

**Hon. Deputy Speaker:** Thank you. Let us have Hon. (Prof.) Phyllis Bartoo, the Member for Moiben. She is not here. Hon. John Gitonga, Member for Manyatta, is not here. Let us have Hon. Mugambi.

**Hon. Mugambi Rindikiri** (Buuri, UDA): Thank you, Hon. Deputy Speaker, for giving me this opportunity to join my colleagues on this important discussion concerning the NG-CDF.

I stand here as a proud Member of Parliament for steering this important Fund to develop our schools and give bursaries to our kids. Some of us were privileged to go to very important boarding schools. We did not have very many schools in those days because the population was very small. The need for education, more infrastructure, more classrooms, and facilities in our education institutions started becoming a problem as the population increased. I stand here to certify that, through the NG-CDF, we have given opportunity to disadvantaged children within our constituencies. We have given orphans, single mothers, and children from very poor families, opportunity to study because of the bursary they get from the NG-CDF. It is through education that we will create equality between the rich and the poor.

Through the NG-CDF, we have good infrastructure and bursary funds. We have elevated the children that many people thought would never succeed in education. I stand here to certify that, through the NG-CDF, we have created doctors, engineers, pilots, administrators and good citizens. If the NG-CDF was not there, we would not have created these people in our midst. As I speak today, I have a student from a very poor family who used to sleep with the watchmen in the school, who is now doing a neurosurgeon course at the University of Nairobi, courtesy of the NG-CDF. When somebody mismanages this fund for whatever reason, it creates a very bad image of the entire membership of this House. This is somebody who has no care for disadvantaged people.

Through the NG-CDF, we have seen youth activities being promoted in our constituencies. We have created opportunities for sports and talent growth such as athletics. In

Buuri Constituency, we have embarked on a process of developing playing grounds from the last Parliament. I am proud to say that we have already created opportunities for 18 schools, where we have developed playing grounds for our children.

We have used the NG-CDF to create infrastructure for our security. Where we did not have police posts, we have used the NG-CDF for that purpose. We have created laboratories where we did not have them. I invite the NG-CDF Committee to visit Buuri Constituency to see the kind of laboratories and libraries we have put up through the NG-CDF. We are using the NG-CDF as a facility for environmental management. I want to thank the community of Buuri, the school fraternity that comprise parents, pupils and teachers. Through the NG-CDF, we have acquired seedlings. We are now planting trees that are readily available for afforestation. It, therefore, beats logic when a Member, a fund manager or anybody associated with the NG-CDF mismanages it. It calls for us as leaders to review our integrity. I spend a lot of time ensuring that no single penny of the NG-CDF is misused. That is why we have an infrastructure programme in all our 87 primary schools. There are some schools that we have put up 100 per cent using NG-CDF - from Standard One all the way to Standard Eight.

*[Hon. Deputy Speaker (Hon. Gladys Boss) left the Chair]*

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

We have also developed certain secondary schools. There were schools that were dilapidated but now our children are enjoying. Previously, children were attending classes with no windows.

*(Hon. Member spoke off record)*

Hon. Temporary Speaker, I did not notice your presence. I thought it was a ghost, apologies.

**The Temporary Speaker** (Hon. Omboko Milemba): Order! The Speaker can never be a ghost.

Proceed.

**Hon. Mugambi Rindikiri** (Buuri, UDA): That was on a light touch, Hon. Temporary Speaker. I cannot understand why somebody is so insensitive about our children going to classes without windows, floors and desks. This is something that is verifiable and yet you mismanage that fund. It shows that some leaders have no integrity. I do not want to be put in that category. That is why I made a commitment that we shall use every coin from our NG-CDF to ensure that our children are comfortable. We have embarked on a process of ensuring that we have classrooms commensurate to junior secondary schools (JSS) in every school in Buuri. I can assure you that within the next two financial years, all our schools in Buuri Constituency will have junior secondary facilities commensurate to a secondary school - ranging from desks, classrooms, sanitary facilities, libraries and laboratories.

Hon. Temporary Speaker, our security organs need support. We cannot relax and say that the Government will fix it. I am very proud because in all my five wards, we have police stations which were not there before we intervened through the NG-CDF. This is because we need good services from our security systems. Our police have been operating in very dilapidated offices to a point that people do not want to say where they work. I am proud to say that all this was done through the NG-CDF. Therefore, Members, let us not take advantage to mismanage the NG-CDF. Let us utilise every coin. It is very important. I look forward to the disbursement of the balance of the NG-CDF. I think on average, each constituency has a

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balance of about Ksh100 million in the current financial year. We are entering the next financial year where each constituency will have over Ksh140 million. When that money is availed, you will see more wonders on the NG-CDF. However, it is a shame for those constituencies where money has been mismanaged.

I thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Omboko Milemba): Very well. Next is the Hon. Janet Sitienei.

**Hon. Janet Sitienei** (Turbo, UDA): Thank you, Hon. Temporary Speaker. I want to add my voice to this Motion.

I am one Member of Parliament whose people have really benefited from the NG-CDF. I want to say it is one fund that has helped many people, especially from poor background, to go through school and college education and earn a living thereafter. It is one fund that needs to be enhanced to enable us support our constituencies and families to improve their livelihoods. It would be very sad if this Fund is misappropriated and misused. It is one fund that has equalised education in all our constituencies. If this Fund were enhanced, it would assist in developing infrastructure and equipping junior secondary schools. At the moment, we have very many challenges in junior secondary schools. Most schools have no laboratories. In the meantime, I wish the NG-CDF Board could allocate funds for purchase of mobile laboratories as we wait to build laboratories for schools that do not have them.

The NG-CDF has improved enrolment of children in our schools. The NG-CDF has been felt within our communities. It supports the very needy such as women and widows who have children, and have nobody else to support them. The NG-CDF has helped them through bursaries. It has also helped to support the elderly who have no earnings.

*(A Member crossed the Floor without bowing to the Chair)*

**The Temporary Speaker** (Hon. Omboko Milemba): Order. There is a Member who has just crossed the Floor without bowing to the Chair, and he has done so several times this afternoon. This afternoon, under the chairmanship of the Speaker, the House spared a few minutes to talk about order in the House. Can you go back and do the orderly thing? Just go back.

You may proceed, Hon. Member.

**Hon. Janet Sitienei** (Turbo, UDA): Thank you, Hon. Temporary Speaker. This Fund has also supported people who have had challenges in paying for the National Hospital Insurance Fund (NHIF). We have been able to identify very needy homesteads and supported them through the NHIF to access healthcare services, which is provided for in the NG-CDF Act. Therefore, we should not take this Fund lightly. We only want to enhance it, so that we can support and reach out to very many people.

Apart from improving enrolment in schools, the NG-CDF has also improved the mean grades of our schools. Because children go to school every day without interruption, courtesy of NG-CDF bursaries, the mean scores of our schools have improved.

It is unfortunate that some constituencies still have classrooms that are constructed without concrete. No child in this era of the NG-CDF should study in a mud-walled classroom with grass-thatched roof like we see in other places. We are asking that the allocation to the NG-CDF, which was modestly enhanced during the 12<sup>th</sup> Parliament, be enhanced further to at least five per cent of the national Budget to cater for other facilities within schools.

The NG-CDF has also supported the nurturing of talents through sports. It has also supported climate change initiatives in terms of tree-planting. Therefore, we request that since we have all been directed by His Excellency the President to plant 15 billion trees, we use this Fund to ensure that when we plant trees, they actually survive. Members of Parliament should

be allowed to use the NG-CDF to fund those who will protect trees to ensure that they grow to maturity as we support the global effort against climate change by improving the environment.

This Fund has done a lot of things within the constituencies and the counties at large. We should never misappropriate it. We should use it prudently so that very many schools can benefit and our children can get better education.

Thank you, Hon. Temporary Speaker, for giving me opportunity to add my voice to this Motion.

**The Temporary Speaker** (Hon. Omboko Milemba): Is Hon. John Gitonga in the House? Is Hon. Martin Wanyonyi in the House? In the absence of Hon. Martin Wanyonyi, could we have Hon. Charles Onchoke from Bonchari Constituency? Let us have Hon. Phylis Bartoo.

I would like to ask the Members who are in the House to put their cards in the intervention slots right away. I will see your names on the intervention list. Just put your cards in the intervention slot.

Proceed, Hon. Beatrice Kemei.

**Hon. Beatrice Kemei** (Kericho County, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity to speak to the Motion on the consideration of the reports of the Auditor-General on the financial statements for the NG-CDF for 26 constituencies.

The NG-CDF and the NGAAF are very important not only to Members, but mainly to Kenyans. Members are just patrons of the funds. What those funds have done is unmatched. Lives have been changed because of the NG-CDF and the NGAAF. Students, especially those from vulnerable families, have been able to go to school, thanks to these funds. Widows, single mothers and people who are differently enabled have taken their children to school, courtesy of the NG-CDF and the NGAAF. More importantly, those who would have dropped out of colleges and universities have been able to continue with their studies with the help of these funds. These funds have caused a turn-around in the lives of many people.

In Kericho County in particular, I want to appreciate what has been done by the NG-CDF and the NGAAF. Infrastructure in schools has been developed. Tea-buying centres have been improved. Through the NGAAF, youths, women and people living with disabilities have been empowered. I have an initiative called *'usawa kwa wote'* where very humble families have been supported by the NGAAF. Recently, through the NGAAF, very vulnerable families received fertilisers and maize seeds to plant during this season. They are now happy. Although not everybody benefited from the fertilisers and maize seeds, the 1,000 families which benefitted from the same appreciate it. This will go a long way in ensuring that we are food secure.

The NGAAF and the NG-CDF have supported value addition in terms of agriculture, especially in the coffee and tea sectors. Vulnerable families have received assistance. I believe that in the near future, they will have a source of income. The NG-CDF and the NGAAF have given hope to the hopeless. People who did not know what to do next now have hope through these Government initiatives. Therefore, I believe that as Members of this House, we will work prudently to ensure that these funds reach the people who need them. People have improved their talents through these funds through ball games and athletics. The promise by His Excellency the President of Kenya to give an additional Ksh1 billion is good. This is 50 per cent additional to what is there in every constituency. This will go a long way in helping more families.

The NG-CDF and the NGAAF have helped many Small and Medium Enterprises (SMEs), women, youths and people living with disabilities (PWDs). These groups of people have received funds to start businesses or even boost their existing businesses. I believe in the next two years, many of our people will have better livelihoods.

Hon. Temporary Speaker, water is life. Boreholes have been drilled through these initiatives. Many families have been connected to water. However, there is still need to do more. The little that we have from the NGAAF will help needy people in the society. As I support this Motion, I call upon all the patrons to work closely with the people on the ground: the county coordinators, the district accountants, procurement officers, the NGAAF Board and the NG-CDF Board in the constituencies to ensure that money is not misused or misappropriated. The prudent use of these funds has resulted to re-election of many Members. When we reach the concerned, we add value to many lives.

On health matters, we have members of our communities who cannot pay the Ksh500 fee for the NHIF every month. These people do not have as little as Ksh100 for food. When patrons pay for the NHIF fees for these people in their constituencies, they now access the facilities very easily. I pray that this should be included in the NG-CDF and the NGAAF. If this is done, more families will benefit from the same. Allocating more funds to the NG-CDF and the NGAAF will lead to more people accessing the funds.

With those remarks, I support.

**The Temporary Speaker** (Hon. Omboko Milemba): Member for Funyula, Hon. (Dr.) Wilberforce Oundo.

**Hon. (Dr.) Ojiambo Oundo** (Funyula, ODM): Thank you, Hon. Temporary Speaker for giving me this opportunity. I stand to join my colleagues in the debate in support of the Motion that has been submitted by the Decentralised Funds Accounts Committee in respect of 26 constituencies in various counties in this country for the financial years 2013/2014, 2014/2015 and 2015/2016.

This review of the accounts of the said NG-CDFs for the stated financial years points to symptoms of the challenges we have had as the National Assembly in executing our mandate under Article 95. One of the mandates of the National Assembly is oversight. Oversight is exhibited through review of audited accounts of the various Government funds that have been disbursed after being appropriated by this House. Justice delayed is justice denied is an obvious basic rule. We are now looking at 2013 to 2016 financial years. These are six or so years behind schedule. Even if there was misappropriation or unprofessional conduct, it is extremely difficult to bring the persons responsible to account for their misbehavior or acts of commission or omission.

Therefore, it is my rallying call to the Decentralised Funds Accounts Committee -I am glad the Chairperson is here with us today - to find mechanisms for ensuring that all the constituencies' accounts are audited, reviewed and reports thereof presented to this House for debate, review and adoption. At any given time, we should be up-to-date in respect of our mandate as Members of the National Assembly. Six years down the line, even if there was misappropriation, the high turnover rate of the fund account managers becomes impractical to assess whether there was value for money or not. I call upon the National Assembly to accord the Committee the necessary facilitation, resources - both financial and technical man power - to ensure that they review these reports and bring the perpetrators to book.

It is also important for us as the National Assembly to dispense of these accounts. The normal narrative peddled out there by the media, misinformed civil societies and many other busybodies is that Members of Parliament are the managers of these accounts. This is far from the truth. The person charged with accounting for these funds is the fund account manager, the District Accountant and the constituency fund accounts committee in totality with the CEO of the Board. Members of Parliament are not signatories to these funds. They do not make any direct decisions on how the funds are to be utilized. I urge the Fourth Estate to report objectively, knowing who are responsible for any misuse or misappropriation of public funds.

This is a malady that affects even some of my colleagues here. They still have the mentality that they are the alpha and omega of the NG-CDF. Members of Parliament have no

role to play in the day-to-day management of the Fund. Therefore, any audit queries raised are as a result of oversight. We are at liberty to summon the NG-CDF committees and the fund account managers to brief us on why there is a qualified report in respect of any constituency.

Hon. Temporary Speaker, I ask my colleagues to desist from tying themselves around the hip with NG-CDF. Whenever something goes wrong, the media picks it up and the courts always use it to frustrate the Decentralised Funds Accounts Committee. That said and done, the impact of the NG-CDF cannot be gainsaid. What it has done to this country since it was enacted in 2003 is something that if we had developed this principle and discarded this funny thing called *harambee*, this country would have gone ahead very many years.

You, many colleagues who are here and I are invited in many churches to undertake *harambees* to build churches. When you go back after six months or one year, they invite somebody else to conduct a *harambee* to undertake the same work that you were supposed to do. The conclusion or inference is very simple. The *harambee* spirit was noble at the beginning of this country. However, it lost its meaning along the way. That is why it was upped for the country to initiate the NG-CDF approach that has helped to transform infrastructure. It is able to do everything under the sun. Most water projects, health facilities and economic empowerment programmes in the constituencies were initiated through the NG-CDF.

After the promulgation of the Constitution of Kenya, 2010, the only visible development you can see in any constituency has been funded through the NG-CDF. That also brings a question. Devolution was always supposed to improve the livelihood and welfare of Kenyans. Wherever you go, many Kenyans ask you what happened to the devolved funds that come through the counties. We urge the Governors and Members of the County Assemblies (MCAs) who oversee the Governors and Members of the County Executive Committee (CECs) to borrow the NG-CDF model, so that we develop this country equitably.

The debate on one man, one shilling and one vote has now started to rage. When we championed Building Bridges Initiative (BBI), this concept was the hallmark. Many people demonized us and said BBI was bad. They are feeling the pinch now. When you legislate at any time, you should do so for posterity. You should not legislate to sort out today's problems or for political expediency. Whatever you say will haunt you sooner than later. It will not take long.

Schools are opening for second term. Junior secondary school is in progress. Many of us know its teething problems. With the delayed disbursement of funds from the National Treasury, it means the challenges we have in junior secondary school will remain with us for many years to come. Therefore, it means that in this particular academic year, those boys and girls who don beautiful uniforms are wasting their time in classrooms and that is lost opportunity. We urge the National Treasury - for the sake of the children and accelerated development in this country - to, please, do all that it can to release the funds so that the NG-CDF Committees can allocate and expend those funds before the end of the financial year, so that Kenyans can get value for money.

Money is of no use when it is retained in accounts or kept somewhere. We want to see rapid development. All over the world, the government is the biggest spender. When it does not spend, the economy contracts. Taxes are being collected. It is a paradox because the Government does not spend but it wants to collect money.

With those few remarks, I support the Motion.

**The Temporary Speaker** (Hon. Omboko Milemba): Very well. Hon. Peter Olechakapong. Did I get the name right?

Proceed.

**Hon. Peter Lochakapong** (Sigor, UDA): Thank you, Hon. Temporary Speaker. It is Hon. Peter Lochakapong.

**The Temporary Speaker** (Hon. Omboko Milemba): Very well.

**Hon. Peter Lochakapong** (Sigor, UDA): That is my name. I thank you for giving me this chance to comment on this Motion.

This is an audit report for the financial years 2013/2014, 2014/2015 and 2015/2016 - which is 10 or 11 years ago. I do not know whether the recommendations that are here will be of any value now given the time that it has taken for the books of accounts to be looked at. However, that aside, the NG-CDF has touched the lives of many people in this country. It is a decentralized fund which assists Kenyan communities effectively. I have seen some recommendations by the Decentralised Funds Accounts Committee in this Report. If they have not been implemented, I think they should be implemented. One, the fund account managers should be facilitators rather than a hindrance to the performance of the NG-CDF. Many a time, they put a lot of roadblocks in implementation of projects. They also need to take responsibility when an audit report comes out.

We have also observed that by the time the books of accounts were presented to the Auditor-General for audit, certain documents were not availed. This points to poor bookkeeping by the fund account managers or District Accountants. In situations like that, they must also be held to account. If someone does not do his work, then that responsibility should not be placed on the shoulder of another person who was not involved.

Many times, you realise that when the NG-CDF reports which affect particular constituencies come out, the media and many other people are quick to point fingers at Members of Parliament, whose role is very minimal. It is just to ensure that things run smoothly. The people who account and budget for these funds are the committees with the assistance and guidance given to them by the NG-CDF Board through the fund account managers. Members of Parliament do not have a big role in this regard. They ensure that work goes on well and everything is done according to the guidance that is given by the Board.

One of the recommendations of the Decentralized Funds Accounts Committee is that the fund account managers should work with other government agencies and State Departments in project selection, identification, costing and budgeting. I want to differ with them a bit here because that increases bureaucracy. You waste a lot of time trying to get these people. We are in this country and we know that sometimes you are given a BQ of Ksh1.5 million for a classroom that would cost Ksh800,000 but because the BQ comes from a credible Government institution, you are tempted to believe that they are doing the right thing. This may not be true sometimes. We have had cases where we build classrooms for between Ksh600,000 and Ksh800,000 but when you give that work to other Government departments and agencies, they give you a cost of about Ksh2 million. That may not help us because we want to ensure that we get value for money as much as possible within our constituencies.

The NG-CDF has greatly helped our people through allocation of bursaries. Though allocation is not uniform across the country, this has ensured that our children access education and are retained in school. That is a good thing.

We have also developed school infrastructure. We have built classrooms, and in some cases dormitories and laboratories. This has improved academic performance in learning institutions.

In some cases, majority of us have procured buses for our schools. The buses have eased movement of students to symposiums, academic trips or excursions. This has greatly reduced accidents because they travel in their own school buses that are well maintained.

In places prone to insecurity like where I come from, we have, through the NG-CDF, established and built police posts and offices for chiefs. This has brought services closer to the people. In places where there is banditry and cattle rustling, we have built security camps. This has greatly helped.

I have seen in this Report a suggestion that we give guidelines on the use of the emergency funds within NG-CDF. Emergency funds provided for within the NG-CDF have



greatly assisted in times of emergencies. When a toilet collapses in school or when a roof of a building is blown off by wind, the NG-CDF responds very fast. I think it is only the NG-CDF that is very near to the people and its response is almost instant because of availability of emergency funds. They should not put many restrictions on these funds because if that is done, it will fail to respond in good time. Solving a problem will be difficult since it will take a long process to obtain funds. The regulations and guidelines on appropriation of emergency funds should be relaxed so that when we have an emergency, we are able to respond immediately.

If all concerned follow the guidelines that have been put in place to aid the management of the NG-CDF, this country will move forward. Through proper utilisation of the NG-CDF, I was re-elected a second time in a constituency which otherwise would not elect people for two consecutive terms. I thank the people of Sigor for this and commit that we are going to prudently manage the NG-CDF as we have been doing to improve lives and ensure that many of our children access education as much as possible.

Thank you very much. I support this Report.

**The Temporary Speaker** (Hon. Omboko Milemba): Majority Whip, I see you are on the list, but you have already spoken on this Motion.

**Hon. Silvanus Osoro** (South Mugirango, UDA): I still have a point.

**The Temporary Speaker** (Hon. Omboko Milemba): No. The rules of this House do not allow you to speak twice on the same Motion. You did well and that should suffice. Let us have the veteran legislator, Hon. Jayne Kihara, the Member for Naivasha.

**Hon. Jayne Kihara** (Naivasha, UDA): Thank you very much, Hon. Temporary Speaker, for giving me a chance to speak on this Auditor's Report on NG-CDF.

Hon. Temporary Speaker, as you said, I am a pioneer Member on matters NG-CDF. We passed the CDF Act in 2003 and I will forever applaud Hon. (Eng.) Muriuki Karue, who came up with the idea of NG-CDF.

Let me give a short story about Eng. Muriuki. He used to tell us - because he was also the pioneer Chairman - that development in this country was skewed to the regions that supported the Government of the day. When he was in school, he understood many things. He would attend district commissioner's and provincial commissioner's meetings and people would request for projects or development and the answer would be, "Yes, it will be done when funds become available." So, he kept asking himself when the funds would ever be available. Since that time, he started working hard to be in Parliament and came up with the idea of bringing equality in the country. I also happened to be in the pioneer CDF Committee. At that time, it was just "CDF" and we went around this country. It is unfortunate because at that time, the CDF addressed every need in the constituencies. I remember building many health centres, water projects and maternity wards in health centres.

**Hon. Silvanus Osoro** (South Mugirango, UDA): (Off record)

**The Temporary Speaker** (Hon. Omboko Milemba, ANC): Yes, Hon. Osoro. Is it a point of information or point of order?

**Hon. Silvanus Osoro** (South Mugirango, UDA): It is a point of order, Hon. Temporary Speaker.

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

**Hon. Silvanus Osoro** (South Mugirango, UDA): Hon. Temporary Speaker, Hon. Jayne Kihara and the Member who spoke before her are on record saying what they did using the funds yet we all know that the NG-CDF is not directly under the account of Hon. Members. We only oversee its operations. We are patrons. So, when an Honourable Member says, "I did this and this", members of the public will imagine that we withdraw money from our accounts to build classrooms. We only oversee implementation of the NG-CDF projects. I just want to inform Hon. Jayne that our roles are limited to Article 95 on oversight of funds.

**The Temporary Speaker** (Hon. Omboko Milemba): Very well, but you must remember, Hon. Osoro, that you are informing a veteran legislator who was there when the original CDF Bill was introduced in the House in 2003.

You may proceed, Hon. Member.

**Hon Jayne Kihara** (Naivasha, UDA): Hon. Temporary Speaker, I do not want to say that he is being... let me not say it because we all know that for any development projects that people want, they go to your constituency office or come to you directly. As much as we just provide oversight...

**Hon. Kiborek Reuben** (Mogotio, UDA): On a point of order, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Omboko Milemba): What is out of order? Hon. Kihara, just take your seat so that we can hear from Hon. Kiborek.

**Hon. Kiborek Reuben** (Mogotio, UDA): Thank you, Hon. Temporary Speaker...

*(Hon. Njuguna Kawanjiku consulted with Hon. Kiborek Reuben)*

**The Temporary Speaker** (Hon. Omboko Milemba): Proceed! What is it?

### QUORUM

**Hon. Kiborek Reuben** (Mogotio, UDA): Protect me, Hon. Temporary Speaker. I rise under Standing Order 35 to bring to your attention the fact that we do not have quorum in the House.

**The Temporary Speaker** (Hon. Omboko Milemba): A Member has risen in his place and indicated that we do not have quorum. Serjeant-at-Arms, could we have the Quorum Bell rung?

*(The Quorum Bell was rung)*

*(Some Hon. Members attempted to withdraw from the chamber)*

**The Temporary Speaker** (Hon. Omboko Milemba): Order, Hon. Members! No Member is allowed to walk out of the House now, except the Whips.

Order, Members. Having rung the Quorum Bell for 10 minutes, I can confirm that we still do not have quorum in the House.

Hon. Jayne Kihara, you will have your balance of six minutes when this debate resumes next time.

### ADJOURNMENT

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Members, there being no quorum, the time being 6.11 p.m. notwithstanding, the House stands adjourned until Tuesday, 6<sup>th</sup> June 2023 at 2.30 p.m.

The House rose at 6.11 p.m.

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