



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

VOL. III NO. 62

THE HANSARD

Wednesday, 31st July 2024

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

Hon. Speaker: Serjeant-at-Arms, you may ring the Quorum Bell.

(The Quorum Bell was rung)

Clerks-at-the-Table, we now have the quorum to transact business.

*(Hon. Joseph Makilap and Hon. Jematiah Sergon
walked into the Chamber)*

Hon. Makilap and Hon. Jematiah, take the nearest seats. Thank you.

Hon. Members, I have two Communications.

COMMUNICATIONS FROM THE CHAIR

APPOINTMENT OF MEMBERS TO MEDIATION COMMITTEE ON THE CONFLICT OF INTEREST BILL

Hon. Speaker: Hon. Members, as you are all aware, the House rejected the Motion on consideration of the Senate amendments to the Conflict of Interest Bill (National Assembly Bill No. 12 of 2023) on Wednesday, 24th July 2024. This decision consequently referred the Bill to a Mediation Committee in accordance with the provisions of Article 112 of the Constitution and Standing Order 149.

Article 113 of the Constitution requires that whenever a Bill is referred to a Mediation Committee, the Speakers of the Houses of Parliament appoint an equal number of Members from both Houses to attempt to develop a version of the Bill for consideration by the Houses of Parliament. In this regard, having consulted with the Leader of the Majority Party and the Leader of the Minority Party, I have appointed the following Members to represent the National Assembly in the Mediation Committee:

1. Hon. George Murugara, CBS, MP.
2. Hon. Mwenzi Mutuse, OGW, MP.
3. Hon. Silvanus Osoro, CBS, MP.
4. Hon. John Makali, MP.
5. Hon. Edward Muriu, MP.
6. Hon. Naisula Lesuuda, MP.
7. Hon. Bisau Kaikai, MP.
8. Hon. Ken Chonga, MP.
9. Hon. Peter Masara, MP.

For the Committee to be fully constituted and commence the mediation process, the aforementioned Members will await the appointment of Senators to the Mediation Committee. Once I receive a Message from the Senate to that effect, I will convey the same to the House. Thereafter, the Mediation Committee will embark on an attempt to develop a mediated version of the Bill in accordance with Article 113 of the Constitution.

I thank you.

(Several Members walked into the Chamber)

Hon. Members, take the nearest seats. Thank you.

EXTENSION OF PERIOD FOR CONSIDERATION OF RECOMMENDATIONS
OF THE NADCO PROPOSED CONSTITUTIONAL AMENDMENTS

Hon. Speaker: Hon. Members, you will recall that the Houses of Parliament established the National Dialogue Committee (NADCO) in August 2023. It was to, among other things, facilitate dialogue and consensus building, and recommend appropriate constitutional, legal and policy reforms on issues of concern to the people of Kenya. The Committee submitted its Report, containing various recommendations, to Parliament in February 2024. Thereafter, upon adoption of the NADCO Report by the National Assembly and the Senate, the leadership of the two Houses met and adopted a clear roadmap to actualise the recommendations contained in the said Report.

Consequently, in furtherance of the agreed roadmap by the leadership, I directed that the Departmental Committee on Justice and Legal Affairs of the National Assembly hold joint sittings with the Senate Standing Committee on Justice, Legal Affairs and Human Rights. That was vide Communication No. 06 of 2024 dated 5th March 2024. The sittings were to consider recommendations of the Report relating to the proposals to amend the Constitution within 45 days. The full implementation of the recommendations of the Report, especially with respect to proposed constitutional amendments, intends to ensure achievement of the aspirations of the people.

However, it has come to my attention that the Committees of the two Houses have not been able to meet as agreed in the implementation roadmap.

Indeed, I am in receipt of a letter dated 23rd July 2024 from the Chairperson of the Departmental Committee on Justice and Legal Affairs, Hon. George Gitonga Murugara, CBS, MP, requesting for extension of time to consider the proposals arising out of the NADCO Report. In the letter, the Chairperson also alludes to challenges in conducting joint sittings with the counterpart Senate Committee. This is especially with regard to availability of requisite quorum to commence sittings.

It is therefore the considered view of the Chairperson, on behalf of the Committee, that to ensure expeditious consideration of the proposals to amend the Constitution, the respective Committees be approved to sit independently and to thereafter report to the respective Houses.

Hon. Members, appreciating the immense public interest in the actualisation of the recommendations and proposals of the National Dialogue Committee, and having extensively consulted the leadership of the House, I have acceded to the request by the Chairperson of the Departmental Committee on Justice and Legal Affairs, and direct that—

1. The period for consideration of the proposals emanating from the Report of the National Dialogue Committee is hereby extended by 45 days from today, Wednesday, 31st July 2024; and
2. Notwithstanding the directive issued on 5th March 2024 regarding joint sittings of the two committees of the Houses of Parliament, the Departmental

Committee on Justice and Legal Affairs is hereby authorised to hold its sittings independently and to report back to the National Assembly within the timelines stipulated above.

The House is accordingly guided.

Next Order.

(Several Members walked into the Chamber)

Take the nearest seats Hon. Members. Thank you.

MESSAGES

NOMINATION OF PERSONS FOR APPOINTMENT AS ATTORNEY-GENERAL AND CABINET SECRETARY

Hon. Speaker: Standing Order 42(1) relating to Messages from the President provides that

“The Speaker shall read to the House any message from the President delivered to the Speaker for communication to the House.”

In this regard, I wish to convey to the House that I have received two Messages from His Excellency the President, notifying of the nomination of persons for appointment as the Attorney-General and as a Cabinet Secretary, respectively.

In the First Message, His Excellency the President conveys that, in exercise of powers conferred on him by Article 156(2) of the Constitution, as read together with sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act (Cap. 7F), he nominates Ms Dorcas Agik Odhong Oduor, SC, OGW for appointment as the Attorney-General of the Republic of Kenya.

For clarity, Article 156(2) of the Constitution states, and I quote:

“The Attorney-General shall be nominated by the President and, with the approval of the National Assembly, appointed by the President.”

Hon. Members, in the Second Message, His Excellency the President conveys that, in exercise of powers conferred on him by Article 152(2) of the Constitution, as read together with sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act (Cap. 7F), he nominates Ms Beatrice Askul Moe for appointment as the Cabinet Secretary for East African Community Affairs and Regional Development.

For clarity, Article 152(2) of the Constitution states and I quote:

“The President shall nominate and, with the approval of the National Assembly, appoint Cabinet Secretaries.”

In view of the foregoing and pursuant to the provisions of section 8 of the Public Appointments (Parliamentary Approval) Act, as read together with Standing Order 42(3), I hereby refer the Messages from the President, together with the curriculum vitae of the nominees, to the Committee on Appointments.

Section 8 of the Public Appointments (Parliamentary Approval) Act provides that, unless otherwise provided in law, the Committee to which such nomination is referred shall consider the matter and table a report in the House within 28 days. Conscious of the fact that the House is scheduled to proceed for recess next week, I hasten to clarify that the counting of days with respect to the consideration of the nominees will cease during the recess period and resume when the House first sits upon resumption.

It is therefore imperative that the Committee on Appointments commences the process of consideration of the nominees, alongside those already committed to it. In so doing, the

Committee on Appointments is expected to expeditiously notify the nominees and the general public, commence the necessary approval hearings and table its report in the House soonest, to enable the House to consider the nominees within the stipulated timelines.

I thank you. Next Order.

PAPERS

Hon. Speaker: Chairperson, Select Committee on Parliamentary Broadcasting and Library. Is Hon. Epuyo Nanok the one? Or who is the Chairman? Leader of the Majority Party?

(Hon. Daniel Nanok spoke off the record)

Okay, go ahead. Give him the microphone.

Hon. Daniel Nanok (Turkana West, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Select Committee on Parliamentary Broadcasting and Library on its Consideration of the Public Participation Bill (National Assembly Bill No. 52 of 2023)

I thank you, Hon. Speaker.

Hon. Speaker: Co-Chairperson, Joint Parliamentary Committee on Voting of a Director General. Hon. (Dr) Pukose.

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

Joint Report of the National Assembly Departmental Committee on Health and the Senate Standing Committee on Health on Vetting a Nominee for Appointment as the Director-General for Health.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you. Chairperson, Departmental Committee on Justice and Legal Affairs. Hon. Murugara.

Hon. George Murugara (Tharaka, UDA): Hon. Speaker, I beg to lay the following Papers on the Table:

Reports of the Departmental Committee on Justice and Legal Affairs on its Consideration of the following:

1. The Anti-Corruption and Economic Crimes (Amendment) Bill (National Assembly Bill No. 40 of 2023).
2. The Tribunals Bill (National Assembly Bill No. 45 of 2023).
3. Budget Implementation and Monitoring for Financial Year 2022/2023.

Thank you.

NOTICES OF MOTIONS

APPROVAL OF NOMINEE FOR APPOINTMENT AS DIRECTOR-GENERAL FOR HEALTH

Hon. Speaker: The Departmental Committee on Health and Senate Standing Committee on Health.

Hon. (Dr) Robert Pukose (Endebess, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, taking into consideration the findings of the Joint Committee of the National Assembly Departmental Committee on Health and the Senate Standing Committee on Health in its Report on the Vetting of a Nominee for

Appointment as the Director-General for Health, laid on the Table of the House on Wednesday, 31st July 2024, and pursuant to section 16(2) of the Health Act, 2017 and section 8 of the Public Appointments (Parliamentary Approval) Act, 2011, this House approves the appointment of Dr Patrick Omwanda Amoth as the Director-General for Health.

Thank you, Hon. Speaker.

Hon. Speaker: Chairperson, Departmental Committee on Justice and Legal Affairs.

BUDGET IMPLEMENTATION AND MONITORING FOR FY 2022/2023

Hon. George Murugara (Tharaka, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Justice and Legal Affairs on the Budget Implementation and Monitoring for the Financial Year 2022/2023, laid on the Table of the House on Wednesday, 31st July 2024.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you. Next Order.

QUESTIONS AND STATEMENTS

REQUESTS FOR STATEMENTS

Hon. Speaker: Hon. Umulkher Harun.

INSECURITY IN GARISSA COUNTY

Hon. Umulkher Harun (Nominated, ODM): Hon. Speaker, pursuant to Standing Order 44 (2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Administration and Internal Security regarding the rising insecurity in Garissa County.

Insecurity in Garissa County has continued to spiral out of control and has become a cause for worry as it has impacted not only the safety but also the wellbeing of our citizens. Garissa Town, in particular, has experienced several insecurity incidences in the last two weeks with people being killed, mugged, stabbed and shops broken into by criminals, some of whom are armed. The continuous escalation of this disturbing trend has negatively impacted the peace and safety of the region, as well as economic activities, education, and health services.

The situation is so dire that businesses have been closing as early as 6.00 pm with those located in the outskirts, where the incidences have been rampant, being the most affected. It is the primary responsibility of the national Government, all relevant local authorities, and security agencies to join hands and work out a coherent strategy against this menace to restore peace and ensure a secure environment for the residents of Garissa County.

Hon. Speaker, given the rising insecurity in Garissa County, which is adversely affecting the safety and wellbeing of residents, I wish to request the Chairperson of the Departmental Committee on Administration and Internal Security to apprise the House on the following:

1. The specific measures the Ministry is implementing to address this alarming trend; and
2. Measures the Government is implementing to ensure effective collaboration between national authorities, county governments, and security agencies to

enhance community policing, intelligence gathering, and response mechanisms to restore peace and stability in the region.

Hon. Speaker, the issue is very serious. The same gangs came to my own house in Garissa County. I am seriously concerned about this issue. Thank you.

Hon. Speaker: Hon. Tongoyo, is that your docket? The Member for Garissa wants to say something on the same. We rarely allow this, but since you requested, I will give you one minute.

Hon. Dekow Mohamed (Garissa Township, UDA): Thank you, Hon. Speaker. I rise to add my voice to what the Hon. Member has raised. The situation is very bad. We have raised these issues and tried to solve them through the security agencies but have been unable to get support. You might know the delicate situation on the ground in terms of the fact that, that region itself was already insecure in terms of infiltration of *Al Shabaab* insurgents who are also bringing firearms into the town. Since 2023, we have been addressing the same issue with the security agencies.

Young people are carrying daggers and swords in the middle of the town in broad daylight robbing and stabbing young people. Several people have been killed or stabbed by these sword-carrying gangs. They are known to the security agencies but no action is being taken. We want the Chairperson of the Departmental Committee to take it seriously and engage the national security team. We need an overhaul of our security leaders at the county and the constituency levels. The incidences are mainly concentrated within the Garissa Township Constituency.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Tongoyo, when can you bring the Statement?

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, I ask to bring it next week. But having said this, it is good to appreciate that the issue being raised by the Members is of major concern. I remember sometime last month, there was even an attempt to have the team meet with the Cabinet Secretary to discuss the issue, considering that majority of these security issues are so sensitive at times to be discussed in the open. I will bring it next week, but I will still probably ask you...

Hon. Speaker: Wednesday afternoon?

Hon. Gabriel Tongoyo (Narok West, UDA): Together with many others. Yes, Wednesday afternoon.

Hon. Speaker: Thank you. Hon. Kawanjiku. Move slightly away from the microphone so that we do not have the echo. Not too far and not too close.

IRREGULAR GRANT OF TAX EXEMPTIONS TO BLUE NILE ROLLING MILLS LIMITED COMPANY

Hon. Njuguna Kawanjiku (Kiambaa, UDA): Thank you, Hon. Speaker. Pursuant to the provisions of Standing Order 44(2)(c), I seek to request for a Statement from the Chairperson of the Committee on Delegated Legislation relating to claims that the Blue Nile Rolling Mills Limited, a company in the steel production industry and which operates under a Special Operating Framework Agreement (SOFA) was illegally granted tax exemptions.

To lay a basis for this, the Blue Nile Rolling Mills entered into a Special Operating Framework with the Government in the year 2020 and was subsequently granted various tax exemptions. Article 5 of the Agreement provides that the company is exempted from Income Corporate Tax of up to 10 per cent for the first five years; Value Added Tax (VAT), Import Duty (ID), Import Declaration Fee (IDF) and the Railway Development Levy (RDL) in respect of all raw materials imported by the company. This has led to loss of public funds in unpaid

taxes, created an economic advantage for the company, distorted the local markets and threatened the sustainability of the local industry dealing with steel production.

As you are aware, the law provides that tax exemptions under the Special Operating Framework Agreement can only be granted to companies incorporated for purposes of undertaking the manufacture of human vaccines and whose capital investment is at least Ksh10 billion. The company is neither a human vaccine manufacturer nor a company whose investment is at least Ksh10 billion.

Consequently, due to the illegal grant of tax exemptions, the company is operating at very minimal cost and all other manufacturers are unable to compete with cheap products produced by the company. As a result, there has been outcry in the steel production industry by manufacturers who risk closing business should the unfair competitive advantages in form of tax exemptions conferred to the company continue being in place.

Further, the cost of production *vis-à-vis* the price of products by the company is extremely low compared to all other companies which goes against the competition law. It is alleged that the Government is losing nearly Kshs30 billion annually in unpaid taxes.

Noting this comes at a time when the Government is grappling with the hurdle of reduction of tax collection, it is paramount that the allegations made by the industry players are investigated. It also worth noting that the tax exemptions have been granted to the company through various legal notices in exercise of delegated authority.

It is on this basis that I seek a Statement from the Chairperson of the Committee on Delegated Legislation and further requests that the Committee does inquire into the matters raised and make the relevant recommendations thereof. In conducting the inquiry, the Committee may investigate and determine:

1. The circumstances under which the tax exemptions on Income Corporate Tax, VAT, ID, IDF and RDL were granted to Blue Nile Rolling Mills Limited.
2. The total value of tax exemptions that have been granted to Blue Nile Rolling Mills Limited so far and the estimated value of the exemptions that will have been granted to the company on the expiry of the agreement.
3. The contents of the agreement between the company and Government, the period for which the company shall enjoy the tax exemptions under the agreement and the implication thereof in terms of loss of public funds.
4. Whether the requirements of the law in granting tax exemptions under Special Operating Framework to the company were complied with and indicate the persons that were responsible for approving the tax exemptions granted to the company.
5. The number of employees employed by the company and the status of compliance with ensuring tax obligations by the company.
6. The number of companies dealing with the manufacture of galvanising wire/ steel production that are currently enjoying tax exemptions and the value of the investments of the company.
7. The status of other existing Special Operating Framework Agreements and their impact on the economy.
8. Any other matter that the Committee may deem appropriate.

I also understand that the industry players and other organisations have written to you requesting for the same. That is why we are asking for this Statement so that we know the companies that have been given exceptions to ensure that it is not only one company that enjoys the exemption. I submit.

Hon. Speaker: *Wapi Mhe. Chepkonga?*

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you very much, Hon. Speaker. I have heard what the indomitable Member for Kiambaa, Hon. Kawanjiku has raised.

Hon. Speaker: As a matter of fact, the Office of the Hon. Speaker has received several letters to this effect.

Hon. Samwel Chepkonga (Ainabkoi, UDA): That makes it very serious. That even the Hon. Speaker has received additional information.

Hon. Speaker: I have received complaints, not additional information. When can you bring the response?

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Speaker, this is a very serious matter. These are the things we have been complaining about as a Committee, that people issue orders that have an effect of law without bringing them to the House. With that, I request you to give us two weeks and we will bring a report.

Hon. Speaker: You have two weeks.

Hon. Samwel Chepkonga (Ainabkoi, UDA): I thank you.

Hon. Speaker: Hon. Robert Mbui. Before we go to Hon. Robert Mbui, let us have Esther Passaris.

MEMBERS' GENERAL STATEMENT

COMMEMORATION OF THE PAN-AFRICAN WOMEN'S DAY, 2024

Hon. Esther Passaris (Nairobi City County, ODM): Hon. Speaker, pursuant to Standing Order 43, I wish to make a Statement regarding the commemoration of the Pan-African Women's Day, 2024.

Today, 31st July 2024, the African continent is observing the Pan-African Women's Day 2024, under the theme: Gender, Environment and Justice. The Pan-African Women's Day, held under the "African Women's Call for Peace" initiative, kicks off a campaign in favour of peace while celebrating the role of women in fostering peace and sustainable development across African societies. The initiative, aligned with the global aspirations of the Sustainable Development Goals (SDGs), the African Union's Agenda 2063 and United Nations Resolution 1325, seeks to harness the immense potential of African women to create a more just, equitable and sustainable Africa.

To achieve its objectives, the "African Women's Call for Peace" initiative seeks to empower women through capacity building, awareness raising and platform creation. By doing so, it aims to cultivate a powerful movement of women leaders driving peace and sustainable development across Africa. The initiative supports this vision by establishing a strong organisational structure, nurturing young women, fostering peace, adapting to local contexts and building collaborative partnerships. This year's Pan-African Women's Day under the theme: Gender, Environment, and Justice will celebrate the efforts and contributions of women in environmental justice.

To commemorate the Pan-African Women's Day 2024 today, African women are launching a symbolic campaign to demonstrate their commitment to peace: The "White Scarf Initiative". By wearing a white scarf and sharing messages of peace on social media, they will create a visible and powerful expression of unity. This campaign will culminate in the publication of a manifesto outlining women's priorities for peace and development.

As I invite the House to be part of the commemoration of the Pan-African Women's Day, 2024, I urge us to remember that the journey to peace and sustainable development is a collective one, calling for participation of both men and women. By uplifting the voices and efforts of women, we not only honour their contributions but also pave the way for a more peaceful, sustainable and equitable future for all. Thereby creating a legacy of hope and prosperity for generations to come.

I thank you, Hon. Speaker.

Hon. Speaker: I have been requested by Hon. Sabina Chege to allow her to make a comment on that. Go ahead.

Hon. Sabina Chege (Nominated, ODM): Thank you, Hon. Speaker. I support the Statement from Hon. Passaris on ‘African Women for Peace’. As we commemorate this day, I want to appreciate the role the women play in different societies in peace keeping.

In countries where there is no peace, women and children get highly affected. I stand today to be counted as one of the women leaders who support peace.

I congratulate His Excellency the President for finding it in his heart to have a broad-based Government that incorporates everyone in running and sharing ideas on how to govern this country. I thank him for embracing each and every one and showing peace.

Let us all unite together and leave no one behind in leadership and in our homes. If we work as a team in this House, we will have a more peaceful country. We are role models. People look upon us out there. If we remain peaceful in this House and in the Executive, within the leadership, I am sure peace will prevail in this country.

May peace, love and unity prevail in Kenya.

I thank you, Hon. Speaker.

STATEMENT

Hon. Speaker: Responses to Statements. Statement by Hon. Robert Mbui. Hon. Tongoyo, are you ready? Hon. Robert Mbui is not here.

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, I need your indulgence considering that this is a matter of much interest. Do I present it now or wait when the Member is in the House?

Hon. Speaker: Bring the Statement next week on Wednesday.

Hon. Gabriel Tongoyo (Narok West, UDA): I am well guided.

Hon. Speaker: Statement requested by Abdi Ali, Member for Ijara. Chairperson of the Departmental Committee on Energy, are you ready?

Hon. Vincent Musau (Mwala, UDA): Yes, I am ready, Hon. Speaker.

Hon. Speaker: Go ahead. Is the Member for Ijara here? Go ahead Hon. Kawaya.

POWER OUTAGES IN GARISSA COUNTY

Hon. Vincent Musau (Mwala, UDA): Thank you, Hon. Speaker. The Member for Ijara as well as the Nominated Member, Hon. Umulkher Harun sought Statements. Since the requests were similar, we merged the responses.

Following the letter dated 8th May 2024, referenced NS to DDC/ Energy/ COR/2024/019, the National Assembly requested the Cabinet Secretary, Ministry of Energy and Petroleum to make submissions on Statements by a Member of Parliament for Ijara Constituency, Hon. Abdi Ali, MP and the Nominated Member, Hon. Umulkher, regarding power to Masalani and Ijara Wards in Ijara Constituency.

The following are submissions on the Statements as requested: Firstly, measures that the Government has put in place to ensure the residents of Masalani and Ijara wards have access to reliable electricity. Currently, Masalani and Ijara wards in Ijara Constituency are connected to the grid and supplied by 33KV Masalani feeder from Garsen220/33KV Substation. The line down on concrete poles has a length of approximately 190 kilometres.

Garsen 220/33KV Substation has been off supply since April 2024 when the power supply transmission towers were swept away by floods at the River Sabaki. This necessitated power to be supplied via 33KV Line from Kakuyuni 220/33KV Substation, which is just before Malindi. This resulted into low voltages in Lamu and Tana River counties due to the longer

distances and higher loads on the line. This was solved by installation of an Automatic Voltage Regulator (AVR) at the Garsen Substation.

The 33KV Masalani Line crosses River Tana between Boji and Majengo villages. The area is prone to massive flooding during rainy seasons. This makes the road linking Masalani and Ijara impossible and the four kilometer section of the power line submerged in water.

(Hon. David Kiplagat consulted loudly)

Hon. Speaker: Hon. DK, you are out of order.

Hon. Vincent Musau (Mwala, UDA): Hon. Speaker, in May 2024 the flooding exceeded the normal levels. The poles were submerged with one pole slanting at an angle of 60 degrees. This caused a snap of one conductor and, consequently, the line tripped affecting both Masalani and Ijara. Using a boat, the Kenya Power team at Hola were able to secure two conductors. The third conductor could not be secured due to personnel safety reasons. The supply was thus restored to single phase customers until the water subsided. On 12th June 2024, the water levels had subsided and the said conductor was secured hence, normalising supply in the affected area.

On part two of the request, the Government plans to compensate the affected businesses in Masalani and Ijara wards following massive losses of produce incurred, especially by vendors who sell perishable commodities. The cause of power loss in those areas was *force majeure* hence beyond Government and Kenya Power management control. Due to the unforeseen situation, the service provider acted to its best ability to alleviate the losses that otherwise would have been incurred had the single phase not been restored.

On part three, the Government's plan is to put in place measures to provide stable and reliable power connectivity in Masalani and Ijara wards given the current unreliable connectivity is from Hola, Tana River County. As already indicated above, the power to the affected areas was restored completely on 12th June 2024 after the water levels subsided. Therefore, power supply to the two areas has been normalised. Further, the Government, through the Kenya Electricity Transmission Company (KETRACO), is constructing a transmission line to Hola – that is the Garsen-Hola transmission line – which is a 2220 KV line – which will drastically shorten the line length supplying Ijara Constituency hence increasing supply reliability.

Hon. Speaker, if you allow me, the next Statement...

Hon. Speaker: I cannot. Let us have a reaction from the Member who sought the Statement. Member for Ijara, you have listened to the Hon. Chairperson. Are you satisfied?

Hon. Abdi Ali Abdi (Ijara, NAP-K): Thank you very much, Hon. Speaker. I have heard what the Chairperson of the Departmental Committee on Energy has said. On behalf of Ijara Constituency, I am not satisfied with the response he has given on behalf of the Ministry.

Before we even raised this Statement Request, Ijara Constituency had already experienced power outages for three months in Masalani Town – an experience that had nothing to do with floods. We need a permanent solution. Masalani is among the oldest towns we have in Kenya, and is densely populated. Unfortunately, we do not have even a small power station in Masalani. Therefore, the excuse that the Ministry of Energy and Petroleum is giving in terms of floods has nothing to do with floods. The power is always in and out and we need a permanent solution. What the Chairperson has referred to as *force majeure* has nothing to do with this situation. Therefore, I request a permanent solution for power outages in Masalani Town, Ijara Constituency.

Hon. Speaker: Hon. Kawayo.

Hon. Vincent Musau (Mwala, UDA): Thank you, Hon. Speaker. The last part of my Statement read that the construction by KETRACO of the Garsen-Hola line is going to stabilise

the connection. However, if the Member can appear before the Committee when the Minister is present, he can ask several supplementary questions. At the end of the day, the Ministry should be able to respond to the Questions directly.

Hon. Speaker: Hon. Umulkher.

Hon. Umulkher Harun (Nominated, ODM): Thank you, Hon. Speaker. I also requested for a similar Statement but the response is not sufficient. My Statement was not only meant for Ijara but the entire Garissa County because power outages affected Ijara Township and other areas within the county. The response says that compensation would be given to farmers. We have, however, tried to follow up and there is nothing that has been done. We cannot have this response limited to just the electricity issues. It should also address the plight of the farmers whose produce has been affected. I am interested to know what the Ministry is doing. The Chairperson of the Departmental Committee on Blue Economy and Irrigation said that it is under his Committee but it is not. It is under the Departmental Committee on Energy and Petroleum. In their response, they said they are working to compensate the farmers but nothing has been done. This happened in October last year and February this year. So, if we were to experience floods again, it would still affect the farmers. So, please, let us find a solution for the farmers who have also been affected.

Thank you.

Hon. Vincent Musau (Mwala, UDA): Thank you, Hon. Speaker. I agree that this response did not focus on Garissa County but specifically Ijara Constituency.

Hon. Speaker: When you started, you said that you are responding to both Statements as requested by the two Members.

Hon. Vincent Musau (Mwala, UDA): Yes, Hon. Speaker. The assumption was that since the Member for Garissa County did not mention the specific areas that were affected by the floods, it was taken to mean Ijara Constituency, which is within Garissa County. There was no specific constituency that the Member referred to in her request.

I wanted to respond to a specific issue that the Member had raised on the issue of compensation. The law, as it is, allows compensation by Kenya Power. If the circumstances did not fall under *force majeure* as the Ministry has put it, then they would have attributed the outages to floods. That is why they quoted *force majeure*. That is why I think it is necessary for the Members and the responsible Cabinet Secretary to appear before us so that they can exchange information before the Committee.

Hon. Speaker: You should not hide under *force majeure*. *Force majeure* in law is a contestable defence.

Hon. Vincent Musau (Mwala, UDA): It is not me but the Ministry, Hon. Speaker.

Hon. Speaker: You are their representative here.

(Laughter)

Hon. Vincent Musau (Mwala, UDA): Hon. Speaker, down there, this Statement reads ...

Hon. Speaker: So that we make progress, what you should be doing as Chairperson of the Committee, when you receive a Statement from the Ministry, satisfy yourself that it is conveying an answer worth bringing to the House. You can call the Ministry and interrogate the officials who have given you the Statement so that when you bring it here, you have self-satisfaction that you will be conveying a statement of truth to the House. So, in future let us do that.

Thank you.

Hon. Vincent Musau (Mwala, UDA): Thank you, Hon. Speaker. I stand guided.

Hon. Speaker: Next is a Statement requested by Hon. Captain Ruweida Obo. Ministry of Energy and Petroleum.

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POWER OUTAGES IN KIUNGA VILLAGE

Hon. Vincent Musau (Mwala, UDA): Hon. Speaker, following a letter dated 11th June 2024, referenced NA/DDC/ENERGY/COR/2024/035, the National Assembly Departmental Committee on Energy requested the Cabinet Secretary, Ministry of Energy and Petroleum to make submissions on a Statement Request by the Member for Lamu East, Hon. Ruweida Obo.

Hon. Speaker, the Ministry has responded to the Statement Request as follows:

On status of repairing faulty power generators in the country and specifically in Kiunga Village, the Ministry responds that, currently, Kenya Power operates and maintains around 30 off-grid diesel power stations spread all over the country, with two stations in Lamu County situated at Faza and Kiunga towns. All the generators at Faza, which were installed in 2021, are in good working condition. One of the generators is Perkins 2500, installed in 2021, which is okay and working. Two is the Perkins 2806, installed in 2021, which is also in good working condition. Three is Perkins 25 which had maintenance in April 2024 and it is working. There is no load shedding at Pate Island which is being served by Faza Power Station.

The station at Kiunga Town was constructed by the Rural Electrification and Renewable Energy Corporation (REREC) and handed over to Kenya Power for operation and maintenance since 2016. The station has two generators, comprising of 1X80 KVA and 1X150 KVA. The maximum demand at Kiunga is about 80KW. The 80 KVA unit failed on 12th April 2024 and was repaired on 19th April 2024. It failed again on 22nd April 2024 and a team from Lamu and Faza were sent on 29th April 2024 to assist the local team. The repair works commenced from 1st to 5th May 2024, but it was unsuccessful. The faulty parts were, however, identified and are undergoing repairs in Kenya Power's Nairobi workshop. One generator is Perkins 80KVA with a faulty alternator. The repair of the alternator is complete and it is undergoing tests. The second generator is Perkins 150 KVA, which has a damaged engine. Replacement engine is under repair in Nairobi. The Ministry of Energy and Petroleum has been able to source and build one Cummins 150 KVA in Nairobi South Workshop and necessary tests have been undertaken and the unit is on transit together with the repaired alternator for generator one.

In addition, a new 300 KVA generator set for Kiunga has been procured and is expected to be installed by the supplier. The delivery of the repaired generator to Kiunga by road has been hampered by the ongoing rains, with the road at Gamba area in Tana River County having been cut off, rendering it impassable. The situation has also been compounded by the insecurity in Boni forest, where the main road to Kiunga passes. We are, therefore, pursuing a delivery mode through the ocean that will be fast and secure for delivery of the generator sets soonest to alleviate the power supply problem at Kiunga Island. The Ministry of Energy and Petroleum has sought assistance from the Ministry of Defence via the Kenya Navy to provide necessary logistical support to enable delivery of the power generator sets to Kiunga Power Station.

On the measures put in place by Kenya Power to restore electricity in Kiunga Village and ensure stable power supply, the Ministry states that Kenya Power has put in place measures to restore power in Kiunga Village, as already highlighted, by repairing the faulty generators. Further, the Ministry, through Kenya Power, has plans to upgrade the generation capacity at Kiunga and ensure some spare power for redundancy in case of generator failure in future. This plan is at an advanced stage. Procurement and award of the contract to supply and install and commission an additional 300 KVA generator was done on 29th January 2024. The additional generator was expected to be installed by 30th June 2024.

Hon. Speaker, the Statement is signed by the former Cabinet Secretary, Chirchir.

Hon. Speaker: Thank you. Hon. Ruweida.

Mhe. Ruweida Mohamed (Lamu East, JP): Mhe. Spika, mimi sijaridhika. Badala ya Mwenyekiti kutumia aya nyingi na sentensi nyingi, kurasa kwa kurasa, nilitaka aniambie kwa sentensi moja kwamba stima inarudi Kiunga lini. Leo ni siku mia moja na tisa, miezi mitatu na zaidi, Kiunga hakuna stima. Na shida ni kuwa *generator* imeharibika. Kwani Kenya Power ni maskini sana hawawezi kukomboa meli kutoka Mombasa kupeleka *generator*? Unaniambia *generator* iko Mokowe na haijafika. Watu wenye kisukari wanapata shida. Hakuna *insulin*. Nataka uniambie siku gani stima itawaka Kiunga. Nakupatia wiki mbili, kama haziwaki nitaenda kulala kwenye hiyo stesheni mpaka siku ile mtawasha stima.

Asante.

Mhe. Spika: Mhe. Kawayu, unasikia hiyo hasira?

Hon. Vincent Musau (Mwala, UDA): Oh, my goodness. *Hasira hasara*.

(*Laughter*)

Hon. Speaker: She is representing her people.

Hon. Vincent Musau (Mwala, UDA): Yes, it is true, and I feel her pain, Hon. Speaker. The Minister had undertaken that commissioning works for the new generator would be complete by 30th June 2024. Obviously, that has not come to be. That is already a month late.

Hon. Speaker: Did you say the generator is lying in Mombasa? Is it a transformer or generator?

Hon. Vincent Musau (Mwala, UDA): It is a generator. This is an off-grid area. This area is not under the national grid. It is served by off-grid diesel generators.

Hon. Speaker: Is the generator in Mombasa?

Hon. Vincent Musau (Mwala, UDA): Yes.

Hon. Speaker: What is it doing in Mombasa?

Hon. Vincent Musau (Mwala, UDA): Hon. Speaker, the contractor has logistical issues of supply and installation. It is not in our hands. The contractor has been procured, as mentioned in the Statement that I have read out, to install and commission a 300 KVA generator. It appears that work is not yet complete. The undertaking was that the work would be completed in time.

Hon. Speaker: Yes, Hon. Ruweida.

Mhe. Ruweida Mohamed (Lamu East, JP): Mhe. Spika, *generator* iko Mokowe. Kuna *generator* mbili. Nimeenda kwa ofisi zote za Kenya Power. *Generator* moja ndogo ya Kenya Power iko Mokowe na generator nyingine ya *contractor* iko Mokowe. Shida yao wanatafuta maafisa wa Kenya Defence Forces (KDF) wazibebe. Nyinyi hamna pesa za kuzibeba kweli? Si hiyo ni biashara? Si watu watalipwa?

Hon. Vincent Musau (Mwala, UDA): Hon. Speaker, you understand when a contract has been...

Hon. Speaker: Yes, Hon. Elisha. Hold on, Hon. Kawayu.

Hon. Elisha Odhiambo (Gem, ODM): Hon. Speaker, my Chairman was very candid that there is consultation with the Kenya Navy to be able to transport that generator to the island. That is what I wanted to clarify.

Hon. Speaker: Order. Hon. Kawayu, this is a very simple matter. Liaise with Kenya Power and report back on Thursday next week that the generator has been transported to Kiunga and installed. You heard the Member say that patients are suffering because there is no electricity to freeze medicines required for certain ailments. Liaise with the agency and report back on Thursday that the generator has been transported and has been installed.

Hon. Vincent Musau (Mwala, UDA): Thank you, I am well guided

Hon. Speaker: Next is a Statement in response to a request by Hon. Joyce Kamene. Is the Chair of the Departmental Committee on Transport and Infrastructure here? Hon. G.K., Chair of the Departmental Committee on Transport and Infrastructure, respond to the Statement Request by Hon. Joyce Kamene. Are you ready?

CONDITION OF MLOLONGO-QUARRY-KATANI ROAD

Hon. George Kariuki (Ndia, UDA): Hon. Speaker, I have two Statements. I will start with the Statement Request by Hon. Kamene regarding the deplorable condition of the Mlolongo-Quarry-Katani Road.

On Thursday, 7th May 2024, the Member for Machakos County, Hon. Joyce Kamene requested for a Statement from the Chairperson of the Departmental Committee on Transport and Infrastructure regarding the deplorable condition of the Mlolongo-Quarry-Katani Road in Machakos County. The Hon. Member requested the Committee to provide:

1. Report on the approved designs for the Mlolongo-Quarry-Katani Road, including the road profiles, drainage and lighting, and whether the design adhered to the principles of durability and sustainability for roads serving heavy trucks.
2. Clarification on whether construction of the named road conformed to the approved design hence an outline of the contents of the inspection report for the road and confirm whether a completion certificate was issued. If so, a further explanation on why the road failed within five years of construction.
3. The plans the ministry, through the Kenya Urban Roads Authority (KURA) has in place to urgently reconstruct the dilapidated Mlolongo-Quarry-Katani tarmac road, Mwananchi-Syokimau-Community Road, and Joska-Sunshine-Mwathani Road, and repair Syokimau-Katani Link Road.
4. Statement on the timelines for construction or maintenance of the named roads needed to restore them to a motorable state.

Hon. Speaker, the Committee received a response from the Ministry of Roads and Transport during a meeting held on 4th June 2024, which I now wish present.

The ministry stated that the Mlolongo-Quarry-Katani Road was designed in compliance with the applicable road design manuals and was subsequently constructed in compliance with the procedures and standards specified in the standard specifications for road and bridge construction. The pavement structure for the road was selected from the Road Design Manual Part 3 – that is, Materials and Pavement Design for New Roads.

After the number and type of various categories of traffic were counted, analysed and future growth projected, the traffic study indicated relatively high traffic. The commensurate high-strength pavement was selected as follows:

1. Subgrade 300 mm gravel.
2. Subbase 225 mm of cement improved graded crushed stones, GCS.
3. Base 150 mm of dense bitumen macadam, DBM.
4. Wearing cores 55 mm of asphalt concrete, AC.

The pavement design was adequate to carry the heavy-loaded trucks through the design period. The geometric design also made a provision for drainage with the side laps on both sides of the road. Streetlights were installed and handed over to the County Government of Machakos upon completion of the road for maintenance and operation.

Regarding whether the construction of the road adhered to the approved design, the ministry confirmed that KURA provided appropriate site supervision and oversight that included regular testing of construction materials and other quality control measures. The

project was completed on 31st July 2019 and a completion certificate was issued to the contractor.

However, while carrying out its annual road inventory and condition servicing in subsequent years – an exercise that is part of the process of preparing appropriate annual maintenance interventions – KURA noted instances of emerging pavement distress on the Mlolongo-Quarry-Katani Road. It identified the contributing factors and challenges as follows:

1. Poor planning in the project area, leading to overloaded trucks being redirected to the Mlolongo-Quarry-Katani Road thus causing strain on the road, and unnecessary congestion in the Katani and Syokimau areas.
2. The flat terrain and predominantly black cotton soil in the project area hinders storm water drainage, leading to obstruction of natural waterways thus causing water stagnation that affects road pavement layers and plodding.
3. Overloading on the Mlolongo-Quarry-Katani Road is prevalent due to the absence of a weighbridge, hence pavement damage there being no enforcement of loading limits.
4. Overfilling trucks from quarries and waste lorries causes excess material to spill on roads and drainage. This contributes to poor drainage in the area as well as causing informal roadside depots to be overfilled.
5. Neighbouring companies illegally discharge greywater industrial waste onto road surfaces and drainage systems, leading to overtopping, blockages, and pavement deterioration during rains.

Hon. Speaker, the ministry submitted that there are immediate plans to prioritise repairs to the damaged sections of the mentioned road, focusing on critical areas affected by overloading. This includes cleaning drainage channels.

Regarding the timelines for reconstruction or maintaining the mentioned roads to restore them to motorable state, the ministry stated that it would carry out immediate repairs within six months. Additionally, it plans to place these roads under performance-based contracts to ensure consistent maintenance and address any emerging issues within a timeframe of six months and one year. The ministry has also given an assurance that it is committed to addressing the challenges faced on the said roads and the other roads around Katani.

However, coordinated and strict enforcement of the prevailing regulations on environmental management and enhanced enforcement in Legal Notice No. 51 of 2013 on the Axle Load Control Regulations as well as enhanced community cooperation are necessary for achieving the objective of preventing damage arising from misuse and keeping the road in a well-maintained state.

In conclusion, the ministry intends to improve critical roads in Mavoko as well as other areas as and when funds become available, noting that the ministry faces substantial pending bills for completed road works that need to be addressed before commencing new projects. The Committee notes the role of the road sector as a key enabler in economic development. Therefore, it undertakes to follow up on this matter as part of its oversight role to ensure that these roads and other roads all over the country are maintained.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Kamene.

Hon. Joyce Kamene (Machakos County, WDM): Hon. Speaker, you have heard the Chair's answer. He has not given any solution. It is simple. Has the work of repairing this road started, especially the Mlolongo-Quarry-Katani Road? It is still impassable. It is in a bad state. I had also asked about the community road in Syokimau-Katani Road. This project was to be completed by mid-April but it has not been done yet. The Kenya Urban Roads Authority continuously delays in giving us answers and no work is going on. In addition, we have serious challenges on Airport Road, which is 1.9 kilometres; Mwananchi Road, which is one kilometre;

and Chai Road, which is 600 meters. These three projects have been funded through the Fuel Levy Fund and are managed by KURA, Machakos office. We have serious challenges in the quality of work. We have raised these matters with the engineers at KURA. The contractor who is doing Airport Road Phase II is the same one who did Phase I, which was poorly done. My question is how come the same contractor was awarded the contract for Phase II when the work on Phase I was substandard? We need answers because the roads in Syokimau are currently impassable. It seems like the contractors are not doing quality work.

Hon. Speaker: Hon. Kamene, you are now debating instead of seeking clarifications.

Hon. Joyce Kamene (Machakos County, WDM): Thank you, Hon. Speaker.

Hon. Speaker: I only gave you opportunity to seek further clarification on the Statement issued.

Hon. Joyce Kamene (Machakos County, WDM): Hon. Speaker, could the Chairperson clarify the status of these roads? Nothing is going on as we speak.

Hon. Speaker: Hon. Chairperson.

Hon. George Kariuki (Ndia, UDA): Hon. Speaker allow me to remind the Hon. Member that the challenge that the Ministry is facing is inadequate funding. In the last financial year, the allocation to the road agencies was Ksh56 billion and only Ksh34 billion was availed through Exchequer Issues. Therefore, some of these challenges are beyond the agencies.

Secondly, I believe that the roads in the Hon. Member's county are some of the roads that were to be funded through the aborted Finance Bill, 2024. If we had got the money allocated to these roads, we would have helped. We now have to live with the situation as is and hope that the Government will somehow get money to fund the said stalled projects and those that need to be rehabilitated.

Thank you.

Hon. Speaker: Thank you. The next response is by Hon. GK.

Yes, Hon. Kamene.

Hon. Joyce Kamene (Machakos County, WDM): Hon. Speaker, I am not talking about the roads that are yet to be funded. My concern is about the roads that have already been done but were done poorly. The Chairperson has stated that the Airport Road and the Mlolongo-Quarry-Katani Road were completed in 2019 but are impassable now. The quality of work is poor. Does it make sense that a road is constructed today and is impassable two years later?

Hon. Rahim Dawood (North Imenti, Independent): On a point of order.

Hon. Speaker: Yes, Hon. Dawood. What is your point of order?

Hon. Rahim Dawood (North Imenti, Independent): Hon. Speaker, we invited Hon. Kamene to the Committee when the representatives of the road agencies appeared before us but she did not come. If she had been present, she would have had the opportunity to question the agencies. That would have been easier instead of her asking questions which the Chairperson cannot answer here. She should have made a point of attending the meeting we had with the road agencies.

Hon. Speaker: Well, she chose to come to the plenary.

Hon. G K, you may proceed.

STATUS OF MAU MAU ROAD IN KIGUMO CONSTITUENCY

Hon. George Kariuki (Ndia, UDA): Hon. Speaker, should I move to the next one or dwell on this one?

Hon. Speaker: Is Hon. Munyoro in the House?

Hon. George Kariuki (Ndia, UDA): He is not.

Hon. Speaker: If he is not in the House, table the Statement. He will read it from the Table Office.

Hon. George Kariuki (Ndia, UDA): Hon. Speaker, I have been informed that Hon. Kihungi is sitting in for him.

Hon. Speaker: Yes. Hon. Kihungi, you have the power of attorney on the Statement Request.

Hon. GK, you may proceed.

Hon. George Kariuki (Ndia, UDA): Hon. Speaker, on 2nd May 2024, the Member for Kigumo, Hon. Joseph Munyoro, requested for a Statement from the Chairperson of the Departmental Committee on Transport and Infrastructure regarding the status of Mau Mau Road in Kigumo Constituency. In the Statement Request, the Hon. Member, among other things, sought to establish—

1. The reasons for the prolonged delay in completing the Mau Mau Road in Kigumo Constituency.
2. The plans the Ministry of Roads and Transport has put in place for the resumption and completion of the Mau Mau Road.
3. The mitigation measures the Ministry is undertaking to ensure that the roads within Kigumo Constituency remain passable during the rainy season.
4. When the contractor is expected to resume construction of the Ikumbi-Karinga-Gacharage Road.
5. The long-term measures the Ministry is taking to ensure the safety of residents during the rainy season.

Hon. Speaker, the Committee held a meeting with the Ministry of Roads and Transport on 4th June 2024 to receive responses to Statement Requests. After that, the Committee requested for additional information. Therefore, I now respond to the Statement Request.

To give a brief background on the matter, the State Department of Roads has a huge budget deficit leading to limited allocation for road projects. The implementation of the 10,000 kilometres roads programme from the Financial Year 2013/2014 led to a huge portfolio of projects not commensurate with the budget ceiling provided by the National Treasury.

The rollout of the 10,000 kilometres roads programme entered a full-year cycle in the Financial Year 2017/2018. It was expected that on account of the rollout, the Government of Kenya's allocation for roads would progress upwards. However, over time, the allocation for roads has stagnated at an average of Ksh55 billion per year from the year 2017/2018 to date.

This 10,000 kilometres road programme rollout, in addition to the ongoing road contracts prior to 2013 culminated in an outstanding Government of Kenya portfolio of Ksh900 billion as at 31st July 2022. The huge outstanding portfolio in relation to the Government of Kenya ceiling provided has resulted in minimal allocation to the projects. The Government has made efforts to reduce this portfolio in an effort to ensure reasonable and material allocations to road projects. As at 30th June 2024, the outstanding Government of Kenya portfolio made up of contracted but undone works amounted to Ksh700 billion. Despite the reduction, the Ksh700 billion portfolio far outstrips the Ksh55 billion ceiling annual budget.

The limited allocation *vis-à-vis* the outstanding project portfolio results in thinly spread allocations for projects. Most of the projects that the current Government is implementing were awarded prior to the Financial Year 2020/2021. This spread of the GoK ceiling means that the road takes longer to complete. It becomes more expensive due to the passage of time and attracts interest and other claims.

Hon. Speaker, the Ministry further stated that in the Financial Year 2023/2024, the printed net GoK allocation for the State Department of Roads was Ksh75 billion. I will skip that part in the interest of time and go to another point regarding the implementation status of Mau Mau roads in Kigumo Constituency.

I wish to inform the House that the road is part of Lot 2 of the Mau Mau Roads Project which is currently 52 per cent complete. A total of Ksh2.7 billion has been paid since the inception of the project with a pending bill of Ksh327 million as at April 2024.

Regarding the plans that the Ministry has put in place for the resumption and completion of Mau Mau roads, the Ministry submitted that it is working hand in hand with the National Treasury to avail additional GoK funding for all the roads. To seek alternative financing for roads, the National Treasury and the Ministry has been engaging development partners to finance the already awarded GoK contracts and, therefore, release some GoK provisions for projects that will not benefit from the funds. It is expected that the National Treasury will make headway towards this initiative within the second half of the current Financial Year 2024/2025.

As to when the contractor is expected to resume construction of the Ikumbi-Ikangi-Gacharage Road, the Ministry submitted that the Kenya National Highways Authority (KeNHA) maintenance contractor maintains all other road sections under the agency in Kigumo Constituency. Additionally, the agency utilises framework contracts to promptly address any emergency works ensuring affected sections remain passable and safe for motorists.

In conclusion, with regard to the long-term measures the Ministry is taking to ensure the safety of residents during the heavy rains, the Ministry reported that the road section is a spur road that is planned to be upgraded to bitumen standards and the contractor is expected to resume works once the outstanding payments are fully made.

Thank you, I submit.

Hon. Speaker: Yes, Hon. Kihungi.

Hon. Peter Kihungi (Kangema, UDA): Thank you, Hon. Speaker. I stand on behalf of Hon. Muniyoro. The road passes from Ikumbi-Gacharage and then to my constituency at Ichichi-Kiruri-Wanjerere. The statement about the contractor is untrue because he did earth works in all sections of that road, hence the issue of maintenance is untrue. Already, the contractor has abandoned the site and the works. The contractor did earthworks along the whole stretch of the road. That is a tea zone where we cannot work without the roads. Now they are impassable as we expect to receive the October rains.

Therefore, the statement is not satisfying. We need to first of all establish the budget for that road as it is not indicated yet it is the most important thing. The issue of maintenance should be taken into consideration because the amount of revenue the Government is losing mostly from tea farmers and supply of tea is more than what they can input on that road. Therefore, the statement is not satisfying. Maintenance cannot go on since the contractor has already abandoned site.

Hon. Speaker: Hon. GK, is that factual?

Hon. George Kariuki (Ndia, UDA): I agree with the Member that the road needs to be worked on, but the main issue here is funding. If the resources are not available, the Member will not be satisfied. In the course of time, funds will be availed to complete that road.

Hon. Speaker: Thank you.

Next Order.

BILL

Second Reading

THE SUPPLEMENTARY APPROPRIATION (NO. 2) BILL

(NATIONAL ASSEMBLY BILL NO.39 OF 2024)

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(Moved by Hon. Ndindi Nyoro on 30.7.2024)

(Resumption of debate interrupted on 30.7.2024)

Hon. Speaker: Hon. Members, let me give direction on this. I noticed Hon. Timothy Kipchumba was on the Floor. We will debate this up to 4.40 p.m. and then the Mover should be ready to reply.

(Hon. Ndindi Nyoro consulted with other Members)

Hon. Ndindi Nyoro, are you listening? You seem to be engaged with your colleagues. I am giving direction on your Bill. We will debate the remainder of the debate up to 4.40 p.m. and then at 4.40 p.m., I will call you to reply. Thereafter, we go to Committee of the whole House on the same Bill. Hon. Timothy, you are the one on the Floor. I would encourage those who will get an opportunity to take an average of five minutes so that others can also speak.

Hon. Timothy Kipchumba (Marakwet West, Independent): Thank you, Hon. Speaker, for giving me an opportunity to contribute on the Supplementary Appropriation (No.2) Bill (National Assembly Bill No.39 of 2024). This Bill has come at a moment that we could not pass the Finance Bill, 2024 as envisaged and, therefore, it comes in to accommodate some of the concerns that were raised by the members of the public.

As a Member of the Committee on Education and Research, we made sure that the amount of money that was set aside for the confirmation of intern teachers is enough to place them on permanent and pensionable terms. That is fundamental because teachers had raised concerns on that particular issue. So, I wish to assure our teachers that the confirmation of 46,000 Junior Secondary School (JSS) teachers shall be done as a matter of urgency.

We also appreciate that we have a backlog of 140,000 teachers who have graduated, but have not been employed. The passage of this Bill will ensure that the 20,000 intern teachers will be employed. That is fundamental because we shall be absorbing the teachers that have graduated, but have not been employed.

Hon. Speaker, I have read this Bill. It is a good Bill, but following what happened to this country in the recent demonstrations, you realise that we now have a broad-based political Government, or what is called a mongrel. As a House, we do not have a formidable opposition as we used to have. We should ensure that we oversee these funds. We do not have a formidable opposition. Everybody must speak for what is right in the country. We must do proper oversight.

Montesquieu was never wrong when he talked about separation of powers. There is a reason why we have the Executive, the Judiciary and the Legislature. The only way to fight corruption, impunity and bad governance is through a strong parliamentary oversight. As a House, we should ensure that we never pass laws that are not helpful to our people. We should make sure that we do thorough oversight of the Executive. We will not allow laws that go against the wishes of the people to be brought to this House again. On 25th June 2024, the people felt that the social contract we signed with them was not being exercised in a proper manner. That is why some of them chose to exercise their own power.

As a Member of Parliament, I appreciate the reforms that we have had. This afternoon you read the name of Dorcus Oduor as the nominee for the position of Attorney-General of the Republic of Kenya. Before her nomination, she was the Deputy Director of Public Prosecutions in the Office of the Director of Public Prosecutions (ODPP). She is a distinguished advocate who has served this country with honour and distinction. She is a senior counsel. She has attained the rank of a senior counsel. It should never escape us that the Attorney-General is the

principal legal advisor of the Government. Laws come to this House, but there has never been a proper Attorney-General to advise the President of this republic on those laws. So, I call upon Dorcus Oduor, if she is approved, to be properly advising the President and the Government on laws so that we do not have half-baked pieces of legislations coming to this House. She is a distinguished counsel. I believe going forward, Dorcus will properly advise the President and the Cabinet Secretaries so that we can have a country that conforms with international statutes, and obeys, upholds and defends the rule of law.

Thank you.

Hon. Speaker: Hon. Jared Okello.

Compress your thoughts to five minutes because of time.

Hon. Jared Okelo (Nyando, ODM): Thank you, Hon. Speaker. I rise to support the Supplementary Appropriation (No.2) Bill, 2024 that stemmed from the botched Finance Bill that was rejected by the President as a result of the pressure that arose from the Generation Zs. Whereas there is consideration of the JSS teachers who graduated from universities, there seems to be lack of attention to the P1 teachers who finished high school and joined teachers training colleges (TTCs) for training. Some of them graduated in 2010 and have not been absorbed by the Teachers Service Commission to date. So, I wish a certain portion of the funds would have been directed towards the P1 teachers even as 46,000 teachers are considered under the JSS category.

I sit in the Departmental Committee on Agriculture and Livestock. There have been drastic budget cuts at a time when we were paying much credence to having food sufficiency within our country. Agriculture has been the backbone of our economy for way too long and we need to boost its capacity as a job creator and a food security element within the Republic of Kenya. People who are hungry cannot do anything worth talking about. Therefore, if we could have put more attention on agriculture, it could have assisted this country.

Our number two revenue earner has been tourism. There seems to be very little money going towards marketing of the tourism sector and the attendant services offered by the tourism industry. These are areas that we need to put more attention into so that this country can have a renewed rapid flight on matters economic endowment.

The health sector has become a challenge ever since. Whereas health is a devolved function, counties seem not to be doing a lot to offer medical services to our people. If you go to any health centre or hospital, one fundamental thing that you will be confronted with is lack of medicine and equipment to address issues of health care. So, this is one area that the Government needs to put more money in. We have indigents within our societies who have no capacity to pay for medical attention.

Roads are dilapidated across our country. The situation was made worse by the floods that we experienced a few months ago. The road sector has not received a fair share of the budget and the little that has been directed on roads is only targeting a few areas within this country. So, under the spirit of equity, the country needs to consider all the roads because people move from all corners of our nation. Therefore, I support this Supplementary Appropriation (No.2) and I hope the Supplementary Appropriation (No.3) that will be coming up in about three or four months will try to fix imperfections that we are going to receive out of this budget.

I thank you.

Hon. Speaker: Hon. Gichimu Githinji. Hon. Paul Biego.

Hon. Paul Biego (Chesumei, UDA): Thank you, Hon. Speaker for giving me this opportunity. From the outset, I rise to support the Bill. I congratulate my very good friend, the Chair of the Budget and Appropriations Committee and his team. I was one of those people who felt very bad when the Finance Bill did not go through because I knew its advantages. Nevertheless, the Committee has managed to retain some fundamental budget lines which I

feel are important to Kenyans. One of them is the retention of the budget for employment of 46,000 intern teachers on permanent and pensionable terms. This is worth Ksh18 billion. That is a plus for teachers.

The university funding, the Higher Education Loans Board (HELB) got a whopping Ksh17 billion. I feel good about that because without education, especially higher education, we will be doomed.

The Committee also saved our children by giving them Ksh3 billion for the feeding programme. That is good.

On the issue of health, intern doctors have been complaining all along. I am very happy that they have been considered and Ksh3.7 billion has been set aside for hiring of intern doctors. There are funds for the acquisition of specialised medical equipment. I am very happy with that because health is key and important. The Ksh2 billion has been set aside for the acquisition of specialised medical equipment that will go a long way in helping the sick.

As much as we may not have gained on the issue of the Universal Health Coverage (UHC), we have at least accelerated health care. There is money that has been set aside, around Ksh8 billion for the UHC.

I noted that the police force is underpaid. Many times, the police say they receive low pay. I am happy that money has been set aside for adjusting upwards the salary of police force. We know that security is key. The Ksh3.5 billion that has been set aside for salary adjustment is something that I support in this Bill.

There was an allocation that was given for the National Government Constituencies Development Fund (NG-CDF) and the National Government Affirmative Action Fund (NGAAF). Hon. Speaker, I regret the fact that there was supposed to have been additional money to the National Government Constituencies Development Fund. We know very well that this is a visible Fund and what it does is visible. Had we added money onto the NG-CDF, Kenyans would have had an advantage. I was disappointed by the fact that we were not able to get the Ksh50 million which was envisaged earlier for every constituency for electricity connectivity. So, we the Government in place, pray that we collect more taxes to be able to get electricity because electricity is key. Many people especially from my constituency of Chesumei, have low electricity connectivity. It is below 30 per cent and this would have given us a big boost. I support the Bill. Thank you.

Hon. Speaker: Thank you, Hon. Suzanne Kiamba, absent. Hon. Abdul Haro.

Hon. Abdul Haro (Mandera South, UDM): Thank you, Hon. Speaker for giving me the opportunity to put my voice to this important debate. First of all, given where we have come from as a country and the circumstances under which the Finance Bill 2024 was rejected, the Budget and Appropriations Committee and its Chair have done a wonderful job in trying to balance our budget for the Financial Year 2024/2025. I am particularly impressed that the school feeding programme under the Ministry of Education has been given Ksh3 billion to continue feeding our students, especially those who come from food insecure areas and those from our informal settlements. It is a very good initiative. Despite the challenges we have, we were able to maintain the school feeding programme, which is a very good initiative.

I am also very happy that the 46,000 JSS intern teachers are going to be confirmed as permanent and pensionable. We are going to recruit another 20,000 interns. This is also very crucial because education is a very important sector. I am also very happy that the budget has considered salaries for the health personnel under the Universal Healthcare programme. We have about 8,500 Universal Healthcare staff who have been serving for the last four years, sacrificing and giving essential service to Kenyans at half salary. They have had to forgo a lot of benefits which their colleagues who are on permanent contracts with the counties are enjoying. Now, finances have been factored in the budget for the Universal Healthcare staff.

I would add that the Council of Governors, the Public Service Commission, Salaries and Remuneration Commission and the National Treasury should move with speed to confirm the 8,500 UHC staff as permanent and pensionable. They should make sure that all the benefits they were supposed to be enjoying for the last four years and which different committees and reports have indicated that they should be granted, are granted. Having said that, there are two areas which I think, going forward, we should seriously consider how to fund them.

About 2.3 million students are going to sit the national examinations in the next three months. There has been a policy in this country that states that the Government will waive examination fees. The Ksh5.1 billion which is supposed to be going to the waiver of the examination fees has not been factored in this budget and yet we have only three months to the national examinations. This is going to be a challenge to the parents who will be forced to go back to their pockets to pay the examination fees for the students. Going forward, this is a critical issue that we need to consider.

The other issue that I think needs to be considered very seriously is the question of the Ksh10 billion that has been reduced from the Teachers Service Commission (TSC). The money was supposed to finance Phase II of the 2021-2025 Collective Bargaining Agreement (CBA) between the teacher unions and the TSC. These teachers are parents to the youths who were demonstrating on our streets recently and if this CBA between the Teachers Service Commission and the unions is not sorted out, I am afraid we may see the teachers who are the parents of the Generation Zs joining their children on the streets. This is also another area that we need to put our heads together despite the shrinking fiscal environment and the challenges we are having. Thank you.

Hon. Speaker: Johanna Ng'eno, you key in and then you leave the Chamber. That is not very good. Antony Oluoch? He is nowhere. Naomi Waqo.

Hon. Naomi Waqo (Marsabit County, UDA): Thank you, Hon. Speaker for allowing me to add my voice to this very important debate. I support the Supplementary Appropriation (No.2) Bill. I want to just highlight some few areas that have made me fully support this.

First is the issue of the school feeding programme which is very important. Before we went on recess, I went around some of the schools in my county and witnessed how important this programme is. The school feeding programme especially in pastoralist areas is very important. In some areas, it is the only meal that a child gets. Putting Ksh3 billion towards that ensures that the needy children go to school, remain healthy and the academic performance improves. So, I support this.

Also, prudent use of the money that has been allocated. This is because, in some cases, there are areas in different parts of this country that do not get the school feeding programme and yet they are needy. Again, the issue of JSS teachers. The 46,000 intern teachers are being hired permanently at the cost of Ksh18.3 billion. That is something that in every part of this country many people have been praying for. Our teachers mould the lives of our children and make them become important people. Even for us who are here, if it were not for our teachers, we would not be where we are today. Putting that money there makes sure that our young children get the best education and the teachers are motivated. This also makes me support this. When you look at the police service, many of us know very well the stress police officers go through. Of late, our country has been going through many things. The people who are most exposed are the police officers. We know very well that they are exposed to a lot of danger. They are exposed to emotional stress because of witnessing human suffering, people dying, people going through challenges and also isolation because of the type of work they do.

In the past, their salary has been very minimal. By increasing their salary, we will reduce some stress and help them to cope with life. We know very well that many of them in the past, as a result of stress, have committed suicide and others have ended up killing their

whole families. With a good package or something that is comforting to them, we would have solved some problems.

We know that this Supplementary Budget and the Supplementary Appropriation (No.2) Bill is meant to support us. What we went through last month served as a wake-up call. Many of us were exposed to a lot of danger when the young people, the Gen-Zs, came into Parliament. I was among the last people to get out of this Chamber and it was scary. They have given us a wake-up call.

I thank the Committee on Budget and Appropriations for the hard work they have done and the time they have dedicated to this issue. If they did not, we would have been in more problems. The country is now well guided. I commend their good work as I call upon different ministries and county governments to be good stewards, putting into consideration the little money that we have, and live within it. We should make good use of every coin that gets into our hands and make sure that the common man is benefiting, hence Kenyans will see the positive impact of what we are approving.

With those few remarks, I support.

Hon. Speaker: Hon. Tom Odege.

Hon. Tom Odege (Nyatike, ODM): Thank you, Hon. Speaker for giving me this chance to add my voice to the Supplementary Appropriation (No.2) Bill.

I wish to declare my support on the following grounds: One, by committing to confirm all the workers who are currently on either probation or contracts in the public service to be fully employed, as a person who has been representing workers in this country, this is a positive move which I have to support.

With the difficulties and the kind of measures proposed, it is very important to see that we propel our country forward so that we do not lose track. We should ensure that things are done and the country remains stable. I think this was enumerated by the Chairman of the Committee on Budget and Appropriations, and was very convincing.

I have an area which I wanted to raise so that when we come across it as from next week, it will not be a surprise to this House. I have been approached by a number of workers' unions in this country. There are a number of collective bargaining agreements that have been signed in the public service. In this financial year, there was supposed to be a second phase of payment of salaries and allowances, which was expected to be in this budget. As I listened yesterday, I realised that money was not allocated to complete the CBAs as was signed.

We learnt that most of the departments in the public service are in court, and I know the battle will be there unless we devise a way of renegotiating the second phase of the salaries which were supposed to be allocated, or else we are going to realise a number of strikes, both in the teaching fraternity and in the mainstream civil service because of that second phase of payments.

What the Salaries and Remuneration Commission (SRC) did was illegal. You cannot give advice on a CBA which has been signed and registered in court. It can only be renegotiated, but not advice to defy. We should expect a lot of anxiety in the public service when it comes to the second phase of the salaries which they were expecting, unless something is done prior. The CBAs in existence are made in a way that an agreement is reached and an advice is given. When a CBA is registered in court, you cannot purport to be advising against it. This will make the workers' unions in this country take the Government to court, which will be very embarrassing. I think it is something you can think about, and see how best you can go about it so that we do not embarrass ourselves.

Otherwise, I support, and thank you very much for the chance.

Hon. Speaker: Hon. Ferdinand Wanyonyi. I am told you had contributed to this Bill. Why are you on the screen then? If you have contributed, please log out. Hon. Geoffrey Mwangi, Member for Tetu.

Hon. Geoffrey Wandeto (Tetu, UDA): Thank you, Hon. Speaker for the opportunity to contribute to the Supplementary Appropriation (No.2) Bill.

Allow me to first thank the Committee on Budget and Appropriations for a job well done. The country is going through unprecedented times in terms of our public finances. It is a very tricky balancing act to ensure that all the interests, programmes and projects are taken care of in the country, despite the fiscal limitations that we face.

Having said that, I would just like to point out the fact that the money for absorbing all the JSS intern teachers has been included. In Tetu Constituency, we have quite a number of JSS intern teachers and we are very excited that they are going to be on permanent and pensionable basis.

Health care is a serious issue in this country. Recently, we saw doctors on a very prolonged strike demanding placements. We have seen community health workers and other healthcare professionals cry saying that they would like to be absorbed and get a fair share of wages in terms of the important contribution they make to this country.

Seeing that Ksh3.7 billion has been provided for the absorption of these healthcare workers is a step in the right direction.

We have been talking about guaranteed minimum returns for a long time. These include our coffee, milk and tea. We are excited to see that in this Bill, despite the limitations that we face, Ksh1.5 billion is going to go to milk stabilisation which is a form of guaranteed minimum return. My own farmers in Tetu will receive this news warmly because we are milk farmers.

We have another Ksh3 billion going to the Coffee Cherry Fund. This ensures that our farmers can be paid even before their coffee has been sold at the auction. They can get at least Ksh80 for their cherries. The Ksh3 billion will go a long way in supporting this.

We have many coffee debts especially in Nyeri, Tetu some of which date back to between 10 to 20 years. The fact that we have provided Ksh2 billion to write-off some of these coffee debts is a welcome relief.

Another Ksh2 billion has been given to provide milk coolers. I am confident that in my own Nyeri County, Tetu Constituency, we are going to see some of these milk coolers coming to help us deal with the challenges that we have of milk spoilage, wastage and the ability to store milk when we have an abundance during the rainy season.

Our roads and especially the Mau Mau Road, Lot 3 Roads have stalled for some period of time. We are told the contractor owes a lot of money. I am however, excited to see that in this Appropriation Bill, an additional Ksh645 million has been provided to ensure that we can revive these roads. Like I have said, we are in a very tight fiscal space. It is important that we keep reminding the people who are going to be custodians of these finances that these are public finances. They have to be used well. We have to ensure that we optimise every shilling. Previous studies have shown that the value of money we get is 60 cents for every shilling. It is time we improved our fiscal management. It is time we streamlined our procurement processes and usage, so that we can raise our efficiency levels from the current 60 cents to 90 cents or even more for every shilling we get. We do not have the space to raise additional revenues yet wananchi are still demanding services, and rightly so, because that is why they elected their government. I support and pray that all the people in charge use money prudently, so that we can achieve all the things that we promised our people and ensure that the taxpayer gets value for their money.

Hon. Speaker: Hon. Gikaria, you have four minutes.

Hon. David Gikaria (Nakuru Town East, UDA): Thank you, Hon. Speaker, for giving me this opportunity. I will not dwell so much on the Budget but on our oversight role, particularly as Departmental Committees. It is one thing to allocate money to respective Ministries, Departments and Agencies (MDAs) but another thing to account for it. When it

comes to usage of the same funding, Ministries are not accountable. Some Ministries go berserk and do not account.

It is important for us in this House to take our oversight responsibility, under Article 95 of the Constitution, seriously so that Kenyans can see value for their money appropriated to Ministries. As Committees, we need to bring our budget implementation reports on a quarterly basis to highlight where shortcomings are so that we can take action.

Secondly, much as I support the Supplementary Appropriation (No. 2) Bill, it is important for us to recognise the Ministry of Mining, Blue Economy and Maritime Affairs, a Ministry that had been forgotten. The Ministry was dead and buried. In the last financial year, I have seen tremendous progress from the Ministry. Almost 100 per cent reduction of the development vote in that Ministry does not go well. It is one of the Ministries that will contribute greatly and immensely. Given proper resources and funding, with the 970 different minerals that we have in this country and with a proper surveillance and security system, the Budget and Appropriations Committee ought to reconsider allocation to the Ministry. It might be a little bit difficult for now. Going forward, assuming that our revenue collection improves, I would request the Budget and Appropriations Committee to consider the little development allocation that was taken away.

Last is about what my colleagues have indicated about teachers. Collective Bargaining Agreement is not just a paper. It is important for this Government to start thinking seriously about this sector so that teachers can be considered for a little increment. The CBA that was signed few years ago needs to be considered.

With those few remarks I support.

Hon. Speaker: Mover, Hon. Ndindi Nyoro.

Hon. Ndindi Nyoro (Kiharu, UDA): Thank you very much, Hon. Speaker. Before I reply, I request to give Hon. Patrick, Member for Chuka/ Igambang'ombe, two minutes. We went to university together and he was a good boy.

Hon. Patrick Ntwiga (Chuka/Igambang'ombe, UDA): Thank you, Hon. Ndindi Nyoro. Hon. Speaker, I rise to support this Bill. First, I congratulate the Chairman and members of the Budget and Appropriations Committee. We have been going through difficult times, even scaling down the Budget after we had appropriated money but the Finance Bill failed. I thank the Chairman for specifically looking at things that touch the people of this country. There is money for coffee especially for my place where coffee is a major foreign currency earner for this country.

An amount of Ksh8 billion has been allocated to UHC. This is a flagship project for this Government. This has been a very difficult time and I congratulate the Committee for balancing this Budget and for getting us to where we are today. I support.

Hon. Speaker: Thank you.

Hon. Ndindi Nyoro (Kiharu, UDA): Hon. Speaker, lastly, I request that I give the Member for Sigowet/Soin, Hon. Justice, a minute then I reply.

Hon. Justice Kemei (Sigowet/Soin, UDA): Thank you, Hon Speaker and Chairman, for giving me this opportunity. We have taken the painful decisions of effecting cuts so that we can accommodate our expenditure. I want to commend the Committee for making sure that the budget for the Ministry of Education was not reduced so that we can assure our teachers, especially the JSS teachers that they will be employed.

Finally, we wish to do the last mile electricity connection because that is what the people ask us on a daily basis. I support.

Hon. Speaker: Chairman.

Hon. Ndindi Nyoro (Kiharu, UDA): Thank you, Hon. Speaker. I want to thank you very much for the support that you have given this process. Administratively, we received all the support that we needed to process the Report and come up with this Bill. I thank all

Members of Parliament. They have been very committed. All Departmental Committees have worked around the clock to make sure that we deliver a budget that reflects the current situation of the country especially as we forge forward with the growth of our economy.

I want to remind Members that they have been very forthright in making sure that we safeguard important issues even when we have budget cuts. I laud all Members in this House. In unison, we decided that, even if there are budget cuts, the money for confirmation of JSS intern teachers remains intact. We have also made sure we have allocated money for milk farmers so that the prices of milk do not drop to less than Ksh50 per litre. We have also allocated Ksh3 billion to the Coffee Cherry Fund to support the coffee sector where a majority of farmers receive very little money. I was in Kiharu the other day and saw that because of challenges in the sector, farmers are not receiving their fair share. We have also allocated Ksh2 billion for payment of debts owed to coffee societies, especially to banks.

I thank Members of this House because we allocated Ksh3.5 billion to enhance the salaries of our security officers. Police officers in Kenya deserve better. We have allocated Ksh3.5 billion to enhance their salaries immediately this Bill is signed by the President.

Lastly, the cuts have been across all levels of government, vertically and horizontally. The national Government, the Executive is losing over Ksh121 billion across all levels. The county governments are also losing Ksh20 billion in regard to equitable share. All the arms of Government have lost. Parliament has lost Ksh3.7 billion. I want to laud the patriotism shown by Members of Parliament who in unison, agreed to travel less, both domestically and foreign, for the sake of our economy.

I thank the Members of Parliament for that selflessness. Some had even volunteered to have their salaries reduced. It is only that there were issues around the Salaries and Remuneration Commission and Parliament. What the Members of this 13th Parliament have shown is patriotism.

Judiciary has also lost. Today, we had a far-reaching ruling from the Judiciary in regard to the Finance Bill of 2023 – not even the Finance Bill, 2024. This clearly communicates to this House and Kenyans that as we do Supplementary (No.2), we are likely to cut the budget further if we were to go back to the Finance Bill of 2022. We are obedient Kenyans. If the Judiciary says we cannot proceed with it, then we are likely to come back to this House probably, in the next one or two months to cut the budget further. And these cuts would be across. All the two levels of Government are likely to lose. All the arms of Government - Executive, Parliament and Judiciary will all take a haircut and some may actually have their heads chopped because we need to contain ourselves within what Judiciary has ruled. Therefore, as we wait for that time, our homework as this House is one, let us continue finding out where we need more cuts. We need more cuts by cutting the size of Government. Parastatals have to be less. We need more cuts in Parliament and Judiciary because we need to live within the rule of law as was said here, today, by our courts even as we explore how to grow our economy.

What we are doing as the Executive, the laws we pass here in Parliament and the pronouncements we get from the Judiciary are far-reaching. Once you say it, it does not end there. Therefore, all of us have to feel it and I am sure we are willing to tighten our belts.

With those many words, I beg to reply.

Hon. Speaker: Thank you, Hon. Ndindi.

(Question proposed)

(Question put and agreed to)

(The Bill was read a Second Time and

Committed to Committee of the whole House)

Next Order. Order 9. Hon. Members, will you be upstanding?

COMMITTEE OF THE WHOLE HOUSE

(Order for the Committee read)

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

IN THE COMMITTEE

[The Temporary Chairman (Hon. David Ochieng') took the Chair]

THE SUPPLEMENTARY APPROPRIATION (NO.2) BILL (National Assembly Bill No.39 of 2024)

The Temporary Chairman (Hon. David Ochieng'): Order, Hon. Members. This is the Committee of the whole House considering the Supplementary Appropriation (No.2) Bill (National Assembly Bill No.39 of 2024). I hope the Chairman is ready during this amendment. Members, this should not take a long time, concentrate and we will start right away.

(Clauses 3, 4 and 5 agreed to)

First Schedule

Hon. Ndindi Nyoro (Kiharu, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the First Schedule to the Bill be amended—

- (a) in Vote R1291, under the Programme 0612000 Public Prosecution Services, by deleting the expression “Ksh20,000,000” appearing in Column 3 (Supply).
- (b) in Vote D1162, under the Programme 0112000 Livestock Resources Management and Development, by deleting the expression “Ksh937,550,000” appearing in Column 3 (Supply), and substituting therefor the expression “Ksh987,550,000.”

Thank you, Hon. Chair.

(Question of the amendment proposed)

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

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

(Schedule 1 as amended agreed to)

Second Schedule

Hon. Ndindi Nyoro (Kiharu, UDA): Thank you very much. I beg to move:

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THAT, the Second Schedule to the Bill be amended—

- (a) in Vote R1071-
 - (i) under the Programme 0717000 General Administration Planning and Support Services, by deleting the expression “Kshs. (7,500,949,077)” appearing in Column 3 (Supply), and substituting therefore the expression “Kshs. (13,350,949,077)”.
 - (ii) under the Programme 0718000 Public Financial Management, by deleting the expression “Kshs. 104,697,153” appearing in Column 3 (Supply), and substituting therefore the expression “Kshs. 4,504,697,153”.
- (b) in Vote R1104-
 - (i) under the Programme 1014000 Irrigation and Land Reclamation, by deleting the expression “Kshs. (52,443,000)” appearing in Column 3 (Supply), and substituting therefore the expression “Kshs. (12,443,000)”.
 - (ii) under the Programme 1015000 Water Storage and Flood Control, by deleting the expression “Kshs. 34,962,000” appearing in Column 3 (Supply), and substituting therefore the expression “Kshs. (5,038,000)”.
- (c) in Vote D1065, under the Programme 0504000 University Education, by deleting the expression “Kshs. (3,160,640,000)” appearing in Column 3 (Supply), and substituting therefore the expression “Kshs. (3,090,640,000)”.
- (d) in Vote D1071-
 - (i) under the Programme 0719000 Economic and Financial Policy Formulation and Management, by inserting the expression “Kshs. (767,200,000)” in Column 3 (Supply).
 - (ii) under the Programme 0718000 Public Financial Management, by deleting the expression “Kshs. (2,632,600,000)” appearing in Column 3 (Supply), and substituting therefore the expression “Kshs. (1,865,400,000)”.
- (e) in Vote D1082, under the Programme 0402000 National Referral and Specialised Services, by deleting the expression “Kshs. (6,110,500,000)” appearing in Column 3 (Supply), and substituting therefore the expression “Kshs. (6,010,500,000)”.
- (f) in Vote D1091, under the Programme 0202000 Road Transport, by deleting the expression “Kshs. (7,213,316,879)” appearing in Column 3 (Supply), and substituting therefore the expression “Kshs. (6,963,316,879)”.
- (g) in Vote D1094, under the Programme 0102000 Housing Development and Human Settlement, by deleting the expression “Kshs. 47,285,000,000” appearing in Column 4 (Appropriation-in-Aid), and substituting therefore the expression “Kshs. 1,000,000,000”.

I hope the Members are noting the figures. I will give the justification later.

- (h) in Vote D1109, under the Programme 1017000 Water and Sewerage Infrastructure Development, by deleting the expression “Kshs.

(2,620,810,000)” appearing in Column 3 (Supply), and substituting therefore the expression “Kshs. (2,470,810,000)”.

- (i) in Vote D1112, under the Programme 0101000 Land Policy and Planning, by deleting the expression “Kshs. (3,340,376,000)” appearing in Column 3 (Supply), and substituting therefore the expression “Kshs. (2,840,376,000)”.
- (j) in Vote D1291, under the Programme 0612000 Public Prosecution Services, by deleting the expression “Kshs. (42,500,000)” appearing in Column 3 (Supply), and substituting therefore the expression “Kshs. (22,500,000)”.
- (k) in Vote R2042, under the Programme 0721000 National Legislation, Representation and Oversight, by deleting the expression “Kshs. (2,136,435,425)” appearing in Column 3 (Supply), and substituting therefore the expression “Kshs. (1,906,435,425)”.
- (l) in Vote D2043, under the Programme 0723000 General Administration, Planning and Support Services, by deleting the expression “Kshs. (716,890,886)” appearing in Column 3 (Supply), and substituting therefore the expression “Kshs. (946,890,886)”.

Now follows a brief explanation.

In Vote D1169, we will be doing something under Programme 010800, Crop Development and Management. This rearrangement within the same programme is supposed to provide Ksh310,000,000 for crop harvest management. By reallocating within the programme, it will be ceding Ksh 50,000,000.

Aggregation centres within the same Vote will cede Ksh230,000,000. Construction of headquarters and satellite campuses for the Kenya School of Agriculture will cede Ksh30,000,000, its total is Ksh310,000,000. That money will be going into the kitty for crop post-harvest management. That money is pending payment in this very noble venture of making sure that our supplies and harvest are secure.

For others, in the first one, we are rearranging the money meant for pending bills. From it, Ksh4.4 billion will be going into the budget reserve. Hon. Members know that when you allocate a block figure to pending bills, for example, in order to access that money, you will need to come to this House through another supplementary budget for that vote to go to specifics.

Hon. Temporary Chairman, what we have done is reduce that kitty through the National Treasury and put that money into a budget reserve—money that can be used when the country faces an emergency. The other ones are marginal, majority of which are just rearrangements, but we have also enhanced the monies for Kenyans who need to be resettled. We had a landslide in Mai Mahiu and many Kenyans needed to be given alternative land. We have allocated Ksh250 million for that purpose.

There is also the issue of absentee landlords, who majorly are in the coastal area, where the Government is to purchase land to face the issue of squatters head-on. We have also allocated monies for that purpose. Majority of these here are just realignments — what we call clean-up.

Thank you, Hon. Temporary Chairman. I beg to move. Do I need a seconder?

The Temporary Chairman (Hon. David Ochieng’): No.

Hon. Ndindi Nyoro (Kiharu, UDA): Thank you very much, Hon. Temporary Chairman.

(Question of the amendment proposed)

Hon. Justice Kemei (Sigowet/Soin, UDA): Hon. Temporary Chairman, I just want to comment on one aspect in which we have made a very painful decision. Aggregation centres are quite important when it comes to agricultural development in this country. But when you look at the losses we incur in terms of post-harvest, which is about 30 per cent of the produce, you will agree that the Ksh310 million be moved from aggregation centres to post-harvest losses so that we can have dryers.

Thank you. I support.

The Temporary Chairman (Hon. David Ochieng’): Yes, Hon. Leader of the Majority Party.

Hon. Kimani Ichung’wah (Kikuyu, UDA): Hon. Temporary Chairman, let me also support that particular amendment. As the Chairman has said, this is more towards settlement of pending bills. And many Kenyans, including Members who come from the grain basket of Kenya, especially from the South and North Rift parts, know that this year and last year because of the heavy rains, many farmers across the country could not dry their maize. Even you, Hon. Temporary Chairman, as you drive past Kitale, you see farmers who usually spread their maize on the roads and in open fields.

The Temporary Chairman (Hon. David Ochieng’): Of course, you know my party symbol is maize. We cultivate maize.

Hon. Kimani Ichung’wah (Kikuyu, UDA): This is not just addressing the post-harvest losses as Hon. Justice Kemei says, and you know he is a very good farmer from Kericho, but is also addressing health and hygiene matters. When we leave our farmers to spread their maize out in the fields, you expose that maize to toxins from vehicles on the road. Also, with the heavy rains that came this year, the prevalence of aflatoxins in maize was going to be very high. But following the investment that was done in maize dryers that were deployed in those maize growing areas, we have not seen very many cases of aflatoxin in maize. Many, like Hon. Mulyungi, will remember that some years back people in Kitui County died from consuming maize that had aflatoxin. This is why it is important to support this kind of initiative. I must thank the Chairman of the Budget and Appropriations Committee and the Chairman of the Agriculture Committee for having factored in that, to ensure that our farmers are also able to dry that maize properly, even in advanced weather conditions like the prolonged rains and during this cold season so as not to lose their produce.

This does not apply to maize alone; it also involves wheat and rice. I hope to see the same dryers being deployed in Mwea, Ahero and Nyando so that rice farmers are also able to dry their rice, even when it is flooding, and they are able to sell that rice and other grains around the country.

I support.

The Temporary Chairman (Hon. David Ochieng’): Okay, let me hear the Member for Muhoroni. I have not heard the Member for a long time. Give him a minute. There you are.

Hon. James K’Oyoo (Muhoroni, ODM): Thank you very much, Hon. Temporary Chairman, for giving me the opportunity. The Chairman of the Budget and Appropriations Committee has mentioned something about money they are keeping for the purpose of purchasing land which is meant to resettle a few people who were disadvantaged. He has not given us the exact amount, and we do not know who are these targeted groups and how are they going to be selected.

I am saying so because the Government sometime in 2008, had made efforts to resettle some people who were displaced during the 2008 skirmishes. The exercise was started in my constituency, and a few people benefited while many people were left behind. It has not

continued since then. It stopped, and it has not been revived. I hope we are going to be the beneficiaries in relation to what he has given.

Thank you very much.

The Temporary Chairman (Hon. David Ochieng’): Member for Seme.

Hon. James Nyikal (Seme, ODM): Thank you, Hon. Temporary Chairman. Let me start with what Hon. K’Oyoo has said, that there are IDPs from western part of Kenya where there was a Petition that was brought to this House. The Petitions Committee recommended that those people be compensated and the funds be put aside. If this is a block fund, then is it possible that those people can also benefit from this? That is one.

Two, on the issue of block fund, the Hon. Chairman has indicated that when you put a block fund, then it means that later on when you want to use it, you have to come back to the House so that it is itemised. Why should we do that in the first place? When it goes into the Treasury reserve, how will it be used? At least if it came back, the House would know how it will be used, but if it goes to the Treasury reserve, how does it get used?

Thank you, Hon. Temporary Chairman.

The Temporary Chairman (Hon. David Ochieng’): Thank you. The last one is Hon. Rutto.

Hon. Julius Ruto (Kesses, UDA): Thank you, Hon. Temporary Chairman. I also rise to support the Chairman, Budget and Appropriations Committee on this particular amendment. Post-harvest losses have been a big challenge to our farmers, coming from that particular region. Ever since we started the issue of subsidised fertiliser and subsidised farm inputs, we have realised a reduction in import bill for the basic food, that is, *Ugali* that requires the use of maize. This direction is quite encouraging.

I need to follow up by saying that post-harvest challenges are not only about aspects of storage, but also about market. We need to ask my Chairman from the Budget and Appropriations Committee to consider looking at a way of resourcing the budgets of the same, so as to stabilise the price and encourage the farmer.

Lastly is on the issue of resettlement. As we talk of the resettlement of the people of Naivasha, let us also think about the landless people in the Mau areas who were evicted, like the people in Serengoni, Nandi County. This will enable us address the issue adequately and conclusively.

Thank you.

The Temporary Chairman (Hon. David Ochieng’): Thank you. The Hon. Chairman, one minute please.

Hon. Ndindi Nyoro (Kiharu, UDA): Thank you very much, Hon. Temporary Chairman and Members who have enriched this debate.

Hon. K’Oyoo, in terms of resettlement, the kind of money we are looking at is for the Kenyans who got affected during the *El Nino* rains. Mai Mahiu, for example, will get Ksh250 million. The Government is buying land just nearby, so that we do not also disrupt their social lives too grossly.

There is also another kitty, especially for coastal area, where we have a bigger challenge of squatters. We intend to buy land from absentee landlords so that the locals can continue living as normal Kenyans, not just as squatters.

Hon. (Dr). Nyikal, it is the same issue. This money is not for IDPs, it is majorly for squatters and also Kenyans who got affected during the *El Nino* floods, and not just floods, the landslides. I have visited Mai Mahiu and seen that Kenyans who lived there have no land to go back to. That is why the Government is coming in to bail them out.

The Temporary Chairman (Hon. David Ochieng’): Thank you.

Hon. Ndindi Nyoro (Kiharu, UDA): There was one from Hon. Julius Ruto. I agree, what we are doing in agriculture is just realignments.

The last one is on block figures. The issue of block figures also comes up as a buffer for the budget, so that as you anticipate to go to another supplementary budget, there is a buffer somewhere. It is usually useful in the budget-making process, but you can access the budget reserve. In case of any emergency in any sector, only the Principal Secretary of the National Treasury needs to give authority to incur expenditure and the money can be spent.

The Temporary Chairman (Hon. David Ochieng’): Thank you.

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

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

(Second Schedule as amended agreed to)

Clause 2

Hon. Ndindi Nyoro (Kiharu, UDA): Thank you very much. I beg to move:

THAT, Clause 2 of the Bill be amended by deleting the expression “Eight Billion Three Hundred Ninety-Nine Million Ten Thousand and Thirteen Shillings” appearing before the words “the sum of” and substituting therefore the expression “Eight Billion Four Hundred and Twenty Nine Million Ten Thousand and Thirteen Shillings”.

(Question of the amendment proposed)

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

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

(Clause 2 as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Chairman (Hon. David Ochieng’): Chair, move for reporting.

Hon. Ndindi Nyoro (Kiharu, UDA): Thank you very much, Hon. Temporary Chairman. Hon. Temporary Chairman, I beg to move that the Committee do report to the House its consideration of the Supplementary Appropriation (No. 2) Bill, (National Assembly Bill No. 39 of 2024) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

IN THE HOUSE

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

MOTION

CONSIDERATION OF REPORT ON THE SUPPLEMENTARY APPROPRIATION BILL

(National Assembly Bill No. 39 of 2024)

Hon. Deputy Speaker: Chairperson, move reporting.

Hon. David Ochieng' (Ugenya, MDG): Hon. Deputy Speaker, I beg to report that the Committee of the whole House has considered the Supplementary Appropriation (No. 2) Bill, (National Assembly Bill No. 39 of 2024) and approved the same with amendments.

Hon. Deputy Speaker: Chairperson.

Hon. Ndindi Nyoro (Kiharu, UDA): Thank you very much, Hon. Deputy Speaker.

Hon. Deputy Speaker, I beg to move that the House do agree with the Report of the Committee of the House on its consideration of the Supplementary Appropriation (No. 2) Bill, (National Assembly Bill No. 39 of 2024).

Before I call upon the Seconder, Members could have noted that in the programme on housing, there is a decrement of Ksh46 billion. Members need to note that this is purely Appropriations-in-Aid (A-In-A). There is some money under the housing which is now held in liquid assets which then did not necessitate us to budget for it afresh. That is why we are dropping. The department can still access the money for housing from the liquid assets worth Ksh38 billion.

The other one is adjustments for A-In-A. We thought it is proper that we realign A-In-A as the year progresses so that we can be nearer to the reality. We are budgeting closer to the actual figure.

Hon. Deputy Speaker, I now request the Hon. Member for Sigowet/Soin, the very hardworking Hon. Justice Kemei, to second.

Hon. Justice Kemei (Sigowet/Soin, UDA): Thank you, Hon. Deputy Speaker. As I second, may I commend the Chair and the entire team in the Budget and Appropriations Committee for a job well done. I second.

(Question proposed)

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

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Deputy Speaker. Allow me to take this opportunity to thank Members for the expedient consideration of this Supplementary Appropriation (No. 2) Bill, (National Assembly Bill No. 39 of 2024). As we said when doing the Second Reading of this Bill, this is unprecedented in the history of Parliament and, indeed, our country. This is because, it is only within the first month of the new Financial Year 2024/2025. As it is now clear, this was largely occasioned by the rejection of the Finance Bill 2024.

Hon. Deputy Speaker, this is to say that for every action, there is a reaction and for every choice there is a consequence. When we acted in the manner that we did regarding the Finance Bill 2024, there had to be an action and the reaction is therefore to cut our Budget to be commensurate with the losses that we made in terms of the revenues that we were going to collect during this financial year.

Hon. Deputy Speaker: One moment Hon. Leader of the Majority Party. I need a Serjeant-at-Arms here, please.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Deputy Speaker. I was saying that because we made a choice, we have to live with the consequences. We chose to forego part of the revenue-raising measures in this financial year. Therefore, the consequences are some of the losses that we have seen in terms of the budgetary allocation that we had which we have had to cut back to finance our Budget within the resources that will be available.

Also Hon. Deputy Speaker, given today's Court of Appeal judgement nullifying the Finance Act of 2023, it is also likely that we will be here again for further cuts. This is because the Government of Kenya has no other means of generating revenue other than through taxation. Indeed, there is part of the United States of America that says there is no taxation without representation. It is the State of Washington DC. The reverse is also true: there can never be representation without taxation. That is a fact of life that we have to live with.

It is shocking Hon. Deputy Speaker; I am not here to dissect the ruling of the Court of Appeal today by the three Hon. Judges. What the courts have told us today is an affront not only to our democracy but to the constitutional order. The court ruled that all amendments, including those made to the Supplementary Appropriation Bill, must undergo public participation again. This means that any changes resulting from public participation must be presented to the people, again, for further public input. This raises the question of whether all Acts of Parliament passed since 2010 are unconstitutional, as every Act has been amended during the Committee of the whole House stage without going back to the people for public participation.

With all due respect to the learned Judges in the Court of Appeal, this judgement is a fallacy. However, as learned as the Judges are, we must start asking ourselves what kind of governance structure we have in this country. Is it a constitutional democracy? Hon. T. J. Kajwang is calling it "judicial dictatorship." If the Judiciary fails to guard the Constitution, then we must become the guardians of our Constitution. Parliament is the law-making body in the country and if the judges in the Judiciary desire to be the lawmakers, they have the option of resigning and vying for parliamentary seats. We cannot have a situation where the Judiciary wants to make laws from the bench. This has never happened in any democracy in the world.

Last week, the outgoing President of the United States, Joe Biden, faced similar problems with the Supreme Court. This era of judicial activism and dictatorship must come to an end.

(Applause)

The Judiciary is telling us that the legislative arm of the Government cannot legislate and the Executive will never execute anything without them superimposing. I said this in passing because we have gone through the Committee of the whole House stage and amended the Appropriation Act of 2024. I am concerned that another judge might instruct us to seek public participation again.

These judges need to understand that most of the amendments made in the Committee of the whole House resulted from public participation. The changes in the Finance Act of 2023 and the rejected Finance Bill 2024 were proposed by members of the public. They opposed taxes on bread and motor vehicles, so we had to amend the law and remove those taxes. Now a judge wants us to go back to the people and conduct another round of public participation to remove these taxes. What kind of country are we in? Maybe this is what Hon. T. J. Kajwang describes as judicial dictatorship; or is judicial overreach? People in their fantasy world imagine that they can be judges, lawmakers, and a President. If they want to be the President, Member of Parliament or Senator, they should run for office, but not overreach their mandate. This judicial overreach must come to an end. I say that with immense respect to our learned friends in the Judiciary. They must know their boundaries.

We have a country to guard and govern. We can only do so under the rule of law. As Members of Parliament, we can put this matter to rest.

(Question put and agreed to)

Hon. Deputy Speaker: Next Order.

THIRD READING

THE SUPPLEMENTARY APPROPRIATION (NO.2) BILL (National Assembly Bill No.39 of 2024)

Hon. Ndindi Nyoro (Kiharu, UDA): Hon. Deputy Speaker, I beg to move that the Supplementary Appropriation No. 2 Bill (National Assembly No. 39 of 2024) be now read a Third Time.

Hon. Deputy Speaker, we cannot belabour this anymore, but we must know that every Budget has a revenue and expenditure side. This country belongs to us and all the decisions we make affect all of us. This House is law-abiding and if the fall-back position is the revenue-raising measures for two years ago, then we have to adjust our expenditure to that of two years ago. The import of this is that we might be back sooner to realign our expenditure with the same revenue we have been contained to. Everyone across all levels of Government needs to carry a commensurate burden. This means that we will still need to dig deeper into our budget-cuts. I hope that further budget-cuts will not endanger service delivery across all the arms of the Government. The Legislature, the Executive and the Judiciary should make decisions for the country that we can live with.

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

*[The Temporary Speaker
(Hon. Peter Kaluma) took the Chair]*

As I call upon the seconder, I cannot purport to do the Speaker's work but I can see that most Members want to comment on this, especially because of the judgement by the Court of Appeal today which is related to the process we are engaged in now. This is just a request. I now request the Member for Thika Town, Hon. Alice Ng'ang'a, to second. She is the Member of Parliament for Thika Town and my father used to live in Kiandutu Slums. She qualifies to be my father's Member of Parliament because he was a carpenter in Thika.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Alice Ng'ang'a, the Member of Parliament for the father of the Chairperson of the Budget and Appropriations Committee.

Hon. Alice Ng'ang'a (Thika Town, UDA): Thank you very much, Hon. Temporary Speaker. I stand to second the Supplementary Appropriation Bill (No. 2), although there were major budget-cuts that we did not anticipate. I thank the Budget and Appropriations Committee and the Chairperson of the Committee whom I represent where the father used to work. I have heard that we have set aside Ksh1.25 billion for resettling people who do not have homes. There is nothing good like giving people their dignity in a form of owning homes and land. That is a move towards a positive direction.

We have also seen Ksh250 million allocated to the Mai Mahiu victims who were affected by the floods that we experienced earlier this year. That will help resettle them and their families once again. They will now own homes and their children will go to school.

The School Feeding Programme will continue because the Committee has set aside Ksh3 billion to that effect. Without food children cannot study properly. Even though the schools in my region will not benefit, this is important to those benefitting. It is a good move. Children can now look forward to going to school because they know they will get a meal. This way, they can concentrate on their studies.

I commend the Committee because we added Ksh3.5 billion to our policemen and women. This will motivate them as they are part of this society, and they need a decent salary. They will be proud in their line of duty. We know they go through hard times as recently seen when we were having demonstrations in this country. It was evident that they are suffering too. It is only humane and necessary to allocate this money to them so that they can get a salary rise now that they work day and night.

We have three arms of Government: Judiciary, Executive and the Legislature. Why can we not have everyone stick to their own roles? We come here to make laws but immediately we do, the Judiciary finds it fit to go and annul everything we have done here. What is the function of this House if everything we pass in this Parliament, Judiciary finds it not fit to be part of the laws? Every arm of Government should stick to its own duties. If the Judiciary wants Parliament not to exist, we need to start by cutting their budget. If we do not give them money, and they feel the pinch and heat of that, they will be making rulings that will not affect the entire nation negatively. If they are comfortable that they have fuel in their cars and they have salaries, they will not care about the rest of Kenyans. They must put the interests of the nation first.

I support.

(Question proposed)

The Temporary Speaker (Hon. Peter Kaluma): Is it the mood of the House that I put the Question?

Hon. Members: Yes.

(Hon. (Dr) James Nyikal spoke off the record)

The Temporary Speaker (Hon. Peter Kaluma): Hon. (Dr) Nyikal, it is only you who wants to comment.

First and foremost, I have confirmed that we have quorum in the House for the purpose of deciding.

(Question put and agreed to)

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

Next Order.

MOTIONS

ADOPTION OF REPORT ON FINANCIAL STATEMENTS FOR CONSTITUENCIES IN BUNGOMA COUNTY

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

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Financial Statements for the National Government Constituencies Development Fund for nine Constituencies in Bungoma County for Financial Years 2013/2014, 2014/2015 and 2015/2016, laid on the Table of the House on Thursday, 7th March 2024.

(Moved by Hon. Innocent Obiri on 23.7.2024)

(Resumption of debate interrupted on 23.7.2024)

The Temporary Speaker (Hon. Peter Kaluma): This is resumption of debate. Hon. Dekow Mohamed, Member for Garissa Township. He seems to be engaged elsewhere. Hon. Stephen Mogaka, Member for West Mugirango. He seems to be engaged elsewhere. Hon. Andrew Okuome, do you want to contribute to this? From the look of things, you seem not ready. Hon. Gideon Mulyungi, he is not in the House. He is attending to other duties. Hon. (Dr) James Nyikal, Member for Seme, it seems you want to contribute to this Motion. Proceed.

Hon. (Dr) James Nyikal (Seme, UDA): Thank you, Hon. Temporary Speaker for giving me the opportunity to address this issue of National Government Constituencies Development Fund (NG-CDF).

This is an extremely important Fund in this country. When I went through this Report, it looks like all the audit Reports that came to the House way back in 2013/2014 have not been scrutinised by the Committee. I, therefore, start by commending the Committee for going through them. This is a Fund that has done much for this country and it is important to assess how it is working by going through the audit reports.

Secondly, this is a Fund that has been increasingly challenged in court and everywhere on its constitutionality, yet it is extremely important to the people. It has been shown that devolved Funds can be readily accessible and more productive to the people, perhaps, a lot more than the funds in the counties. We must get these audit reports looked at as frequently as possible to prove a point that the whole country has ignored. Many a times, people have made claims while others have gone to court that NG-CDF is unconstitutional, but the one thing that they have not looked at is what it has done. This Fund has the lowest overhead. Many people have felt the impact of the Fund more than any other. It has been the most responsive for the people's needs and, particularly in matters education and security. In case of an emergency, people can approach the Committee and within days, they would get a response, and be served. Other Government funds have long bureaucratic processes and when people are in need, they do not get the help they deserve.

This is an extremely important Fund and the Committee has highlighted some areas in their recommendations that I would like to comment about.

First, is the area of land purchase. This has been an issue in very many constituencies because of the ease of utilisation of the Fund. It has been possible to use the money on land that has not been completely purchased or legally purchased and, therefore, jeopardise the public ownership of those structures that have been put in that area. Thus, the Committee's recommendation that the NG-CDF Board should establish a policy on the procedure of buying land and to adhere to the appropriate Government rules, is extremely important. The procedures of buying land are there. What is lacking is fund managers and committees' knowledge on these areas. Therefore, there is need for their sensitisation on land purchase so that they can ensure that wherever Government money in the NG-CDF is used, it is utilised on public land that cannot be lost later on.

There is a recommendation on the use of the emergency fund. In my view, this needs a broader definition than what is in the Act now. As I said earlier, this is one Fund that people can relate to. When proposals are done, people participate. After that, if there is a problem, for

example, a house burning, toilets sinking, or some other emergency for schools, they quickly respond. It is important that the definition of an emergency be broad so that the Fund and the committees are not restrained. As it is, when people are in need, they cannot use the Fund. If I may give an example, we had a Government school that had been constructed on land that had not been properly purchased. We had put money aside to fence the school only to realise that the land owners had gone to court and were threatening to repossess the land with the buildings. We utilised the emergency fund and later that was questioned. It was said that that was not an emergency. However, in my view, that was an emergency. So, the definition of “emergency” should be broad because this is a Fund for the people and they should have access to it. It should not be strictly controlled to an extent of preventing its quick use.

There is a recommendation on partial completion of projects. It is important that when a project is funded, it is completed. What usually happens is that, sometimes the NG-CDF Board allocates money that is not enough compared to what was in the proposal and it then says that it will allocate more. As much as that is good, it actually delays projects. That is why we are going to have partial completion. This will work, particularly in urban areas where schools need to be enlarged with double-storied buildings that cannot be done at one go. So, we should ensure financing of such projects is done appropriately and adequate money is given, at least, within two financial years for the project to be done.

There is also a recommendation on a policy framework of costing projects. I agree with them on that one. However, there is implementation that is going on within the NG-CDF Board that we should look at very carefully because it may give us problems. They are setting up an office for architects and quantity surveyors that will look at the proposals that have been done. I foresee a problem – maybe it is too early to have the office – if all the 290 constituencies will be making their proposals and Bills of Quantities (BQs) then they are scrutinised and approved by one office. That will be a big bottleneck. The office may respond by opening many offices of quantity surveyors and architects but that will be duplication. In all counties, there are offices of quantity surveyors and architects. We should just improve our relationship with those offices in the counties so that they help us. The problem is that they tend to charge very high fees, which in turn increases the overheads. However, that is something that can be addressed at the national level. I am against this recommendation of having a single office that will scrutinise all the proposals. It will be a bottleneck. That is something we should look at very carefully.

It has been recommended that there should be better coordination between the Office of the Auditor-General...

The Temporary Speaker (Hon. Peter Kaluma): Dr Nyikal, I see the yellow light is on and because of it you are rushing. Do not rush.

Hon. (Dr) James Nyikal (Seme, ODM): I was almost coming to the end. It has also been recommended that there should be better coordination with the Office of the Auditor-General. Once again, this is something that should be done. The committee and the fund manager should be sensitised and educated to respond to audit queries or management letters. Normally, they do not respond to management letters and that makes issues that could have been quickly resolved to become audit queries. So, those are appropriate recommendations.

If you may allow, I will divert a bit.

The Temporary Speaker (Hon. Peter Kaluma): I want to add you more minutes. How many more minutes? Less than 10 minutes.

Hon. (Dr) James Nyikal (Seme, ODM): Three minutes will be okay.

The Temporary Speaker (Hon. Peter Kaluma): Give Hon. Dr Nyikal five more minutes.

(Laughter)

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Speaker, I have heard my colleagues complain about court decisions. I am not a lawyer but I have heard something to the effect that the courts or the judges are blind. The courts go by the letter of the law and laws are made by this House. If we are in a situation where courts are increasingly finding the laws that are made in this House unconstitutional, where does the blame lie? As much as we want to blame the courts, we must also look at ourselves. Do we scrutinise the laws that we make adequately? How do they become unconstitutional and yet they are passed through the legal system in Parliament? Laws pass through the committees of Parliament which have legal advisors, but courts find them unconstitutional. The blame starts with us.

I know in this Parliament, recently we have come up with this thing of prompting the Speaker to put the Question then once the Speaker puts the Question, Members – the majority – quickly pass the law without listening to debate. The dictum that the minority will have their say and the majority will have their way is extremely important. The view of the minority may sometimes help in situations where important issues may have been missed. So, it is important that Members of this House are allowed to debate, even when we are in a hurry. Sometimes, it sounds like we have been given instructions to pass laws quickly. I think therein lies the problem that we are blaming the courts to be responsible for.

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Dr Nyikal.

The Member of Parliament for Luanda.

Hon. Dick Oyugi (Luanda, DAP-K): Thank you so much, Hon. Temporary Speaker. We have had enough... The issue at hand has been well articulated. I request your indulgence and call upon the mover to reply.

The Temporary Speaker (Hon. Peter Kaluma): Is Hon. Stephen Mogaka seeking to speak on this Motion? He is not in the House.

Hon. Gideon Mulyungi, do you want to speak to this Motion? You are the mover?

Hon. Gideon Mulyungi (Mwingi Central, WDM): Yes. So, can I reply?

The Temporary Speaker (Hon. Peter Kaluma): Just a minute. The Speaker exercises discretion before that determination is made in the circumstances.

Hon. Japheth Nyakundi, do you by any chance intend to speak to this particular Motion? Hon. Gabriel Tongoyo?

Therefore, there being no further interest in terms of contributions to the Motion, may the mover now reply.

Hon. Gideon Mulyungi (Mwingi Central, WDM): Thank you, Hon. Temporary Speaker. I rise to reply. I want to start by thanking Members who have contributed to this Report positively from the time it was tabled in the House. I also want to thank my Committee Members for coming up with this Report. I thank the Office of the Clerk. The comments which have been raised have been noted, especially those that have been raised by Hon. (Dr) Nyikal. The Committee will consider those comments in future reports, because the issues keep coming up as we investigate NG-CDF funds. From the comments raised by Members, it is clear to all and sundry that NG-CDF is a grassroots Fund that has impacted all the corners of villages in Kenya. It has impacted more than county governments. Therefore, this is a Fund that should be protected by all Members and Kenyans at large.

Hon. Temporary Speaker, with those few remarks, I beg to reply. Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Members, for the convenience of the House, Question to this Motion will be put when it will next be scheduled by the House Business Committee for consideration by the House.

Next Order.

ADOPTION OF REPORT ON AUDITED ACCOUNTS

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OF SPECIFIED STATE CORPORATIONS

THAT, this House adopts the Second Report of the Public Investments Committee on Social Services, Administration and Agriculture on its consideration of the Reports of the Auditor-General on the Financial Statements of the Kenya Medical Training College for Financial Years 2017/2018 to 2020/2021; the Kenyatta University Teaching Referral and Research Hospital for Financial Years 2019/2020; the Kenya Medical Research Institute for Financial Years 2012/2013 and 2013/2014; the Kenya Medical Laboratory Technicians and Technologists Board for Financial Years 2014/2015 to 2020/2021; and the Kenya Medical Practitioners and Dentists Council for Financial Years 2017/2018 to 2020/2021, laid on the Table of the House on Thursday, 22nd February 2024.

The Temporary Speaker (Hon. Peter Kaluma): Chairperson of the Public Investments Committee on Social Services, Administration and Agriculture, you may move. Is the mover in the House? He is certainly attending to other State duties related to the ongoing vetting process or preparations thereof. We will step the matter down to a future date.

(Motion deferred)

Next Order.

ADOPTION OF REPORT ON ENHANCING REPORTING
OF PARLIAMENTARY BUSINESS ON ONLINE PLATFORMS

THAT, this House adopts the Report of the Select Committee on Parliamentary Broadcasting and Library on enhancing reporting of parliamentary business on online platforms, laid on the Table of the House on Wednesday, 4th October 2023.

The Temporary Speaker (Hon. Peter Kaluma): Chairperson of the Committee on Parliamentary Broadcasting and Library to move. He is also out of the House on other State duties related to the matter I mentioned with regard to the previous order. This particular business will also be stepped down for consideration by the House when it will next be scheduled by the House Business Committee.

(Motion deferred)

Next Order.

BILL*Second Reading*THE COFFEE BILL
(Senate Bill No. 10 of 2023)

The Temporary Speaker (Hon. Peter Kaluma): This one should be moved by the Leader of the Majority Party as the co-sponsor. The Leader of the Majority Party is a member of the Committee on Appointments, which is meeting as we speak to prepare for the important State matter of consideration and vetting of the newly nominated Cabinet Secretaries. So, I step

down this particular business to the next time it will be scheduled for consideration by the House Business Committee.

(Bill deferred)

Next Order.

MOTIONS

ADOPTION OF REPORT ON PUBLIC PETITION ON FUNDS SPENT CONTRARY TO THE CONSTITUTION

THAT, this House adopts the Report of the Public Petitions Committee on its consideration of Public Petition No. 4 of 2022 regarding funds spent by the national Government contrary to the provisions of Article 223 of the Constitution, laid on the Table of the House on Tuesday, 12th March 2024.

(Moved by Hon. Nimrod Mbai on 20.6.2024 – Afternoon Sitting)

(Resumption of debate adjourned on 23.7.2024)

The Temporary Speaker (Hon. Peter Kaluma): Do we have the Chairperson of the Public Petitions Committee? This is what happens to Parliament when the entire Cabinet is being reconstituted. This particular Order will be stepped down for consideration by the House when the House Business Committee will next schedule it.

(Motion deferred)

Next Order.

ADOPTION OF REPORT ON INSPECTION VISIT TO THE EAST AFRICAN COMMUNITY SEMI-AUTONOMOUS INSTITUTIONS IN UGANDA

THAT, this House adopts the Report of the Committee on Regional Integration on its inspection visit to the semi-autonomous institutions of the East African Community in Uganda, laid on the Table of the House on Wednesday, 29th November 2023.

The Temporary Speaker (Hon. Peter Kaluma): Do we have the Chairperson of the Committee on Regional Integration? Also engaged in preparations towards the urgent matter of vetting nominees to the Cabinet. So, this particular Order will also be stepped down until it will be scheduled by the House Business Committee.

(Motion deferred)

Hon. Emmanuel Wangwe, Chairperson of the Public Investments Committee on Social Services, Administration and Agriculture, you will not move. I would rather you listen to me. The Speaker has made a decision in respect of the matter appearing as Order No. 11 and stepped it down. We understand and the Speaker indicated you were engaged in other State duties outside the House when the matter was called out. Provisions of the Standing Orders do not allow for reversal of that decision. I am saying this because I know you are ready to proceed,

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but we are also a House of rules. So, the matter will be scheduled by the House Business Committee. As usual, I have no doubt in my mind that you will duly discharge your duty as the Chair of that important Committee on behalf of the House.

ADJOURNMENT

The Temporary Speaker (Hon. Peter Kaluma): Let us rise, Hon. Members. The time being 6.02 p.m., this House stands adjourned until Thursday, 1st August 2024 at 2.30 p.m.

(The House rose at 6.02 p.m.)

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