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NATIONAL ASSEMBLY

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Thursday, 28th September 2023

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 continue ringing the Quorum Bell.

(The Quorum Bell was rung)

Hon. Members, we now have quorum to transact business. Clerk-at-the-Table.

COMMUNICATION FROM THE CHAIR

Hon. Speaker: Hon. Members, take your seats.

(Several Members walked into the Chamber)

Hon. Members, I have a short Communication to make.

WITHDRAWAL OF CERTAIN PARTS OF THE STATUTE LAW BILL, 2022

Hon. Speaker: Hon. Members, as you may be aware, the Statute Law (Miscellaneous Amendments) Bill, (National Assembly Bill No.60 of 2022) was published vide Kenya Gazette Supplement No.199 of 22nd November 2022 to effect various amendments to 58 Statutes. The Bill, which is sponsored by the Leader of the Majority Party, was read a First Time on 8th December 2022. It was thereafter referred to various Departmental Committees for consideration in accordance with their respective mandates, with the lead Committee being the Departmental Committee on Justice and Legal Affairs as indicated in my Communication of 8th December 2022. The Committees have since laid the Report on the Bill on 11th April 2023.

Hon. Members, I wish to notify the House that I have received a request from the Leader of the Majority Party, dated 28th September 2023, seeking my consent for the withdrawal of various proposed amendments contained in the Bill.

In the letter, the Leader of the Majority Party is seeking the withdrawal of the proposed amendments to:

1. The Housing Act (Cap. 117);
2. The Water Act, 2016;
3. The Energy Act, 2019;
4. The Copyright Act, 2001;
5. The Scrap Metal Act, 2015; and
6. The Excise Duty Act, 2015.

Hon. Members, in his request, the Leader of the Majority Party indicates that, following consultations, he wishes to withdraw the proposed amendments relating to the said Statutes for the following reasons:

1. That, the proposed amendments to the Copyright Act, 2001 and the Energy Act, 2019, contain provisions that may affect the functions and powers of county governments as set out in Part 2 of the Fourth Schedule to the Constitution;
2. That, the proposed amendments to the Housing Act (Cap.117) and the Excise Duty Act, 2015 are similar to those passed in the Finance Bill, 2023, which was assented to. In which case they should not arise as this would be contrary to Standing Order 49;
3. That, the proposed amendments to the Water Act, 2016 relate to similar provisions contained in the Water (Amendment) Bill, 2023 that was passed by the House and is currently under consideration by the Senate. In this regard, any proposals, that were not considered may either be forwarded to the Senate for consideration or may be published in an appropriate Bill, and;
4. Finally, that the proposed amendments to the Scrap Metal Act, 2015 are not properly placed in the Bill and may need to be redrafted.

Hon. Members, having examined the reasons for the withdrawal of the proposed amendments *vis-à-vis* the provisions of Article 110(1)(a) of the Constitution as read together with the Fourth Schedule to the Constitution, I have acceded to the request of the Leader of the Majority Party, which implies that the Bill will now proceed as though the withdrawn sections were not part of it. The import of this is that the Bill will now proceed to Second Reading and other stages without making reference to the withdrawn provisions. The House is accordingly guided.

I thank you.

Next Order.

(Several Members walked into the Chamber)

Hon. Speaker: Hon. Members take the nearest seat. Hon. Wamboka, what does nearest mean?

(Laughter)

MESSAGE

APPROVAL OF MR ANDREW MUKITE MUSANGI FOR APPOINTMENT AS THE CHAIRPERSON OF THE BOARD OF THE CBK

Hon. Speaker: Hon. Members, we have a Message from the Senate on the approval of a nominee for appointment as the Chairperson of the Board of the Central Bank of Kenya (CBK).

Pursuant to the provisions of Standing Order 41(4) relating to Messages to and from the Senate, I wish to report to the House that on 25th September 2023, I received a Message from the Senate regarding approval of a nominee for appointment as the Chairperson of the Board of the CBK.

The Message conveyed that on Thursday, 21st September 2023, the Senate considered and approved the nomination of Mr. Andrew Mukite Musangi for appointment as the Chairperson of the Board of Directors of the CBK. You recall that on Thursday, 14th September 2023, this House approved the appointment of Mr. Andrew Mukite Musangi as the Chairperson

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of the Board of Governors of the CBK, following which I conveyed the resolution to the Senate for concurrence.

In this regard, Hon. Members, the approval by the Senate of the said nominee concludes the bicameral consideration of the appointment as contemplated in Section 11(2) of the Central Bank of Kenya Act, CAP 491. The resolutions of the Houses of Parliament on approval of the nominee have since been conveyed to His Excellency the President for appointment. I thank you.

Next Order. Do we have Petitions? Is the Member for Wajir North, Hon. Saney, in the House?

PETITION

BAN ON THE USE OF ASBESTOS AS A ROOFING MATERIAL

Hon. Ibrahim Saney (Wajir North, UDA): Thank you, Hon. Speaker.

I, the undersigned, on behalf of concerned residents of Wajir North Constituency and other affected parts of the country draw the attention of the House to the following:

THAT, shelter is one of the basic human needs that secure human habitation and provides a sense of security;

THAT, the quality of construction material, including the safety of roofing materials is important as it guarantees dwellers protection, healthy living, including safety of rainwater harvested for domestic use;

THAT, Article 42 of the Constitution recognises the right of every Kenyan to a clean and healthy environment, protection of the environment for the benefit of present and future generations;

THAT, numerous public utilities such as schools, dispensaries, hospitals and police stations in Wajir North Constituency and other parts of the country were in the past built using asbestos roofing materials;

THAT, research has revealed that exposure to asbestos is hazardous to human health and could result in an aggressive cancer called Mesothelioma which affects the membrane lining of the lungs and abdomen and presents symptoms similar to those of respiratory illnesses;

THAT, as a result of Mesothelioma cancer and related illnesses, 55 countries all over the world, including the USA, New Zealand, Australia, and Egypt, have banned the use of asbestos as a roofing material, with Kenya banning its use in 2006;

THAT, despite the ban on the use of asbestos in Kenya in 2006 and the associated increase in cancer cases, asbestos is still in use in many parts of the country;

THAT, the matter in respect of which this Petition is made is not pending before any court of law or constitutional or legal body.

Therefore, my humble Petitioners pray that the National Assembly, through the Public Petitions Committee:

1. Recommend to the relevant ministries to survey and identify all public buildings with asbestos roofs, including the IDA-funded primary schools in Wajir North Constituency and other ASAL regions of Northern Kenya that were roofed using asbestos with a view to removing asbestos and replacing it with galvanized iron sheets in order to mitigate asbestos-related negative effects and cancer.
2. Recommend to the relevant ministries to develop and implement a safe disposal plan for all asbestos materials that will be removed from buildings to avoid seepage of carcinogen into the environment.

3. Recommend a medical survey to be carried out in all regions with asbestos roofs to ascertain the extent of cancerous effect of prolonged exposure to asbestos and provide necessary health interventions to those who might have been affected.
4. Make any other appropriate recommendations with respect to ensuring the safety of residents in affected regions from exposure of asbestos-related negative effects.

And your Petitioners will forever pray. Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Saney. Yes, Hon. Robert Mbui.

Hon. Robert Mbui (Kathiani, WDM): Thank you, Hon. Speaker, for this opportunity. I rise to support the Petition by Hon. Saney, Member for Wajir North.

It is a fact and research has shown that asbestos causes cancer. It is a well-known fact for a long time now. The Bible says that people perish for the lack of knowledge. In this case, people are perishing not because of lack of knowledge. They already know that this thing is quite hazardous. Some of the houses in estates like Kahawa West and others built by Government and the then Nairobi City Council were roofed with asbestos. Fortunately, some of them might have ceilings that might assist. In cases of schools and hospitals, some do not have ceilings.

Hon. Speaker, this is an issue we need to deal with once and for all. We must find a way to make it law that no house with asbestos should be occupied. This will sort out this problem.

Hon. Speaker: Hon. Ruku.

Hon. Ruku GK (Mbeere North, DP): Thank you, Hon. Speaker. I also rise to support the Hon. Member. It is very unfortunate that we have secondary schools that still have this kind of roofing material. In my constituency, Siakago Boys High School where I schooled has this roofing material. We are exposing our boys and children to very dangerous elements that may cause cancer. We have written to the Principal Secretary (PS) of the Ministry of Education many times but there is nothing happening as far as educational infrastructure funds are concerned. There is need to allocate funds to have the school replace the roofing on its buildings.

Hon. Speaker, it is very important that we call the Cabinet Secretary or the Principal Secretary for Education to come here to explain to us the plan the Ministry has with regard to changing the roofs in affected schools. We should not expose the young kids who are in schools to cancer. I support this Petition. This is a matter of national importance which needs to be looked into.

Hon. Speaker: Member for Kamukunji Constituency.

Hon. Yusuf Hassan (Kamukunji, JP): Thank you, Hon. Speaker for the opportunity. I support Hon. Ibrahim Saney's Motion...

Hon. Speaker: It is not a Motion; it is a Petition.

Hon. Yusuf Hassan (Kamukunji, JP): Sorry, it is a Petition. I would like to support Hon. Ibrahim Saney's Petition seeking support in eliminating the danger of asbestos in our society, our schools, our institutions, and in the areas that he has mentioned. Indeed, asbestos is considered globally as a dangerous material that causes cancer. It should have been eliminated in our country in accordance with actions that have been taken in other societies to protect citizens.

I, therefore, support the idea. I am only wondering why it has taken too long to address this particular problem, which has long-term health consequences. I also think that there are many other dangerous elements and chemicals that are easily available and widely used in our country. We need to wake up to this danger, nationally. In spite of spending a lot of energy and time on expanding our universal healthcare, we should also be cognisant of chemicals that are

going to cause diseases that would cost a lot of money and many lives. Asbestos is one of those dangerous chemicals.

Therefore, Hon. Speaker, I support and hope the House will also rally the Petition.

Hon. Speaker: Deputy Speaker.

Hon. Gladys Boss (Uasin Gishu County, UDA): Thank you, Hon. Speaker, for the opportunity to stand in support of Hon. Ibrahim Saney's Petition seeking the ban of the use of asbestos roofing materials.

It is about time that the National Assembly dealt with this problem. It is clear that nobody is using asbestos on new buildings. The asbestos that exists as roofing material is found on old buildings which were constructed at a time when science had not confirmed that asbestos causes cancer. This has since been confirmed by peer-reviewed world science. What remains is for us to remove those materials from our buildings. In commercial buildings or buildings that are for rent, because the tenants refuse to move into them unless the asbestos material is removed, landlords are having to change the roofing. The biggest crisis is in our public buildings. I can confirm that Pioneer Sub County Hospital in Uasin Gishu has had asbestos roofing since colonial times. Ng'elel Tarit Sub-County Hospital has asbestos roofing material. Burnt Forest Sub-County Hospital in Uasin Gishu County also has asbestos roofing material because it was built during colonial times. It is about time that the National Assembly Departmental Committee on Health, summoned the various state agencies requiring that all of them be decommissioned and replaced with safer materials.

Hon. Speaker, I think Members of this House will remember that in the last Parliament, I brought a Petition seeking the ban of 267 types of pesticides that have been confirmed to cause cancer. In fact, farmers in the United States have each been paid US\$250 million as damages for getting cancer as a result of exposure to those pesticides. Yet, today, despite having brought the Petition to our Departmental Committee on Health in the last Parliament, those pesticides have not been banned, the way the roofing materials have not yet been banned. I sought in a second Petition, in this 13th Parliament, that the Departmental Committee on Health summon the Pest Control Products Board to come to this House to explain why they have not taken measures to remove those items off our market. The Board has continuously failed Kenyans. I had a subsequent Petition seeking the removal from office of all the members of the Pest Control Products Board for failure to remove the dangerous products off our market. Despite the fact that they are banned in Europe and the USA, they are permitted to be manufactured in those countries for export to countries like Kenya that are foolish enough to allow them in their markets yet, in this House, we continue to have petition after petition from various Members.

I know that the Hon. Member from Elgeyo Marakwet Constituency recently had a Petition and Statement seeking the establishment of National Cancer Treatment Centres. What is the point of spending millions of shillings in treating cancer when we have certain products that are causing cancer right in our faces? We know that Kirinyaga County, for example, has the highest prevalence of cancer and they also have the highest prevalence of the use of products that cause cancer yet we continue to give money for the treatment of cancer. Why do you not start with the prevention of cancer?

With those few remarks, I wish to support the Member for Wajir North Constituency, Hon. Ibrahim Saney on this Petition. This House is challenged to begin to take stern action to save lives of Kenyans. Thank you, Hon. Speaker, for the opportunity.

Hon. Speaker: Member for Jomvu Constituency.

Hon. Badi Twalib (Jomvu, ODM): Asante sana Mhe. Spika. Nimesimama kuunga mkono hii *Petition* ya Mhe. Ibrahim Saney kwa sababu jambo hili linajulikana sana. Mfano mzuri, nitazungumzia kuhusu kule kwangu Jomvu. Kuna shule inaitwa Amani *Primary School*,

ambapo kuna mtoto ambaye alikufa mwaka jana kwa sababu ya *cancer* ambayo ilisababishwa na hizo *asbestos*.

Kama wenzangu walivyosema, mambo haya yalianza kitambo na ni wajibu wa wale waliohusika kuondoa hii *asbestos*. Kwa mfano, kama eneo langu la Jomvu Amani *Primary School* tumeondoa *asbestos*, tuka *replace* na *iron sheets*. Jomvu *Primary School* na Miritini *Primary School* vile vile. Pia, katika shule inayoitwa Bangladesh. Shule hizi zote zilikuwa katika hatari. Leo Mhe. Ibrahim Saney amesema hata pale *Kenya Ports Authority* (KPA), *asbestos* ziko.

Ninaungana na wenzangu kusema bodi inayohusika na hayo mambo inastahili kuenda nyumbani haraka iwezekanavo. Haiwezekani kukaa kula mshahara wa bure na Wakenya wanakufa. Wao wanajua jambo ambalo linaua Wakenya na wametulia tu. Ninaunga mkono na kusema kuwa Wizara ya Elimu iangalie yale ambayo tumefanya kama *National Government-Constituencies Development Fund* (NG-CDF). Pia, *Ministry of Education* iangalie zile shule pale palipobakia *asbestos*, waziondoe ili kuwalinda watoto wetu.

Asante, Mhe. Spika kwa kunipa fursa hii.

Hon. Speaker: Hon. Raphael Wanjala.

Hon. Raphael Wanjala (Budalang'i, ODM): Thank you, Hon. Speaker. I agree with the Deputy Speaker that we need to close down all those shops and all those factories that are making things that cause cancer in this country, especially pesticides and *asbestos*.

There is also a problem in the offing with regard to the type of cages that are put in Lake Victoria today. They are using metals to do cages and put them in the lake. They are very corrosive. Those are some of the things that will cause cancer in future. Therefore, I agree that we should take the first step to find out if there is a problem. We should not wait for a problem to be created and then we start looking for money to treat patients. The Petition before us should also include fish cages in Lake Victoria. They should be removed because they are made of corrosive metals that contaminate water. Our people will soon start contracting cancer.

Hon. Speaker: Hon. Pukose.

Hon. (Dr) Robert Pukose (Endebess, UDA): Hon. Speaker, I rise to support the Petition by Hon. Saney on matters *asbestos*. *Asbestos* inhalation is known to cause *asbestosis* and lung cancer. Ingesting *asbestos* causes colon cancer.

Many buildings which were put up during colonial times contain *asbestos*. Many houses in estates and towns that were run by the former municipal councils contain *asbestos*. *Asbestos* is also present in schools, hospitals, dispensaries and health centres. As the Committee looks into the matter, they need to consider it generally to determine whether there are buildings that still contain *asbestos* and how we can dispose of it. Its disposition should also follow certain National Environment Management Authority (NEMA) guidelines. Many people out there may not understand the danger that they are in. Once *asbestos* is removed from certain buildings, you may find them taking that *asbestos* and using it to construct houses or poultry structures. They end up exposing themselves to that harmful substance in the process. After removing *asbestos*, one is supposed to dig a hole and bury it. *Asbestos* must be buried at a specific depth to make it environmentally safe for everybody.

The Committee should widen its scope of investigation as it looks into the matter to cover all areas that contain *asbestos*. If possible, it should come up with guidelines to get rid of *asbestos* within our environment. Many of the cancers that we complain about may be associated with exposure to *asbestos*. Vehicle brake pads also contain *asbestos*. Whenever mechanics work on brake pads, they should not inhale or ingest some of the materials that emanate from them. We must look at all the areas that *asbestos* is found, consider our people's safety, and come up with guidelines to get rid of *asbestos* in our environment.

I look forward to seeing the Report by the Public Petitions Committee. Those of us on the Departmental Committee on Health are ready to lend a hand in prosecuting this very important matter in the best way possible.

Hon. Speaker: Hon. Rindikiri.

Hon. Mugambi Rindikiri (Buuri, UDA): Thank you, Hon. Speaker, for this opportunity. I also thank my friend, Hon. Saney.

There are two hospitals in my constituency whose roofs are made of asbestos. As Buuri community, we have petitioned the Cabinet Secretaries for Education and Health but nothing has been done.

Our Deputy Speaker said that Kirinyaga County has the highest number of cancer cases. I dispute that statement and substitute it with the statement that Meru County has the highest number of cancer cases. If it is not in first place, it is in second place. Those cancer cases are caused by chemicals that are used in farms, asbestos in buildings like schools and hospitals, and large-scale farmers who use toxic chemicals. Any attempts by NEMA to take up this matter have been hindered by corruption.

Cancer is very dangerous to the society and we have sung about it for a long time. Because we can now identify causes of cancer within our communities, it is high time that the departments and ministries involved came together to form a Government multi-agency that will study cancer and its causes, and make proper recommendations. Various comments, observations and recommendations will be made through this Petition. Therefore, as a House, we must continue monitoring the performance of these ministries in as far as cancer is concerned. Whenever it rains, asbestos emissions are swept away into rivers whose water is consumed by human beings and animals. It is a known fact.

I urge the House to follow up on the first Petition by the Deputy Speaker and this Petition so that we come up with actionable recommendations. Coming up with petitions is okay, but we also need to implement their recommendations.

Hon. Speaker: Thank you, Hon. Members. We will end there. Before I commit the Petition to the Public Petitions Committee, I have listened to you and you are all lamenting, yet you are a House with “teeth”. You cannot and do not act in vain. The Deputy Speaker says that she previously brought a Petition to the House. Those substances were banned in 2006. It is now almost 20 years later. I encourage you to audit the environment in your constituencies and come up with a depository so that action can be taken. If there is asbestos in hospitals, yet hospitals are guarantors of the health of Kenyans, then we are not doing very well. If there is asbestos in schools, utilise the NG-CDF to remove it, bury it and use safer materials in construction so that you help your people.

I commit the Petition to the Public Petitions Committee. Ideally, NEMA should explain why we still have these materials in our environment. Leader of the Majority Party, *kazi kwako*. You should know how to rope in NEMA to carry out a public audit on why we still have these materials in our buildings, schools, hospitals and public institutions. We should consider the possibility of amending the law to impose criminal sanctions on those who still use that material in building construction.

Next Order.

PAPERS

Hon. Speaker: Leader of the Majority Party.

Hon. Owen Baya (Kilifi North, UDA): Thank you very much, Hon. Speaker. Before I lay the Papers, I am much obliged with your direction on what we should do about asbestos. We will follow up on that matter so that Members will never again lament about asbestos in this country. I beg to lay the following Papers on the Table of the House:

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1. Legal Notice No.116 of 2023 relating to the Lake Ol'Bolossat Catchment Protection Area Order, 2023 from the Water Resources Authority;
2. Legal Notice No.117 of 2023 relating to the Karai Wetland Conservation Area Order, 2023 from the Water Resources Authority;
3. Legal Notice No.118 of 2023 relating to the Mwangei Hills Catchment Protection Area Order, 2023 from the Water Resources Authority;
4. Legal Notice No.119 of 2023 relating to the Lari Swamp Catchment Protection Area Order, 2023 from the Water Resources Authority;
5. Report of the Auditor-General and Financial Statements on the National Government Constituencies Development Fund for Webuye East Constituency for the year ended 30th June 2022 and the certificate therein; and
6. Report of the Auditor-General and Financial Statements on Water and Sanitation Services Improvement Project (IDA CR. No.5103-KE) for the year ended 30th June 2023 – Lake Victoria North Water Works Development Agency and the certificate therein.

Hon. Speaker, I beg to lay.

Hon. Speaker: Thank you, Deputy Leader of the Majority Party. Chairperson of the *Ad hoc* Committee on inquiry into Worldcoin, Hon. Gabriel Tongoyo.

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the *Ad hoc* Committee on the Inquiry into the activities and operations of Worldcoin in Kenya.

Thank you, Hon. Speaker.

Hon. Speaker: Next is the Chairperson of the Constitutional Implementation Oversight Committee. Is that Hon. Wamuchomba? Go ahead.

Hon. Gathoni Wamuchomba (Githunguri, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Constitutional Implementation Oversight Committee on a Study Visit to the Geneva Centre for Security Sector Governance - Dcaf, undertaken in Switzerland from 21st to 27th May 2023.

Hon. Speaker: Chairperson of the Public Debt and Privatisation Committee, Hon. Shurie.

Hon. Abdi Shurie (Balambala, JP): Thank you Hon. Speaker. I beg to lay the following Paper on the Table:

Report of the Public Debt and Privatisation Committee on its consideration of loans contracted by the national Government between May 2022 and April 2023.

Hon. Speaker: Next Order!

NOTICES OF MOTIONS

ADOPTION OF REPORT ON INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF WORLDCOIN IN KENYA

Hon. Speaker: The Chairperson of the *Ad hoc* Committee, Hon Tongoyo.

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the *Ad hoc* Committee on the inquiry into the activities and operations of Worldcoin in Kenya, laid on the Table of the House on Thursday, 28th September 2023.

Hon. Speaker: Hon. Shurie.

ADOPTION OF REPORT ON LOANS CONTRACTED BY THE NATIONAL
GOVERNMENT BETWEEN MAY 2022 AND APRIL 2023

Hon. Abdi Shurie (Balambala, JP): Hon. Speaker. I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Public Debt and Privatization Committee on its consideration of loans contracted by the national Government between May 2022 and April 2023, laid on the Table of the House on Thursday, 28th September 2023.

Hon. Speaker: Hon. Marianne Kitany.

FORMULATION OF A REGULATORY FRAMEWORK ON
ARTIFICIAL INTELLIGENCE IN THE COUNTRY

Hon. Marianne Kitany (Aldai, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, aware that, the world is rapidly embracing Artificial Intelligence (AI) which is the use of digital computer or computer controlled robots to perform tasks commonly associated with intelligent things; acknowledging that the 2022 Government Artificial Readiness Index reported that Kenya ranked 5th in Africa and 90th globally in readiness to adopt AI; further acknowledging that the Oxford Insight Survey 2022 pegged Kenyans readiness to adopt AI at 40.3 per cent; appreciating that AI has brought forth positive benefits that have increased efficiency in different sectors such as health care, manufacturing and robotics; concerned that the exponential rate at which AI is being embraced in the society without proper regulatory mechanisms has caused various negative consequences such as rising cases of disinformation and fake news; noting there is need to protect Kenyans from the potential AI instigated harm such as privacy breaches, AI powered fake technology algorithmic discrimination, autonomous weapons, jobs displacement, uneconomic inequality, social manipulation and misinformation, financial market manipulation and privacy invasion; now therefore, this House urges the Government, through the Ministry of Information, Communication and Digital Communication to:

- (a) Formulate a regulatory framework and ethical guidelines for implementation of Artificial Intelligence in the country to control its potential misuse; and,
- (b) Develop and execute a public awareness programme on artificial intelligence to raise understanding of AI as well as foster transparency and promote responsible use of AI for the benefit of all.

Hon. Speaker: You have a second notice of Motion.

Hon. Marianne Kitany (Aldai, UDA): Yes.

Hon. Speaker: Go ahead.

DEVELOPMENT OF MEASURES TO MITIGATE DIGITAL EXCLUSION

Hon. Marianne Kitany (Aldai, UDA): Thank you Hon. Speaker, I beg to give notice of the following Motion:

THAT, aware that, the Government of Kenya has prioritised digitisation and automation of Government processes and services as part of the Kenya

National Digital Master Plan 2022-2032, the blue print for leveraging and deepening the contribution of Information and Communication Technology (ICT) to accelerate the country's economic growth; further aware that the Government is committed to considering the industrial academic institutions and other innovations to coexist in emerging technologies to create high quality jobs that leverage on artificial intelligence, robotics and other technologies; cognisant of the fact that the Government intends to increase internet broadband connectivity across the country through the construction of 100,000 kilometres of national fibre optic connectivity network; concerned as the country rapidly digitises services and process the high cost of data internet services as well as purchase of internet enabled digital devices may lead to digital exclusion of a majority of Kenyans; recognising there is need to bridge the existing gap in ICT to ensure inclusivity in access to internet and make Kenya a regional ICT hub while keeping pace with the shifting technological changes; noting that the Government's plan for a digital superhighway may not be realised without deliberate interventions to lower data cost; now therefore, this House resolves that the Government, through the Ministry of Information, Communication and Digital Economy formulates a policy to:

- (a) Regulate internet dealing by Internet Service Providers (ISPs) by providing for metered billing of internet use on consumption in order to mitigate exploitation and secure economic interests of internet users in line with Article 46 of the Constitution; and,
- (b) Require internet service providers to develop and deploy quality metered billing systems capable of monitoring consumer usage and to convert readable details and creating invoices based on consumption and align their metrics with the value customers get from the various internet services.

Thank you.

Hon. Speaker: Next Order!

QUESTIONS AND STATEMENTS

REQUESTS FOR STATEMENTS

DISAPPEARANCE OF PERSONS FROM BURA AND GARSEN CONSTITUENCIES

Hon. Yakub Adow (Bura, UPIA): Hon. Speaker, pursuant to Standing Order 44(2) (c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding the disappearance of two people from Bura and Garsen constituencies.

On 26th September 2023, Mr. Isak Roble Somani of ID No.21447264 was abducted by unknown persons while on his way from Bura to Nairobi at Mwingi aboard bus registration Number KBT 662W at around 11.00 a.m. On the night of the same day, Mr. Noor Mohamed Okomo of ID No.9769719 was abducted from his house in Tarasaa Village in Garsen Constituency.

The two persons are renowned businessmen within Bura and Garsen constituencies. They are persons of high stature within the community. While efforts to trace their whereabouts have not borne any fruits, the families believe that the two were abducted by persons alleged to be security agents.

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

1. Could the Chairperson inform the House on the whereabouts of the said Mr. Isak Roble Somani of ID No.21447264, and Mr. Noor Mohamed Okomo of ID No.9769719; and,
2. What measures the Government is taking to ensure that the said persons are located and reunited with their families soonest possible.

I thank you, Hon. Speaker.

Hon. Speaker: Woman Representative of Tana River County, I will give you two minutes.

Hon. Amina Dika (Tana River County, KANU): Thank you, Hon. Speaker. I support the Statement request made by Hon. Yakub Adow. The families of Mr. Isak Roble and Noor Mohamed are in distress since their abduction. Mr. Isak's mother is a 90-year old woman who has been admitted to hospital since his disappearance. We would like the security agencies to give us the reason as to why up to now we do not know the whereabouts of both of them. We want justice for them. If they are criminals, let them be charged in court. Their families have been in Nairobi following up on this matter with the administration police and other security agencies without getting answers. We pray for their justice.

Hon. Speaker: Chairman of the Departmental Committee on Administration and National Security, make your inquiry and bring a response next week on Thursday.

Hon. Gabriel Tongoyo (Narok West, UDA): Thank you, Hon. Speaker. Next week on Thursday is okay. Hopefully, if the lost individuals will be found between now and then, that will be better for us.

Hon. Speaker: He did not say they are lost. He said they were abducted.

Hon. Gabriel Tongoyo (Narok West, UDA): They have gone missing?

Hon. Speaker: Yes.

Hon. Gabriel Tongoyo (Narok West, UDA): Nevertheless, Hon. Speaker, I really feel the agony and the pain their families are going through. We are really sorry for that. I will follow up and give a response on Thursday, next week.

Thank you.

Hon. Speaker: Hon. Ruweida Obo.

HAZARDOUS SPILLAGE CAUSED BY ZARARA OIL AND GAS COMPANY IN LAMU

Hon. Ruweida Mohamed (Lamu East, JP): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Environment, Forestry and Mining regarding hazardous spillage caused by Zarara Oil and Gas Company in Pate Island, Lamu.

The National Environmental Management Authority (NEMA) cleared Zarara Oil and Gas Ltd. for well drilling operations in Lamu, aimed at exploring natural gas deposit. Subsequently, Zarara Oil and Gas Company initiated exploration activities on Pate Island. But later announced cessation of operations citing absence of commercially viable gas resources. While the company may have withdrawn from Lamu, the repercussions of their activities continue to negatively affect the residents of Lamu. For instance, one of the wells drilled by the company during its exploration activities has become a source of distress as the well was left inadequately sealed and is now causing an ongoing and perilous spillage of unknown chemicals.

The situation is an environmental hazard and has become a direct threat to the health and well-being of residents. Notably, the hazard has led to the death of several animals and

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plants. The continuous spillage has also caused health problems for members of the community and may lead to long-term chronic illnesses.

It is against this background that I request for a Statement from the Chairperson of the Departmental Committee on Environment, Forestry and Mining on the following—

1. What measures are being taken by the Ministry to address the spillage caused by the Zarara Oil and Gas Company?
2. State whether the Ministry has tested the chemical emission to determine their toxicity and mitigate likely health hazards; and,
3. The strategies and initiatives the Ministry has put in place to address the psychological effects caused by the spillage, particularly with regard to compensation to affected residents.

Hon. Speaker: Where is the Chairperson of the Departmental Committee on Environment and Natural Resources? Deputy Leader of the Majority Party, who is the Chairperson?

(Hon. Owen Baya spoke off the record)

It is Hon. Gikaria? Hon. Gikaria is always here. Relay the information to him to bring the Statement in two weeks' time.

Hon. Members, before we call the Leader of the Majority Party, allow me to recognise the following schools in the Speaker's Gallery and Public Gallery: Kiletien Mixed Secondary School from Kipkelion, Kericho County; Kinyogori High School Limuru, Kiambu County; Precious Brains Primary School Kasarani, Nairobi County; Jamhuri Primary School Kasarani, Nairobi County; Mbovu Secondary School Makueni, Makueni County; Nyangiti Primary School from Mathioya, Murang'a; Kithalani Primary school from Mwingi West, Kitui County; Kathiani Girls School from Kathiani, Machakos County; and Kinyogori High School from Limuru, Kiambu County.

On my behalf and on behalf of the House, we welcome the students and their teachers to Parliament.

(Applause)

Deputy Leader of the Majority Party, as you stand, you can welcome the schools on behalf of all the Members from whose constituencies the schools come from.

STATEMENT

BUSINESS FOR THE WEEK OF 2ND TO 6TH OCTOBER 2023

Hon. Owen Baya (Kilifi North UDA): Thank you, Hon. Speaker. This is the usual Statement of the Leader of the Majority Party on Thursdays.

On behalf of the House and the leadership of the House, I would like to welcome all the schools that have visited Parliament today. They are welcome to the Houses of Parliament. We are happy and glad to have them around. As they go back to their schools, they should always remember to work hard and make us, as their Members of Parliament, very proud.

Hon. Speaker: Go ahead with your Statement.

Hon. Owen Baya (Kilifi North UDA): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(a), I rise to give the following Statement on behalf of the House Business Committee that met on Tuesday, 26th September 2023, to prioritise business for consideration during the week.

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Hon. Speaker, I wish to officially welcome Members back from the long recess. I hope we have all come back invigorated in readiness to perform our roles for the remainder of this part of the Session, which is off to a very busy start. The House awaits reports on various items of business. I urge committees to expedite and finalise their reports on Bills, treaties, inquiries, statements and petitions to be considered in the House.

With regards to the business for Tuesday next week, the House is expected to continue debating the Statute Law (Miscellaneous Amendments) Bill, 2022, should it not be concluded today. Hon. Speaker, today you acceded to our request to remove some of the items on the Floor. I hope this will start debate.

The House is also expected to deliberate on the following Motions, some of which are listed on the Order Paper today, should they not be concluded today:

1. Motion on Approval of Nominees to Three National Government Constituencies Development Fund Committees.
2. Report on Consideration of the East African Community (EAC) Multilateral Agreement on Aircrafts Accidents and Incident Investigations.
3. Report on the Consideration of the Protocols relating to Amendments to Articles 50(a) and 56 to the Convention on International Civil Aviation 1944 (Chicago Convention).
4. Report of the Kenya Delegation to the 146th Assembly of the Inter-Parliamentary Union (IPU) and related Meetings held in Manama, Kingdom of Bahrain.
5. Report of the Public Petitions Committee on its Consideration of Public Petition No.7 of 2022 regarding Probable Loss of Investments in Cytonn High Yields Solutions Platform.
6. Report on the Inspection of various One-Stop Border Posts in the Norther Corridor in the East African Community Region.
7. Report on the Employment Diversity Audit in Public Institutions.
8. Consideration of the Reports of the Auditor-General on the Financial Statements for the National Government Constituencies Development Fund for 12 constituencies in Kakamega County.
9. Report of the Kenya Delegation to the 4th General Assembly of the Eastern Africa Parliamentary Alliance on Food Security and Nutrition, held in Kigali, Rwanda.

Hon. Speaker, in accordance with the provisions of Standing Order 42A(5) and (6), I wish to convey that the Cabinet Secretary for Health is scheduled to appear before the House on the afternoon of Wednesday, 4th October 2023, to respond to Questions. Hon. Members who have Questions, make sure you are here on that day so that you may ask them. We do not have to drop Questions on that day. The Questions are as follows:

- (a) Question by Private Notice No.09/2023 by the Member for Likoni, Hon. Mishi Mboko, regarding the status of Oral Cholera Vaccination (OCV) drive conducted in August 2023.
- (b) Question No.108/2023 by the Member for Masinga, Hon. Joshua Mwalyo, regarding the failure by the Kenyatta National Hospital (KNH) Superannuation Scheme to settle pension benefits owed to retirees.
- (c) Question No.111/2023 by the Member for Kiambu, Hon. Machua Waithaka, regarding the unavailability of anti-epilepsy drugs in public hospitals.
- (d) Question No.157/2023 by the nominated Member, Hon. Sabina Chege, regarding the sale of *Velo* drug to minors in the country.
- (e) Question No.214/2023 by the Member for Kaiti, Hon. Joshua Kimilu, regarding efforts put in place to eradicate all neglected tropical diseases by 2030.

Hon. Gladys Boss (Uasin Gishu County, UDA): What is *Velo*?

Hon. Owen Baya (Kilifi North, UDA): Hon. Deputy Speaker is asking me what *Velo* is. I know what it is. It is a dangerous substance that is being sold alongside cigarettes in shops. It borders between cannabis and something else. It is sold freely.

(Laughter)

- (f) Question No.306/2023 by the nominated Member, Hon. Irene Mayaka, regarding establishment of a mental health and happiness commission.
- (g) Question No.307/2023 by the Member for Kabete, Hon. James Wamacukuru, regarding lack of medical health insurance cover to facilitate intersex persons undergo gender transformation.
- (h) Question No.308/2023 by the Member for Subukia, Hon. Samuel Gachobe, regarding death of a mother while giving birth at Moi Teaching and Referral Hospital on 3rd April 2023.
- (i) Question No.309/2023 by the Member for Mumias West, Hon. Peter Salasya, regarding steps taken by the Kenya Medical Training College (KMTTC) to secure uninterrupted availability of lecturers in each of its campuses.
- (j) Question No.310/2023 by the Member for Kabete, Hon. James Wamacukuru, regarding deployment of sign language interpreters in public healthcare facilities to facilitate communication with deaf and hard of hearing individuals.
- (k) Question No.355/2023 by the nominated Member, Hon. Dorothy Ikiara, regarding efforts aimed at addressing the menace of teen pregnancies in the country.
- (l) Question No.358/2023 by the Member for Shinyalu, Hon. Fredrick Ikana, regarding the outbreak of the unknown disease in Mukumu Girls High School, Shinyalu Sub-County, Kakamega County on 28th March 2023.
- (m) Question No.372/2023 by Member for Thika Town, Hon. Alice Ng'ang'a, regarding illegal dumping of contaminated maize flour at Kang'oki dumpsite in Kamenu Ward, Thika Town Constituency.

Hon. Speaker, the House Business Committee will re-convene on Tuesday, 3rd October 2023 to schedule business for the rest of the week.

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

(Hon. Owen Baya laid the document on the Table)

Hon. Speaker: Thank you, Deputy Leader of the Majority Party. Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Speaker, I have listened to the Statement by the Deputy Leader of the Majority Party and I just want to raise a point of concern. I drafted a Question and submitted it. Hon. Deputy Leader of the Majority Party, I hope you are listening. I drafted a Question for the attention of the Cabinet Secretary for Roads, Transport and Public Works on 25th July. We have been waiting for the response, but it has not been forthcoming. I do not know whether you will follow it up and let us know when the response will be forthcoming, so that I can relay the response to the affected parties who have been asking me about it for some time now.

Hon. Speaker: Deputy Leader of the Majority Party, you can follow up that one.

Hon. Members, allow me to also acknowledge, in the Public Gallery Survey Secondary School from Laikipia North Constituency, Laikipia County. On my behalf and that of the House, I welcome the students and their teachers to the House of Parliament.

Next Order.

MOTION**ADOPTION OF REPORT ON PROPOSED REDUCTION OF PROJECTED
CEILINGS FOR KERRA FOR FYS 2024/2025 AND 2025/2026**

THAT, this House adopts the Report of the Departmental Committee on Transport and Infrastructure on its consideration of the proposed reduction of projected ceilings for Kenya Rural Roads Authority for the Financial Years 2024/2025 and 2025/2026, laid on the Table of the House on Tuesday, 26th September 2023.

(Moved by Hon. George Kariuki on 27.9.2023 - Morning Sitting)

(Resumption of debate interrupted on 27.9.2023 - Morning Sitting)

Hon. Speaker: Hon. Members, the record shows that Hon. Thuku Kwenya was on the Floor. Is he in the House?

Hon. Kwenya Thuku (Kinangop, JP): Yes, Hon. Speaker.

Hon. Speaker: You were on the Floor and you have three minutes to go. Take the Floor.

Hon. Kwenya Thuku (Kinangop, JP): Thank you, Hon. Speaker, for giving me this opportunity to proceed from where I stopped yesterday on this Report by the Departmental Committee on Transport and Infrastructure.

Hon. Temporary Speaker, the only body that has the mandate to make, change or amend the Constitution, the law and statutes is this House. Therefore, any attempt by the Executive especially the Cabinet Secretary through the Director-General of KRB to even attempt to do a circular to the effect that they were setting ceilings as to how much should be spent on our roads is in itself ultra vires, they were acting beyond their powers and beyond what is stipulated in the Constitution.

I must thank Hon. Jared Okello for bringing up this matter in time so that any attempt to circumvent the Constitution and the law of this great land is dealt with even at source.

(The Hon. Speaker left the Chair)

*(The Temporary Speaker (Hon. (Dr)
Rachael Nyamai) took the Chair)*

Article 94(5) of the Constitution stipulates clearly as to who is supposed to legislate. Article 95 in terms of sharing revenue is well stipulated that it is only this House that can do that. Therefore, the issue of the KeRRA roads, as all Members may attest to this, forms the bulk of our roads and are such very important especially from Kinangop Constituency that I represent, which is the food basket for this great city. All we are asking is not a reduction of percentages, but an increment of the same. This House is within its power to do that; that KeRRA money should not be 22 per cent and the 10 per cent but should go up to 50 per cent because the bulk of the roads are KeRRA roads.

I take this opportunity to support the Report by the Departmental Committee on Transport and Infrastructure. I call upon this House to be vigilant because there is every attempt by the Executive to usurp powers that they do not have - power that has been allocated to this great House, the Parliament of Kenya.

With those remarks, I support the Report.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Let us have Hon. Paul Biego.

Hon. Paul Biego (Chesumei, UDA): Thank you, Hon. Temporary Speaker for giving me this opportunity to add my voice on this issue of KeRRA roads. I was mesmerised and perturbed that the Cabinet Secretary for Roads gave instructions to the Director-General of KeRRA, who went ahead and instructed the resident engineers of our constituencies to degrade or downgrade the cash that is usually allocated. That is the 22 per cent and the 10 per cent. It leaves me wondering, we being a law-abiding country and him being a law-abiding citizen, who knows that it is in this House where laws are amended and formulated, how did he give an Executive order to take away the mandate of Members of Parliament to reduce the amounts of money allocated for KeRRA roads?

The money that we used for the roads of KeRRA *vis-a-vis* the roads being repaired by the county governments is like day and night. We cannot allow that to happen. The county governments have been in place for the third term now. The KeRRA has existed since inception. The quality of roads that county governments usually construct cannot be equated to the quality of KeRRA roads. So, it is not procedural, it is not good, it is very uncouth for such a thing to happen. We will not allow it. From the constituency that I come from, I want to ensure that those roads are done in good standards using the funds that we have been given through KeRRA. I am surprised that even the roads that county governments are supposed to do have not been done. The little that they do is haphazard. I stand here to oppose and say that the only place that those amendments can be done is on the Floor of the House. I actually call upon the Director-General of KeRRA to be alive to the fact that he would be liable on his own one time. He gave an order for those roads or for the money to be reduced, our county roads committees were called to budget or give proposals for the roads to be done and they were given money less than what this House knows. It is my wish and I believe it is the wish of this House to summon the Cabinet Secretary in charge to come and explain how that would happen without the consent of this House.

With those very many or few remarks, I say a big No.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you, very much. Hon. Martha Wangari.

Hon. Martha Wangari (Gilgil, UDA): Thank you, Hon. Temporary Speaker. I rise also to support the Report and thank the Committee because it has been bearing the brunt of these issues. I thank the Chair and the Committee for acting on them.

The issue of KeRRA was well thought out. These percentages were thought out for a reason and that is why they were not capped on an amount, but on a percentage. That way, however the money goes, these percentages appreciate at the same time.

Some of the constituencies that we represent are very vast. Like my constituency is 1,348 km². I know some constituencies like in the northern region that are in thousands of square kilometres. The one issue that has always united these constituencies is the rural roads. If we even dare to take even an inch even the 22 per cent and 10 per cent as it is right now is not sufficient to cover our roads. This exposes the soft belly of what devolution was supposed to do, what it has done and what it should have done by now. We are in the third generation of governors, but if you ask the Members in this House or constituents whether they can show proper infrastructure and projects by counties, they cannot compare to the ones that are done by KeRRA and the ones that are done by the National Government-Constituencies Development Fund (NG-CDF).

The amounts that were given by the Exchequer to county governments this year were almost Ksh400 billion that went to all the counties versus Ksh44 billion that goes to the NG-CDF. If you go to the constituencies of these Members, you will see a KeRRA road, you will see a NG-CDF project that is standing and we cannot make a mistake of trying to plough back that.

The other issue that has been exposed is the issue of trying to amend the law through the backdoor. Article 94(5) of the Constitution gives the sole mandate of law making to Parliament; the National Assembly and the Senate. There is no other meeting not even the President or the Deputy President. No other person should make laws; not even the Attorney-General or the commissioners. Nobody has the power or the mandate to amend the law. Without amending the Kenya Road Act, we will be doing an illegality and this must be treated as so. We cannot amend the law through a meeting in Naivasha and we cannot get the ploughing back of the success that KeRRA has had over the years; to take them to the same pitfall that has been seen in the counties, projects that are never completed. If you look at the roads that are done by KeRRA and the county government in the constituencies, you can tell the difference without even asking. Even by looking at the quality of the murraming, gravelling or even the quantity of gravel, you can tell a road that has been done by the county as it is done haphazardly. It is an avenue for corruption.

We cannot sit back as Members of Parliament and let the same counties that have taken almost Ksh400 billion to also take the RMLF. This Committee must stand firm against such a move. Even the Kenya Roads Board Act was made in this House. We know and see the appetite governors have to dip their fingers in this Fund. But we must be very clear and straightforward. It cannot and should not happen. The Committee should invite the Ministry to explain the circumstances under which it is proposing backdoor amendments to the law. The Ministry should explain under which circumstances it is proposing to decrease the percentage without debate on the Floor of the House. I support the Committee. I hope they can get concrete answers. Not only has the Committee been receiving questions, but that question has been asked on the Floor of this House. Therefore, that memo must be treated as null and void *ab initio*.

With those remarks, I support.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you very much, Hon. Martha Wangari. Hon. Members, remember that we did not limit the time for debate on this Motion. So, it will be upon you to make a decision on how long you will speak so that as many of you can speak. I encourage you to speak for a few minutes so that more of you can have the opportunity to speak on this Motion.

The next opportunity goes to Hon. Robert Mbui, Member for Kathiani.

Hon. Robert Mbui (Kathiani, WDM): Thank you very much, Hon. Temporary Speaker. I rise to support the Motion. I was shocked to see the letter sent to the regional directors, indicating a reduction in the allocation of funds that are supposed to be used by KeRRA to maintain roads in our rural areas. The real issue that comes out of this is the fact that this House, through the Committee on Delegated Legislation, is the one that is supposed to deal with subsidiary legislation. We always have an issue with Government officials constantly trying to make laws, a power which they have no authority to exercise. Yesterday, issues were raised here on the Ministry of Education. Even as we speak, there are a lot of things happening within that Ministry that were never brought to the House. For example, painting school buses yellow makes sense, but it ought to have come to the House. If it is not brought to the House for approval, then it is not a law. We have kept wondering: When such directives are issued and someone goes against them, what law would they anchor their case on if they were to take anyone to court.

For the avoidance of doubt, the Statutory Instruments Act defines a statutory instrument, a regulation or a subsidiary legislation. The Act states that any rule, circular, letter, pronouncement or guideline, as long as it has the effect of law, is a statutory instrument. So, it is unfortunate that these Government officials continue to do this despite the fact that, under Article 95 of the Constitution, it is only this House that has the right to make law. Basic mistakes are made whenever Government officials ignore the House. One of them is that there

will be no public participation, thus implementers will not even know the impact of what they are doing.

The other mistake that this Ministry is making is that it has proposed legislation to the Committee to identify constituencies that are prone to higher rainfall, so that they can get an inordinate amount of money. I wonder whether some of these Government officials know what goes on in the world on issues of global warming. Just the other day, Kenya was host to the African Climate Summit. Is it possible that Government officials do not understand that changes in climate conditions are happening? Do they understand that areas that were prone to drought now have floods and places that had floods now have drought? It is unfortunate that they do not understand what is happening.

The Statutory Instruments Act clearly states that whenever a committee deals with any legislation, it should look at the statutory instrument against the parent Act. This letter would be drawn from the content of the Kenya Roads Board Act. It is totally inconsistent with Section 6 of that Act. It is unfortunate that they did not cross-check with the Act. The Speaker has always told us not to lament in this House. Therefore, I agree with the Committee that we immediately nullify this kind of business. Additionally, we should call upon any Government officer to be careful not to make any laws outside this House.

I submit, Hon. Temporary Speaker.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you very much. Hon. Owen Baya.

(Loud consultations)

I know Hon. Owen Baya is in the House.

Hon. Owen Baya (Kilifi North, UDA): Thank you very much, Hon. Temporary Speaker. I will donate some of my time to my friend, Hon. Makilap, if you allow. I totally oppose other departments to make law. They should follow the law as laid down. We should also not allow anyone to take the power of legislation from Parliament. I will donate the rest of my time to Hon. Makilap, so that I can attend to a very important matter of the State.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Well. Hon. Donya Dorice, Member for Kisii County.

(Loud consultations)

Hon. Members, I am giving opportunity to Members on my right side as well as my left side to ensure that we are fair to Members on both sides.

Hon. Dorice Donya (Kisii County, WDM): Thank you very much, Hon. Temporary Speaker. I feel that day after day...

(Hon. Owen Baya spoke off the record)

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Order, Hon. Owen Baya. You did not have any time to donate, but I promise to give a chance to Hon. Makilap. You may proceed, Hon. Donya.

Hon. Dorice Donya (Kisii County, WDM): Thank you, Hon. Temporary Speaker. As I was saying, I feel that day after day, things keep changing for the worse. For example, I can confirm that when Members say KeRRA roads are done better than any other roads, the same way the Cabinet Secretary for Education confirmed before the House when we asked him about sanitary pads. He kept saying that they would handle the issue. He promised that the Ministry would forward the matter to the Ministry of Public Service, Gender and Affirmative Action,

that would then facilitate the County Woman Representatives. Why do I talk about sanitary pads? It is because it is the same case in constituencies. Members are doing well on roads and County Woman Representatives are also doing well on issuance of sanitary pads. But good things are taken from good people. We do not know in which ministries some of these services are placed, but we keep saying that this and this must be done. It means that the people who have been delegated the responsibility to do that work do not understand what they are doing in those offices. They should vacate and give way to people who understand what should be done in those offices. I support this Motion. But as we talk about KeRRA roads, please, note that County Woman Representatives need sanitary pads to be distributed to our schools effectively.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Makilap.

Hon. Joseph Makilap (Baringo North, UDA): Thank you, Hon. Temporary Speaker. I take this opportunity to thank the Chairman, Hon. George Kariuki, for bringing this Report to the House. It should be known to the country that only roads done by KeRRA are being felt by wananchi on the ground. The county governments, where I served, has never been able to construct a quality road anywhere in Kenya. Therefore, it is only through KeRRA that the national Government can construct roads. In fact, we wish to increase the allocation to KeRRA. Their services have been felt on the ground. That is the Fund that will change the lives of our people. The Fund will open up areas that have potential for agriculture and areas that have been affected by conflicts. That is the money that changes the game in Kenya.

Any attempt by KRB or the Council of Governors to slash any amount that is meant for KeRRA is an abomination. County governments have not been able to do quality jobs on the ground. I thank the Committee because we must restrict Ministries and SAGAs from creating piecemeal legislations which are not in accordance with the law or Acts of Parliament to squeeze in some reforms or changes in parastatals or even functions of Government through regulations. This House must rise to be counted.

There is even a vote called 10 per cent that this Parliament must look at properly, which says it is the Cabinet Secretary's allocation. Do you know 10 per cent of the roads' money is Ksh7 billion? The Ksh7 billion can do a tarmac road of not less than 100 kilometres. If you allow that kind of money to go to one person to decide who to give or not, then we must relook that vote. It affects us. It will look like the Kenya Revenue Authority (KRA) matter that was brought here yesterday, where some parts of the country are skewed and others are not benefitting at all. Parliament must check the excesses of the Executive. All members across board have roads. Roads not only affect people who are in Kenya Kwanza or Azimio la Umoja-One Kenya Alliance, but all Kenyans. The people of Kenya must enjoy those benefits. We will ask the Chairman of the Departmental Committee on Transport and Infrastructure to relook this 10 per cent in the Cabinet Secretary's vote, so as to sort out critical areas in our constituencies in a fair and justifiable manner.

It is only this Committee that has sent a stern warning to the people in KRB. The KRB has been held captive. In KRB, the so-called State capture is too much. We must relook at how KRB distributes resources to the four authorities, namely: KeRRA, KURA, KeNHA and KWS. Those are the bodies that KRB has been giving resources. Of late, and in the previous years, the KRB has become a cartel of dishing money to friends or other people to support their infrastructure when the rest of the country is left out. Some of our constituencies have the longest roads without tarmac and murrum. We thank the Committee and ask them to go further and reprimand KRB from excesses of power.

I stand to support.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Farah Maalim.

Hon. Farah Maalim (Dadaab, WDM): Thank you, Hon. Temporary Speaker, for giving me an opportunity to contribute to this matter. I am one of the few Members of

Parliament, very few indeed, who has been in Parliament from way back in 1993. In 1993, I asked a question in Parliament on how much development money had been spent on North Eastern Province in all sectors for thirty years. The answer I got was that it was Ksh178 million. For three districts of Wajir, Garissa and Mandera, for 30 years, the Government spent less than Ksh6 million per year on them in development matters. When we got Independence, the Government of the day devised what they called the Sessional Paper No. 10 of 1965, which was the intensification of development resources in high-potential areas.

In other words, our first Prime Minister and President, Jomo Kenyatta, did not want money to go to any of those rural arid and semi-arid areas. He wanted all that development to be concentrated in areas where his community lived and a few other white highlands. And because of that, this country has never been at ease with itself in terms of politics. We had all sorts of movements. We had the multiparty or what we called agitation at that time, which cost Kenyans many lives. It was all because we were trying to look for an equitable and equal opportunity way in which resources were going to be distributed to the four corners of this country.

Today, the only infrastructures we have in our constituencies are those initiated through the National Government-Constituencies Development Fund (NG-CDF). The only other infrastructures we have are roads built by KeRRA in conjunction with the National Assembly. You cannot take that away again.

I support this Report of the Committee. If anything, we want them to take on bigger roles. We do not have a single feeder road in the whole of North Eastern Province, which is tarmacked. Not a single tarmac.

(Hon. Joseph Makilap and Hon. Robert Mbui consulted loudly)

Hon. Temporary Speaker, protect me from Hon. Makilap and Hon. Mbui. Listen to what I am saying so that you understand that there is a country called Kenya. Do not interpret Kenya to be just the confines of your own region or constituency. The moment we begin feeling for the people of Igembe, Garissa, Wajir and Pokot, that is the time that this country is going to become a nation. It is not going to work if we only keep on thinking about what goes to my people, my constituency, my tribe and my clan. We have been independent for 60 years. We are going to be independent again for another 60 years and we will still be where we started in the first place.

Allocation to those roads must be increased; let alone what we have right now. We need more resources for KeRRA. This is the only time we can determine our priorities in development as far as roads are concerned. We are achieving some serious progress. I remember at one time in one term, I covered from one end of the constituency to the other, what are now two constituencies of Dadaab and Lagdera. It was initially called Lagdera. This is a fete that has not been accomplished by successive governments for more than 40 years before that.

Hon. Temporary Speaker, can I have two or three more minutes with your indulgence?

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): You can have one minute, Hon. Farah.

Hon. Farah Maalim (Dadaab, WDM): Hon. Temporary Speaker, because of that, Kenyans in all corners of the country feel the NG-CDF, KeRRA, and that they are part of this country. Locals, herdsmen and people who live in rural areas come to you and indicate that they want this as a priority road because it connects them to their markets, boreholes or other places. As a result of that, we can now claim proudly that we belong to a country called Kenya where every Kenyan has a certain attention. Everyone will be surprised if I tell them we have less than 200 kilometres of tarmac roads in the whole of what used to be North Eastern

Province. The province, which is almost a third of this country, has only the road from Garissa to Modogashe. That is all. Period! In other parts, there are roads that go to peoples' houses. It even goes to their farms and everywhere. Are they any better Kenyans than us?

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you very much, Hon. Farah Maalim. Your time is up. You have spoken very well. Hon. Gideon Kimaiyo.

Hon. Gideon Kimaiyo (Keiyo South, UDA): Thank you, Hon. Temporary Speaker.

I also stand to support the Report by the Departmental Committee on Transport and Infrastructure. As most of my colleagues have spoken, I reject that money from KeRRA to counties be reduced. Let county governments stay on their lane. County governments have their money. County governments are allocated funds through the Appropriations Bill every year. They also collect their own revenue. They get conditional grants from the Government. They also get grants from development partners. Where do they take that money now that they want money that usually takes care of constituency roads through KeRRA? This will not be allowed.

For this body called the Kenya Roads Board (KRB) to change ceilings on allocations that go to each constituency, they must come to this House. Lawmakers in this House will deliberate on the issues that are brought to this House. If we agree with them, we will make the changes. But they do not have the right to change those ceilings. We are telling them that they cannot do so until they bring regulations or amendment of the Bill that developed KRB and the ceilings. Otherwise, that is null and void.

Hon. Temporary Speaker, the KeRRA money that goes to our constituencies should be increased instead of reducing. As my colleague and senior, Hon. Farah Maalim, has said, county projects are not the feasible ones in our constituencies. It is NG-CDF projects. If you take the little that we use to develop our roads in constituencies and give to county governments, I do not know which direction you are heading. My submission is that the amount of money appropriated through KeRRA should be increased instead of what we get every financial year decreased.

(Applause)

I speak for my Keiyo South Constituency. I have three types of topographies there. The highlands, the hanging valley and the lowlands - that is the Kerio Valley. We have the Kerio Escarpment in the space between Kerio Valley and the highlands. Its transport is very challenging. As we speak, because of the challenging topography, we are still trying to develop roads. If you take the little money we get through KeRRA, where will I get money to develop those very challenging roads? As we speak, as much as my people from Kabiemit Ward in Keiyo South Constituency know the nature of the roads, they are saying that the Member of Parliament is not doing enough to develop their roads. Little do they know that we get little resources from KeRRA. Now, the same KeRRA wants to take back that little amount of money.

With that, Hon. Temporary Speaker, I submit that we support the Report of the Departmental Committee on Transport and Infrastructure. KeRRA needs to stop what it is trying to do. If it wants to do that, let it bring a Bill to this House to amend the Kenya Roads Act. However, I do not think there is a Member of Parliament who will reduce the amount of money that goes to their constituencies.

(Applause)

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you very much, Member for Keiyo South.

Hon. Members, I would like to welcome guests seated in the Speaker's Gallery this afternoon. They are students' leaders from the Mount Kenya University. You are welcome to the National Assembly to observe the proceedings in the House. Thank you.

I would like to give this chance to Hon. James Nyikal, Member for Seme.

(A Member spoke off the record)

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): I am corrected that it is Hon. (Dr) James Nyikal.

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Speaker.

This attempt to reduce funding through KeRRA raises two basic issues. The first is the welfare of the people. Like with the NG-CDF, people have felt the value of KeRRA through the way the roads have been done. An attempt to take the money to counties will not really give a similar effect because counties have very many competing needs. They do not ring-fence funds for their purposes. It will go into one pool and do all sorts of things. It will not focus on roads. It cannot have the same effect. Secondly, is fidelity to the law in our governance and management of the affairs of this country. Appropriation of funds is only through Parliament and the laws. Funds through KeRRA can only change in accordance with the Kenya Roads Act. If anybody wants to change it, the matter must be brought before this House and the Kenya Roads Act is changed.

Hon. Temporary Speaker, we are seeing a tendency in this country where the Executive is doing things against the law. It is not necessary for the Executive to break the law. The circulars that officers give that are against the law have no meaning and are dangerous. I have been in Government. Officers should know that they will go to jail if anything is done due to any circular that is contrary to the law. Sometimes, we hear people mentioning the President's name - that it is a presidential directive. That will not help you in a court of law. The President gives and signs directives in written form. That is what the Constitution says. It is wrong to give those directives and circulars without a written directive from the President. Even then, it can be challenged if it is against the law.

At this particular time, with this Assembly as it is, there is absolutely no need for the Executive to do anything against the law. This Executive can change the law any minute it wants. We know that because we are in this Assembly. If they want to change things, come here and use the knife that this current Government has of changing the law as it deems fit. It will be okay. There is no need to do things against the law. We have seen this. We have had it at the Ministry of Education and the Ministry of Health.

Look at the admission of students to the Kenya Medical Training College (KMTC) now through the Kenya Universities and Colleges Central Placement Service (KUCCPS). It is illegal. Even the Attorney-General has stated that it is illegal, but it is still being done. What is the harm of just bringing that KMTC law here to be changed so that it is in line with the KUCCPS's law? It can be done in a day. We have passed important Bills here in two days. Why are we breaking the law?

I commend the Committee members for the recommendations they have made. I support. But let me give a warning to committees. From the tendency we are seeing, you are going to be manipulated by the Executive. Yesterday, I clearly demonstrated here that the minutes of our Departmental Committee on Health did not reach the Order Paper as we passed them in the Committee. I must tell all Committees: "Please, stand your ground"! You are the vanguard against the excesses of the Executive.

With that, I support this Report.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Members, there is a lot of interest in this Report. The topmost two on this screen are Hon. (Dr) Pukose, Member for

Endebess, who is not in the House, and Hon. Omboko Milemba. I give the opportunity to Hon. Omboko Milemba, Member for Emuhaya.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Temporary Speaker.

I read the Report. I begin by looking at the circular itself. First, the circular was not in good faith. Why would a Director-General write a circular of that magnitude to regional directors indicating those changes without coming to Parliament to get the law done correctly? For me, it was an indictment.

Secondly, it is good that I noticed in the Report that the Committee invited him. I want to thank Hon. Okello Jared for having raised this matter on Tuesday, 22nd August, which made the Plenary know what was happening.

I also want to indict the letter from the Cabinet Secretary for Roads, Transport and Public Works because in his answer, for the reason why he allowed that letter to be written, he indicates that he was fearing for pending bills which would otherwise arise if early procurement was done. He did not envisage that the same pending bills would occur on the KeRRA side if early procurement had been done. I also found an indictment on *Waziri* because he anticipated that this money would go to county governments.

An institution by the name the 9th National and County Government Coordinating Summit sitting in Naivasha cannot purport to change the law. This is the same business which many other speakers have dealt with over institutions that want to change the law through the back door. Yesterday, I was talking about the Ministry of Education. I do not want to go that direction, and we are having the same happening on roads.

Further, I want say that the country roads were classified very clearly according to the law into two types, and allocated accordingly. All roads in the country were classified into national trunk roads classified as A, B and C, and then we have the county roads classified as D, E, F and G. KeRRA was given the mandate over roads in C.

I want the House to understand that county governments have their own money for roads. They have been given 15 per cent of all the monies for road maintenance, which was given as a conditional grant to the county governments after, I think, the year 2021. But later on, it was mainstreamed into the equitable share of revenue. What is happening is that they have their money, but because it is in the equitable share of revenue, they do not prefer to put that money on roads and that is why they want extra money on the roads. Otherwise, they have their bit of the Road Maintenance Fund money.

I thank the Committee for having recommended that this should not go on. I also think that the Committee must take care that the benefits you see yourself get and enjoy in Parliament were actually put in place by those whom in the beginning were also servants here and legislators. These positions cannot disappear under your arms as the Chairman of the Departmental Committee on Transport and Infrastructure.

Therefore, you need to stand very strong so that you protect the benefits and powers of this House, which are now being wrestled away by other institutions, especially the lawmaking process.

With those few remarks, I really must stop. Thank you.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you very much, Member for Emuhaya.

Hon. Members, the time allocated for this Motion has come to an end and I would like to call upon the Mover to reply. The Mover can be magnanimous. You may decide to give a minute to a few Members.

Hon. George Kariuki (Ndia, UDA): Thank you, Hon. Temporary Speaker. Before I reply, I will donate just a few minutes.

(Hon. Members raised their hands)

Of course, not by the show of hands! I will follow the order here on the screen. I have a copy of the screen. I will allow Hon. Kirwa 45 seconds.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Chairman, read the whole list.

Hon. George Kariuki (Ndia, UDA): Hon. Kirwa, and Hon. Kiragu, who is a member of this Committee. I do not know whether he is here. Hon. Njeri Maina, Hon. Phylis Bartoo and Hon. Karemba in that order.

Hon. Abraham Kirwa (Mosop, UDA): Thank you, Hon. Temporary Speaker. I stand to support this Report of the Departmental Committee on Transport and Infrastructure on this issue of the proposed reduction of the projected ceiling of the KeRRA roads. In my constituency, the roads that are really sustained and passable are the roads that are maintained by KeRRA.

I stand to support the Committee in that, we should not reduce the allocation that we give to KeRRA. When you look at the roads sustained and maintained by county governments, most of them are impassable. They do not use their resources well, but the little money we get through KeRRA to our constituencies, we and the citizens are able to see what we do with the little that we get. Instead, we should be requesting for the KeRRA funds to be increased so that we are able to maintain our roads.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): The order will be as the Chairman called out. Please proceed Hon. Njeri Maina.

Hon. (Eng.) John Kiragu (Limuru, UDA): I rise to support this Report.

The Temporary Speaker (Hon. (Dr.) Rachael Nyamai): It was Hon. Kiragu first. Then we go to Hon. Njeri Maina. Please trace Hon. (Eng) Kiragu.

Hon. (Eng.) John Kiragu (Limuru, UDA): Hon. Temporary Speaker, I rise to support this Report. This Report has clearly indicated that there are no other people other than this Assembly that can make law. The allocations for various agencies are clearly indicated in the Kenya Roads Act, 1999. This country must respect the laws that are there and it is clear that the responsibility of allocating funds is given to this House.

We know that the effort of reducing this amount is to enable the governors to contain Members of Parliament who on the ground have shown that they can manage the resources properly. That is because, sometimes, the county governments cannot show what they are doing with the monies that they are collecting. For this reason, I support.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Njeri Maina.

Hon. Njeri Maina (Kirinyaga County, UDA): Thank you, Hon. Temporary Speaker. I rise to support the Report by the Committee. At this moment in time, we should be discussing how to increase funding for infrastructure, not take away or cap the same. We still need access to good roads so that our people can have better economic development, facilitate supply chain and access to health facilities.

The Kenya Roads Act is very clear and we can, therefore, not have it subdued or overlooked by any other legislation unless it is amended by this House.

I, therefore, support the same and say that any other introduction is *ultravires* to the Kenya Roads Act and cannot, therefore, be condoned by this House of legislation. Thank you.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Bartoo.

Hon. Phylis Bartoo (Moiben, UDA): Thank you, Hon. Temporary Speaker. I rise on behalf of the people of Moiben to support this Committee for the swift action it took and for being vigilant. That is because as far as we are concerned, Article 95 of the Constitution gives Parliament – in this case the 13th Parliament – absolute powers to make laws of the land. Parliament is a House of records and there is no time we have passed an amendment to reduce the allocation from 22 per cent to 18 per cent.

By writing letters or memos to Parliament to direct us, the Executive committed an illegality that should be stopped. Moiben is a farmers' constituency. Most of our roads are only passable courtesy of the money that we get from KeRRA to transform them. Taking away that money is unfair to us.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Chairperson, you have five more minutes.

(Hon. George Kariuki spoke off the record)

Proceed.

Hon. Muchangi Karemba (Runyenjes, UDA): Thank you, Hon. Temporary Speaker. I want to start by thanking the Committee led by Hon. GK Kariuki for a job very well done. The Commission on Revenue Allocation (CRA) has no jurisdiction to appropriate resources. That is a preserve of this House. The good roads in our constituencies are as a result of KeRRA. We need to increase their allocation instead of reducing it. County governments have their own sources of revenue. They can generate their own revenue and appropriate resources to the roads that they want to construct. They should not imagine getting resources from KeRRA.

I support this Committee. I urge the CRA to find something else to do instead of reducing the resources allocated to KeRRA.

Hon. George Kariuki (Ndia, UDA): Thank you, Hon. Temporary Speaker. I rise to thank Members for supporting this Report. There are beautiful words that are written in our Chamber that state: "For the Welfare of Society and the Just Government of the People." Reducing the allocation to KeRRA is not just. It is very selfish and illegal. It is null and void.

The KeRRA's allocation of 22 percent and 10 percent goes towards the maintenance of critical roads in our constituencies as Members have stated. My Committee has vowed to resist any attempt to reduce that allocation. I have seen a letter where the CRA is inviting stakeholders to a meeting next month to discuss the allocation of the Road Maintenance Levy Fund without any regard to the Act that establishes the Kenya Roads Board (KRB).

I have looked at Article 216 of the Constitution which establishes the CRA. One of its mandates in Article 216(5) is to submit its recommendations to the Senate, the National Assembly and other entities. I do not have to mention them all. It is not mandated to share revenue but to make recommendations to the Senate and the National Assembly. Instead of making recommendations, they are taking a back door route to try and amend the Constitution by sharing revenue, which is a preserve of this House. Changing the Constitution and making laws is a preserve of this House. Any attempts to divert resources that are meant for our constituencies will be resisted in all possible ways.

(Applause)

I have seen another letter which contains good news for this House. The letter indicates that the previous letter that was written to KeRRA by the KRB has been withdrawn. I thank the Director-General of the KRB for withdrawing that letter. I want to ask...

Hon. Alice Ng'ang'a (Thika Town, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): What is out of order, Hon. Alice Ng'ang'a, Member for Thika Town?

Hon. Alice Ng'ang'a (Thika Town, UDA): Thank you, Hon. Temporary Speaker. I do not know why we are thanking the CEO. What informed them to write that letter to the House? Who gave them the power to do so? Can they first tell us who gave them the mandate to write

to the House to reduce an allocation that is contained in the Act? Instead of thanking them, we should summon them.

Hon. George Kariuki (Ndia, UDA): Hon. Temporary Speaker, I should have said that I appreciate the fact that they have withdrawn that letter

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

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. GK, there is another point of order by Hon. Jared Okello. What is out of order, Hon. Jared Okello?

Hon. Jared Okello (Nyando, ODM): Thank you, Hon. Temporary Speaker. At the outset, let me remind the House that I raised this matter one day before we went on recess. That has informed this robust discussion. I like it. When the Executive employs...

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): There is nothing out of order, Hon. Jared. You have made your point.

Hon. Jared Okello (Nyando, ODM): That is what I was coming to. At certain times, the Executive employs what we call the "Executive fiat" where they overreach their mandate. The letter from KeRRA is a true testament to the Executive trying to overreach its mandate. Whereas a letter has been written by the Director-General...

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Jared Okello, I get what you are saying. You have made your point. Thank you very much. There is nothing out of order. Hon. Chairperson, kindly conclude your reply.

Hon. Jared Okello (Nyando, ODM): Hon. Temporary Speaker, let me just finish raising this important matter. We acknowledge that a letter has been written...

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): What is out of order, Hon. Jared Okello?

Hon. Jared Okello (Nyando, ODM): Before the Chairperson talked about a letter that has been withdrawn, he told us that another letter has been written to collect peoples' views on the same subject. They are trying to manage us. Within a very short period of time...

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you very much, Hon. Jared Okello. Hon. Chairperson, would you like to comment on the matters raised by the Member for Thika Town and Hon. Jared Okello?

Hon. George Kariuki (Ndia, UDA): Yes. Hon. Temporary Speaker, it is not wrong to appreciate something that has been done in the right way. I understand that every Member wants to contribute to this issue...

(Loud consultations)

Hon. Geoffrey Wandeto (Tetu, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): There are very many points of order. I will just take the first one on the list. What is out of order, Hon. Geoffrey Mwangi, Member for Tetu?

Hon. Geoffrey Wandeto (Tetu, UDA): Hon. Temporary Speaker, the Chairperson of the Committee should first apologise to this House because it seems that the matter passed him. This should never have happened in the first place. The Chairperson owes this House an apology. He should not purport to appreciate a third party.

(Applause)

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): I am listening to the debate. Luckily, I presided over the

Hon. George Kariuki (Ndia, UDA): Hon. Temporary Speaker, I withdraw that statement.

(Applause)

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you very much for withdrawing your statement. Please, proceed and reply. You do not have much time to do so.

Hon. George Kariuki (Ndia, UDA): Let Members know that the earlier letter has been withdrawn.

Hon. Gideon Mulyungi (Mwingi Central (WDM): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Chairperson, kindly bear with me. I will take a point of order from Hon. Gideon Mulyungi. I am trying to get someone who has not spoken on this matter.

Hon. Gideon Mulyungi (Mwingi Central (WDM): Thank you, Hon. Temporary Speaker. The Chairperson of the Departmental Committee on Transport and Infrastructure is completely out of order for thanking the CEO of Kenya Roads Board. He should have asked him to resign with immediate effect. Thank you.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Mulyungi, I will ask the Chairperson to proceed and reply. He had already made a statement on that which he withdrew. Please conclude your reply.

Hon. George Kariuki (Ndia, UDA): As I conclude, I want to thank Hon. Members for their contributions and for standing firm to assure our constituents that the money meant for maintenance of our rural roads will not be diverted to avenues that are not helpful in any way. Every Member would have wanted to contribute to this very important matter. No wonder we have had very many points of order and interventions. I know it is all in good faith.

I appreciate Hon. Members because they care about their constituencies. The Commission on Revenue Allocation (CRA) is out of order to require those resources to be shared with governors. They have their resources and should focus on using them the right way. As said before, you can see what the money for this allocation has done. But when you look at other allocations out there, which I will not mention, you will not see what they do.

Hon. Temporary Speaker, could you add me one minute? Before this money was removed from the hands of the governors, they used to divert it to recurrent expenses, which was totally against the Constitution. Since we started receiving this money, we have seen a tremendous improvement in our roads in the last financial year. I thank Hon. Members again and wish to assure them that the Departmental Committee on Transport and Infrastructure will safeguard their resources...

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Chairperson, you have to beg to reply. That has to go on record. Please proceed.

Hon. George Kariuki (Ndia, UDA): Hon. Temporary Speaker, I beg to reply. Thank you.

The Temporary Speaker (Hon. Rachael Nyamai): Thank you very much, Hon. Members. You know that these Motions have timelines. Having established a quorum in the House, I hereby put the Question.

(Question put and agreed to)

Next Order!

ADOPTION OF REPORT ON RATIFICATION OF THE EAC MULTILATERAL
AGREEMENT ON AIRCRAFTS ACCIDENT AND INCIDENT INVESTIGATIONS

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The Temporary Speaker (Hon. (Dr) Rachael Nyamai): The Chairperson of the Departmental Committee on Transport and Infrastructure. Please come to the Table.

Hon. George Kariuki (Ndia, UDA): Thank you, Hon. Temporary Speaker. I beg to move:

THAT, this House adopts the Report of the Departmental Committee on Transport and Infrastructure on its consideration of the East African Community (EAC) Multilateral Agreement on Aircrafts Accidents and Incident Investigations, laid on the Table of the House on Thursday, 17th August 2023 and, pursuant to the provisions of section 8(4) of the Treaty Making and Ratification Act, 2012, approves the ratification of the East African Community (EAC) Multilateral Agreement on Aircraft Accident and Incident Investigations.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Sorry, Hon. Chairperson. Hon. Members, allow me to recognise students in the House. It is extremely important for them, and I know the proposing and seconding may take some time.

Hon. Members, seated in the Speaker's Gallery this afternoon, we have students from Ikawa Secondary School, Chuka/Igambang'ombe Constituency, Tharaka Nithi County. We also have students from Moi Junior Secondary School Kabarak, Rongai Constituency, Nakuru County.

(Applause)

You are welcome to the National Assembly to observe proceedings of the House. You may proceed, Hon. Chairperson.

Hon. George Kariuki (Ndia, UDA): Hon. Temporary Speaker, I request that you stand down this Motion until next week. Thank you.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you very much, Hon. Chairperson. That request has been acceded to.

(Motion deferred)

Next Order!

ADOPTION OF REPORT ON RATIFICATION OF PROTOCOLS RELATING TO
AMENDMENTS TO THE CONVECTION ON INTERNATIONAL CIVIL AVIATION 1944

Hon. George Kariuki (Ndia, UDA): Hon. Temporary Speaker, I beg to move and ask Hon. Kiragu to second the Motion.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Chairperson, you may proceed.

Hon. George Kariuki (Ndia, UDA): Thank you Hon. Temporary Speaker. I beg to move:

THAT, this House adopts the Report of the Departmental Committee on Transport and Infrastructure on its consideration of the protocols relating to amendments to Article 50(a) and 56 to the Convention on International Civil Aviation 1944 (Chicago Convention), laid on the Table of the House on Thursday, 17th August 2023 and, pursuant to the provisions of section 8(4) of the Treaty Making and Ratification Act, 2012, approves the ratification of the protocols relating to amendments to Article 50(a) and 56 to the Convention on International Civil Aviation 1944 (Chicago Convention).

Thank you, Hon. Temporary Speaker. I wish to request Hon. Kiragu to second.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Kiragu.

Hon. (Eng.) John Kiragu (Limuru, UDA): Hon. Temporary Speaker, I second.

(Question proposed)

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Member for Kathiani, Hon. Mbui.

Hon. Robert Mbui (Kathiani, WDM): Thank you, Hon. Temporary Speaker. I rise to query the Chairman of this Committee.

He has clearly indicated to us what the Motion is. Whenever a Chairperson is moving any Motion or Bill, it is important that he points out what it is about, and what it deals with and after that, Members can continue to debate. He has just read out what is in the Order Paper and called someone to second.

Members of this House do not know which Protocol is being changed. They do not understand what the Convention on International Civil Aviation 1944 (Chicago Convention) represents. They do not know about the amendments to Articles 50(a) and 56 to the Convention on International Civil Aviation 1944 (Chicago Convention). I would have loved to support this Motion if I knew what it is about. Otherwise, we are in the dark now. The Chairman has not shed any light on this Motion.

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

*(Hon. Temporary Speaker
consulted the Clerks-at-the-Table)*

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Owen Baya.

Hon. Owen Baya (Kilifi North, UDA): Hon. Temporary Speaker, I rise under Standing Order 96 that we adjourn the debate on this Motion and give it another time so that we can debate it.

It is an important Report that we, as Parliament, need to debate. Therefore, I beg your indulgence that we adjourn the debate on this Motion under Standing Order 96.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you very much, Hon. Owen Baya. That request is acceded to.

(Motion deferred)

NOTING OF REPORT OF THE KENYAN DELEGATION TO
THE 146TH ASSEMBLY OF THE IPU AND RELATED
MEETINGS IN THE KINGDOM OF BAHRAIN

THAT, this House notes the Report of the Kenya Delegation to the 146th Assembly of the Inter-Parliamentary Union (IPU) and related Meetings, held in Manama, Kingdom of Bahrain from 11th to 15th March 2023, laid on the Table of the House on Wednesday, 14th June 2023.

(Moved by Hon. John Kiarie on 22.8.2023)

(Resumption of Debate interrupted on 22.8.2023)

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Members, this debate was interrupted on Tuesday, 22nd August 2023. It has a balance of two hours and 10 minutes.

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No one was on the Floor. So, any Member interested in this Motion may press the intervention button. I will give you an opportunity to speak.

Deputy Leader of the Majority Party.

Hon. Owen Baya (Kilifi North, UDA): Hon. Temporary Speaker, now that there is no interest to debate this Motion, I would like to rise under Standing Order 95 that you put the Question. Debate started, but there is no more interest to contribute. We can request the Mover to reply.

Hon. David Kiplagat (Soy, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): What is out of order? I cannot see you on record.

Hon. David Kiplagat (Soy, UDA): I am here. Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): You may proceed. What is out of order?

Hon. David Kiplagat (Soy, UDA): Hon. Temporary Speaker, we were debating the Motion on the Adoption of the Report on the Proposed Reduction of Projected Ceilings for KeRRA for the Financial Years 2024/2025 and 2025/2026. I thought you were supposed to put the Question.

(Laughter)

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Kiplagat, you are completely out of order. While you were outside, we concluded that Motion. I appreciate that you have spoken.

Hon. David Kiplagat (Soy, UDA): I was misadvised. Thank you.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): You are out of order. The Motion that you are talking about was concluded.

Hon. Members, there being no interest to contribute, I call upon the Mover to reply.

Hon. Owen Baya.

Hon. Owen Baya (Kilifi North, UDA): Hon. Temporary Speaker, this puts me in a very awkward position. However, as Deputy Leader of the Majority Party, I reply. I request Hon. Mbui to second.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Owen Baya, you do not need a seconder.

Hon. Owen Baya (Kilifi North, UDA): I reply, Hon. Temporary Speaker.

(Laughter)

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon Members, for some reason, I will not put the Question. It will be deferred to another sitting, as it will be scheduled by the House Business Committee (HBC).

(Putting of the Question deferred)

Next Order.

ADOPTION OF REPORT ON THE PROBABLE LOSS OF INVESTMENTS
IN CYTONN HIGH YIELDS SOLUTIONS PLATFORM

THAT, this House adopts the Report of the Public Petitions Committee on its consideration of a Public Petition No. 07 of 2022 regarding Probable Loss of

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Investments in Cytonn High Yields Solutions Platform, laid on the Table of the House on Thursday, 4th May 2023.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Chairperson, Public Petitions Committee. Hon. Owen Baya, I can see that you have an intervention.

Hon. Owen Baya (Kilifi North, UDA): Hon. Temporary Speaker, I cannot see the Chairperson of the Public Petitions Committee in the House.

I request that you allow me to adjourn debate on this Motion under Standing Order 96, so that it can be re-scheduled to another time.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Members, that request is hereby acceded to.

(Motion deferred)

Before we go to the next Order, I see several points of orders. Hon. Alice Ng'ang'a, the Member for Thika Town.

Hon. Alice Ng'ang'a (Thika Town, UDA): Sorry, Hon. Temporary Speaker. I had placed the intervention earlier on. I withdraw.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. John Kwanjiku, the Member for Kiambaa.

Hon. Njuguna Kwanjiku (Kiambaa, UDA): Sorry, Hon. Temporary Speaker. I wanted to contribute to the Inter-Parliamentary Union (IPU) Motion, but the Deputy Leader of the Majority Party has decided to defer it to a later date. I am one of the Members who went to Bahrain.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Johana Ng'eno, the Member for Emurua Dikirr.

Hon. Johana Kipyegon (Emurua Dikirr, UDA): Thank you, Hon. Temporary Speaker. I rise concerning Motion No.10 on the Probable Loss of Investments in Cytonn High Yields Solutions Platform. We need to have a serious discussion on this. Most matters which particular committees can scrutinise end up in one Committee - the Public Petitions Committee - which, in the end, may lack the capacity to address them.

A few months ago, an issue concerning upgrading the Soweto Slum in Kibra was brought here. No solution has been reached because that matter died in the Public Petitions Committee. This Committee only listens to petitions. The concerned committees are not given the opportunity to address these issues. Today, we have the same issue with the Cytonn Investments Petition. It is high time that we identify the Petitions that should go to the Public Petitions Committee and the issues that should go to the specific committees.

Hon. Temporary Speaker, we also have a Petition on the way concerning the collapsing of houses in the country. If this Petition goes to the Public Petitions Committee, it will die naturally and yet, the people are losing property. We need to have a serious discussion on this particular issue. We need to decide which petitions should go to the Public Petitions Committee and which ones should go to the real committees to address them adequately.

Hon. Member: On a point of order.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): What is out of order? Hon. Members, before I encourage other points of order on this subject, I would like to comment on that. The matter raised by Hon. Johana is serious. I hope the House Leadership will take it up. I do not have any further comment on it at the moment.

Hon. Omboko Milemba, what is out of order?

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Temporary Speaker for giving me this chance. Nothing is really out of order. The House Leadership must call its people to order. The Cytonn Report, which has been deferred, now risks being completely dropped

and yet, it is a real menace to the people who invested in it. Now that it is on the Floor of the House, the leadership of the Public Petitions Committee is absent. If we are to follow the Mombasa protocol, you should sound a warning bell to the leaders and chairpersons of committees. This is how we lose business that otherwise belongs to the people.

Thank you.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Members, as I said, I would like that matter to be taken up by the House leadership. I discourage you from discussing it further. It is not on the business scheduled for today. I appreciate the comments that have been made. I will pass this information to the House leadership to handle it. I order that that debate on the Chairperson of committees and matters petitions to stop. This is a matter that concerns the organisation of committees in the House. At this moment, I feel I am not qualified to give the right direction.

Thank you, Hon. Members.

Hon. David Kiplagat (Soy, UDA): Hon. Temporary Speaker, I have a burning issue.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): I hope it is not about chairpersons of committees or petitions.

QUORUM

Hon. David Kiplagat (Soy, UDA): No. I am rising on Standing Order No.95. Reading the mood of the House and the disorganisation on the Leadership part, we need to establish whether we have a Quorum to transact any business.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Members, I direct that the Bell be rung for 10 minutes

(The Quorum Bell was rung)

(Several Members walked out of the Chamber)

Hon. Members, the rules do not allow you to walk out when the Quorum Bell is being rung. You should stay in the Chamber.

Hon. Members, I order that we stay in the House because the Bell is still being rung. It is also important for us to learn the House rules.

ADJOURNMENT

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Members, we were not able to raise Quorum to do business as per Standing Order 35.

Hon. Members the time being 5:17 p.m., this House stands adjourned until Tuesday, 3rd October 2023 at 2:30 p.m.

The House rose at 5:17 p.m.

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