

PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY

THE HANSARD

Wednesday, 11th August 2021

The House met at 9.30 a.m.

[The Deputy Speaker (Hon. Moses Cheboi) in the Chair]

PRAYERS

QUORUM

Hon. Deputy Speaker: Hon. Members, we do not have the required quorum to begin business. Therefore, I order that the bell be rung for 10 minutes.

(The Quorum Bell was rung)

Can we also confirm the number of Members in the other holding area before I make any decision? One particular issue is of concern. Let us check and see the main holding area because I am aware there are a few Members there.

(The Quorum Bell was rung)

Order, Hon. Members. We have now met the required quorum. Therefore, we will begin business.

PETITION

Hon. Deputy Speaker: I see Hon. Rehema Hassan, the Member for Tana River County, has a Petition. Proceed, you have the microphone now, Hon. Hassan.

HARASSMENT OF RESIDENTS OF TANA RIVER BY KWS RANGERS

Hon. (Ms.) Rehema Hassan (Tana River CWR, MCCP): Hon. Deputy Speaker, I rise to present Public Petition No. 26 of 2021 regarding harassment of residents of Tana River County by Kenya Wildlife Service (KWS) rangers in Kora National Park.

I, the undersigned, on behalf of residents of Bangale Ward, Bura Constituency, Tana River County, draw the attention of the House to the following:

THAT, Kora National Park, which stands on over 1,787 square kilometres, is a natural resource in Tana River County that offers sanctuary to wildlife, including several of the big five species;

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THAT, Kora was upgraded from a game reserve to a national park without awareness and participation of the settlement adjacent to the park and the wider residents of the county;

THAT, the settlements adjacent to the park have provided protection to the wildlife by complementing efforts of the KWS through reporting of all poaching activities thus reducing incidents of poaching;

THAT, the KWS has failed to mitigate human-wildlife conflicts in the area, neglected collaboration with communities living close to the wildlife habitations and further failed to give incentives for the wildlife resource conservation and management through corporate social responsibility and community sensitisation;

THAT, instead of solving all disputes between the locals and the warders procedurally and professionally, KWS officers have repeatedly harassed residents leading to frequent injuries of residents as well as massive losses of livestock;

THAT, the arising disputes are administratively presented in Meru County where the park is managed from instead of Tana River County, where the park is situated;

THAT, the growth of the neighbouring Boka Town, which is situated at the boundary of the park has been inhibited by KWS' constant intimidation of businesspeople intending to invest in the town, thereby raising suspicion of the future plan to overturn the town via park boundary expansion;

THAT, efforts to have these grievances addressed by the relevant agencies including the KWS, have not yielded any fruit; and,

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

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Environment and Natural Resources:

(i) engages the relevant agencies with a view to determine the original boundary demarcation between Kora National Park and the adjacent community settlements, including Boka Town Community;

(ii) Obtains for public access, public participation and corporate social responsibility report from KWS emanating from engagement with the local residents living around the Kora National Park;

(iii) Reverses the park back to its original status of game reserve and secures involvement of the local communities and county government in any future plans to upgrade it into a national reserve or a national park;

(iii) Makes any further orders it deems fit in the circumstances of the Petition.

And your humble petitioners will forever pray.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: On this particular one, I will hear a few Members who might want to give some vote to the Petition. Hon. Murugara, do you want to speak to this one?

Hon. George Gitonga (Tharaka, DP): Thank you very much, Hon. Deputy Speaker. This Petition is quite timely because for sure, I know Kora National Park, which is an extension of, and borders the Meru National Park, which also borders my constituency. It is important that once a game reserve is being upgraded to a national park, there is adequate public participation. This is the complaint the Member for Tana River County has, that the Government just upgraded Kora National Park from a game reserve, which it has always been since the times of Adamson when he used to live there, to a national park as a result of which the neighbouring residents, who are also stakeholders, are negatively affected. This is not just happening in Kora. Even in Meru

National Park there is an ongoing dispute between the residents of Balambala Constituency and the residents of my constituency purely because there has been no public participation regarding movement between the Meru National Park, Balambala and Tharaka constituencies. As a result, there are skirmishes and there is unrest, which we ask the Government to look into.

The Petition is timely and, therefore, needs immediate attention.

Hon. Deputy Speaker: Hon. Omboko Milemba.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Deputy Speaker, for giving me this chance. I want to weigh in on one thing about the Kora National Park. During my trips around the country when I was doing other jobs, I arrived at that particular area of Tana River and witnessed the conflict that existed between wildlife and human beings.

So, I support the Petition as presented by the Member. In that area, even working for teachers and other civil servants is impossible.

Often you get reports that one day, students wake up and find leopards in classrooms and they have to fight them. Another time I was shown pictures of a teacher who had been mauled by a hyena. It was so serious.

Hon. Deputy Speaker: Order. Hon. Osoro, you must be very careful not to mislead new Members. You know what I am saying. Proceed.

Hon. Omboko Milemba (Emuhaya, ANC): In the same area, it is almost impossible when it comes to events like exam supervision and administration because of the human-wildlife conflict that has been let loosely without control. So, I want to support because I have been there. It is an area where schools are run even under trees despite the fact that you find the Cabinet Secretary, Ministry of Education, Science and Technology speaking very strongly.

Thank you, Hon. Deputy Speaker. I support.

Hon. Deputy Speaker: Hon. Rasso, Member for Saku.

Hon. Ali Rasso (Saku, JP): Thank you very much, Hon. Deputy Speaker. I support this Petition on about three grounds.

One, these animal sanctuaries, whether they are national parks or national reserves, belong to the people of Kenya. As such, the constituents or the people who border the parks and national reserves must co-own the facility with the Government of Kenya. Secondly, the Kenya Wildlife Service appears to be so concerned about the animals and their welfare in total disregard of the wellbeing of the communities that live around the sanctuaries.

Thirdly, the KWS must be seized of corporate social responsibility because whatever is attracting the areas to be reserves is that the environment is good for wildlife. At the same time, people in those areas are denied access to the parks. So, the KWS must construct things like schools. They must make sure that there is compensation when animals destroy public facilities or even social amenities.

The issue of water is very important because around the parks, especially during drought, livestock keepers go into the reserves and game parks. To avoid that, the KWS must invest in water resources for the communities which live around the parks.

Hon. Deputy Speaker: Hon. Chachu Ganya.

Hon. Chachu Ganya (North Horr, FAP): Hon. Deputy Speaker, I stand to support this Petition by the Member for Tana River. This is a very critical concern for many Kenyans. I belong to the Departmental Committee on Environment and Natural Resources, which eventually has to probe this Petition. But at the end of the day, it is this House to make a decision. Whenever we are degazetting national parks in this country, it is Parliament or the august House which will make the final determination once we reach that stage. As a country, we are a custodian of the global

heritage for humankind. It will be a very beam balance on how we take care of people who coexist with wildlife as much as we want to conserve the critical and very huge universal human heritage that God bestowed on this country of ours.

I thank you.

Hon. Deputy Speaker: All right. Let us have very straightforward contributions, so that we can save time for other Members. Let us have Hon. Wangwe. I see there is a lot of interest on this. Quickly and we will be able to move on.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Deputy Speaker. Allow me to support this Petition by the Member for Tana River County.

As to what happens in Tana River, it similarly happens to other places. I want to cite a very good example of the Kakamega Forest where instead of human-wildlife conflict in terms of security to human beings, it is causing food insecurity. You will find that wildlife from the forest is invading farms. The farms are no longer producing enough food to serve the people. Therefore, on this Petition, I urge the Chair who is here with us to do a very thorough inquiry into the whole issue, in totality, and bring to us suggestions that we should formulate on how to resolve this thing once and for all.

Hon. Deputy Speaker: Hon. Sankok, and then I will come to this other direction and give two Members.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Deputy Speaker. I support the Member for Tana River because degazetting must have public participation. When upgrading or degrading, we must have the locals because they co-own the game reserves or animal sanctuaries. Those who suffer the most because of animals are normally the locals. When animals get out of game reserves, they get into farms, destroy livestock and kill human beings. So, it is imperative that they must be involved and benefit from such matters. Thank God you come from Kuresoi where you have conserved the Mau Forest. You lead in the conservation of the Mau Forest. Courtesy of it, we now have rivers like the Mara River and the spectacular wildebeest migration has come back. I know you will give good direction on this matter.

Hon. Deputy Speaker: Thank you. Hon. Majimbo Kalasinga. You seem to be learning the ropes too quickly. You are turning out to become a very active Member of this House. I have given you the microphone. I do not know what has happened somewhere. Well, just organise your thoughts. In the meantime, let me give Hon. Wamalwa a chance as I look for a microphone which is working there.

Hon. (Dr.) Chris Wamalwa (Kimisini, FORD-K): Thank you, Hon. Deputy Speaker. He has been my student. I have been guiding him and you can only learn from experience in this House. You cannot be making technical appearances and learn the procedures of the House. I am happy Hon. Majimbo is learning very fast.

(Applause)

This matter is happening in many areas. We have had so many Petitions here, similar to this that the Member for Tana River has raised. The relevant committee with the ranking Member, Hon. Chachu Ganya, who is a committed Member of that Committee, it is the highest time they get a solution for all these matters, particularly on the conflict between wildlife and human beings. It has been going on for so long. There must be a framework in place to solve this issue. For instance, when it comes to destruction of farms, this is a matter that we have been talking about every now and then. The Committee should look for a lasting solution and move with speed, so

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that it can be extended. Like Chetambe Hills, in the upgrading of parks and national reserves, there must be a delicate balance between the gazettelement and human settlements. I have seen some areas where gazettelement is done without proper public participation. In Bungoma, recently, we saw Chetambe Hills being gazetted without the due process being followed. The locals have done a Petition through the Senate to object to this. In future, for any decision that is being done, public participation must play a critical role.

Hon. Deputy Speaker: Okay. Hon. Kalasinga now. I believe you should be able to contribute. If you do not get the microphone there, the option that you always have is to go to the dispatch area. But now that you have it there, proceed.

Hon. Majimbo Kalasinga (Kabuchai, FORD-K): Thank you very much, Hon. Deputy Speaker. Before I even support this Petition, I want first to thank you for acknowledging my growth. I think I am growing properly under the better guidance of yourself and others like Nominee 001 and Dr. Chris Wamalwa.

On this, I think the public in the aforementioned is having double harassment. It is double harassment in which way? One, when these Members and the people meet the animals on the way, they are harassed. If they meet the game rangers, they are still harassed. The students in some of the day schools in the areas cannot go to school early in the morning or they must be escorted by parents or seniors in the family. It is high time the Government took this seriously and created boundaries and proper fences.

In Meru, elephants destroy maize and other farm produce. People who keep animals like goats and sheep wake up in the morning to find all their animals destroyed by wild animals. So, I agree with the Petition and I support it.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Members, we can leave it at that. Let us go to the next Order.

QUESTIONS AND STATEMENTS

On this particular Order, we will start with the segment on Questions then take up both responses and Requests for Statements. So, starting us off this morning is the Member for Mwingi Central.

Question No. 277/2021

STEPS TO ADDRESS SHORTAGE OF TEACHERS IN MWINGI CENTRAL CONSTITUENCY

Hon. Gideon Keter has made a request, which we accept and defer the Question. So, we go to the Member for Tharaka, Hon. Gitonga Murugara.

Question No. 279/2021

MEASURES TO ADDRESS PSYCHO-SOCIAL AND STRESS-RELATED ISSUES AMONG POLICE OFFICERS

(Question deferred)

Question No. 284/2021

BOUNDARY DISPUTE BETWEEN THARAKA NITHI AND MERU COUNTIES

Hon. George Gitonga (Tharaka, DP): Thank you so much, Hon. Deputy Speaker. Allow me to ask Question No.284 of 2021, directed to the Cabinet Secretary for Lands and Physical Planning:

- (i) Could the Cabinet Secretary explain the relationship between county boundaries and the land adjudication process with respect to the boundary between Tharaka Nithi County and Meru County as regards issuance of title deeds to the residents of Turima and Karocho locations, in Turima Division and Gikingo, Thiite and Ntoroni locations in Mukothima Division, both of Tharaka Constituency?
- (ii) Could the Cabinet Secretary provide the details of persons disputing the boundary between Tharaka Nithi and Meru counties and indicate how the dispute affects parcels of land owned by private individuals in terms of their demarcation, adjudication and issuance of titles?
- (iii) When will the adjudication processes of the stalled sections of Karocho, Turima and Gikingo areas resume?
- (iv) Could the Cabinet Secretary clarify whether the Ministry has provided the budget required to complete the demarcation and survey processes in those areas estimated to be about Kshs7.75 million?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: That Question will be replied to before the Departmental Committee on Lands.

I want to revisit the previous Order by committing the Petition to the relevant committee, which is the Departmental Committee on Environment and Natural Resources. I see the Chair is in the House. Are you able to indicate the timelines you require to process it? Anyway, I think we normally have the normal required timelines. I am sure you will work on it within that particular time. Unless you want to submit it a little earlier, let us have you say something on it.

Hon. Kareke Mbiuki (Maara, JP): Thank you, Hon. Deputy Speaker. I want to note the Petition by Hon. Rehema Hassan, who is also a Member of the Committee. I want to give the undertaking that within the next one month, we will have disposed of that Petition.

Hon. Deputy Speaker: That will be perfect. Let us proceed with the Order we were at and ask the Member for Ruiru, Hon. Simon King'ara, to ask his Question.

Question No. 289/2021

PROVISION OF WATER IN MWIHOKO AREA

Hon. Simon King'ara (Ruiru, JP): Thank you, Hon. Deputy Speaker, for according me this opportunity to ask Question No.289 of 2021 on behalf of the great people of Ruiru, especially Mwihoko Ward. The Question is directed to the Cabinet Secretary for Water, Sanitation and Irrigation:

- (i) Is the Ministry aware that the ongoing Greater Githurai/Ruiru Juja Water Supply System Project in Ruiru Constituency whose contract was awarded in May 2018 initially included Mwihoko A and Mwihoko B Areas as part of the beneficiaries

as depicted in the Environmental and Social Impact Assessment (ESIA) Report (EIA - 1460-1469)?

- (ii) What measures has the Ministry taken to ensure that the proposed areas in Mwihoko Ward where public participation was held by the ESIA team including Kiuu Ward, benefit from the water supply project?
- (iii) Could the Cabinet Secretary provide the timelines as to when Mwihoko area will be included in the project before its' scheduled completion by the end of 2021?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: That Question will be replied to before the Departmental Committee on Environment and Natural Resources. We go to the next one by Hon. Chachu Ganya, Member for North Horr.

Question No. 291/2021

STATUS OF NATIONAL CLIMATE CHANGE ACTION PLAN

Hon. Chachu Ganya (North Horr, FAP): Thank you, Hon. Deputy Speaker. Allow me to ask Question No. 291 of 2021 to the Cabinet Secretary for Environment and Forestry.

- (i) Could the Cabinet Secretary explain why the National Climate Change Council approved by the National Assembly in December of 2016 is yet to be convened to date?
- (ii) Could the Cabinet Secretary also explain why the Climate Change Fund provided for in the Climate Change Act, 2016, is yet to be operational?
- (iii) Could the Cabinet Secretary provide the status of the National Climate Change Action Plan (2018-2022), which is perceived to be operational yet the Council that is mandated to approve its operations under the Climate Change 2016 has not yet been convened?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Again, that Question will be replied to before the Departmental Committee on Environmental and Natural Resources, where you also happen to be a Member. Next is the Member for Emuhaya, Hon. Omboko Milemba.

Question No. 292/2021

DEMOLITION OF HOUSES BUILT ON KENYA RAILWAYS LAND IN EMUHAYA

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Deputy Speaker. I rise to ask Question No. 292 of 2021 to the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works:

- (i) Could the Cabinet Secretary explain the circumstances that led to demolition of houses at Emulaka, Ebulinji, Ematindo and Ebusanjili areas in Emuhaya Constituency on 20th July, 2021 despite some of the occupants possessing title deeds?
- (ii) Could the Cabinet Secretary provide details of the land belonging to Kenya Railways?
- (iii) What steps is the Ministry taking to ensure that the families affected by the demolitions in the said areas especially children, widows and poor farmers are

compensated and resettled considering the affected were former railway employees who have stayed on the said railway lands for over 10 years?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: That Question will be replied to before the Departmental Committee on Transport, Public Works and Housing. We go to the next and the last Question by the Member for Embakasi West, Hon. Theuri.

Question No. 301/2021

DESTRUCTION OF PROPERTY IN MOWLEM WARD OF EMBAKASI WEST CONSTITUENCY

Hon. George Theuri (Embakasi West, JP): Thank you, Hon. Deputy Speaker. Allow me to ask Question No. 301 of 2021 to the Cabinet Secretary for Interior and Coordination of National Government:

- (i) Could the Cabinet Secretary provide the circumstances that led to the National Police Service officers overseeing destruction of property in Mowlem Ward, Embakasi West Constituency, particularly along Kangundo Road, Kwa Maji and Umoja 3 areas on 10th and 22nd July 2021?
- (ii) Could the Cabinet Secretary confirm whether there was any court order or statutory notice given to the residents to vacate the land prior to the demolition of their property?
- (iii) What steps has the Ministry taken to compensate the said victims for the loss of their property and their livelihoods?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: That Question will be replied to before the Departmental Committee on Administration and National Security. Now we go to the segment on Statements. I think the better way is to start with Requests for Statements and then go to responses to various Statements. We will be going as per those ones which are annexed to the Order Paper. I believe it should be the one by Hon. King'ola. Actually, it is the only one that is being requested. The rest are responses.

STATEMENT

POOR DRAINAGE ALONG THE NAIROBI EXPRESSWAY

Hon. Patrick Makau (Mavoko, WDM-K): Thank you, Hon. Deputy Speaker for giving me this chance.

Pursuant to Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Environment and Natural Resources regarding the imminent health and environmental disaster posed by a damaged section of sewerage system along Mombasa Road, in particular an area marked as KM2+090-3+000 along the Nairobi Expressway.

Hon. Deputy Speaker, the 27.1 kilometre Nairobi Expressway Project was commissioned in October 2019 and begins from Mlolongo through the Jomo Kenyatta International Airport (JKIA) junction and Nairobi's Central Business District to Westlands area along Waiyaki Way. The ongoing construction of the expressway has resulted in numerous inconveniences to residents and the business communities living and operating along that road all the way from Mlolongo to

Waiyaki Way areas. The contractor, China Road and Bridge Corporation (CRBC) and its sub-contractors, have failed to provide the necessary alternative drainage and sewerage diversions in parts of the project. During the construction, several sewerage lines have been destroyed. In addition, the contractor has dumped construction materials on sewer lines leading to blockages and seeping of sewage waste to adjacent areas, for instance, the Little Bees Kindergarten and Primary School along the Syokimau Loneview access lane. The said schools have been affected and may be closed indefinitely since they are flooded with raw sewage, which also pose serious environmental and health hazard to the pupils and area residents.

It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Environment and Natural Resources on the following:

(i) What measures are being put in place to avert the impending environmental and health hazards occasioned by the raw sewage spillage in the said area?

(ii) What measures are in place to provide for sewer lines and other road infrastructure that will ensure proper drainage of the raw sewer waste along the diversions and in particular, Syokimau area?

(iii) What urgent steps is the contractor taking to stop the spillage and ensure removal of the sewer waste from the said school's grounds amongst other areas so as to avert further damage; and,

(iv) Could the Committee consider conducting a site visit within the next two days to assess the magnitude of the damage and cause the relevant authorities to take action immediately?

The snail-pace traffic jam from Mlolongo to Nairobi CBD has been caused by lack of diversions because the contractor has made no effort to put diversions for the same. Again, there is a lot of dust because the contractor does not splash water on the road as provided in the bills of quantities (BQs).

I would like to thank Hon. Ichung'wah, who has helped me to bring this Statement. I think he has relatives there. I hope they feel represented.

Thank you, Hon. Speaker.

Hon. Deputy Speaker: Even before I commit it to the Committee, I am eager to know why you feel that it is the Departmental Committee on Health that would do better on this particular Statement request. My thinking is that this is an environmental issue.

Hon. Patrick Makau (Mavoko, WDM-K): Hon. Deputy Speaker, I have directed my request to the Departmental Committee on Environmental and Natural Resources.

Hon. Deputy Speaker: You said the Departmental Committee on Environment and Natural Resources? I thought you spoke about the Departmental Committee on Health because there might be health issues, but I think environment is better. That is fine. Before I commit it to the Departmental Committee on Environment and Natural Resources, I will give a chance to two Members from either side of the House to see if there are any issues that you would want to add to it. I will then ask the Chair of the Committee to tell us the timelines and preparations that he would make.

Hon. Pukose.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Deputy Speaker. As the Departmental Committee on Environment and Natural Resources looks at this issue, there is the issue of environmental impact assessment. Was it done on the project? What is the status of that environmental impact assessment? They need to look at the environmental impact assessment report. There is also the issue of health impact assessment that is done before any road is constructed to ascertain how the project will affect the people along that road. Along the said road,

there are shops and markets. People sell vegetables, fruits and other items. How do we protect our people from those challenges, especially in terms of the health impact assessment?

Hon. Deputy Speaker: Let us have Hon. Mbiuki, the Chair of the Departmental Committee on Environment and Natural Resources.

Hon. Kareke Mbiuki (Maara, JP): Thank you so much, Hon. Deputy Speaker. I want to thank the Member for Mavoko, Hon. Makau, for raising these matters, which have been in the public domain.

I appreciate the magnitude of the environmental and health issues which have been raised. I want to make a commitment that with the support of the Clerk's Office, the Departmental Committee on Environment and Natural Resources will schedule to visit the project next week on Tuesday. In the course of the same week, we will engage the relevant authorities, specifically the Ministry of Transport and Infrastructure as well as the Ministry of Water and Sanitation.

We have two contracts there. One is to do with the expressway. The Government has committed more than Kshs3 billion to relocate the existing water and sewer lines. I strongly want to believe that the contractor handling the issues of sewer and water pipelines would be able to move with speed so that the same can be restored. I am, therefore, requesting for two weeks so that the Committee on Environment and Natural Resource can come back and give a comprehensive Statement on how the matter will have been resolved so as to avert any health and environmental issues in Mavoko.

Hon. Deputy Speaker: I hope the Member for Mavoko has heard you. We hope it will be dispensed with as quickly as possible.

Let us go to the other segment. Let me see the Order. We will start with the response to Hon. Kangogo Bowen's Request for Statement on banditry attack and killings in Marakwet East Constituency, which will be responded to by the Chair of the Departmental Committee on Administration and National Security. Are you ready, Hon. Chair?

Hon. Peter Mwathi (Limuru, JP): Yes, Hon. Deputy Speaker.

Hon. Deputy Speaker: Proceed.

RESURGENCE OF CATTLE RAIDS IN MARAKWET EAST

Hon. Peter Mwathi (Limuru, JP): Hon. Deputy Speaker, the Member for Marakwet East, Hon. Kangogo Bowen, sought the following information from the Cabinet Secretary for Interior and Coordination of National Government:

(i) Whether the Cabinet Secretary could explain the measures the Government is taking to address the resurgence of raids and banditry in Marakwet East Constituency.

(ii) Whether the Cabinet Secretary could state the efforts that have been put in place to arrest the perpetrators of attacks and recover the stolen livestock.

Hon. Deputy Speaker, the response is as follows:

Following reports of cattle rustling in Marakwet East Constituency, security agents in the area responded and made the following recoveries:

- (i) On 21st and 24th June 2021, police recovered 66 cows and 10 goats and handed over to the owners.
- (ii) On 28th June 2021, 14 cows belonging to Mzee Tabel were stolen and later recovered and returned to the owner.

- (iii) On 3rd July 2021, 95 goats and seven cows belonging to William Chebet and Kipkorir Limo respectively, were stolen and efforts to track and recover them are ongoing.

Hon. Deputy Speaker, the following measures have been put in place to address the resurgence of raids and banditry in the constituency:

- (i) Peace committees are actively engaged in bringing the warring communities together. So far, the efforts are bearing fruits.
- (ii) Security patrols have been enhanced and additional personnel deployed in areas of Kaben, Cheptoo and Kaptora operation camps which are strategically situated along possible entry routes normally used by bandits.
- (iii) Collection of intelligence has been enhanced in the bandit prone areas. On 20th July 2021, police officers acting on intelligence laid an ambush in Kaben Location grazing fields where suspected six Pokot raiders were fatally shot.
- (iv) The frequency of peace *barazas* has been enhanced between the warring communities.

Hon. Deputy Speaker, the Government has employed various measures in efforts to recover stolen livestock and arrest the perpetrators involved in these activities. Since 21st June, a total of 211 head of cattle and 262 goats have been recovered. Similarly, two notorious suspected cattle rustlers, namely, Kisanglok Leng and John Kiplangat, have been arrested and police are using information received from them to track and recover stolen livestock. The Assistant County Criminal Investigation Officer (ACCIO) Marakwet East, is profiling and monitoring all known suspects to establish their networks and funding with an aim to effect arrest for those found to be involved in the cattle rustling menace.

However, the following issues continue to pose a challenge to the security agencies namely:

- (i) The cattle rustlers are treated as heroes and thus the community members are never willing to share intelligence on their activities or inform on their hideouts...

Hon. Deputy Speaker: Order, there must always be social distance among Members, unless they came from the same House.

(Hon. (Ms.) Esther Passarris consulted loudly)

Order, Hon. Members. I repeat, always keep social distance unless you came from the same House. Please, proceed

Hon. Peter Mwachhi (Limuru, JP): Hon. Deputy Speaker, let me proceed.

- (ii) Marakwet East Constituency has rugged terrain and impassable routes, which hamper swift response to incidents by security personnel.
- (iii) Presence of illegal firearms and crude weapons in the hands of warring communities.
- (iv) Lack of alternative means of livelihood in both communities which make them result to cattle rustling.
- (v) Finally, both communities sympathise and support their respective banditry activities.

In order to deal with insecurity in the area, the Government intends to implement the following measures:

- (i) Deployment of special police unit at Dira between Baringo and Marakwet, which is a possible escape route.

(ii) Establishment of a police station at Chesogon area.

I thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Very well, let us have the Hon. Member for Marakwet East represented by the Member for Marakwet West.

Hon. William Kisang (Marakwet West, JP): Thank you, Hon. Deputy Speaker. I thank the Chairman, the Departmental Committee on Administration and National Security, for the response. However, the last time we were with the Cabinet Secretary, Mr. Matiangi, in Tot with all the leaders from the region, namely, West Pokot, Elgeyo Marakwet and Baringo counties, he agreed to send a special deputy county commissioner (DCC) to Tot to take care of the issues in the region. However, we were surprised to see last week that instead of sending a special DCC, a curfew has been enforced from 6.00 p.m. to 6.00 a.m. So, we are still requesting that that special DCC and a police station that has been mentioned by the Chairman be done quickly. They can even set up a police post initially using tents, so that security is restored.

Otherwise, so far, we are happy that for the last one week, there has been relative peace in the area. I thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Okay. I am trying to look out for a new Member because I see the rest of the Members who have made requests are the normal ones. Let us have Hon. (Dr.) Pukose.

Hon. (Dr.) Robert Pukose (Endebess, JP): Apparently, Hon. Deputy Speaker, I was the Medical Officer of Health (MoH) in Marakwet and I know the place very well.

This issue of cattle rustling has been there for a while. I thank the Chairman, Departmental Committee on Administration and Security for the response he has given. However, there is a police station at a place called Mokil, and at times, you find that they have challenges when it comes to patrolling using vehicles. So, when the lease agreement for vehicles is renewed, it is good to enhance that place with more vehicles, so that you can enable officers to trace the cattle rustlers especially in cases where they are still following up the cattle that were stolen.

Following up cattle that have been stolen for more than two weeks is a very long time and recovering them is a challenge. The Government also needs to put in place measures to ensure that people keep cows for wealth creation in areas such as those. How do you support those whose cattle has been stolen and that is the only livelihood they had? We must have measures that can support them. Maybe by giving them some breeds that cannot be stolen and taken to hardship areas, we can assist them.

I thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Let us have Hon. Ganya Chachu.

Hon. Chachu Ganya (North Horr, FAP): Hon. Deputy Speaker, this issue of cattle rustling among pastoralist communities is a serious crisis. As Members of Parliament, our core function is to legislate, represent and oversee as we make decisions on issues of national importance on this Floor. For some of us, 80 per cent of our time is spent agonising on the mess of cattle rustling in our regions and yet we have very little powers and capacity to deal with it.

I think it is of essence and significant importance that the Government comes up with serious ways of addressing cattle rustling. In my constituency, last week and the week before, serious cattle rustling was going on between the Gabras, Dasanach and the Turkanas. It is so unfortunate that we are being told of the many efforts being put in place by cattle rustlers to increase cattle rustling within my constituency.

We have reported this to the police and other security agencies, but even the reports that we do in good time have never been a deterrent. They have never impeded the cattle rustlers from

creating chaos and killing innocent Kenyans in those parts of the country and taking away all their livelihood in terms of livestock.

Hon. Deputy Speaker, we are pleading with the Government to reinstate Kenya Police Reserve (KPR) or come up with other measures including using drones because these gangs move in masses of about 200 or 300 people. They walk, do not fly or drive and if our Government is serious, this can easily be deterred. It cannot be the usual game every other day. I hope, the Chairperson of the Departmental Committee on Administration and National Security my good friend, Hon. Mwathi will do whatever it takes to come up with measures to deter this. This is a serious crisis in the region and many people have lost their lives and livelihoods. In some regions like my constituency, because there are no journalists, nobody reports about this. We are really pleading with the Government to do something.

Thank you, Hon. Deputy Speaker, for the time.

Hon. Deputy Speaker: Hon. Members, I want to guide that even as you make contributions, let them be specific to this particular one or more generalised in terms of issues regarding policy. If you ask the specifics like Hon. Ganya has done, you are free to seek a Statement, Petition or Question so that details can be inquired into better. Lastly, is Hon. Sankok briefly, then we will wind it up.

Hon. David ole Sankok (Nominated, JP): Thank you, Hon. Deputy Speaker. At some point, you said you are looking for new Members. Do not punish us for being very loyal, active and ready to participate in debates in the National Assembly. Let me thank Hon. Peter Mwathi, the Chairperson of the Departmental Committee on Security and National Administration. He is *Muthuri wa Muthigi*, and they are only three in this country, that is Uhuru Kenyatta and Justin Muturi.

Hon. Deputy Speaker: That is unparliamentary language. You can easily interpret that Hon. Sankok because it is very interesting.

Hon. David ole Sankok (Nominated, JP): Let me interpret. It means there are only three people in this country, who have been given the traditional leadership *rungu* among the Kikuyus.

Hon. Deputy Speaker: How did you know this Hon. Sankok?

Hon. David ole Sankok (Nominated, JP): I know because history is very clear and is all over. This is Hon. Peter Mwathi, the Right Hon. Justin Muturi and His Excellency Uhuru Kenyatta. I thank Hon. Mwathi for coming up with this very elaborate response to the menace of cattle rustling. I just want him to go further and realise that cattle rustling is a capital crime and sanitised traditionally, so it does not sound very offensive. In reality there is murder, rape, deportation of masses, stealing and robbery.

If we can have policies geared towards naming it as it is, that is robbery, rape and murder. I think we can use the security apparatus to ruthlessly deal with these people. This is because they are really draining the energy of the good citizens of this country, who keep livestock for their livelihoods to drive the economy. All over sudden they are made poor simply because of a crime that has been sanitised traditionally. If you hear cattle rustling, you may not think there is murder. You think robbery is worse but when there is robbery with violence, the security agents respond very quickly. For cattle rustling they handle it as if it is a cultural issue. I support the Petition and Petitioner.

Hon. Deputy Speaker: Hon. Mwathi, do you have anything to say in response? I see most Members are encouraging you to do more and seem to be satisfied with your answer.

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Deputy Speaker. I want to agree with most Members that there are issues of insecurity, cattle rustling and so on that have been happening

in the country. I want to let Members know that two days from today, that is on Friday, I will be meeting the CS in charge of Interior and Coordination of National Government together with his team to give us a statement on containment of insecurity in the entire country. After which I will bring a Report here in the Chamber for Members to read. We want to cover all areas because there are so many Statements and Petitions regarding insecurity in this country. Therefore, we felt it is necessary for us to engage with the entire team and get county reports on peace and security matters, so we can apprise this House.

Hon. Deputy Speaker: Thank you, very much. We will go to the next one by Hon. Abdullswamad Nassir on police brutality against peaceful demonstrations in Mombasa County. The Hon. Abdullswamad. This is a response and we are happy when we see a Member. In fact, many a times, the Chairpersons are accused when they are not in the House.

I think we should treat Members in the exact same manner when they are not in the House when their Statements are being responded to. We expect them to get clarifications from the Chairpersons. So, do not simply request for a Statement and leave it at that. YCou can proceed and respond to it. Probably, I will not open it up to too many interventions because the Member is not here. Proceed Hon. Mwathi.

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Deputy Speaker. The Member of Parliament for Mvita Constituency sought a Statement regarding police brutality against peaceful demonstrations by residents of Mombasa in expressing their views on the ongoing conflicts in the Middle East. Particularly, the Member sought to be informed on the following:

- (i) Could an explanation be given on the plans put in place to end the manner in which police are handling peaceful demonstrations in Mombasa County to allow them freedom of expression as stipulated in Article 4 of the Constitution of Kenya?
- (ii) Whether the Cabinet Secretary could provide an assurance on the manner the police could handle the residents of Mombasa to express emotions in solidarity with the Palestinians.

Hon. Deputy Speaker, the response is as follows:

The Government as guided by the Public Order Act has measures outlined on how to handle peaceful demonstrations and allow freedom of expression as follows:

- (i) Try holding consultative meetings with organisers before allowing such demonstrations;
- (ii) Agree with organisers on the route for the demonstrations; and,
- (iii) Ask the demonstrators to provide their own security plans during demonstrations.

Residents wishing to express their solidarity with the Palestinians should be guided by existing laws and regulations. However, demonstrations have to observe and adhere to the Ministry of Health, COVID-19 containment protocols and regulations. The police officers are trained on how to handle the demonstrators in line with the legal provisions, statutes and specifically the Public Order Act as provided for in the Constitution.

We wish to state that it is the role of Government, through the National Police Service (NPS), to promote and ensure security of citizens even during legal processions. However, the organisers need to notify the area Officer Commanding Station (OCS) beforehand for security arrangements to be put in place.

Hon. Deputy Speaker, that is the response and I thank you.

Hon. Deputy Speaker: Very well. Hon. Mwirigi, you want to see something on this.

Hon. John Paul Mwirigi (Igembe South, Independent): Thank you, Hon. Deputy Speaker. I wanted to comment on the first response and this one as well. The people of this Republic have

rights as enshrined in Article 37 of the Constitution to demonstrate and picket. Security is supposed to be provided for the demonstrators. Therefore, it is not right for police officers to disrupt and beat peaceful demonstrators. The CS in charge of Interior and Coordination of National Government should advise the OCS, Officer Commanding Police Division (OCPD) and Regional Commissioners to device ways of guiding demonstrators during demonstrations.

Thank you, Hon. Deputy Speaker.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Deputy Speaker. Although I do not support the position of the Palestinians because I am pro-Israel, those who are demonstrating against the State of Israel should be allowed to demonstrate. We have no problem with that.

Hon. Deputy Speaker: What is the relevance of that to this?

Hon. (Dr.) Robert Pukose (Endebess, JP): If you read the reply by Hon. Abdullswamad, it is talking about those protesting in support of the Palestinians who were forcefully put down not to protest but, I think they should have been allowed to protest. I also wanted to comment on what happened in Embu. It is shameful for the police to use brutality and even kill people who are demonstrating following the death of the two young men who were killed by the police. Extra-judicial killings in this country must come to an end and any police officer who was responsible must be taken to court, tried and be jailed according to the laws of the land. So, I think the police should not consider themselves as being above the law that they can use excessive force and kill young people even after the curfew hours just because you have stayed out during the curfew hours. That is very brutal, inhuman and it is a shame as a Republic of Kenya. That should not happen.

Hon. Deputy Speaker: Next is Hon. Nangabo Janet.

Hon. (Ms.) Janet Nangabo (Trans Nzoia CWR, JP): Thank you, Hon. Deputy Speaker. I want to comment on the first Statement, that is, about security because I am a neighbour to Marakwet. I was requesting if you can allow the Committee to go on the ground so that it can see exactly what is happening. When we just wait for the CS or PS to respond to these issues, they are not familiar with what is happening down there.

Hon. Deputy Speaker: Now concentrate on the second one because we disposed of the first one.

Hon. (Ms.) Janet Nangabo (Trans Nzoia CWR, JP): Hon. Deputy Speaker, when you see people protesting or doing *maandamano*, those people want to send signs that they are not satisfied with what is happening. So, it is up to the security apparatus to make sure that they protect each and everybody in this country. Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Nyamai.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Hon. Deputy Speaker, thank you for giving me a chance to comment on this response that was given by the Chairperson of the Departmental Committee on Administration and National Security. I think what the Chairperson may have tried to do was to avoid delving into the matter of foreign relations issues so that he does not concentrate on the matter of the Palestinians and Israel and focus on the local issues. I think he has done quite well. I would like to say that Kenyans have become more informed on facts that they can demonstrate and air their petitions to Government. I think it is time that during training and even in-service training that police officers are being exposed to, to know that Kenyans have a right to demonstrate and stop handling people with too much brutality. This is a human rights issue and it needs to be taken seriously by the Chairperson. I think the Chairperson has done very well.

Hon. Deputy Speaker: Hon. Sankok. I have given all Members who wanted to make contribution on this a chance.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Deputy Speaker. The response is quite okay so that we do not bring the diplomatic issues in our own local issues. Extra-judicial killings in this country are becoming rampant and we condemn them with the greatest terms possible. Police brutality is also becoming a norm in this country and it is high time that the Inspector-General of Police realised that this country is governed by law.

Again, in demonstrating, the demonstrators should also know that their rights stop where other people's rights start. You cannot purport to be demonstrating while destroying property and blocking roads and ambulances that are taking people to hospital and you also want to be treated with dignity while you are infringing on other people's rights. You have the rights as a demonstrator but also those road users and investors in this country have rights. My advice to the Chair is that as you try to address this issue, let us balance so that nobody's rights are infringed on at whatever cost.

Hon. Deputy Speaker: Let us have Hon. Mwathi respond to anything that arose out of those many interventions.

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Deputy Speaker. I agree with Members that yes the Constitution allows for demonstration, picketing and so on but the only thing is that it needs to be done within the confines of the law and that is what the CS is saying, that there needs to be discussion between the OCS so that...

(Hon. (Ms.) Esther Passaris consulted loudly)

Hon. Deputy Speaker: What is it, Hon. Sankok?

Hon. David ole Sankok (Nominated, JP): Hon. Passaris seems to be attracting a lot of... Social distancing in this country is still a directive from the Ministry of Health. Hon. Passaris was earlier sandwiched between the two honourable Members and she is at it again.

Hon. Deputy Speaker: Order! Order! There are no sandwiches here. Order, Hon. Sankok! Take your seat. You have made a very reasonable intervention that we should keep safe distance but the issues of sandwiches and others, you know we are in the Chamber. Those ones are probably in the other side. Hon. Members, you must keep social distance. I see some Members actually flouting that. Maybe I would help you by sending some of you out so that you can consult better outside there. Take your seat, Hon. Passaris. Hon. Wanjala, you will not be allowed at all to flout the social distance requirement. Thank you very much. Let us proceed.

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Deputy Speaker. As I was saying before the issue of alleged sandwich came up, I agree with Members that there is no police officer who should use excessive force. At the same time, I want to let Members know that we also have the Independent Policing Oversight Authority (IPOA) which is also overseen by this Committee. We take seriously the reports that come from IPOA with regard to police excesses on what the members of the public are doing or if there are any fatalities. At the same time, I want to inform Members that it is good for anybody wishing to demonstrate or picket to liaise with authorities as alluded to by the CS so that they can get security and also the security of those people along the route they will be passing. However, generally, we will bring this also to the attention of the CS in our meeting with his security team. I thank you.

Hon. Deputy Speaker: Thank you very much, Hon. Mwathi. You have done very well. You are present to respond to all the statements. That is good. Hon. Members, you must keep up. If you do not do that in future, we probably would not ask the Chairpersons to respond. So, do we have any other? I am not aware. Probably that was supposed to be coming in the afternoon. Which

one is that, Hon. Mwathi? This is because to the best of knowledge, we have done what we were to do this morning.

Hon. Peter Mwathi (Limuru, JP): Hon. Deputy Speaker, I had three in the morning and three in the afternoon. This one was requested by the Member for Turkana East Constituency, Hon. Ali Mohamed Lokiru.

Hon. Deputy Speaker: You see where the problem is. Whereas I have no problem with that, the Members are guided by what is in the appendix of our Order Paper. So, if he is not going to be here, he would be disadvantaged because he probably did not know that it was going to be responded to. Unless he is here, I would request that you do it in the afternoon.

Hon. Peter Mwathi (Limuru, JP): Let me also say that my practice which I think is good, is that, before we read and take it to the Table Office, we normally consult the Member who then accedes to our request to give the Statement. In this case, unless it was not listed...

Hon. Deputy Speaker: It is not listed. I have just confirmed that it was not listed. It has actually been listed for the afternoon session. It is good that you are being very efficient but the problem is, if the Member had gone through the Order Paper and seen the appendix of the afternoons' Order Paper that is going to be, then we will actually disadvantage him. So, kindly be available in the afternoon to reply to that.

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Deputy Speaker. I am properly guided.

Hon. Deputy Speaker: Thank you. So, we will go to the next order.

BILLS

Second Readings

THE ALCOHOLIC DRINKS CONTROL (AMENDMENT) BILL

(Hon. Silvanus Onyiego on 4.8.2021)

(Resumption of Debate interrupted on 4.8.3021)

Hon. Deputy Speaker: On this particular one, we had 33 minutes left, so the Mover should be ready to respond any time, ten minutes before the end of these 33 minutes. So, let me see if there are Members who want to speak to this one. I see Hon. Passaris. Do you want to speak to this one?

(Hon. (Ms.) Esther Passaris spoke off record)

You had your intervention button, or what was it about? For Members who want to contribute to this particular one, can I get an indication by pressing an intervention slot so that I do not remove you from the main slot? I only see one Member who is interested in this. Hon. Mwirigi.

Hon. John Paul Mwirigi (Igembe South, Independent): Thank you, Hon. Deputy Speaker. First, I want to thank Hon. Osoro for bringing this Bill. The alcohol advertisement done on our televisions should be set at a time when children are already asleep. Those advertisements encourage the young generation to engage in alcohol at an early age. They end up misbehaving because their age does not allow them to engage in alcohol. So, there ought to be some kind of regulations which control the way advertisements are done. Those who will go against those

regulations should be charged in a court of law so that at least we can manage the way advertisements are done.

Secondly, I understand that there are some guidelines on people who are allowed to buy alcohol. Nowadays, anybody can purchase alcohol and go to those bars and drink the way they want regardless of their age. There must be penalties set to those who sell alcohol to underage; those who are below 18 years of age so that at least we can have sanity in this country.

As I conclude, I would like to urge this House to ensure that we pass this Bill so that it can be followed to the letter and also our younger generation can grow in the right way. We should also encourage our younger generation to first know God because these other earthly things will pass.

With those few remarks, I beg to support.

Hon. Deputy Speaker: I almost called Hon. Osoro but he is the one to respond. I see no other Member interested in speaking to this.

(Hon. (Ms.) Esther Passaris waved to the Speaker)

Hon. Deputy Speaker: Again, Hon. Passaris, I had given you an opportunity and you said you did not want to contribute to this one.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Thank you, Hon. Deputy Speaker. You know when you are being attacked for all manner of issues and you are not as guilty as you are, it throws you off balance. Hon. Sankok today attacked me on various issues including saying that I was being sandwiched or I was sandwiching.

Hon. Deputy Speaker: I do not think Hon. Sankok was more interested about you, he had an issue with Hon. Wanjala.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Yes, Hon. Wanjala was definitely sitting on a chair that is not marked and he has since moved. It was only Passaris that I was hearing.

Hon. Deputy Speaker: I think Hon. Sankok had some issues, but it was Hon. Wanjala. He is known. So, let us proceed.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Hon. Deputy Speaker, I agree COVID-19 is very serious and as Members of Parliament, we have to adhere to the protocols of the Ministry of Health. We are all wearing our masks. Unfortunately, with the masks and if we have to consult in low tones, sometimes we have to get closer to each other. So the social distancing of one meter will mean that the House will be very noisy. As long as our masks are put on well and we are able to consult because it is necessary for us to consult but in low tones, I think it is okay.

I tend to support the Alcoholic Drinks (Amendment) Bill. I am very proud of Hon. Sylvanus Osoro for bringing up this Bill. It is really a serious meter. Alcohol and drugs are really ravaging our youth. Most of the Kenyans are actually lost because of alcohol and drugs. The reason is it has been made so lucrative and attractive. When we sit as parents watching television programmes with young children, then an alcohol commercial comes on air or when we are driving our children to school then the advert plays on the radio with discussions and contents that are not really good for parents and children to hear at the same time, we are actually damaging our children and making it very difficult for us to bring up children for tomorrow.

In terms of the content, nudity is normally being used... You are trying to make this product very sensuous and we can see that over 200,000 children got pregnant during the lockdown. I feel that we have to look at a broader perspective of some of these things that are happening to our society. We have to agree that when we want to communicate with adults, we do so when they are

the audience. However, when we want to communicate with adults and then we are putting it at the time when children are with their parents, it is wrong. If we have to have a society with high morals, we need to make sure that relevant authorities including the Cabinet Secretary in charge, should be the ones to approve the content and visuals. It is not just the content but visuals too that are used to depict the attractiveness of alcohol. Alcohol is actually supposed to be something that is consumed by people who are over 18 here in Kenya. If you look at America, alcohol is sold to persons who are over 21. I will try and see if we can raise the age of alcohol consumption to be 21 years. When it comes to adverts, we are not only talking of electronic adverts. Even in the restaurants, some of the food courts have advertisements that are seductive and are luring children into wrong behaviour. Food courts are places that parents go and so these point of sale advertisements should be purely put in bars and clubs. As a country, we also have to ensure that we protect minors because we are exposing them to too much. We know that YouTube exposes our children to a lot. We should also look at the content, how we can manage advertisements that our children are exposed to and educate parents on how they can put various censors on children's electronic media. It is an all-rounder. We cannot just look at one area. I absolutely support the Bill.

Thank you.

Hon. Deputy Speaker: You see how good a contribution you were going to make. Let us now have the Mover to reply because everybody else seems to have spoken.

Hon. Silvanus Onyiego (South Mugirango, KNC): Thank you, Hon. Deputy Speaker. Hon. Didmus Barasa has requested that I give him one minute to contribute.

Hon. Deputy Speaker: No. Are you the...

Hon. Silvanus Onyiego (South Mugirango, KNC): I am moving through the Chair...

Hon. Deputy Speaker: Do you want to contribute?

Hon. Silvanus Onyiego (South Mugirango, KNC): No, I am replying.

Hon. Deputy Speaker: You are replying, is it not?

Hon. Silvanus Onyiego (South Mugirango, KNC): Yes, Hon. Deputy Speaker.

Hon. Deputy Speaker: You are talking about Hon. Didmus Barasa. Where is he?

Hon. Silvanus Onyiego (South Mugirango, KNC): He sought a donation of one minute from me and I wanted to request you to...

Hon. Deputy Speaker: I do not have a problem with giving out time. In fact, you could donate to him yourself, but since I have given you an opportunity, you are free to donate your time to any Member because we have not cut debate. We cannot cut debate on this one, so you can give an opportunity to Hon. Didmus Barasa, if you wish. Actually, he should have requested for an opportunity. We were looking for Members who wanted to speak to this. You would have got more time, but now that you did not request at that point and you probably do not even have your card, just have the one minute that you were given by your colleague. Did you say five minutes? If you speak for five minutes, Hon. Osoro would have five minutes remaining.

Hon. Silvanus Onyiego (South Mugirango, KNC): I said two minutes.

Hon. Deputy Speaker: Two minutes, Hon. Didmus Barasa.

Hon. Didmus Barasa (Kimilili, JP): Thank you, Hon. Deputy Speaker for giving me this opportunity to contribute.

This Bill will assist the country to raise responsible citizens. The decay of morals among our youthful population has a lot to do with what they watch on television. Ensuring that all advertisements on alcohol must be within the acceptable behavior is to ensure that seven years from today going forward, this country will have young people who are very responsible. There

are some things that are completely embarrassing when you watch them with your children. You even wonder whether you should switch off the television.

[The Deputy Speaker (Hon. Moses Cheboi) left the Chair]

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

Even as we proceed, we should also consider controlling what other international television stations do, like DSTV and CNN. In Dubai, you cannot watch certain materials even if you have your laptop. They will be blocked. This Bill will assist the country especially in moral upbringing.

It is a Bill whose time has come. As a House, we should unanimously unite to approve and support it because it will ensure that this country leads by example. I am sure that even other countries will come to benchmark on this very law, so that they can also improve the wellbeing of their citizens and children.

I thank Hon. Osoro for donating these minutes to me and also for bringing this Bill. These are the brains that are required and that this country needs to go forward, not the Building Bridges Initiative (BBI) or other things. We need responsible people who will use their brains to make a difference in this country.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Let us have Hon. Osoro.

Hon. Silvanus Onyiego (South Mugirango, KNC): Thank you very much, Hon. Temporary Deputy Speaker.

From the outset, I appreciate all the contributions that have been made by my colleagues in this House since we started the Second Reading of the Alcoholic Drinks Control (Amendment) Bill (National Assembly Bill No. 70 of 2019) on Wednesday last week. I take in and admit the proposals that many colleagues have made with regard to further amendments to the Bill. I invite them to further review it and bring forth the amendments when we get to the Committee of the whole House Stage. This clearly shows that we have all fallen victim to embarrassment when very funny content is brought on television, especially when you are seated with members of your family in the house. It is usually very embarrassing to see somebody dancing naked while advertising alcohol when you are seated with teenage kids. You actually feel like you need to switch off your television set.

As I said earlier, the Bill sets to not only review such content, but also the timelines that such content should be brought on television, if it must be brought. That is why I invite Hon. Members to bring the further amendments that most of them proposed with regard to what should be termed as moral or immoral content, what regulations should be set and the punitive measures when we get to the Committee of the whole House Stage.

Hon. Millie said that Kshs500,000 is a bit lenient for those who will not comply with the law. She felt that we should set higher retributive measures for purposes of morality, so that we are able to save the next generation. Several Members said that young families are dying, fighting and people are not able to raise their children well because of alcoholism. It is upon us now to set the stage and try to twist the content that is brought on television.

We might not kill immorality, bad manners and drug abuse in the country entirely through one angle, but at least we can try, even if it is five per cent, to limit such content that motivates our young ones to do some immoral things and engage in drug abuse. One such way is by limiting the timelines during which alcohol is shown on our screens and also regulating the content that is

shown on television when one is advertising a certain type of alcoholic drink. As I said, sex is not related to alcohol. How they try to twist, marry them and bring them forth on television between 8.00 p.m. and 9.00 p.m. when you are seated with your teenage kids is very confusing. That is why we are pushing for this.

For that reason, I thank the Hon. Members and invite them to propose amendments during the Committee of the whole House Stage as we seek to further review the regulations.

I beg to reply. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well done, Hon. Osoro. I will defer the putting of the Question to such time that the matter will be set down on the Order Paper again. I direct that we move on to the next business.

(Putting of the Question deferred)

THE KENYA DEPOSIT INSURANCE (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. Christopher Omulele): I am informed that Hon. Rahim Dawood, for good reason, is not available today. I, therefore, direct that this business be deferred. We move on to the next business.

(Bill deferred)

THE COMMUNITY HEALTH WORKERS BILL

The Temporary Deputy Speaker (Hon. Christopher Omulele): I am informed that Hon. Martin Peters Owino is also not in today. I, therefore, direct that this business be deferred. We move on to the next business.

(Bill deferred)

THE CONSTITUTION OF KENYA (AMENDMENT) BILL

(Hon. (Ms.) Florence Mutua on 18.2.2021 – Morning Sitting)

(Resumption of Debate interrupted on 25.3.2021 – Morning Sitting)

The Temporary Deputy Speaker (Hon. Christopher Omulele): This business has a balance of three hours and ten minutes. Do I see interest from Hon. David ole Sankok? This is the Constitution of Kenya (Amendment) Bill (National Assembly Bill No. 19 of 2019) by Hon. Florence Mutua.

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Speaker, let me first of all check if I contributed. If not, I will contribute later.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well. Let us have Hon. John Paul Mwirigi. The Hon. Mutua Barasa.

Hon. Didmus Barasa (Kimilili, JP): I had interest in the one whose Member is still around. I have no interest in this one.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Pukose? Hon. Passaris, do you have an interest in this one? Hon. Nangabo, Member for Trans Nzoia.

Hon. (Ms.) Janet Nangabo (Trans Nzoia CWR, JP): Thank you, Hon. Temporary Deputy Speaker. I have no interest in this one.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Wakhungu? The Member for Homa Bay, Hon. Wanga.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Speaker. I would like to make my submissions on the Constitution of Kenya (Amendment) Bill that has been brought forward by Hon. Florence Mutua. I would like to express my support.

Nominations are a very thorny issue within political parties; the timing of nomination is even thornier. When we changed to the 2010 Constitution, the timing for nominations was changed because the system of nomination earlier was seen to have been abused to reward cronies and cronyism. So, it was changed so that nominations are done way before elections are held. So the names of Members to be nominated to the National Assembly and the Senate are given way earlier. After 2010, this system of nomination way before election has been tested and what has come about is that very sharp talented politicians who go all the way to the general election and unfortunately do not win the election are unable to make their way into the National Assembly, county assemblies or the Senate just because the names have to be submitted much earlier. Because everybody goes to the elections with the intention of winning, nobody wants to be seen to be second guessing starting from the presidential candidates. If you are a presidential candidate and have your name on the nomination list, it will be obvious that you have self-doubt. If you are a candidate at any other level and you put your name on the nomination list, it will be evident that you are doubting that you will win the position. Therefore, people go all the way to the ballot and the country is left poorer missing the talent of very talented politicians especially women politicians who endure all the way to the ballot.

I support this amendment Bill. Let us tighten the systems for nomination but go back to a situation where after election we see those who have tried, weigh them and see who has as the Building Bridges Initiative (BBI) was proposing that when you make the effort and the Independent Electoral and Boundaries Commission itself weighs you as to how many votes you are able to get when you contested, then from there you are taken on nomination not for cronyism and not for tokenism but for the effort that you have made in order to get yourself somewhere.

I thank Hon. Florence Mutua for working through this Constitution (Amendment) Bill and for bringing it. I give it my unreserved support.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, it is important to remind you what this Bill is about.

From the memorandum of objects, the principal object of this Bill is to amend Article 90 of the Constitution in order to align it with the proposed amendment to Section 35 of the Elections Act which seeks to change the timing for submissions of party lists by political parties for persons elected under Article 90 of the Constitution from at least 45 days from the date of general election to within 21 days after the date of a general election. That is the purpose and this is what Hon. Wanga has contributed to. I am just reminding Members because there seems to be a dearth of Members who wish to make contributions to this. As the next Member contributes, the others can sharpen up and get ready to make useful contributions to it.

The Hon. ole Sankok.

Hon. David ole Sankok (Nominated, JP); Thank you very much Hon. Temporary Deputy Speaker for giving me this opportunity. All Bills are crosscutting when it comes to persons with disabilities and so I rarely miss contributing to any Bill. I usually come here before you, Hon. Temporary Deputy Speaker, and leave after you. That is why I had to go and consult if I had contributed on this.

I oppose this Bill because it is malicious and it is made in bad faith. This Bill is not geared towards identifying leadership and giving leadership positions to those who deserving but it is geared towards massaging the egos of the losers. This Bill seeks to amend Section 35 of the Elections Act on party nomination lists under Article 90 of the Constitution from forwarding names at least 45 days from the date of the general election to within 21 days after the date of the general election. After the general election, we would have known the losers, those who have been rejected by masses or constituents and counties and those who have been rejected by the country at large, those gunning for the presidential election. To massage their egos and try to control their perennial rejection of the outcome of the election, we now need to find a soft landing spot for them. In every competition there must be a loser and a winner. If today we say everybody will get a gold medal in 100 metres, you will find Hon. Sankok with his crutches also competing in the 100 metres to get a gold medal. This is what this amendment Bill will do because there will not be losers.

Most persons with disabilities will be locked out because most of them will not contest because of obvious reasons. In the community I come from, a person with disability is referred to as *eng'oki*, meaning a curse. Sometimes he or she is referred to as a hyena. How does that person contest under the background of those demeaning names? These representation and nominations are efforts to try and bring the marginalised citizens of this country at par with the rest of the citizenry. For obvious reasons, persons with disabilities, women, and some communities cannot even try to contest. The Elmolo are only 3,000 people. They can never contest for the position of MP, but courtesy of nomination, they can get representation in this House. So, I oppose.

On the issue of nomination, we can borrow the example of our neighbouring country, Uganda. Even though the Deputy President was denied travel to Uganda, we can borrow from there. There is an electoral college in Uganda that elects representatives of persons with disability. That is what I propose in the BBI. Not even a comma was captured in the BBI because its proponents had their own selfish intention of massaging the egos of losers. You cannot force a loser down the throat of Kenyans simply because they have been rejected. Then 21 days after the general election you parade them and put them in positions for which Kenyans have said they are not equal to the task. If you go through the education system and score grade E because there is no grade F, you are worse than that guy who never went to school because they have not been tested. If you go through an election process and you are defeated, you are worse than that character who was not tested. Our Constitution makes it clear that it should be 45 days so that we do not include the names of losers.

I am a Nominated Member. Sometimes I am at a loss. I am between a rock and a hard place. I do not know if my loyalty will be to my party or to the persons with disabilities that I represent here. That is why you see me coming here before the Speaker and leaving after the Speaker. It is because I have to represent persons with disabilities in this House. Since their issues are cross-cutting, I have to contribute to every Bill so that I know what is there for persons with disabilities. This marginalised category of people in this country would never be in this House. History will judge me harshly if I am here only courtesy of nomination or I am party to those who will cut that bridge that I used to enter this House so that no other person with disability ever enter

into this House, the Senate, or the county assemblies. They only have opportunities in leadership in the National Assembly, the Senate and the county assemblies. Persons with disabilities may not have opportunities to be governors or President of this country but because our Constitution has assisted them to get these positions, I will not be party to those who will cut the bridge that they will use to enter this House. I would be selfish to do that. I am retiring from politics in 2022 so that I create an opportunity for another person with disability to come to this position. That is what I did when I was the Chairman of the National Council for Persons with Disabilities (NCPWD). I retired voluntarily at the age of 38 to create an opportunity for another person with disability to showcase his ability beyond disability.

We need these people if we have to. Let us have an electoral college so that all the marginalised communities can elect their own so that loyalty does not only lie on the party but also on the people you represent.

With those remarks, I totally oppose this Bill.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Sankok, why do you want to limit the scope of positions for people who are otherwise enabled in vying for the presidency of this country or even governorship positions? They have an opportunity and I am sure there are many people who are, for lack of a better word, disabled who want to vie for the presidency. I know for certain that there is Reuben Kigame, who is my constituent and he has put his name forward for President. He is capable. So, let us not limit people with disabilities. They have capacity and an opportunity to run for these positions.

Hon. Pukose.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Temporary Deputy Speaker, for allowing me to contribute to this constitutional amendment Bill sponsored by Hon. Florence Mutua. At the outset, I want to support this amendment.

When you say that we change the provision for party lists to be submitted 45 days before the general election to 21 days after the general election, what it means is that we open up the general election competition to everybody because those who have been put on the party lists more often than not do not participate in the general election. They wait to be nominated. Therefore, I think it is opening up the general election for people to compete. Out of those who compete, those who meet the criteria to be nominated should be nominated. The parties can then sit down and comfortably decide on the people they think should not be locked out of Parliament so that they can be nominated to come to Parliament.

My friend, Hon. Sankok, was saying that nominations are reserved for even the minorities. We have minorities like the Elmolo people, who he mentioned. I have never seen an Elmolo being nominated to this House since independence.

Hon. David ole Sankok (Nominated, JP): ... (*Off-record.*)

Hon. (Dr.) Robert Pukose (Endebess, JP): Senator Prengei is not an Elmolo. He is a Ndorobo. He has been nominated to sit in the Senate. Hon. Sankok, you know the problem is that you are my junior. At times you need to learn. The Elmolo are found on the shores of Lake Turkana. Lake Turkana used to be called Lake Rudolf in the past. It is in the Turkana area. The Elmolo live on the lower side of Lake Turkana. Prengei is a Nominated Senator from the Ndorobo people, who are of Kipsigis descent. So, these are two different communities. The Ndorobo were for the first time considered for nomination. What we have been seeing most often is that people submit names of persons for whom they have favours. If you look at the people who are being nominated, it is those who have connections.

So, I think it will be a fair way for us that everybody goes into elections and fights for his position. Then, 21 days after the general elections and based on party strength, the party can decide so-and-so is a useful person representing this-and-that interest and can be nominated. To me this is a good amendment and should be supported.

Just on the same breath, Kenya and the world has just concluded the Olympic Games in Tokyo. Unfortunately, I have not seen our athletes being welcomed with pomp. They have done well, especially Eliud Kipchoge who has set a world record for winning the marathon twice, back to back. He can only be compared with two other legends. This is a legend for us. I think those who are in the Ministry of Sports, Culture and Heritage are embarrassing our country. I just came from home where I was watching television. In my place we get the signal of NTV Uganda. I was watching what was happening on the Ugandan side. They also got gold medals.

President Museveni feted them with vehicles and other things and they were being welcomed with pomp and everything. So, why are we behaving the way we are? I think our Ministry of Sports needs to wake up. The athletes have done us proud and we should be proud of our achievement. Being number 19 in the whole world is not a small achievement. We should be able to welcome our athletes in a special way.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Wangwe, what is out of order?

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you very much, Hon. Temporary Deputy Speaker. With all due respect to the very educated Member, this is a House of record. When he misses a punctuation, it becomes tricky to those who will read him. In English, there is no word as ‘feded’ or ‘feeded’. The past tense of feeding is fed. Therefore, is he correct that for the purpose of...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Wangwe, you are out of order. The word Hon. Pukose was mentioning was “feted”.

Hon. (Dr.) Robert Pukose (Endebess, JP): Yes!

The Temporary Deputy Speaker (Hon. Christopher Omulele): And that is what the Speaker got.

Hon. (Dr.) Robert Pukose (Endebess, JP): You know Hon. Wangwe comes from the Luhya community, who are my friends. When we talk about fete, they think about food.

(Laughter)

Those are different things. I am talking about celebrations where they are honoured and given presents. And it is good that you recognise that I am learned. And, Hon. Wangwe, you are in the leadership of the House. I think it is time for our Government to take responsibility and respect achievements. It is not a simple achievement for Eliud Kipchoge to have achieved what he achieved.

With those few remarks, Hon. Deputy Speaker. I am supporting the amendment by Hon. Florence Mutua.

Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Well spoken, Hon. Pukose. And this particular Speaker removes his hat in regard to the great Eliud Kipchoge. That is a man worth celebrating any day.

Hon. Duale.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, thank you very much. This matter is very simple. Hon. Florence Mutua is asking this House to amend Article 90(2)(a) of the Constitution. What does that Article say? It says that the presentation of nomination lists by political parties is to be undertaken 45 days prior to elections. Section 35 of the Elections Act, 2011 says a political party shall submit its party list to the Commission at least 45 days before the date of the next general election. That is what is before this House. On the outset, it is unconstitutional and I oppose it.

(Applause)

The reason I oppose it is that the drafters of the Constitution and the Election Act... I have been around since 2008 and I have served in three political parties. The good people of former Dujis and now Garissa Township Constituency elected me three times on three political parties, starting with ODM to URP and to the moribund Jubilee Party. I am on my way to UDA. That provision in the Constitution and Elections Act was trying to clear...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Duale, put on the mask. There was a communication yesterday that we should not lower our guard.

Hon. Aden Duale (Garissa Township, JP): Chair, when the substantive Speaker was here, I was removing the mask.

The Temporary Deputy Speaker (Hon. Christopher Omulele): He made that communication yesterday.

Hon. Aden Duale (Garissa Township, JP): Yesterday I was here. I left around 5.00 p.m. You were also on the Chair. But I have no problem Chair.

The Temporary Deputy Speaker (Hon. Christopher Omulele): I know you do not have a problem.

Hon. Aden Duale (Garissa Township, JP): I have no problem. Somehow, if you are vaccinated you can even walk without a mask. Anyway, let me not lose my thoughts because of a mask. These amendments in the Elections Act---

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Duale, just hold on. One minute please. Hon. Yusuf Member for Kamukunji, what is out of order?

Hon. Yusuf Hassan (Kamukunji, JP): Thank you, Hon. Temporary Deputy Speaker. Is the Member for Garissa Township in order to say the Jubilee Party is a moribund party? It is the party that brought him to this House and which he represents in this particular Parliament. Is he correct? Is he right to call it a moribund party?

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Duale, is Jubilee Party a moribund party? That is the party that sponsored you to this House.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, it is not. And I do not want to lose my thoughts on the Bill. I have said it and I want the Member for Kamukunji to hear. I am not a hostage of a political party like you. I have been elected three times on three different political parties. I want to go on record that Jubilee came with 172 members in the last general election. Today it has less than 30 or 40. That defines it as moribund. You stay with Jubilee. I have left it. The choice to join and to leave is provided for in the Bill of Rights. So, if you are stuck in Jubilee, do not drag me along. I am sorry. Let me move on to the Bill.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Order Members. Hon. Duale, make your contribution. There is nothing out of order. People join parties at their own will. If Hon. Duale chooses to leave a party, that is entirely up to his will.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Temporary Deputy Speaker. There are people who are hostages.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Wangwe, what is out of order?

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. Is the Member in order to state that Jubilee has not more than 30 Members? As the Whip and the custodian of the records of Jubilee members, it will be very wrong to let that go on record of the House yet the numbers for Jubilee membership is not 30. Is he correct to make that kind of statement?

The Temporary Deputy Speaker (Hon. Christopher Omulele): Yes, Hon. Wangwe is the custodian of the list of Jubilee members.

Proceed Hon. Duale.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, I want to confirm that when Hon. Wangwe needs my vote and my support he whips me. He is my good friend; I listen to him. But, in spirit I am not in Jubilee. I am on my way out. The few minutes that I am around, which is about six months, it depends on how Hon. Wangwe and the Leader of the Majority Party, who are my friends, persuade me.

We are being told to amend Article 90(2)(a) of the Constitution and further amend section 35 of the Elections Act. From history, political parties were abusing this system before the advent of the new Constitution. They have been appointing their girlfriends and relatives. Even today as we speak, sons, daughters, relatives and girlfriends of key political party leaders in this country are serving in the bicameral Parliament and in the East African Legislative Assembly. That is what this current provision states. You must submit the list. If Hon. Passaris has worked for the party and has the capacity and resources, and she is not your relative and she does not want to vie, then you must give her a nomination slot.

Hon. Temporary Deputy Speaker, before submission of party lists, that is, before a general election, the leaderships of political parties cannot do monkey business because they need the support of everybody. The moment the election has taken place, the party leaderships can appoint even their wives to this House.

(Applause)

There was a serious check and balance. What will stop Hon. William Ruto, Hon. Raila Odinga, Hon. Kalonzo Musyoka and Hon. Moses Wetangula... Of course, Gideon Moi will not get the numbers. His party is too small.

(Laughter)

Party leaders can appoint their relatives because they have either won or lost the election and they have the party lists. The party lists are supposed to be submitted 45 days to the election to avail seats to young people, PWDs, marginalised groups and workers.

(Applause)

That is why you see the son of Hon. Kalonzo Musyoka in the East African Legislative Assembly (EALA). How does the son of Hon. Kalonzo Musyoka qualify to be a Member of

EALA? How does the brother of my former party leader, Hon. Oburu Odinga, qualify to be in the EALA? How does Beth Mugo qualify to be in the Senate? They are many! What Hon. Florence Mutua is trying to address is this: somebody will compete with Hon. Elisha Odhiambo in Gem. A person will be defeated and that means that the people have rejected him or her. Then you want to bring him or her back to this House through the backdoor! That is what this amendment is saying. If you chose to compete and lose, you should stay out.

(Applause)

So, one will tell his or her girlfriend to go and compete because if he or she loses, he or she will be nominated because one is the party leader or the Secretary General of the party. Let us not kill the spirit and letter of the Constitution. Let us not patronise politics. Let us not make politics a preserve of the elite. We want a lady who works for ODM in Busia from morning to evening, or a lady who works for UDA or Jubilee Garissa, to be nominated 45 days to the general election. Even as leaders, we can question the party leader. The 12 people you have nominated, are they representatives of the people of Kenya? Are they bringing gender parity? Are they people with disabilities?

This Amendment Bill is unconstitutional. It will not see the light of day. Even if we pass it here, it will be challenged in court. I want to ask that we oppose it. Anyway, it needs two-thirds majority. Hon. Florence Mutua, prepare yourself to raise two-thirds majority at the time of putting the Question. This is not a normal Bill. You need to raise 232 Members to support you. With the number of Members I command in UDA, we will oppose it.

(Applause)

You do not have 160 Members. Let us not allow leaders to use our parties to nominate their girlfriends, wives, sons and sidekicks after general elections.

I oppose.

(Applause)

The Temporary Deputy Speaker (Hon. Christopher Omulele): That is being very passionate, Hon. Duale. Before we proceed, Hon. Abdi Yusuf, Member for Kamkunji, you had a point of order. I will give you this opportunity to raise it.

POINT OF ORDER

TRIBUTE TO THE LATE HON. GEORGE NTHENGE

Hon. Yusuf Hassan (Kamukunji, JP): Thank you, Hon. Temporary Deputy Speaker. I just want to alert the House of the passing on of veteran politician, Hon. George Nthenge. He was a progressive politician who served in various levels in our country. He was a participant in the Lancaster House Conference talks in London, which helped us attain our Independence. He had also been in the Legislative Council of Kenya (LEGCO) in the 1960s as well as a Member of Parliament in the 1970s and 1980s. He was the Member for Imenti North. In between, he survived a horrible accident in which 11 members of his family died. In the 1980s and 1990s, he was active

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in the campaign for democratic change in our country and served as the Member for the constituency that I represent here today, Kamukunji.

I, therefore, take this opportunity to say how saddened I am by his passing on. I wanted to remember this great politician who has made a major contribution to our country's political activities, independence, democracy and many of the rights that we enjoy today.

I pass my condolences to his family and community of Machakos and Kamukunji. May he rest in peace? I am deeply saddened by his passing on. We have lost a strong visionary and a progressive politician.

Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to pay tribute to the late George Nthenge, who passed on peacefully in Nairobi yesterday at the age of 95.

Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, this is a type of message that requires the exercise of the powers conferred on the Speaker under Standing Order No.1. Therefore, I direct that we stand up and observe a minute of silence in memory of the great Hon. Nthenge.

(Members observed a minute of silence)

Members, you may resume your seats. We shall now have contribution from Hon. Cheruiyot Chesire, Member for Baringo County. Is she in the House?

(Resumption of Debate interrupted)

Hon. (Ms.) Gladwell Cheruiyot (Baringo CWR, KANU): I am sorry, Hon. Temporary Deputy Speaker. I had gone to consult. I am here.

I thank you for giving me an opportunity to contribute to this debate. I support the Amendment.

It is unfortunate that as we debate this Bill, we are aligning ourselves to our political parties. It is only important that as Members of the House we contribute to this debate based on the knowledge that we have. I want to make my personal contribution that is not aligned to any party.

Hon. Speaker, I support that it is important to do party lists after elections because most of these Members who vie, actually fight, use resources and even support parties when they fail. They lose a lot in terms of resources. Their time is wasted and you cannot call them losers. If somebody is second to you, it means that you divided the votes. It does not mean that those who get a lesser number of votes than the one who wins are useless people. It means that the competition between you and the second runners up was tight. Otherwise, this second person could as well have defeated you. It does not mean that this person is a lesser being.

I sincerely support that the candidate who comes second be given a chance. The reason is that the person has worked hard for himself and also for the party. It is better than leaving nominations for boyfriends, girlfriends and relatives which does not portray a good picture. To me, these party lists ought to be done 21 days after elections so that the people who have lost can get compensated for the much they have lost, that is, resources and time. They go through many things after elections. So, I am supporting this amendment.

Let people be nominated and the party lists given after elections. We can make provision for the special groups. We cannot compromise on that. Then let us consider people who have worked hard. At the moment, there are people whom you look at and wonder what criterion was

used to nominate them. We have never seen them when running campaigns. We have never even heard about them, but you see them on the nomination lists. You wonder who they are and yet they are nominated in your party.

So, unless otherwise stated, this is the way to go. I support and thank you Hon. Florence for bringing this amendment. Members, I beg you that we do not debate in this House aligning ourselves to party lines. It is not healthy. Let us debate soberly and objectively so that we can still hold the integrity that we were given by the people who elected us to represent them here. There is no point of others doing some things that look like divide and rule in the House.

Thank you so much and I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Let us have Hon. Wangaya Aseka, Member for Khwisero.

Hon. Christopher Wangaya (Khwisero, ANC): Thank you, Hon. Temporary Deputy Speaker. I equally rise to support this amendment by Hon. Florence Mutua.

First, this amendment will stop party hopping by politicians in different political parties and encourage competition within political parties. Many politicians will go out and compete. Those who win will be elected, those who compete and present themselves well will be nominated.

It will also enable political parties to do thorough vetting after elections. We in the Amani National Congress (ANC) have some Members who have been nominated by our party to this House like my good friend Hon. Osotsi, but after reaching here he is now dining with our political competitors. If this Bill was there before 2017, we would have realised this earlier and Hon. Osotsi may not have been in this House as a nominee of ANC.

Lastly, this amendment will also enable parties to present formidable and good candidates. We have seen situations where there have been arguments that people nominate girlfriends, boyfriends and slay queens. This will give us ample time as political parties to ensure that those who are being nominated are people of good repute.

I thank you, Hon. Temporary Deputy Speaker for this opportunity.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Aseka, maybe you could give us an example of a nominee who is a slay queen but that is debate for another day.

Let us have Hon. Ahmed Shabbir, Member for Kisumu East

Hon. Shakeel Shabbir (Kisumu East, Independent): Thank you, Hon. Temporary Deputy Speaker.

I stand to oppose this Bill. The reason being I was in the Constitution of Kenya Review Commission (CKRC). We sat there for nearly two years discussing with many people this issue. My number was 407. The idea of nomination hitherto has been misused by all political parties without exception. The spirit of nomination by a political party was to be based on the strength of the person, that is, what contribution that nominated Member would bring in. The question was: what would be the added value to the House, the party and the whole framework of Parliament? There are very many people in this country who do not wish to stand for elections but have the inner strength and the knowledge to take this country forward.

I want to talk to you about Ambassador Amina Abdalla who was nominated three times. We know what good work she did in this Parliament. There are others also who have been nominated for frivolous reasons. I think the issue is very important. The idea and the spirit for which this particular law was set out was such that you should know your people in the political parties. You know the strength that you want. You also know who is going to be standing for the nominations and who is not going to stand. So, access those people. If you feel that there is a shortage of a particular strength, nominate that person. I do not know, but just for argument sake,

the former Chief Justice, Willy Mutunga, has been sitting around doing very little. Some of the luminaries who have done great work in this country ought to be nominated. I do not even see why we could not have Eliud Kipchoge nominated as an MP because of the strength that he brings to this country. He might bring to this Parliament what he values.

I think that is the whole basis for this nomination. The whole spirit of nomination has been broken. The whole framework is broken. In Rwanda, Uganda and other countries, nomination is on the basis of the strength of a person. When the person is nominated by the party, they come here on the basis of strength and not the party. If we have, say, an aeronautical or space engineer and this country wants to go to space, we will bring that best brain in space engineering to participate as a nominated MP. He will raise the strength and value of Parliament and the political party he is a member of. I am an Independent MP and a strong supporter of Raila Amollo Odinga. I will not let ODM down because it is the party of my birth. I am Independent because of party nomination problems which must be sorted out. We do not want to go backwards yet the Constitution has put together a framework.

I plead with those who feel this is important not to dismantle the Constitution to suit a person. If you have gone for nominations and are nominated like the person who stood against me... He was given the nomination but lost because the people decided. This country depends on the will of the people. Article 1 of the Constitution talks about the sovereignty of the people and not the party. So, the people decided I am better than the person who was nominated by the party. Let it be and the party should understand.

Hon. Elisha Odhiambo (Gem, ODM): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Just hold on Member for Kisumu East. Hon. Odhiambo, Member for Gem what is out of order?

Hon. Elisha Odhiambo (Gem, ODM): On a point of order, Hon. Temporary Deputy Speaker. With a lot of humility, I think Hon. Shakeel is misinterpreting the point. The point is that in this specific law the parties are supposed to present their nomination list 45 days before elections, for people to be nominated and not for nominees to compete in elections. That is the import. Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Proceed, Hon. Shabbir.

Hon. Shakeel Shabbir (Kisumu East, Independent): I think he misunderstood what I said. I would like him to read what it states, that is, that within 45 days from the date of election there is a list to change within 21 days after the general elections. So, the nomination list comes 21 days after. I am suggesting that if your party thinks you have the strength which their intelligence knows, then do not go for nomination elections because you will lose. If you lose and the party nominates you, that will be against the will of the people.

This is not just about one party but all parties. I am saying that the will and sovereignty of the people is number one. If Kisumu East constituents choose me as an independent candidate and then for some reason the loser is nominated to come and sit in the same House, how will it look like? The loser, if he is a great person and has ability, should not have stood in that election because maybe intelligence said he would not make it. The party must understand that they are taking the *crème de la crème* to be nominated. I think that is best way to say it.

I sit in the Constitutional Implementation Oversight Committee (CIOOC) and we have gone through this matter a number of times. I think because of that I am senior to you, my brother. I have looked at all these issues and this is not a party list or time issue. It is one we should abide by the sovereign right of the people. We should not allow the nomination process and constitutional

framework to be dismantled to suit the whims of somebody. For the nomination list to be brought 21 days after elections, it is like an auction. The highest bidder will be given the ticket. We have been through some of these issues and cannot go back.

Hon. Temporary Deputy Speaker, I oppose.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Nixon Korir, Member for Langata. The Member for Gem, nothing is out of order.

Hon. Elisha Odhiambo (Gem, ODM): (*Off-record*).

The Temporary Deputy Speaker (Hon. Christopher Omulele): It is alright. Hon. Nixon, make your contribution.

Hon. Nixon Korir (Lang'ata, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Constitution (Amendment) Bill that proposes we amend Article 92 (a) of the Constitution and align it with Article 35...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hold on Hon. Nixon. Hon. Kilonzo, Member for Yatta, I think you had consulted me on the issue of the late George Nthenge. I think it will be appropriate for you, or any other Member, to approach the Speaker so that this issue can be raised in the afternoon session and Members can render their commiserations in his memory.

Proceed Hon. Nixon.

Hon. Nixon Korir (Lang'ata, JP): Thank you, Hon. Temporary Deputy Speaker. I support the Constitution (Amendment) Bill. What Hon. Florence proposes to be amended has no part stating that nominations should be given to numbers two or three after an election.

This Amendment Bill is proposing that instead of political parties giving their lists 45 days before an election, they should give it within 21 days after the general elections. This will put political parties in a better position to decide who to put in the party list by considering the Members who would have been elected. This is because at that time, political parties will have a list of Members elected and in terms of balancing, be it regional, gender or other minority issues, they will be in a better position to make a decision.

A political party, depending on its morality or lack of it, decides if they want to elect cronies, girlfriends or slay queens and can put them even 100 days before an election and this cannot be sorted. It should not be an issue of: if a party list is given after an election, it will be abused. If a party was to abuse that list, it will do so even before a general election. I heard a Member complaining that some nominees are brothers or girlfriends of some members despite the Constitution we have now.

I want to support this Amendment Bill because it will give an opportunity to political parties to make informed decisions after an election. Also, it will push political parties to support women who had vied for positions. We know if more women are elected in terms of the party lists being given after elections, there will be a deficit requiring more men to be nominated. This will also support women in elections. The proposal to give the party list 21 days after nominations is also advantageous because we will get to know the members who make contributions to political parties. If you give the list 45 days to the elections, it means if a member in the list is gazetted, they will stop contributing towards the political party. If it is given after elections, then members supporting political parties will continue making contribution until the day of election because they know the list will be given after elections. There is no better contribution than participating in the actual election. It is not a crime that after you vie for a political position and you become number two, three or four, then you are supposed to be disqualified because you have vied. In fact, political parties should give more support to Members who have tried and vied.

Hon. Deputy Speaker, I support it and I hope no one will mislead this House that this proposed amendment is saying that number two or three candidates in an election should be the ones to be given nomination. Who knows? We are here today. Tomorrow you can be number two or three and you also wish to be nominated. It will be wrong to have a law that bars anyone who has vied from nomination.

I support.

Hon. Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Passaris, Rosana, Member for Nairobi.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Thank you, Hon. Temporary Deputy Speaker. I stand to support the Constitution of Kenya (Amendment) Bill (National Assembly Bill No.19 of 2019) brought by Hon. Florence Mutua.

As I stand here, I support that the party list should be given after the elections. I also commend my colleague from Nairobi, Hon. Nixon Korir, for everything that he has said. He actually took a position based on the amendment and the need to have more women in Parliament. I also like the way he ended when he said we will reach a point where we do not have to say girlfriends. We will say more men. It is really a shame that we have made nominations look like an award. We call women slay queens, flower girls and girlfriends. This is the problem with lack of gender balance where you do not have enough women. So, you look down on the other gender. If we have the party list given after the elections, we avoid what we were trying to achieve with the BBI – the winner takes it all. This country has seen elections become competitions that lead to death of your constituents, death of innocent people, maiming of people, insults and hatred. If Hon. Shebesh was nominated to this House after I won the Women Representative position, I would have welcomed her properly because we conducted elections in a civil manner. We were not enemies. We were two women looking to serve a county with a lot of passion and love for this county.

The reason why the President in his wisdom came up with the position of Chief Administrative Secretary (CAS), which actually ended up giving Hon. Shebesh a position, was because the party lists being given 45 days before the election ends up omitting people who should probably be in this House. We have a lot of people who lose elections. When Hon. Shakeel was speaking here, he said that the person who contested against him should have known better. He should have known that he should not have contested because he couldn't have won. Now we are going to elections to choose the best leader. Sometimes it might not have been a free and fair election. Sometimes there could have been bribery. Sometimes the best person did not get that job. Are the people who voted for the person who did not win not Kenyans? So, if you have an election where you have 100,000 people, 51,000 elected one person and that person comes to the House, what about the 49,000 people? They also require representation as they are also Kenyans. They chose someone else. They want someone else to lead them. So, when we come up with this amendment, we allow number two to come to the House. When they come to the House, each one has their position. They are Members of Parliament. One will have the position to serve the constituency with the budget given to the constituency. The one who is nominated will come here and also serve the same people.

So, when you say that you do not want the list of nominated Members to come after 21 days, it is because you do not feel that the people who did not vote for you also need representation. I know that when we are elected and we become leaders, we represent everyone, but this country is politically divided in such a negative way. I sincerely hope that one day we will combine a proper presidential system with the parliamentary system.

The idea of the BBI bringing a parliamentary system where the winner takes it all does not work. I have just come from Greece. I am a Member of the World Hellenic Inter-Parliamentarian Association. We were welcomed by the President of Greece as Members of Parliament from across the globe to look at how Greece is managing its affairs. When I was there, the leader of the opposition was the previous Prime Minister. The Prime Minister was also there. The two of them were in the same house. They actually look at what is good for the country. It is not about you the leader. It is about the country and the people that we serve. What better way can this country be lead when in this country we have seen in all the elections from 2007 to date we run divided? Fifty per cent want this and 50 per cent want the other. It will be so lovely that after elections we all get to the various houses and we come to serve the people. When we do that, Kenya will be able to achieve the dreams of the forefathers for prosperity for this nation. Not everything is about politics. Not everything is about division. It is unity that will bring this country where we want it to be.

Hon. Temporary Deputy Speaker, I support the amendment. I believe that the parties will make the wise decision of ensuring that the right people deserve to be in this House whether you are number two or three, PLWD, youth or women. I long for the day that we will be sitting here and saying we want to see the boyfriend, not the girlfriends. We have questions about the boyfriends that are coming to the House rather than the girlfriends all the time. We also need to find a term for the men who call us slay queens and flower girls. I think there comes a time that you have to give up all these terminologies that you have and respect every Member of Parliament as a Member of Parliament. Address us as women leaders and not as slay queens, flower girls or whatever else you come up with. This is because we are all elected leaders. Let us set an example. If we want to set an example, let us set an example of unity, prosperity and hard work so that we all know that even the person who worked very hard and never got number one can be here.

I have no problem if this House had Hon. Shebesh here. She would have held my hands and taught me the way. I am very proud of the fact that there was a position created because she is a good leader. There was a position created for her and many others who did not make it in the election because leadership requires that we embrace each other. Thank you, Hon. Temporary Deputy Speaker. I support.

Hon. Temporary Deputy Speaker (Hon. Christopher Omulele): Well spoken. An election should never be a war. Elections are basically for people to choose and the people who present themselves for elections are qualified and they are proper Kenyans. So, it is not a question of if you are number two, number three or whatever it is, you are a lesser being. It is just that there is a position for only one leader. Next is Hon. Wakhungu Wamalwa, Member for Kiminini.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Speaker, for this opportunity. I thank Hon. Florence Mutua for this wonderful constitutional amendment Bill. We must go through the memory lane. Why was this amendment introduced in the first place? This amendment initially was introduced to deter those presidential candidates who were not serious whereby they declare that they are going for presidency with the intention of targeting a lower position. We must be looking at the benefits. Why should a nomination party list be presented 45 days to elections vis-à-vis after? I want to explain. I was not around when Hon. Mutua was moving this Bill.

One of the reasons is that we have had a lot of court cases from the party lists because when you send a party list, you are not sure how many slots you will be awarded by IEBC because it is before. However, when you are given an opportunity to present the party list afterwards, you will have known the exact number. If it is ODM or FORD-Kenya, if you are presenting the nomination list, you will be told from the way you have behaved or performed in this general election.

If you won 26, it therefore goes without saying that you are rewarded two slots for nomination and the party will nominate specifically two slots. Hon. Jennifer Shamalla is a case here. She was nominated and the matter went to court because there was number one, two and three on the list. We are behaving like we are just on a fishing expedition. When you present the list after elections, you will know the specifics as ODM or FORD-K. I only have one slot instead of two or three. That is one benefit. So, the issues of going to court will be something of the past.

Secondly, when you read Article 90, it clearly says that it is political parties that nominate not independent candidates. Article 38 of the Constitution, under the Bill of Rights says: "Every Kenyan has a right to join a political party of choice." So, if you are an independent candidate like Hon. Shabbir, you decided and therefore, you have no option to nominate. However, as a political party, there are efforts you put in place. There is so much that you go through, to register a political party. That is why under Article 90, it is the political parties that nominate. For you to nominate somebody in a party, it is about rewarding performance. We have something in the political parties called party loyalty. If you nominate someone in advance, there will be no party discipline; he/she can decide to go his way. You know how difficult it is to remove someone from this Parliament as a result of party indiscipline. Many people have tried. ODM tried but failed. So, it is important that you will measure somebody's performance, you will measure somebody's party discipline and then you are assured the role this person has contributed to the success of your political party. That is why it clearly says that the political party will be given seats to nominate proportionately, depending on how many seats you have won. If you have won many seats, you will be given more seats to nominate proportionately. It should reward the people who contributed in terms of getting those positions. How will you measure somebody's performance, if the results are not yet out? Until the results are out, that is when you will see the value that someone contributed to that particular county.

Yesterday night, I heard Governor Kingi talking about how much he contributed in terms of the performance of ODM in Kilifi. After the results come out, you can measure somebody's performance.

Prof. Victor Vroom in the theory of expectancy and motivation talked of the issue of instrumentality. That you reward someone based on the performance, what you bring on board. So it is important that we should amend this. It is not an issue of slay queen or boyfriends. No, we are saying, let us nominate after elections. You will have measured somebody's performance. I have talked about the issues of party discipline. Once some people know they are not on the list, they relocate and move to somewhere else after elections. This is about the discipline in the party. That is why it adds value for someone to be nominated after the elections.

About the two-thirds gender rule, I wish Hon. Duale was here. We have tried to comply with the two-thirds gender rule; it has been a problem. In one of the recommendations we said, the positions should not just be given to women for the sake of it. Let us reward women who have put effort in places they have tried to run for these seats.

I worked on this Bill with the former Member of Parliament for Nyeri, Hon. Nyokabi and we said, these seats should not just be given to women for free. Let us look at women for the purposes of two-thirds gender rule. It should be women who have put in some efforts in trying to come to Parliament. It will also be a good way of trying to reward the women who have put efforts in place in winning these seats. We had proposed earlier that these positions should be given to the best women. This Bill is coming to sort out so many problems. Rewarding those who have tried and also helping in solving the problem of the two-thirds gender rule.

I want to demystify the issue of saying that we are going to reward slay queens or boyfriends. If somebody has made an effort, and he was number two, why should he or she not be nominated? In this House, we have very good legislators. Some of us had wished, the ranking Members, like when Hon. Martha Karua was in this House, before we came here, we could see how she contributed in the quality of debates. Unfortunately, she is not here. On such an opportunity, you can nominate someone because of the value that he or she is going to add as far as the debate in this House is concerned. With such an opportunity, you can actually nominate. We have been talking about the issues of inclusivity. I have heard His Excellency the President say that, if we won by these millions and Hon. Raila Odinga won by these millions, instead of these persons wallowing somewhere, we will have an opportunity to come and add value on this Floor.

So, I am urging Hon. Members, when a Bill comes on this Floor, it ceases to be an issue of political inclinations. We must debate objectively for the sake of value addition. If you are lucky today, it may not be the same tomorrow. So, I am humbly requesting Hon. Members who are here, that we support this Bill. If you read this Bill carefully, under Article 97, it will help the National Assembly where people of special interest will be nominated. We have the disabled who have been contesting.

In Mumias, there is an Hon. Member who was a former Senator who was nominated. She went and contested for the seat of an MCA in Mumias. It does not matter or it does not mean that if you are disabled, you cannot run for these positions. That will be taken care of as far as persons with special interest are concerned. When it comes to the Senate, Article 98, talks of 16 nominated women. In fact, we will be eliminating the issue of slay queens because people will not just nominate anyone, they will only nominate those people who have added value and those who have attempted to contest for their seats. The criteria of the 16 women going to the Senate has been questionable because some of them go there and value addition becomes a problem. When you wait afterwards, you will have seen the women that put a deliberate effort, and you can reward them.

If this amendment does not touch on Article 177, we should amend it further. Article 177 talks about the county assembly. I think it should be invoked. The county assembly is good. However, under Article 177, the nomination has been coming, but now they have to look at the issue of balancing the two-thirds gender. So, we should be able to harmonise this in the National Assembly, the Senate and in the county assembly.

I want to thank Hon. Florence for bringing up this constitutional amendment Bill. It takes a lot of efforts and public participation. I am, therefore, requesting Hon. Members to support this Bill and at the time of ...

The Temporary Deputy Speaker (Hon. Christopher Omulele): I will give Hon. Chris one minute.

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): So, when it comes to the time of voting, we will encourage as many Hon. Members as possible to come. When I brought an amendment to change the election dates from August to December, many people were opposing because of party lines, but afterwards they came back to me asking me to bring the Bill back because they were being misled. I want to ask Hon. Members not to be misled. We are trying to debate this Bill for posterity and that day, I humbly request Hon. Members to come and vote so that we can achieve the two-thirds gender rule.

I thank you, and I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well. Hon. Hulufu Oda, Member for Isiolo North.

Hon. Hassan Hulufu (Isiolo North, KPP): Thank you, Hon. Temporary Deputy Speaker for the opportunity to contribute to this proposed amendment. I oppose this amendment Bill. I think the framers of the Constitution had valid reason why what we are proposing to amend now was put in our current Constitution. I have listened to Members who have spoken to this proposed amendment. There are merits to the proposed amendment, but also, the law as it is today, has also has a reason. When the list is submitted before elections, voters have an opportunity to look at it and sometimes, decide on the basis of that list, to either support or not support a particular political party.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Chris Wamalwa, what is out of order?

Hon. (Dr.) Chris Wamalwa (Kimini, FORD – K): Hon. Temporary Deputy Speaker, is the Hon. Member in order to mislead the House by saying that voters have an opportunity to look at the list? I do not think voters contribute in any way to that list. It is not there. So, he should not mislead the House and say that the voters will decide when they see the list.

Hon. Hassan Hulufu (Isiolo North, KPP): Hon. Temporary Deputy Speaker, all Kenyans have a right to public information. They are gazetted...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Oda, proceed.

Hon. Hassan Hulufu (Isiolo North, KPP): Hon. Temporary Deputy Speaker, it is important that we retain the law that regulates the submission of the party list as it is, if the parties are serious. In the past, most political parties expressed seriousness in terms of submitting lists of individuals who have ended up being nominated to this House and have added value to parties, the National Assembly and also the county assemblies. We have cases like Justice Njoki Ndung'u. We know her track record and what she has left behind. We have Senator Sakaja. He was nominated by The National Alliance (TNA), and we know the kind of contributions he made in terms of legislation for the specific interest group he was representing, which was the youth. Hon. Amina Abdalla has been mentioned and so on and so forth.

Listening to my colleagues who are supporting this amendment Bill, the intention seems to be to reward those who have contested and lost. It is not right. If I had contested and lost before, I would have declined if any party offered me a nomination after I have lost. It is not right. Ideally, if you contest, you do so in a specific geographical constituency. It could be a constituency in any county in the North, in Nairobi, in Western and so on and so forth. Ideally, a nomination is supposed to take care of people who are not able to win, but have special skills, have passionately served their parties, the parties have recognised their professional service and as a result of that, they have been suggested and put on the party list. If we go by what is proposed, that is what we will lose. It is on the basis of that that I oppose this amendment Bill.

Thank you very much, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Let us have Hon. Rozaah Buyu, Member for Kisumu.

Hon. (Ms.) Rozaah Buyu (Kisumu (CWR), ODM): Thank you, Hon. Temporary Deputy Speaker for this opportunity. Right from the onset, I support the Constitution of Kenya Amendment Bill (National Assembly Bill No. 19 of 2019).

The sole reason why the initial amendment was made was because of fairness. Many a times the nomination slots have been decided upon by individuals without any criteria or rationale. Therefore, there was an outcry by people who thought that they deserved to be nominated, but

were not because there was too much favouritism. Because of that, this amendment was put in place.

The list of members who are to be nominated should be put in place or lodged with the Independent Electoral and Boundaries Commission (IEBC) 45 days before the general election. It should be a closed list. That means that after a party lodges this list with the IEBC, nobody can open it. That was fair then, but from experience, it has turned out that that effort has locked out very many capable people who ought to have been nominated.

We know that nominations target women, youth, and people living with disabilities (PLWDs) because they are considered to be the vulnerable groups in terms of an election contest. I speak from experience. In 2007, I contested for the Kisumu Town West parliamentary seat. I had a real political fight with my colleague Hon. Olago Aluoch. Despite the fact that I got thousands of votes, when the nomination list was out, I was not considered even though I had put up a strong political contest and showed that, indeed, I could be a strong politician.

In 2013, I contested for the seat of MP in Kisumu West Constituency, again against my colleague Hon. Olago Aluoch. Between the two of us there was a difference of 900 votes. I did not make my way to this Parliament because the list had already been given in advance. My whole point is that election is a political contest and we have strong people amongst the vulnerable groups who need to be brought up, and who put up very good shows in the contest, but do not find their way into Parliament.

I support the amendment because if the list comes after the elections there will be due consideration of the strong candidates who would have shown that they are politically capable to represent or be representatives of the people in this House. When the list is given after elections the party will be in a position to look at the Members who have been elected on their ticket and to identify any gaps or strengths that might be missing from the membership. The party then has an opportunity to say, for example, it needs a lawyer and out of the elected Members, it does not have a lawyer. They will have an opportunity to nominate a lawyer so that a lawyer can be part of its representation in Parliament. If the list is given before elections, the party will not have such an opportunity.

My good friend talked about the two thirds gender rule. We know that this Parliament has grappled with the two thirds gender rule for a long time, but it has not been successful. We know that the opposition has mainly come from Members who felt that we should do away with tokenism. If we do nominations after elections or provide the list after elections, we will pick Members who are best losers or who have garnered a certain percentage of votes to be included in Parliament. What this does is that when you nominate a strong person, she or he is able to learn the ropes of where she/he might not have succeeded and in the next contest win thereby breaching the gap between the male and female Members and help Parliament to achieve the two thirds gender rule.

Somebody said that if we have the list given after the elections, we will be dealing with the issue of allegiance to parties. That is not what this Bill seeks to do. Whether you nominate a Member before election or after elections, whether that Member decides to be loyal to a party or not, does not depend on this Bill. That is a personal choice. I only wish that this Bill could have gone a step further and stipulated or specified that in the list of nominees that would come after the elections, the people who should first be considered are the vulnerable Members who have put their best foot forward and are best losers.

I support this Bill and I thank Hon. Mutua for coming up with it for discussion in Parliament. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Buyu, it is true you put up a good fight in Kisumu. I was witness to your campaigns in Kisumu. It was something to behold.

Hon. Oyula Maero, Member for Butula.

Hon. Joseph Oyula (Butula, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to also contribute to this amendment Bill.

I start by congratulating Hon. Mutua for coming up with this amendment which I believe is timely. The amendment talks about timing. It does not talk about who and who are going to be nominated. It is talking about the timing of submission of the nomination lists by the parties. So, all we need to do is to look at the merits and demerits of the timing. I support this because submission of lists after the elections will enable the parties to identify the rightful people who can be nominated by the parties—the party supporters and those who have seriously contributed to the success of the party. Nominations before the election brings in even those people who will deceive the party machinery that they are with the party, yet they just came in for the purpose of getting nomination. Nomination after the elections should be preferred to nomination before the elections. When we are discussing this, we should be concentrating on the timing. Not who and who are going to be nominated.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Hon. Barasa Mutua, Member for Kimilili.

Hon. Didmus Barasa (Kimilili, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to also contribute to this amendment. I have listened to very many Members who are supporting this amendment, but I am not persuaded that these amendments will provide any value that is of public interest. There are those who are saying that people who will participate in elections and lose must be found so that they can come to this House. I want to remind them that the list of potential nominees is forwarded to the IEBC by political parties. Those political parties have an opportunity to do so after their party primaries. They can decide to forward the names of those people who will be number two in their party primaries for consideration for nomination.

The IEBC has given political parties a leeway to nominate a maximum number of people. Of course, in a particular order of priority so that depending on how they will perform in the general elections. They will not be short of people to nominate. That was already cured in our existing laws.

When you look at the way our Constitution of 2010 was drafted, there were a lot of meetings and a lot of engagements. That idea to make sure that a list of people to be nominated is forwarded to the IEBC before elections was a well thought out idea. There were very many benefits to it. The content of these proposed amendments is not well thought. They can really water down the very benefit that we enjoy as a country by forwarding the names before general elections. With the view of those party leaders who my very good friend and nephew Hon. Chris Wamalwa talked about, this House might miss from their very good expertise. They are distinguished citizens like Hon. Martha Karua and Hon. Raila Amollo Odinga. They have an opportunity to convene their party parliamentary group meetings and go through the various Bills and proposals by this House and make their contributions through their membership. This House has an opportunity to tap into the intelligence of any Kenyan, when it comes to public participation. Any Kenyan can petition this House to pronounce itself on a matter to amend a particular law. So, there is nobody who will be found out.

In Kenya as a country, you cannot tell me that it can be short of people who are intelligent enough and will make good contributions. That can only be made possible after general elections, Hon. Speaker. We live in a country where for you to come to this House, Kenyans must bring you here. This is a House of representatives; we represent the people; we represent Kenyans. Even those who are nominated represent special interest groups. If the people of Kimilili Constituency would decide that I am not a good representative and they replace me with somebody else, there is no problem. If I am still resourceful, the government can accommodate me elsewhere; either as a Cabinet Secretary or a Principal Secretary, if I qualify.

I oppose these amendments. These amendments are not drafted in the interest of the general public. It seems that it will provide a landing for certain individuals in the name of party leaders. The reason as to why the drafters of the Constitution said that the list should be forwarded to IEBC before general elections is to stamp out jokers. If you know you cannot win an election as a president, then do not try. You will find another route to come to this House. We should leave running for the presidency for serious people. If you are not a serious presidential candidate, you can run for MCA or MP. Your heart cannot be to occupy State House and then you also covet coming to this House through nomination.

The law makes the process of coming up with a list to be forwarded to the IEBC a bit competitive in a good way and in a manner that will add value. Competition breeds value. This is because you will have time to sit down and internalise the potential people that you will put in the party list. After the general elections, the competition will not be healthy. It will be for the ruling class within a particular party because we will have a number of Members of Parliament who will have lost, and we may have senior members of that party who will have lost an election and they will want to put themselves on that nomination list. For us to cure that element of conflict of interest or that element of taking advantage of the position held in the party to decide who makes it to the list of nomination, we have to ensure that this proposed amendment does not see light of the day.

I really want to thank Hon. Florence Mutua and challenge other Members of Parliament who are here that you do not have to spend too much money in the name of BBI to change rafts of laws. We can simply better this existing Constitution by piecemeal constitutional amendments like this one. Laws are made for posterity, not for individuals. If you look at the intentions of the drafters of the Constitution, especially on this Article 90 and Section 35, they had very good intentions. They actually cured so many problems, which this proposed amendment would water down. This proposed amendment will open another complex issue. You will see a situation where after general elections a few individuals will not have time, they will sit somewhere, they will try to cook and come up with a list that will not be well thought out with a view of actually providing a soft landing for those who will have lost in the general elections. The argument of some Members that we have very good people whom after general elections become number two and there is away we prefer them to be here does not hold any water. Like I said, why I began opposing this Bill, is that the power and responsibility of forwarding the names to IEBC lie in the hands of a party and that party has an opportunity to do so after their party primaries. A party that wins an election has got no business with how the second-best party finds that kind of person. We should, therefore, maintain the law the way it is now. Let us come out in large numbers during voting to shoot down this Amendment Bill. If not, let us abscond to deny them Quorum.

We will do so because this Constitutional Amendment is not guided by the common good of the whole country but, maybe, by certain parties that feel that their party leaders are out of this House and a way must be found for them to come here. However, because of their own poor

internal party organs and systems, they cannot hold a parliamentary group meeting to discuss any matter that is before this House. We cannot sneak their interests into this House through the membership of their parties. We are not going to assist them tap into the intelligence of their party leader, if he or she is a good person. You only have one way to ensure that the party leaders always convene meaningful parliamentary group meetings to discuss, originate and improve Bills.

However, if they continue sleeping, let them continue. This country does not have shortage of intelligent people who can pick up these nomination slots.

With those many remarks, I oppose the Bill.

(Applause)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Wanyonyi Kevin, Member for Kwanza.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Thank you, Hon. Temporary Deputy Speaker for the chance.

I take this opportunity to thank Hon. Florence Mutua for coming up with this Amendment Bill. After elections, and depending on how the party has performed, we will then be given slots. If we are more than 10, 20 or 30, then they will give you a slot. The party will then sit down and look at the shortfalls of the requirements in the party. Maybe, those who have gone through do not have a lawyer, somebody technical or something like that. That is the time for the party to sit and look at those who have contributed to the party. The party leadership will look at the contributions individuals have made to the party in terms of finances and mobilization. They will then decide that Mr. X or Mrs. X will come in, depending on availability of slots. I am a ranking Member, having started contesting years back. I lost three times.

At one time, during party primaries, I defeated a Minister I do not want to name. I was then called by the party leadership and requested to forfeit my chance to the Minister because he had been contributing to the party and doing many things for the party. I was promised something else. That is the reality on the ground. It is what the party has come up with. The party knows there is certain shortage, like when they do not have somebody to do PR. So, one can be nominated to help the party do whatever can be done.

Secondly, how many people? It is not that you will nominate everybody. You may contest on a FORD-K ticket and lose to a Jubilee candidate. How is this person? What is his ability in terms of putting the party together for continuity? It is not something that we want to argue over and over again. However, all we are saying is---

An Hon. Member: Point of information.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): What are you informing me about? You cannot inform me on anything. I do not want to take that information.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Wanyonyi, hold on. Hon. David Sankok, what is out of order?

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Speaker, the Member is misleading the House by saying that there is a Member who has contested and has contributed to the party. Remember, you contest in a constituency. You represent people all over the country. You do not contribute to the party.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Sankok, you are out of order. Please, resume your seat.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): He did not even get it right. When you talk of contribution, it would be in terms of ideas, or mobilisation of the people for your party or finances.

Then there is the loyalty where some people come because they know your party is good, but they are not loyal.

So, I think this amendment is timely, given the 21 days after elections so we do not have to take too long to come up with the lists. This is adequate. The party can come up with the list and forward it to the Registrar of Political Parties

Secondly and lastly, with regards to the two-third gender rule, we will relook at it. If there are more ladies who would have contested in that particular constituency, then we will nominate men but, if there are more men in the party that would have been elected, we will look at the ladies so that we can balance out. This amendment should have been passed like yesterday so we can move forward. This is an eye opener to the parties. I have had cases where we had undeserving people nominated down at the counties just because they are related to senior party officials. In the 21 days we will look at the list, scrutinise and iron out such issues.

I agree with this proposed amendment. Let us have the 21 days after elections so that we can look at each one of those who have contributed to the party and consider them for nomination. I agree with the case in Kisumu. She is very useful and could have been nominated and so, depending on the ability of a candidate or a person, the party should reward not necessarily because they contributed money in that case.

With those few remarks, I support those amendments and look forward to us passing it.

I thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Let us have the Member for Gem, Hon. Elisha.

Hon. Elisha Odhiambo (Gem, ODM): Thank you, Hon. Temporary Deputy Speaker, for the time you have given me on this Bill to make my contribution.

At the outset, I congratulate Hon. Florence for bringing this conversation, but I do not agree with the amendment. The moral question that we should pose to Members of Parliament (MP) is: are we here for self-preservation or this House is meant to nurture and build young Kenyan leaders? Majority of Members here want to vie as governors or senators and they are looking at this Bill as providing a fall back. I think that is the wrong way to do it. If you think you are a woman or man enough and you are going to vie as a governor and you have enough resources, please allow other Kenyans in this country to be nominated.

Hon. Fabian Muli (Kangundo, Muungano): On a point of order.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Elisha just hold on. Hon. Fabian, Member for Kangundo, what is out of order?

Hon. Fabian Muli (Kangundo, Muungano): Hon. Temporary Deputy Speaker, is the Hon. Member spiritual enough to have read our minds that we are waiting for this Bill to go through so that when we lose our elections we get nominated? Is he spiritual enough or how did he come with that understanding that we are just opportunists for the Bill.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Member for Gem, proceed.

Hon. Elisha Odhiambo (Gem, ODM): Hon. Temporary Deputy Speaker, I think he is just inferring without conceptually looking at my contribution. We are all aware that Article 90 provides that parties proportionally selects members who will then be nominated to come to this

House or to the Senate. So, parties have the opportunity to profile the competency of its members and bring the list 45 days before elections.

I have seen many party leaders in this country...

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Elisha you have been caught up by time. Order, Hon. Members! This business has a balance of 1 hour and 22 minutes. Hon. Elisha, Member for Gem will have eight minutes when the matter is again set for consideration by the House.

Hon. Members, the time being 1.00 p.m., this House stands adjourned until this afternoon at 2.30 p.m.

House rose at 1.00 p.m.