



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT**

**NATIONAL ASSEMBLY**

**THE HANSARD**

**VOL. III NO. 39**

## THE HANSARD

### SPECIAL SITTING

*(Convened vide Kenya Gazette  
Notice No.5612 of 6<sup>th</sup> May 2024)*

**Monday, 13<sup>th</sup> May 2024**

The House met at 2.30 p.m.

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

### PRAYERS

**Hon. Speaker:** Order, Hon. Members. We have quorum to transact business. Clerk-at-the-Table.

### COMMUNICATIONS FROM THE CHAIR

*(Several Members walked into the Chamber)*

**Hon. Speaker:** Order, Hon. Members. Take your seats.

*(Hon. Silvanus Osoro walked into the Chamber)*

Take your seat, Hon. Whip of the Majority Party.

### CONVOCATION OF SPECIAL SITTING

**Hon. Speaker:** Hon. Members, I take this opportunity to welcome you to this Special Sitting, which has been convened pursuant to the provisions of Standing Orders 29(3) and 64(3) relating to the procedure for convening of Special Sittings of the House during recess.

You will recall that on Tuesday, 30<sup>th</sup> April 2024, the House resolved to establish a Select Committee to investigate the grounds for the proposed dismissal of Hon. Franklin Mithika Linturi, EGH, as the Cabinet Secretary for Agriculture and Livestock Development. Notably, Article 152(7) of the Constitution and Standing Order 66(5)(b) require the Select Committee to report its findings to the House as to whether it finds the allegations against the Cabinet Secretary to have been substantiated. This ought to be done within a constitutional timeline of 10 days. This period lapsed on Sunday, 12<sup>th</sup> May 2024.

Instructively, Article 259(7) of the Constitution states:

“If, in any particular circumstance, the period of time prescribed by the Constitution ends on a Sunday or a public holiday, the period extends to the first subsequent day that is not a Sunday or public holiday.”

Additionally, Standing Order 64(3) concerning consideration of a Special Motion for removal from state office provides:

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“If the National Assembly is not sitting, the Speaker shall summon the Assembly for a special sitting to dispose of the Motion.”

In this regard, and pursuant to the provisions of Standing Order 64(3), I appointed today, Monday, 13<sup>th</sup> May 2024 at 2.30 p.m., as the day and time for the Special Sitting of the House to receive the report of the Select Committee, and to consider any other priority business.

Additionally, in keeping with the requirements of Standing Order 29 (3), by Kenya Gazette Notice No.5612 of 6<sup>th</sup> May 2024, I gave notice of today’s Special Sitting. Accordingly, today’s Special Sitting of the House is properly convened.

As specified in the said Gazette Notice, and indeed as also notified to all Members and the general public by way of newspaper notification published on 7<sup>th</sup> May 2024, the purpose of today’s Special Sitting is as follows:

1. Conveyance of any urgent Messages from the President, the National Executive and the Senate. In this regard, I will shortly be conveying a Message from the Senate relating to the passage of Four Bills.
2. Tabling of any other papers with statutory timelines, including subsidiary legislation.
3. Tabling of the Report of the Select Committee Investigating the Proposed Dismissal of Hon. Franklin Mithika Linturi as Cabinet Secretary for Agriculture and Livestock Development, pursuant to Articles 152 (7) (b) and 152 (9) of the Constitution.

I am notified that the Committee has just adopted its report. At an appropriate stage, after I have acclimatized with the contents of the report, I will allow the Chairperson to table it and thereafter, I will give further guidance as to the next steps.

4. Tabling of the Report of the Budget and Appropriations Committee on the Senate amendments to the Division of Revenue Bill (National Assembly Bill No.14 of 2024). You will note that this business is contained in the Order Paper as Order No.10, given its urgency.

Hon. Members, the House is also to transact the following urgent business:

1. First Reading of the Finance Bill, 2024 as today presents the only opportunity for formal introduction of the Bill in the House so that public participation on it can commence.
2. Consideration of Motion on the Report of the Departmental Committee on Finance and National Planning on the Ratification of the Multilateral Convention to implement tax treaty-related measures to prevent base erosion and profit shifting.
3. Consideration of the Senate amendments to the Division of Revenue Bill, 2024 in Committee of the whole House, should the business under Order No.10 be passed.
4. Committee of the whole House and Third Reading of the National Disaster Risk Management Bill (National Assembly Bill No.24 of 2023).

The House is accordingly guided.

*(Several Members walked into the Chamber)*

**Hon. Speaker:** Members at the back, take your seats.

*(Hon. Junet Mohamed walked into the Chamber)*

Whip of the Minority Party, take your seat urgently. Take the nearest seat. I am still on “Communication from the Chair.”

#### RECOGNITION OF DELEGATION FROM PARLIAMENT OF ZAMBIA

**Hon. Speaker:** Hon. Members, the next Communication is a recognition of a delegation from the Parliament of Zambia. I wish to introduce to you a delegation from the Parliament of Zambia who are seated in the Speaker’s Row. The delegation comprises 10 Members of the Committee on Planning and Budgeting. They are:

1. Hon. Fred Chibulo Chaatila, MP – Leader of the Delegation;
2. Hon. Brenda Nyirenda, MP;
3. Hon. David Mabumba, MP;
4. Hon. Jamba Machila, MP;
5. Hon. Kalalwe Mukosa, MP;
6. Hon. Anthony Mumba, MP;
7. Hon. Mwabashike Nkulukusa, MP;
8. Hon. Koonwa Simunji, MP;
9. Hon. Jeffrey Mulebwa, MP; and,
10. Hon. Mayungo Simushi, MP.

The delegation, accompanied by two staff, is on a benchmarking visit to gain deeper insights into legislative processes, and explore innovative approaches, particularly in the realms of Budget, Finance and National Planning.

On my own behalf and that of the National Assembly as a whole, I welcome the delegation to Parliament and wish them fruitful engagements during their stay in the country.

*(Applause)*

Next Order.

*(Hon. Opiyo Wandayi spoke off the record)*

Hold your horses, Leader of the Minority Party.

*(Several Members walked into the Chamber)*

Hon. Members, take the nearest available seats. Hon. Ruku, take the nearest seat. Order, Hon. Members. Urgently, take the nearest seats. Hon. Members, the next Communication is consideration of performance audit reports by relevant Committees.

#### CONSIDERATION OF PERFORMANCE AUDIT REPORTS BY COMMITTEES

Hon. Members, as you are aware, the Office of the Auditor-General is one of the independent offices established by the Constitution and is mandated to, *inter alia*, audit and report on the accounts of all public entities in accordance with Article 229 of the Constitution. In addition, Section 36 of the Public Audit Act, 2015 requires the Office of the Auditor-General to conduct

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performance audits for the purpose of examining the economy, efficiency and effectiveness of public expenditure by public institutions. These reports are critical in the examination of the efficiency and effectiveness of our public resource utilization and are meant to advise public entities on areas of improvement to ensure prudence in public finance management.

Indeed, Hon. Members, I am in receipt of a letter from the Office of the Auditor-General indicating that 63 performance audit reports have been submitted to the National Assembly since 2012. However, it is noted that only one such report has been considered by the House over this period. This performance is dismal and calls into question the prioritization of these reports by Committees of the House.

Notably, Hon. Members, the performance audit reports cover various sectors including—

1. Agriculture, Rural and Urban Development;
2. Health;
3. Education;
4. Environment, Protection, Water and Natural Resources;
5. Social Protection, Culture and Recreation;
6. Governance, Justice, Law and Order;
7. Energy, Infrastructure and ICT;
8. General Economic and Commercial Affairs;
9. Public Administration and International Relations; and,
10. Finance.

Hon. Members, given the centrality of the performance audit reports in the streamlining of resource utilization by public institutions, and pursuant to the provisions of Standing Order 216(5), I hereby direct –

1. THAT, the Clerk circulates the performance audit reports received from the Office of the Auditor-General to the respective Departmental Committees and any other relevant committees for consideration; and
2. THAT, the committees ought to prioritise the examination of the performance audit reports and table respective reports for consideration by the House as appropriate.

The House is accordingly guided. I thank you.

**Hon. Opiyo Wandayi** (Ugunja, ODM): On a point of order, Hon. Speaker.

**Hon. Speaker:** Leader of the Minority Party, what is out of order?

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, I just want to seek your indulgence. I have certain preliminary issues I need to raise. I want to invoke Standing Order 1 to address some of them.

First, is the matter of the Order Paper. If you look at Standing Order 29(5), in terms of defining Special Sittings of the House and the agenda thereof; the implication of that Standing Order is that in a Special Sitting such as this one, there may be several issues lined up in the Gazette Notice. You will agree with me that out of those many issues, there is always an anchor issue. My submission is that the anchor issue for this Special Sitting is the matter of the proposed dismissal of the Cabinet Secretary for Agriculture and Livestock Development.

Firstly, I want to plead with you to use your discretion under Standing Order 1 to rearrange the Order Paper and allow the matter of the proposed dismissal of Hon. Mithika Linturi to be brought forward, to appear at the very least as Order No.8 so that before we transact any other business, we dispense with the matter of the proposed dismissal of the Cabinet Secretary.

Secondly, is the interpretation of Article 152(9) of the Constitution as read together with Standing Order 66(7).

*(Hon. Members consulted loudly)*

**Hon. Speaker:** Hon. Members, can I hear the Leader of the Minority Party? Lower your consultations.

**Hon. Opiyo Wandayi** (Ugunja, ODM): I wish they could listen to me.

**Hon. Speaker:** Order, Hon. Members.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, I was quoting Article 152(9) of the Constitution. For the avoidance of doubt, it says:

“(9) If the select committee reports that it finds the allegations—

(a) unsubstantiated, no further proceedings shall be taken;

(b) substantiated, the National Assembly shall –

(i) afford the Cabinet Secretary an opportunity to be heard; and,

(ii) vote whether to approve the resolution requiring the Cabinet Secretary to be dismissed.”

I want to remind the House that Parliament can act on its own in the plenary or through its committees. The Select Committee envisaged under Article 152 of the Constitution is one such Committee.

**Hon. Speaker:** Order, Leader of the Minority Party. You are out of order.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, I am concluding. I want to plead with you for one second or minute.

**Hon. Speaker:** Okay, take one second, but you are out of order.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, if you undertake a purposive interpretation of the Constitution and the Standing Orders, you will find that what is envisaged under Article 152(9) is that the decision of the Select Committee shall be subjected to a vote of this House. Whatever decision the Select Committee arrives at must be validated by the full House. That is the import of Article 152(9).

*(Applause)*

**Hon. Speaker:** Order, Hon. Wandayi. Firstly, you are out of order in anticipating debate. I guided the House that I have been informed reliably that the report is ready. It has not been tabled. So, I have not seen it yet. After the next one or two orders, I will retreat to the back Chamber and look at the report, which cannot be tabled without me assenting to it. Once I am satisfied and assent to it, it will be tabled. That will be done within the next less than one hour.

*(Hon. Charles Nguna spoke off the record)*

Hon. Nguna, you are out of order in interjecting when the Speaker is on his feet.

Secondly, what the Leader of the Minority Party is trying to bring to the attention of the House is water under the bridge. The House already debated a Motion and the outcome of it was the setting up of the Select Committee. Unlike in the Senate, where their Standing Orders provide that the House can elect to prosecute such a matter, particularly in relation to the impeachment of Governor or Deputy Governor, it may elect to prosecute that impeachment Motion through a Select Committee of the House or the House sitting in plenary. That provision is not available to this House. What is available in your own Standing Orders is to have a Select Committee, which we

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put in place. That is where the Cabinet Secretary appeared with his lawyer, from what I was reading, and the prosecution was conducted.

When the Report comes to the House, if the matter is found by the Committee to be unsubstantiated, it ends there; dead on arrival. If the Committee says the matter has substance, then level two will be the House to deal with a fresh Motion, which at the end of the day will require a simple vote to uphold or reject. That is what the law and the Constitution say. So, Hon. Wandayi, you are jumping the gun, which is unnecessary and unhelpful. Just hold your horses.

*(Hon. Raphael Wanjala spoke off the record)*

Order, Hon. Wanjala. Order. Members, take your seats. Hon. Wanjala, take your seat. Your leader has raised a matter, which I have disposed of. Take your seat.

**Hon. Raphael Wanjala** (Budalangi, ODM): On a point of order, Hon. Speaker.

**Hon. Speaker:** What is out of order, Hon. Wanjala? Can you cite the Standing Order that you are relying on?

*(Loud consultations)*

Order, Hon. Members.

**Hon. Raphael Wanjala** (Budalangi, ODM): Hon. Speaker, you used the Standing Orders to call us here today.

**Hon. Speaker:** Order, Hon. Wanjala. Take your seat. You are getting into the realm of gross misconduct. When your Leader, Hon. Wandayi stood on a point of order, he cited the Standing Orders and the Constitution to prosecute his point of order. What Standing Order are you relying on to say what you want to say?

**Hon. Raphael Wanjala** (Budalangi, ODM): Hon. Speaker, I am relying on Standing Order No.1.

*(Laughter)*

**Hon. Speaker:** Order, Hon. Members. Hon. Wanjala, thank you very much for providing comic relief in the House. Standing No.1 does not apply. It only applies where a matter is not provided for in the Standing Orders. What we are dealing with is provided for under the Standing Orders. Hon. Wanjala, any further interjections and I will rule you out of....

*(Hon. Raphael Wanjala spoke off the record)*

Order, Hon. Wanjala! You may be excited about the matter, but be orderly. I have ruled you out of order. Take your seat and remain calm. There is no time for you because you have no matter to prosecute. Take your seat.

**Hon. (Dr) Otiende Amollo** (Rarieda, ODM): On a point of order, Hon. Speaker.

**Hon. Speaker:** Yes, Senior Counsel?

**Hon. (Dr) Otiende Amollo** (Rarieda, ODM): Thank you, Hon. Speaker. I rise under Standing Orders 1 and 66 as read together with Article 152(9) of the Constitution.

*(Hon. Speaker consulted with the Clerk-at-the-table)*

I need the Speaker's ear. We cannot compete for it.

**Hon. Speaker:** Go on, Hon. Amollo.

**Hon. (Dr) Otiende Amollo** (Rarieda, ODM): Hon. Speaker, I rise under Standing Orders 1 and 66, as read together with Article 152(9) of the Constitution, for your direction. I seek your directions, pursuant to the further directions that you have just given. You read Article 152(9) and, properly, interpreted it but I would invite you for a proper and thorough interpretation of 152(9) before the Committee tables its Report. In so far as Article 152(9)(a) is concerned, if the Select Committee reports that it finds the allegations unsubstantiated, no further proceedings shall be taken. I wish to invite, for the clarity of the House, the interpretation of the word 'proceedings' so that we would know how we react to the Report by the Committee.

Without anticipating your direction, my understanding is that Article 152(9) mirrors the process of removal of a Judge under Article 67. The contemplation, therefore, would be that when the Committee reports that they have found the allegations substantiated, then, we proceed under Article 152(9)(b). Where they, however, find it unsubstantiated, no further proceedings shall be taken, which means that the proceedings contemplated in (b) – the affording the Cabinet Secretary a chance to appear before the House and the question of voting – will not be taken. My understanding is that by itself, this does not prevent the House from discussing or debating the report. What it does is to prevent the House from voting on the report.

Hon. Speaker, therefore, I would urge you to give us a clearer interpretation of the word 'proceedings' and one that goes with the purposes of the Constitution; one that is permissive because the House is entitled to debate the findings of the Committee, including any improprieties that the Committee may be engaging in.

Thank you, Hon. Speaker.

**Hon. Speaker:** Order, Hon. Senior Counsel. Your reading, understanding and appreciation of the Constitution is in tandem with Hon. Speaker's.

**Hon. (Dr) Otiende Amollo** (Rarieda, ODM): Thank you.

**Hon. Speaker:** Refer to Article 152(7), where you should have started, because I know you very well. You are a clever man, but you have read it selectively.

*(Laughter)*

It says that if a Motion under Clause 6 is supported by at least one-third of the Members of the National Assembly, which in this case was, the Assembly shall appoint a Select Committee comprising of eleven of its Members to investigate the matter, which you did. It does not say 'may appoint.' The next level is now the reception of the report you have referred to. As it is now, we have not tabled any. So, you are also jumping the gun. Once the tabling of the report is done, the relevance of your argument comes into play and the discretion of the Speaker would be called into place. Sadly, and for the avoidance of any doubt to all Members, including Hon. Raphael Wanjala, Standing Order No.1 is not available to any Member of this House – whether he is the Leader of the Majority Party or the Leader of the Minority Party – but only to the Speaker.

*(Hon. Raphael Wanjala spoke off the record)*

Order, Members! If you read your Standing Orders properly, that fact will be clear. For avoidance of doubt, I wrote these Standing Orders with the late Hon. Godana, Hon. Julius Sunkuli

and a few other Members. It is not an escape route for anybody who does not grasp their Standing Orders. Let us leave it there. Hon. Otiende Amollo, we will get to that matter when we reach it.

*(Loud consultations)*

Order. That matter is spent. Let us move to the next Order.

*(Hon. Mohamed Machele walked into the Chamber)*

Hon. Machele, take the nearest seat.

*(Hon. Zamzam Mohamed stood in the gangways)*

Hon. Zamzam, you have breached our Standing Orders. Take your seat.

### MESSAGE

Hon. Members, I have a Message from the Senate on the passage of four Bills.

#### PASSAGE OF FOUR BILLS

Hon. Members, pursuant to the provisions of Standing Order 41(5), I wish to report to the House that on 2<sup>nd</sup> May 2024, I received four Messages from the Senate regarding the passage of two Senate Bills and two National Assembly Bills.

*(Loud consultations)*

Order! Are those the Members for Malava and Sirisia? Keep your silence.

The first and second Messages convey that, on Thursday, 25<sup>th</sup> April 2024, the Senate considered and passed the County Boundaries Bill (Senate Bill No.6 of 2023) and the Sugar Bill (National Assembly Bill No.34 of 2022). The Sugar Bill was passed with amendments.

The third and fourth Messages convey that on Thursday, 2<sup>nd</sup> May 2024, the Senate considered and passed the Division of Revenue Bill (National Assembly Bill No.14 of 2024) with amendments; and the County Governments (Amendment) Bill (Senate Bill No.25 of 2023) without amendments.

The County Boundaries Bill (Senate Bill No.6 of 2023) seeks to give effect to Article 188 of the Constitution by providing for a procedure for alteration of county boundaries. It also proposes to provide for a mechanism for resolution of disputes relating to county boundaries as well as the establishment of an independent county boundaries commission.

On the other hand, the County Governments (Amendment) Bill (Senate Bill No.25 of 2023) seeks to amend the County Governments Act, Cap.265 to raise the statutory thresholds for removal of a member of a County Executive Committee. In conveying the Message regarding the passage of this particular Bill, the Rt. Hon. Speaker of the Senate has notified that the sponsor, Sen. Samson Cheragey, MP; has nominated the Member for Marakwet West, Hon. Timothy Kipchumba Toroitich, MP, to co-sponsor the Bill in this House. In this regard, Hon. Toroitich will henceforth be responsible for marshalling its consideration in the National Assembly.

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Hon. Members, with regard to the Sugar Bill (National Assembly Bill No.34 of 2022), I hereby direct the Clerk to circulate the Senate Amendments to the Bill to all Members as required by the Standing Orders. In the meantime, the Message from the Senate, together with the Schedule of Senate Amendments, shall stand referred to the Departmental Committee on Agriculture and Livestock for consideration.

In order for the House to commence consideration of the two Senate Bills, I further direct the Clerk to schedule the Bills for First Readings when the House convenes next for its regular Sittings. Thereafter, the two Bills will stand committed to the Departmental Committee on Justice and Legal Affairs for consideration. I urge the two Committees to prioritise the respective Bills referred to them and report to the House as soon as is practicable to enable the House to proceed with the next stages of the Bills.

With respect to the two National Assembly Bills – the Sugar Bill, 2022 and the Division of Revenue Bill, 2024 – you will recall that the National Assembly passed the two Bills on 27<sup>th</sup> September 2023 and 20<sup>th</sup> March 2024, respectively, following which I referred the Bills to the Senate for consideration, pursuant to the requirements of Article 110(4) of the Constitution.

As part of the bicameral architecture of our legislative process on Bills concerning county governments, the House is now required to consider the Senate Amendments to the two Bills.

Passage of a Division of Revenue Bill ought to be done expeditiously, and within the statutory timelines, in order to allow for the attendant steps in the budget-making process. In this regard, and in line with the resolution of the House of 14<sup>th</sup> February 2024 regarding processing of Messages received from the Senate during the Short and the Long Recesses, through Notification No.001 of 2024 dated Monday, 6<sup>th</sup> May 2024, I referred the Senate Amendments to the Division of Revenue Bill, 2024 to the Budget and Appropriations Committee as soon as I received it. The Committee is expected to have concluded consideration of the Senate Amendments and should table its report today to facilitate consideration of the business listed as Order No.10 in today's Order Paper. As I communicated earlier, this particular business has a statutory timeline and must be dealt with.

The House is accordingly guided.

Next Order.

## PAPER

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

**Hon. Kuria Kimani** (Molo, UDA): Hon. Speaker, I beg to lay the following Paper:

Report of the Budget and Appropriation Committee on its consideration of the Senate Amendments to the Division of Revenue Bill (National Assembly Bill No.14 of 2024).

Thank you very much.

*(Loud consultations)*

**Hon. Speaker:** Order, Hon. Members. Next is the tabling of a report by the Select Committee on the investigation into the proposed dismissal of Mithika Linturi as the Cabinet Secretary for Agriculture and Livestock Development.

Hon. Members, like I did indicate to you earlier, I will recess for 20 minutes. The Deputy Speaker or a Member of the Speaker's Panel, Hon. Wangari will take the Chair and deal with the

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items on the other orders so that when the Speaker comes back, and the report is tabled, will proceed with it without any interruptions. You are so directed.

Hon. Wangari.

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

*[The Temporary Speaker (Hon. Martha Wangari) took the Chair]*

**The Temporary Speaker** (Hon. Martha Wangari): Order, Members. We will continue with the Business of the House.

Next Order.

### PROCEDURAL MOTION

#### REDUCTION OF PUBLICATION PERIOD FOR THE FINANCE BILL, 2024

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Speaker, I beg to move the following Procedural Motion:

THAT, pursuant to the provisions of Standing Order 120, this House resolves to reduce the publication period of the Finance Bill (National Assembly Bill No.30 of 2024) from seven days to four days.

Hon. Temporary Speaker, the purpose of reducing the publication period is to give enough room for public participation so that we can have a robust conversation about the Bill. Most importantly, it will avert a possible Special Sitting for this Friday. If we do not make the resolution now then we might have to reconvene a Special Sitting on Friday.

**The Temporary Speaker** (Hon. Martha Wangari): Order. Hon. Mogaka, take your seat. Hon. Joash, Hon. Robi, Member for Sirisia and Hon. Clive, take your seats. Hon. Sunkuli, break the Kamukunji.

*(Several Members stood along the isle)*

Hon. Members, we cannot even hear the Mover. Kindly, let us be orderly. Member for Molo, can you move the Motion again?

**Hon. Kuria Kimani** (Molo, UDA): Thank you, Hon. Temporary Speaker. I beg to move the following Procedural Motion:

THAT, pursuant to the provisions of Standing Order 120, this House resolves to reduce the publication period of the Finance Bill (National Assembly Bill No.30 of 2024) from seven days to four days.

The essence of reducing the publication period from seven days to four days is to give enough room for public participation. There are a lot of measures that the Finance Bill, 2024 has proposed and it is very important that we give sufficient time for Kenyans to bring their views. That is why we propose this reduction in the publication period. In addition, the import of this is that we may have to schedule a Special Sitting for Friday, if we do not reduce the publication period. Surely, we do not need to do that.

I beg to move and request Hon. (Dr) Wilberforce Oundo, the MP for Funyula, to Second.

**The Temporary Speaker** (Hon. Martha Wangari): Order Members. Member for Sirisia, you are being disorderly. Take your seat. Hon. Makilap, take your seat so that we can hear Hon. (Dr) Oundo seconding the Motion.

**Hon. (Dr.) Wilberforce Ojiambo** (Funyula, ODM): Thank you, Hon. Temporary Speaker. I stand to Second the Procedural Motion on reduction of the publication period for the Finance Bill, 2024.

In this country, we have always had challenges with important Bills like the Finance Bill. It is never given adequate time to be subjected to public participation. On account that the Committee Chairman is seeking to reduce the publication period to provide for adequate time for public participation, I support. However, as I support, I urge the Committee and the Members who will be sitting in the Committee that public participation should not be an exercise in futility or vanity. The views of the people of Kenya must be considered when preparing the final report. If that does not happen, the process of public participation will become a fuss.

With those few remarks, I support the Motion on reduction of the publication period for the Finance Bill, 2024.

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Muthoni and Hon. Kagiri, take your seats.

*(Question proposed)*

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

**The Temporary Speaker** (Hon. Martha Wangari): Is that the mood of the House?

*(Question put and agreed to)*

## BILL

### *First Reading*

THE FINANCE BILL  
(National Assembly Bill No.30 of 2024)

*(The Bill was read a First Time and referred to the relevant Committee)*

## MOTIONS

CONSIDERATION OF SENATE AMENDMENTS  
TO THE DIVISION OF REVENUE BILL  
(National Assembly Bill No.14 of 2024)

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

THAT, the Senate Amendments to the Division of Revenue Bill, (National Assembly Bill No.14 of 2024) be now considered.

*(Loud consultations)*

Hon. Temporary Speaker, the consultations are too loud.

**The Temporary Speaker** (Hon. Martha Wangari): Order Members! The Chairperson cannot even hear himself. Order Members! Let us keep the consultations down. Member for Nyando, kindly resume your seat. Hon. Ikana, take yours seat. Member for Sirisia, this is your third term. Take your seat. Let us hear the Chairperson in silence.

**Hon. Ndindi Nyoro** (Kiharu, UDA): Hon. Temporary Speaker, I beg the Members to afford me a few minutes so that we understand each other.

Whereas it is obligatory for me to move this Motion, I also rise to actually reject the Motion based on several things and reasons that I will be giving to Members in this House.

*(Loud consultations)*

I can barely hear myself, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Martha Wangari): Order, Members! Order!

Now we can hear you. Go on.

**Hon. Ndindi Nyoro** (Kiharu, UDA): Hon. Temporary Speaker, the Motion before us is very important. As I said, whereas it is my obligation, as the Chairperson of the Budget and Appropriations Committee, to move this Motion, I reject the amendments by the Senate for several reasons that I would like Members to appreciate as I communicate clearly on them.

The Budget and Appropriations Committee sat during the recess period. Even in our Report, which I am sure Members already have, we have decided to reject the amendments by the Senate for some reasons. Before I delve into the reasons, I want to make it very clear to Kenyans that the National Assembly, and by extension the Budget and Appropriations Committee, supports devolution 100 per cent. We support when resources go to our various counties because even our governors are trying their best in terms of appropriating the monies that we approve in this House.

It is, therefore, important for Kenyans to understand that the Budget and Appropriations Committee and the National Assembly fully support devolution. That is why year-in, year-out we continue to increase the amount of money that we allocate to our counties, based on the Bill that is before us today.

Hon. Temporary Speaker, even as we support our county governments and our governors to play their roles, in so far as governing and leading our county governments is concerned, our country and the devolved governments operate on a fixed envelope – an envelope that is quite thin. As I was conversing with Hon. Mukunji about this Bill a few minutes ago so that we could be on the same page, the Bill before us is sharing the national cake vertically. That is to say the Bill has allocated a block figure, which is the equitable share, to the counties. Thereafter, using the formula developed by the Commission on Revenue Allocation (CRA), that money will be shared horizontally among the 47 counties. Before us today is basically the vertical sharing of revenue to the counties. The rest will ensue later.

Why are we rejecting this Motion and the amendments by the Senate? This House previously passed the same Division of Revenue Bill. As it should be, the Bill then proceeded to the Senate. Had the Senate agreed with this House, this Bill would have gone to the next stage. Procedurally, when there are amendments by the Senate, the Bill is returned to the National Assembly. If the National Assembly agrees with the Senate, the amendments are incorporated into the Bill. If this House rejects the Senate amendments, as we are going to do this afternoon, we go through a mediation process between this House and the Senate so that we can have a common

ground on this matter. As we reject this Bill, I request that we proceed to a mediation between this House and the Senate so that we can arrive at a middle ground.

What are the facts about it? In the Budget Policy Statement (BPS) that we passed earlier this year, we were working with a Budget of about Ksh4.18 trillion. After the passage of the BPS, we reviewed the Budget, slashing close to Ksh270 billion. Therefore, the Budget we are dealing with now is about Ksh3.913 trillion. When we set the ceilings in the BPS, the equitable share we had allocated to the counties was approximately Ksh391 billion. I would implore on my colleagues to get this point: We set the ceiling of Ksh391 billion when the Budget Estimate was Ksh4.18 trillion. Even after we slashed the expenditure of the national Government by Ksh270 billion, we still retained the allocation of Ksh391 billion for the counties in the current Budget Estimates. We have not touched the equitable share that we passed in the BPS. However, when this Bill went to the Senate, in their wisdom, they thought it would be proper that we considered a different figure. Whereas this House is dealing with a figure of Ksh391 billion as the equitable share, our colleagues in the Senate have proposed, in the Motion we are debating, a figure of Ksh415 billion. Therefore, there is a gap of Ksh24.8 billion.

These are the ramifications. We are currently dealing with a deficit to GDP ratio of 2.9 per cent, which is a modest deficit. In fact, in the East African region, Kenya is operating on the lowest deficit to GDP ratio in terms of the Financial Estimates that we will be debating later in this House. We want to cap our deficit at 2.9 per cent. Our Budget is inelastic. Whatever amount of money we may want to add to the counties over and above the Ksh391 billion, a certain vote has to give way because we are not dealing with an open envelope.

*(Loud consultations)*

**The Temporary Speaker** (Hon. Martha Wangari): Members on my right, the consultations are too loud. Hon. Nyakundi and Hon. Karitho, take your seats. Hon. Melly, we need to hear the Chair. Hon. Gachagua, break the *kamukunji* and take your seat. The Members on my right, kindly maintain order.

Continue, Hon. Chair.

**Hon. Ndindi Nyoro** (Kiharu, UDA): Hon. Temporary Speaker, we are dealing with a deficit to GDP ratio of 2.9 per cent, which is the right trajectory for our economy. It is already giving the right signals to our markets. That is why we see the cost of borrowing domestically and externally coming down. Therefore, it is in the interest of this House and our country that as we consider the Budget Estimates for the next financial year, of which the Division of Revenue is a component, we should have this fact in mind. It is proper that we know that the Estimates we will consider are inelastic. We are dealing with a closed envelope. If we were to consider a figure that is higher than the Ksh391 billion contained in the BPS, certain votes and expenditure lines must give way for the difference. It is important for this House to know some of the options on the table, if we have to increase the sharable revenue to the counties from Ksh391 billion. The first proposal would be to slash the Road Maintenance Levy Fund (RMLF) that goes to the counties by Ksh10 billion. That is why the Budget and Appropriations Committee rejected the amendment by the Senate. The second consideration for us to bridge the gap of Ksh24 billion would be to slash the NG-CDF proposed allocation by Ksh10 billion. If, in the wisdom of this House, we agree with the Senate, then we will have no choice but to slash the said amounts to go to the shareable revenue to counties.

**Hon. Members:** No!

**Hon. Ndindi Nyoro** (Kiharu, UDA): Hon. Temporary Speaker, as I wind up, I request this House to agree with the Budget and Appropriations Committee and reject the proposed amendments by the Senate. Let us proceed to a mediation so that we safeguard critical areas we have already ring-fenced, like the RMLF and the NG-CDF. By this House agreeing to reject the amendments, we will be saying that Ksh10 billion goes back to the constituency roads committees in our constituencies. By rejecting the amendments, we will be saying no to cuts in the NG-CDF allocations, because we are already in the process of making the NG-CDF proposals. It will be injurious to the NG-CDF committees across the country if we agree with the current amendment.

With those remarks, I beg to move and request my very able Vice-Chairperson of the Budget and Appropriations Committee, Hon. Mary Emaase, to second the Motion as we reject the Senate Amendments.

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Emaase, you have the Floor.

**Hon. Mary Emaase** (Teso South, UDA): Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Martha Wangari): Wait, Hon. Emaase. Order Members. Let us be orderly. Hon. Kawanjiku, wind up that meeting. Hon. Emaase, you have the Floor.

**Hon. Mary Emaase** (Teso South, UDA): Thank you, Hon. Temporary Speaker, for protecting me. From the onset, I rise to second the rejection of the proposed amendment to the National Assembly Bill No.14 of 2024 by the Senate. As already alluded to by the Chairman, the discussion is about the variance. The National Assembly proposed Ksh391 billion while the Senate is proposing Ksh415 billion. The issue is that the Ksh10 billion difference must come from somewhere. Some votes must give way and Members have already heard the proposals on the table, that this money may have to come from the RMLF or probably from the NG-CDF. The money must come from somewhere if we are to top up this amount to the figure that is being proposed by the Senate.

We all understand the state of the economy. We are operating within boundaries that are set by the BPS. So, we cannot accept this proposal. Our advice as the Budget and Appropriations Committee is that we reject the proposed amendments.

I second, Hon. Temporary Speaker.

*(Question proposed)*

**The Temporary Speaker** (Hon. Martha Wangari): The Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Speaker, I rise to agree with the Budget and Appropriations Committee. It is important that as we make decisions, we are aware that someone once told us that all choices have consequences. If we were to agree with the Senate this afternoon, what the Chairman of the Committee on Budget and Appropriations is telling us is that in budget-making, when you give something, something must give in.

You know the problems we have had with many of our governors with the Fuel Levy for road maintenance. You know the spirited effort they have put in asking for Ksh10 billion. Out of the funds that you are receiving in your constituencies for road maintenance, if we are to agree with the Senate amendments, the Budget and Appropriations Committee will have nothing else to give other than to give in. You sacrifice your KeRRA roads maintenance funds to your governors, assuming that they are going to build the same roads that you build.

Two, the Chairman of the Budget and Appropriations Committee has spoken to the issue of the NG-CDF. You know the challenges we have had with the NG-CDF and the opportunities. At the time we are celebrating 20 years of the existence of the NG-CDF, Kenyans across the

country can tell you that this is the only tangible money they feel on the ground in terms of projects and even in terms of money we are giving to students for bursaries. This includes the money for our county woman representatives. The great county woman representatives across our 47 counties are doing a more commendable job than many governors.

*(Applause)*

You can see what the NGAAF money is doing in every county in this country. That is why, at the risk of stepping on the feet of my colleagues, male friends...

**The Temporary Speaker** (Hon. Martha Wangari): Hon. women Members, it is totally out of order to shout in the House. You know how you can do what you are doing. Do not shout.

Hon. Ichung'wah.

*(Applause)*

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Speaker, I was saying that at the risk of being lynched by many male governors and prospective governors, if I had the ability to alter part of our Constitution, I would propose women leaders have the governor position as an affirmative action seat. They are good in managing funds.

*(Applause)*

I do not say this because I am a father to girls. I have seen my own mother as I grew up taking care of the pennies, knowing that when you take care of the pennies, the pounds will take care of themselves. I believe many women leaders in this country believe that if you take care of the small money... The women leaders under the NGAAF have about Ksh7 million per county, but you can see the effect of that money on the ground.

*(Applause)*

How then do we allow the amendments that are coming to take money from the NGAAF to give it to governors? It will be injustice not just to the women leaders, but also to the people of Kenya who are depending on their mothers and their sisters in the NGAAF to take care of them in terms of bursaries and social protection funds.

Hon. Temporary Speaker, I do not need to emphasise that we never see the value of the money that is going to the counties across the country. Without exception, I know there are some counties like Homa Bay where we can see some good work being done. I know there are also counties like Nakuru where we can see some good work being done, but there are counties that are messy. There are counties where the Auditor-General is telling them - like my county in Kiambu - that close to Ksh1 billion on roads has gone to waste. Close to Ksh100 million that was being given as fertiliser and chicks has been stolen.

I do not say this to support women governors. But I can say without any fear of contradiction that our women leaders are doing a great job as governors. I urge Kenyans to continue supporting our women leaders. Those are great leaders.

**The Temporary Speaker** (Hon. Martha Wangari): Order. The Leader of the Majority Party, are you done? Okay, Hon. Junet.

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Temporary Speaker, I stand to support the amendments by the Senate. Let us be honest to ourselves and to Kenyans. Some of the counties you see in this country have seen Ksh1 billion for the first time in their lives after devolution. We shall, as a House, not be used to kill devolution. We must stand up because that is the only way to save devolution.

As you are aware, the Senate has only asked for an increment. They never said we remove money from the NG-CDF or the Fuel Levy. There are devolved functions that are being held here in Nairobi like health and agriculture. Why are you keeping the money in Nairobi? Why do you not send the money to the counties? That is why we have people eating fertiliser money in this country. Why can you not send the money to the counties?

If Osoro might want to know what I am saying, it is that we must send more money to the counties. If you want to deal with corruption at the counties, deal with it. Jail governors; jail chief officers and all kinds of people. But you cannot deny the people of Kenya who live in the counties money in the pretext of corruption. There is more corruption in the national Government than in the counties, but nobody speaks about it.

About 90 per cent of our natural resources remain with the national Government and not the counties. We are devolving less than 15% to the counties, and we magnify the corruption there as if that is the only money in Kenya. Money is in Nairobi and in ministries. Money is also with the principal secretaries and the cabinet secretaries. That is why we are dealing with issues of fertiliser today, Hon. Temporary Speaker.

I urge this House not to be used to kill devolution. What is going to bring life to this country? What is going to develop this country? What is going to make this country a first world country is devolution. That is how Germany and France developed. That is how old democracies developed.

*(Technical hitch)*

**The Temporary Speaker** (Hon. Martha Wangari): Order Members, Hon. Makilap, what is out of order? Give it to Hon. Makilap.

**Hon. Junet Mohammed** (Suna East, ODM): Hon. Temporary Speaker, let me conclude by saying that you cannot add Ksh6 billion...

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Junet, take your seat.

**Hon. Joseph Makilap** (Baringo North, UDA): On a point of order, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Makilap, what is out of order? The Information and Communication Technology (ICT) Department should work on the sound.

**Hon. Joseph Makilap** (Baringo North, UDA): We have had enough debate on this matter. We can call the Mover to reply. This matter is as good as done. We can invoke Standing Order 95 and call upon the Mover to reply.

**The Temporary Speaker** (Hon. Martha Wangari): I will allow Hon. Junet to finish his contribution.

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Temporary Speaker, Hon. Makilap is a former Speaker of Baringo County. It will be sad if he will be used to derail devolution in this country. We are dealing with a Budget of Ksh3.9 trillion, which is almost Ksh4 trillion. We are giving counties only Ksh396 billion. We have added them only Ksh6 billion in this financial year. If you divide it by 47 counties, every county will get Ksh30 million. What kind of money is that?

Is it enough to develop this country? Let us be honest to each other. If we want to develop this country, we must devolve funds. If there are corruption issues, we must deal with them. We cannot use corruption to stifle devolution.

Look at what is happening to devolution. Since its inception in 2013, it has been struggling to get its required amount of money. If we are dealing with division of revenue in this House, we are supposed to divide this money vertically, first between county governments and the national Government. If you hate your governor, that is your problem. You can go and sort out your issues.

*(Hon. Silvanus Osoro spoke off the record)*

**The Temporary Speaker** (Hon. Martha Wangari): Order. The Whip of the Majority Party is totally out of order. Hon. Junet, wind up.

**Hon. Junet Mohammed** (Suna East, ODM): Hon. Temporary Speaker, if Hon. Osoro hates his governor, he can go and sort out his problems at home. If you want to run for a gubernatorial position or as a member of county assembly (MCA), it is up to you. The fact of the matter is that the only money that Kenyans enjoy is the one for devolution and the NG-CDF. No other money is on the ground. All the other money is in the hands of people like the Cabinet Secretary, Hon. Linturi.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Martha Wangari): In my own evaluation, I can see there are Members who are still interested to speak on this Motion. So, I will not put the Question. I will give opportunities to two Members on my right side and two on my left. If there are more Members, we will continue for a while.

Hon. Mukunji, you have the Floor.

**Hon. Gitonga Mukunji** (Manyatta, UDA): Thank you, Hon. Temporary Speaker. I rise to reject in totality the Division of Revenue Bill that has come from the Senate. Firstly, I want to correct Hon. Junet. He has said that he does not have to work to be elected in his constituency. He just has to say the name of a person I do not want to mention.

The Constitution of Kenya says that we should give 15 per cent of revenue to the county governments. We have increased from Ksh375 billion last year to Ksh391 billion this year. Many people will agree with me that the money that goes to the counties is invisible compared to any other resources that come through the NGAFF, NG-CDF and the Kenya Rural Roads Authority (KeRRA). It is unfair to continue increasing the money without seeing results. We need to encourage conditional grants to county governments more than giving them a budget line that goes to their pockets, salaries, remuneration and entertainment for our governors. We need to empower the NG-CDF and other funds. In the name of devolution, we have created demi gods and people who enrich themselves without thinking of our people who require resources and work to be done.

As we discuss this Motion, it is important for this House to critically think about empowering our county assemblies. These are people who are given few coins. We need to ensure that there is Ward Development Fund and their autonomy is maintained. This will ensure that we do not create people who can run away with a whole budget without thinking twice. They can only be sought after they are done with their terms.

I read the newspaper yesterday and saw a whole page full of faces of former governors who acquired money in very unscrupulous ways and are under investigations. It is critical for this House to think of what works, and which is supposed to be empowered. What does not work is not supposed to be empowered. As the Chairman of the Kenya Young Parliamentarians

Association, I reject the Bill in totality. We need to go for mediation, so that we can give governors what is supposed to be given to them.

Hon. Temporary Speaker, I oppose this Motion.

**The Temporary Speaker** (Hon. Martha Wangari): Leader of the Minority Party.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Temporary Speaker, thank you very much. I join my colleagues in supporting this Motion. At the onset, I agree, in totality, with the Senate in their proposed amendments to the Division of Revenue Bill. The Chairman of the Budget and Appropriations Committee is a noble man and very good student of economics and finance.

In very simple and layman's language, the Senate amendments are saying that the counties need much more than what we have allocated them. We should increase the money from Ksh396 billion to Ksh415 billion. The Senate is not telling us to remove money from the NG-CDF and Road Maintenance Levy Fund. It is simply saying that counties require much more than you have given them. So, it is incumbent upon us to look round in the Budget of Ksh3.9 trillion and find out where we can get the extra money and re-allocate it to the counties. The Senate is communicating in plain and simple language. I am one of those people who will totally oppose removing money from the NG-CDF and interfering with the Road Maintenance Levy Fund.

We know that the counties deal with very critical functions that go to the heart of the common people at the grassroots. They are in charge of agriculture, health, water, social services, rural roads and all those other functions that are critical. What happened in this country in the past that we must deal with and confront? It is a fact that we devolved these functions without doing proper costing. The end result is that counties were given functions which they are unable to perform and without the requisite funds to manage them. It is a historic duty of this House to right these wrongs. The only way to do it is to be reasonable or sensible and address these issues objectively. My layman mind tells me that even the Ksh415 billion that the Senators are proposing is still way below what county governments need. In the fullness of time, we might find that the county governments require much more money. I am proposing that after this current budget cycle we agree as a House to perhaps constitute a special Committee to look at all this issue of functions and their costing. Unless we do that, we shall continue to starve the counties of the monies that they need to perform the functions that they have been accorded. Therefore, this is brainer, and I want to plead with my colleagues to support this Motion and note the amendments as proposed by the Senate.

Thank you.

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Members, you will give me some time. I said I will give two from right and two from my left. I have given one each. I will now give the Leader of the Majority Whip the Floor.

**Hon. Silvanus Osoro** (South Mugirango, UDA): Thank you very much. I think it is important for us not to engage ourselves in populist politics when we are discussing very serious matters. We all live in this country. The NG-CDF has been in existence for over 20 years, and devolution came into place in 2013, but you can hardly show what devolution or county governments have done compared to what NG-CDF has done. It is also very important to be very factual. Some of these governors that we are defending a lot or the county governments that we are proposing to have a lot of money cannot even spend the entire amount whenever they get it. We are getting to the closure of the financial year, but you will realise that some governors have not spent even a quarter of the amount they got in this financial year.

We are debating on how we can add them more funds for roads. We all live in this country. Governors do not do road construction in the county, and county governments are not working.

We are telling them that if this House allows the proposal by the Senate on the Division of Revenue Bill, it will then mean that the amounts that we place for the 22 per cent that is under the control of Members of Parliament should be managed governors. We know there is capitation, they are not able, they will not do it and they will use it for other purposes. In totality, when you say that you have money like Hon. Opiyo Wandayi has said, you must show which place you are taking this money from. Who are you subtracting to add for the county revenue? Which person are you subtracting?

In this case the main casualty will be Members of Parliament; NG-CDF and NGAAF. Instead, we should be discussing on how we can add NG-CDF and NGAAF more money because, at least, we are able to see what they are doing. Members seated on the opposite side are only playing populist politics. They know even from the counties that they come from that there is nothing, I see Hon. Renee shouting, but in her county, there is nothing. The roads are pathetic, I was there last weekend and the roads that are done by governor Nyaribo in Nyamira are zero. He is not doing anything. I also see Hon. Nolfason Odadiah complaining here but if you go to Bomachoge and Borabu, you will find that the village roads that are supposed to be done by county governments have not been done. They are pathetic, even the Early Childhood Education (ECDE) classes that were supposed to be built have not been built. We cannot add money to counties. To whom much is given much is expected.

**The Temporary Speaker** (Hon. Martha Wangari): Order Member. Do not raise your hands. Hon. Antony Kibagendi use your card. Hon. Irene Mayaka do not shout. Use your card. I cannot see you on my screen.

**Hon. Silvanus Osoro** (South Mugirango, UDA): As I wind up to whom much is given much is expected. A lot has been given to county governments but we can hardly see anything on the ground. You will need a microscope to identify what the governor does but everything that NG-CDF and NGAAF does is in full glare and visible. A lot is given to county governments but we can hardly see what the governors are doing. Classes are being built by NG-CDF across the country. You will actually mark, but in the county government structure you will need a microscope.

The only development that they are doing is walking in a convoy of 20 vehicles, and moving around funerals with one vehicle carrying chairs, another one carrying carpets, another one carrying goons, another one carrying microphones and another one carrying girlfriends. They go there destroying functions in burials, and carrying themselves with high titles, and then you are discussing on how to add them money here. Governors should be subtracted money and not being added. The subtraction should come to NG-CDF and NGAAF. For that reason, we reject the proposal by the Senate on the division of revenue Bill.

Thank you.

**The Temporary Speaker** (Hon. Martha Wangari): Okay Hon. Members. I will now give the Hon. Member for Migori, Hon. Fatuma Mohammed a chance.

**Hon. Fatuma Mohammed** (Migori County, Independent): Thank you. I rise to support this Motion. I also come from Migori County, and we have a governor called Ochillo Ayako who is working. Hon. Silvanus Osoro has a personal problem with Simba Arati. I can give guidelines on fighting him, but saying that counties' money was going to... Kindly be a man, and stop being a woman in a market. Hon. Silvanus Osoro is interfering with me. I can tell you hundred times that you are shouting and your misbehaviour cannot remove Simba Arati from his position. He is the governor and please give him time to work. All you do is fight and plan to kill him. That will not move him from the seat.

*(Loud consultations)*

Hon. Temporary Speaker there is too much noise and I cannot contribute.

*(Several Members shouted)*

**The Temporary Speaker** (Hon. Martha Wangari): You are not on microphone. Order Members. A point of order is not done by shouting. Hon Member for Mathira Constituency, it is not shouting. You put your card and press the intervention. Hon. Kangogo Bowen, what is out of order?

*(Loud consultation)*

**Hon. Kangogo Bowen** (Marakwet East, UDA): The debate before us is about the Division of Revenue Bill. It is not about Hon. Simba Arati and Hon. Silvanus Osoro. Is the Member in order to discuss people who are not in this House? Could she also stick to the relevance of the debate in the house.

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

Who is killing who because she made some unsubstantiated claims about killings? Hon. Member for Migori is completely out of order.

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Fatuma Mohammed did you make some unsubstantiated remarks?

**Hon. Fatuma Mohammed** (Migori County, Independent): I did not make such a statement. He was shouting about Simba Arati, and I answered him.

*(Laughter)*

I only said what he said in my own words, but I know that he knows what I am talking about. Kindly allow me to contribute.

*(Laughter)*

I think the other side is blackmailing the other Members. I do not see anywhere where the Senate has said that money will be taken from NG-CDF or NGAAF. So let us be honest. You have cheated Kenyans enough times and you cannot continue cheating Kenyans.

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Member for Migori stick to the relevant topic, and Members from my right also maintain decorum.

**Hon. Fatuma Mohammed** (Migori County, Independent): I am very relevant because I listened to the two speakers from the other side who said that NGAAF and NG-CDF are working well. My point is, I do not see anywhere in that Bill where they have stated that money will be taken from this other kitty. Kenyans are watching the proceedings. So, let us be honest with them. We cannot continue blackmailing Kenyans anymore. Counties need more money. We have seen many things that were not in other counties.

Hon. Temporary Speaker, I would like to bring to the attention of this House that not everybody voted for this Government. It is also known that a government that you did not vote for will always not give you development. It is only the county government that comes to our rescue, especially, Hon. Members from the minority. So, we cannot be blackmailed here to talk about the NG-CDF.

*(Hon. Raphael Wanjala spoke off the record)*

Look at Hon. Osoro. When I make statements about killing, it is because of his behaviour. He behaves very badly, like a first timer who did not even go to school. Since we went to school, let us behave like people who did.

Governor Arati will win, whether you like it or not. Hon. Temporary Speaker, I rise...

*(Applause)*

*(Loud consultations)*

*(Laughter)*

**The Temporary Speaker** (Hon. Martha Wangari): Order, Hon. Members. We do not cast aspersions to one another in this House.

Hon. Members, as I had promised, we will have two contributions on my right side and two others on the minority side, then I will put the Question.

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

**The Temporary Speaker** (Hon. Martha Wangari): Order, Hon. Members. Before we get to the Question, I will have the Chairman of the Budget and Appropriations Committee to reply.

*(The Temporary Speaker consulted the Clerks-at-the-Table)*

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

I would like to agree with all the Members who have contributed this afternoon. I agree with the Members on both the right and the left side of the Speaker. I agree with the Leader of the Majority Party as much as I...

*(Loud consultations)*

**The Temporary Speaker** (Hon. Martha Wangari): As I said, kindly, use your cards. I will go with your cards. If you have a point of order, I need to see the intervention on my screen.

**Hon. Ndindi Nyoro** (Kiharu, UDA): Hon. Temporary Speaker, I agree with the Leader of the Majority Party, Hon. Kimani Ichung'wah as much as I agree with the Leader of the Minority Party, Hon. Opiyo. I also agree with Hon. Osoro as much as I agree with Hon. Junet.

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

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Member for Suba North, what is out of order? Hold on, Hon. Ndindi.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Speaker. I apologise to the Chairman of the Budget and appropriations Committee, who is also my Chairman. I do not want to interrupt him.

However, Hon. Temporary Speaker, I do not think it is in order for Hon. Osoro to be physically making sexually suggestive gestures in this House. He is pointing at his penis while pointing at Hon. Fatuma. It is completely out of order. It is abhorrent and backward. Hon. Temporary Speaker, that is not allowed in this House. We do not even know whether he performs sexually. What is he showing us here?

*(Loud consultations)*

*(Laughter)*

**The Temporary Speaker** (Hon. Martha Wangari): Order, Hon. Millie. The Whip of the Majority Party is not on the Floor. If something is out of order, it has to be something that the Member for Kiharu is doing.

*(Loud consultations)*

Continue, Hon. Member for Kiharu.

*(Loud consultations)*

**Hon. Ndindi Nyoro** (Kiharu, UDA): Hon. Temporary Speaker.

*(Hon. Millie Odhiambo-Mabona spoke off the record)*

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Member for Suba North, I know you are never ashamed of your sexuality, but I do not think we have got to that point. Hon. Millie, let us allow the Member for Kiharu to finish.

Finish with your reply Hon. Member for Kiharu.

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

I will take a very short time. I, therefore, request Members to listen to one another if possible.

I have listened to all the Members who have contributed in the House this afternoon and I agree with all of them. I agree with the Leader of the Majority Party, Hon. Ichung'wah, in the same breath that I agree with Hon. Opiyo Wandayi, who was my former Chairman in the Public Investments Committee. I agree with Hon. Osoro. I agree with Hon. Junet as much as I agree with Hon. Fatuma and Hon. Mukunji, and all the other Members. The reason for saying that is that there are some things that are without any doubt.

First, this House supports devolution, as it was said by Hon. Junet. Just for record purposes, ourselves on the right side support devolution as much as those on the left side. The money goes to our counties and we want them to develop.

Hon. Temporary Speaker, we also have governors who are doing a good job across the country. This is the only departure point, that the amount of money that we are considering is limited. But even as such, I agree with all the Members that we need to give our counties more

money. That is why the Budget and Appropriations Committee, in the Budget Policy Statement, went ahead and added Ksh4 billion in conditional grants to our county governments. The money is already there and is not touched.

It is for the same reason as was stated by Hon. Junet and Hon. Fatuma that our counties need more money. It is for the same reason that we increased the money that is going to our counties vertically from Ksh375 billion to Ksh391 billion even beyond the constitutional threshold of 15 per cent. The current consideration or allocation is 24 per cent.

We, therefore, agree that our counties need more money. It is the same way we agree that we need more money in the NGAAF. We need more money for electricity, the agricultural sector and all the other sectors. We agree on that. The only thing I beseech the Members to consider is that when we are dealing with a static deficit of 2.9 per cent, we are dealing with a closed envelope. In that closed envelope, if we want to increase money in the shareable revenue (the equitable share), then something has to give way.

Hon. Temporary Speaker, the low-lying fruit across this debate, because it is not new, and I want Members to listen to me carefully... If there are Motions that we bring to the House as the Budget and Appropriations Committee, which are almost indifferent, it is like this one. Whichever way the House votes, the Budget and Appropriations Committee is okay with it. The only thing that I want to beseech this House is, when you bring the Estimates and you see some cuts in other areas, we will only be fulfilling your vote today. When we vote to increase money from Ksh391 trillion to Ksh415 billion, the Budget and Appropriations Committee is indifferent because we are your servants. We target most as Government and Parliament where there has been increments. If we look at the Budget Policy Statement, which areas had increments? One area that had an increment, and therefore, is low-lying fruit, is Ksh50 million for electricity to every constituency.

*(Applause)*

The second low-lying fruit is the NG-CDF which we added Ksh8 billion. The other one is the Roads Maintenance Levy Fund. That is why I request this House to vote Nay to safeguard those votes.

Hon. Temporary Speaker, I beg to reply.

*(Applause)*

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

*(Question put and negatived)*

*(Loud consultations)*

**The Temporary Speaker** (Hon. Martha Wangari): Next Order.

**Hon. Members:** Division!

*(Several Members rose in their places)*

RATIFICATION OF MULTILATERAL CONVENTION

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ON TAX TREATY MEASURES TO PREVENT  
BASE EROSION AND PROFIT SHIFTING

*(Moved by Hon. Kuria Kimani on 2.5.2024)*

*(Resumption of debate interrupted on 2.5.2024)*

**The Temporary Speaker** (Hon. Martha Wangari): The next Order has already been called out. Take your seats.

*(Loud consultations)*

Hon. Members, in the next Order, there was a typo on the Order Paper. Let us have the Mover to reply. The Chairperson of the Departmental Committee on Finance and National Planning, Hon. Kuria Kimani, are you in the House?

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Speaker, I thank all the Members who contributed to this robust conversation on the Ratification of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting. This is one of the avenues that we are looking forward to. We really discourage repatriation of a lot of hard-earned income that goes to other countries through tax planning, base erosion and profit shifting.

I want to thank the Members who gave us very good insights on these multilateral tax treaties. Moving forward, we hope that Kenya will not only be more marketable globally, but that we will also not erode the profits and base for incomes that are in this country.

I beg to reply.

**The Temporary Speaker** (Hon. Martha Wangari): Order, Hon. Members.

*(Question put and agreed to)*

*[The Temporary Speaker (Hon. Martha Wangari) left the Chair]*

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

**Hon. Members:** Linturi must go! Linturi must go!

*(Loud consultations)*

*(Several Members stood up in their places)*

## MESSAGE

APPOINTMENT OF SENATORS TO MEDIATION  
COMMITTEE ON THE WATER (AMENDMENT) BILL

**Hon. Speaker:** Order, Hon. Members. Take your seats. Following your passage of the Motion at Order No.10... Take your seats.

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*(Loud consultations)*

Order, Hon Members. Following your passage of the Motion at Order No.10, allow me to make the following short Communications.

Pursuant to the provisions of Standing Order 41(1) of the National Assembly Standing Orders, I wish to report to the House that I have received a Message from the Senate regarding the appointment of Senators to a Mediation Committee. The Message conveys that pursuant to Article 113 of the Constitution, the Speaker of the Senate has appointed Senators to a Mediation Committee to consider the Water (Amendment) Bill (National Assembly Bill No.33 of 2023).

Hon. Members, the following Senators have been appointed to the said Committee:

1. Sen. John Methu Muhia, MP;
2. Sen. (Dr) Steve Ltumbesi Lelegwe, CBS, MP;
3. Sen. Wahome Wamatinga, MP;
4. Sen. Mariam Sheikh Omar, MP;
5. Sen. Johnes Mwashushe Mwaruma, MP;
6. Sen. Agnes Kavindu Muthama, SC, MP; and,
7. Sen. Beatrice Akinyi Ogola, MP.

Hon. Members, you will recall that on Tuesday, 30<sup>th</sup> April 2024, the House rejected the Senate amendments to the Water (Amendment) Bill (National Assembly Bill No.33 of 2023). This effectively committed the Bill to a Mediation Committee pursuant to Article 112(12(b) of the Constitution. Subsequently, I appointed seven Members to the Committee to represent the National Assembly vide a Communication issued on 6<sup>th</sup> May 2024.

Following the appointment of Senators, the Mediation Committee is now fully constituted as contemplated under Article 113 of the Constitution. I, therefore, call upon the Committee to expeditiously consider the respective Bill and submit a version of the Bill for consideration by the Houses of Parliament.

In considering the Bill, I hasten to remind the Committee to be alive to the timelines provided for under Article 113(4) of the Constitution, to ensure the bicameral process is concluded.

Thank you.

## COMMUNICATION FROM THE CHAIR

### APPOINTMENT OF MEMBERS TO THE MEDIATION COMMITTEE ON THE DIVISION OF REVENUE BILL

**Hon. Speaker:** Hon. Members, the second Communication relates to the appointment of Members to a Mediation Committee on the Division of Revenue Bill on the Motion that you have just concluded. I think you rejected the Motion.

The Communication relates to a decision that the House has made on the Senate amendments to the Division of Revenue Bill (National Assembly Bill No.14 of 2024).

As you are all aware, today, Monday, 13<sup>th</sup> May 2024, a few minutes ago, the House rejected the Motion on consideration of the Senate amendments to the Division of Revenue Bill, 2024.

*(Loud consultations)*

This decision consequently remits the Bill to a Mediation Committee in accordance with Article 112 of the Constitution and Standing Order 149.

Hon. Members, Article 113 of the Constitution requires that whenever a Bill is referred to a mediation committee, the Speakers of the Houses of Parliament shall appoint an equal number of Members from both Houses to attempt to develop a version of the Bill for consideration by the Houses of Parliament.

In this regard, having consulted with the Leaders of the House, I have appointed the following Members to represent the National Assembly in the Mediation Committee:

*(Loud consultations)*

Hon. Members, if you were not aware, I was just sitting behind here.

*(Laughter)*

The following Members will go to the Mediation Committee:

1. Hon. Ndindi Nyoro, CBS, MP;
2. Hon. Mary Emaase, MP;
3. Hon. David Ochieng', CBS, MP;
4. Hon. Nyakundi Mokaya, MP;
5. Hon. Samwel Moroto, CBS, MP;
6. Hon. Samuel Atandi, MP;
7. Hon. Naisula Lesuuda, MP;
8. Hon. (Dr) Makali Mulu, MP; and,
9. Hon. Ali Wario Guyo, MP.

Hon. Members, the aforementioned Members will await the appointment of Senators to the Mediation Committee for the Committee to be fully constituted for purposes of commencing the mediation process. Once I receive a Message from the Senate to that effect, I will convey the same to the House.

Thereafter, the Mediation Committee will embark on an attempt to develop a mediated version of the Bill in accordance with Article 113 of the Constitution.

The House is accordingly guided.

Lastly, Hon. Members, I wish to recognise Members from the County Assembly of Meru seated in the Speaker's Gallery. The delegation comprises seven Members of the County Assembly, led by the Speaker of the Assembly, Hon. Ayub Bundi Solomon. They are welcome to observe the proceedings of the House.

Hon. Members, we now go back to Order No.5. I have scanned the Committee Report and approved it. I now invite the Chairperson of the Select Committee to Table the Report.

*(Loud consultations)*

Leader of the Majority Party and Leader of the Minority Party, approach the Speaker.

*(Hon. Speaker consulted with Hon. Kimani Ichung'wah  
and Hon. Opiyo Wandayi)*

Call out Order No. 5. Hon. Naomi Waqo.

### PAPER

**Hon. Naomi Waqo** (Marsabit County, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Select Committee on its investigation into the proposed dismissal of Hon. Franklin Mithika Linturi as the Cabinet Secretary for Agriculture and Livestock Development.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Naomi Waqo, I will give you three to five minutes to brief the House on the content of your Report.

*(Loud consultations)*

Hold your horses, Hon. Otiende Amollo. You already raised a point of order, which I will come back to, as I told you. Let her finish first.

**Hon. Naomi Waqo** (Marsabit County, UDA): Thank you, Hon. Speaker. The Select Committee was mandated to investigate the allegations against the Cabinet Secretary as contained in the House resolution and table its Report within 10 days. The Committee held its sittings, allowed all the parties to present themselves, and gave them equal opportunity.

Hon. Speaker, the Committee was guided by the provisions of Article 152 of the Constitution and Standing Orders 64 and 66 while conducting its hearings. On Friday, 10<sup>th</sup> May 2024, the motion sponsor and the Cabinet Secretary made their closing statements to the Committee. This marked the end of the hearing proceedings, and the Committee subsequently embarked on report writing.

Hon. Speaker, Standing Order 199 provides that a Report of Committee shall be adopted by a majority of the Members. The Committee adopted its Report today, Monday, 13<sup>th</sup> May 2024. Four Members of the Committee dissented and made their opinions known before the Committee. The dissenting opinion is attached to the Committee Report.

*(Loud consultations)*

The Committee wishes to thank the Office of the Speaker of the National Assembly and the Clerk of the National Assembly for their support in executing its mandate. The Committee further extends its appreciation to the sponsor of the Special Motion, Hon. Wanami, and the Cabinet Secretary. Finally, I wish to express my appreciation to the Members of the Committee and the secretariat that sat for long hours...

**Hon. Speaker:** Hon. Naomi Waqo conclude by telling the House the findings of your Committee.

*(Loud consultations)*

**Hon. Naomi Waqo** (Marsabit County, UDA): Hon. Speaker, in its Report, the Committee made the following findings of allegations against the Cabinet Secretary for Agriculture and Livestock Development. The allegations of gross violation of the Constitution or any other law,

serious reasons for believing that the Cabinet Secretary has committed a crime under national law, and gross misconduct as outlined in the special Motion are unsubstantiated.

*(Loud consultations)*

**Hon. Speaker:** Order, Hon. Members. Order, Hon. Wanjala. Hon. Hillary, take your seat. Hon. Members, firstly, as you know, the Select Committee has discharged its constitutional mandate. Listen to me. I will go back to what Hon. Otiende Amollo raised. Therefore, being an Ad hoc Committee in nature, the Select Committee now stands dissolved.

Secondly, under Article 152(9)(a) of the Constitution, as was read to you by Hon. Otiende Amollo and I if the Committee finds the allegations unsubstantiated, no further proceeding shall be taken.

Also, being oblivious to the enormity of the matter and having consulted with the Leader of the Majority Party and the Minority Party, I will give the Floor to four Members on this side, including the Leader of the Minority Party. I will also give the Floor to four Members on the other side, plus the Leader of the Majority Party, and thereafter...

*(Loud consultations)*

Order, Hon. Marianne Kitany. When the Speaker is on his feet... Order, Hon. Members. Hon. Junet Mohamed, I want to caution you and everybody thinking like you that this is not a matrimonial court. This is a House of Parliament and I will not entertain any extraneous issues. Be advised.

I will allow four Members on this side, plus the Leader of the Majority Party, and four Members on the other side, plus the Leader of the Minority Party.

*(Loud consultations)*

Let me hear the point of order by Hon. Otiende Amollo.

*(A Member spoke off the record)*

I will also hear you, Hon. Member.

**Hon. (Dr) Otiende Amollo** (Rarieda, ODM): Hon. Speaker, thank you for those directions. I think it is the right thing to do, and I will be reserving my hope to contribute.

I rise under Standing Order 90 as read together with 107(1)(e) in terms of the conflict of interest. As a Member of this House and as a lawyer, I have spoken and interacted with some of the Members of the Select Committee. A disclosure has been made to me that questions and alleges impropriety and misconduct by some Members of the Committee. I am not talking about anything out there, but things disclosed to me as a lawyer and a Member of this House. In that event, it is necessary, legally and procedurally, that such an issue is referred to the Powers and Privileges Committee first. In the event that there is any truth, it vitiates the entire Report. It would result in the Report being a nullity, thus this House restarting the process. I need your direction, Hon. Speaker because in that event, it would not even be right to discuss the Report. It is a preliminary matter to dispel any such suspicions as required by the Constitution and our Standing Orders.

**Hon. Speaker:** Hon. Otiende Amollo, Standing Orders 87, 91, and the ones you have quoted enjoins you the responsibility for everything you allege on the Floor and to respect your colleagues at whatever level, at any rate, and in any event. In the event you have evidence to discuss any Member, which is your absolute right under the Standing Orders and the Constitution, you come by way of a Motion, and you know it. I am your senior, but you are one too. You cannot cast aspersions against your colleagues without a specific Motion against any of them or two or three. If there was impropriety, you have the evidence and urge the House to discuss a Member, I would gladly approve such a Motion. In the absence of a Motion, I encourage you to set the trend and example as a leading lawyer in this House. Doing anything different is out of order.

**Hon. Marianne Kitany** (Aldai, UDA): On a point of order, Hon. Speaker.

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

**Hon. Marianne Kitany** (Aldai, UDA): Thank you very much, Hon. Speaker. I stand under Standing Order 184 regarding the adverse mention of a Member. When the Proceedings of this particular Motion were going on, I was adversely mentioned by the Hon. Cabinet Secretary, to the effect that I was even the sponsor of this Motion. I requested to appear before the Committee so that I could explain myself. I was adversely mentioned in almost all proceedings when the Hon. Cabinet Secretary gave out his defense, but I was not given the opportunity to defend myself. Therefore, I request that anything that was mentioned in regard to me be expunged from the Report. Thank you.

*(Loud consultations)*

**Hon. Speaker:** Thank you.

Order, Hon. Members.

Hon. Member for Aldai, I got your letter this afternoon stating what you have just said that you were adversely mentioned in the proceedings of the Committee and you need time to purge any allegations against you. Unfortunately, I got the letter when the Committee's time was over. The Committee has tabled a Report, I have read through it and there is nowhere you are adversely mentioned. However, under Standing Order 184, at an appropriate time, the Speaker will give you an opportunity to make a personal statement on the Floor of the House. It might not be today...

*(Loud consultation)*

The Speaker needs no assistance at all.

Once you make that statement Hon. Marianne, it will go to the *Hansard* and be part of the annals of the history of this House. You were not maligned by one side, as I was also following the proceedings. Both the accusers and the defendants mentioned you in total abundance. You will make the statement, which will go to the *Hansard*, but will not be subject to any debate. However, I will give you an opportunity to purge all the allegations against you.

*(Loud consultations)*

Hon. TJ Kajwang', are you a Member of the Committee?

**Hon. TJ Kajwang'** (Ruaraka, ODM): Yes.

I do not want to speak to the substance of the issues before us, because to do so, I will be a judge in my own course. This is the first time...

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*(The Leader of the Minority Party consulted with the Speaker)*

Hon. Speaker, I am trying to get your attention on this because I want to explore a constitutional issue. Leader of the Minority Party, if you could just allow me to get the ear of the Speaker.

*(Loud consultations)*

**Hon. Speaker:** Let me hear the Hon. TJ Kajwang’.

**Hon. TJ Kajwang’** (Ruaraka, ODM): Hon. Speaker, I rise to speak for the development of jurisprudence, customs, and traditions of this House. This is the first time ever, in the history of the new Constitution that we have tackled this matter. The other House has been lucky that, on many occasions, it has handled such matters. It is important that you go into history by setting a precedent, the legal foundation for many. It is this House that can impeach, call the President to question, call an emergency, or declare war. This gives you an opportunity to put the law in such a manner that everybody will have the foundation.

A Report has been given to you and you have looked at it. You used the word "scanned". In law, you have perused and approved the Report. However, the Report has not been given to Members. They do not have an opportunity to go to Room 8 to read it even if it would die here. Suggesting that Members would accept the Report one way or the other without applying their cognitive abilities to understand if the issues were substantiated would be to deny this House its conscience and take away its power to debate.

Hon. Speaker, I urge you to create room for as many Members as possible to comment on such an issue, even if it is going to die here ...

**Hon. Speaker:** Hon. TJ Kajwang’, I have no doubt that you have been listening to me. I know you are a very brilliant, distinguished, learned junior. I have said that under the Constitution – you remember what Senior Counsel Otiende Amollo raised and pointed out – the precedence we are setting is the observance of the Constitution and our Standing Orders. When the Report comes back to the House and says that the allegations are unsubstantiated, the matter ends there; even the idea of reading the Report becomes an academic exercise. That Report is available in the Table Office for anybody who wants to read it. You can pick it and read it.

The converse is that if the Report had found the allegations substantiated, then the Speaker would have been obligated to set another day for the House to sit and, as a plenary, debate it and vote on it. At that stage, anybody can peruse, mark, underline, and critique the Report and then convince the House that the Report is right or wrong. A decision will be made through a vote by the whole House. In the absence of the latter, then the idea of Members reading the Report remains academic. The Speaker cannot stop you from looking for and reading the Report later. The Speaker can also not stop you from going out there and commenting on the Report. However, the chips will lie where they fell, on the floor of this House.

So, I will now go back to where I started. The first Member I will call to comment is Julius Melly.

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

**Hon. Speaker:** Yes, Hon. Okello. What is out of order? Order! Let us listen to the Member for Nyando.

**Hon. Jared Okello** (Nyando, ODM): Thank you very much, Hon. Speaker. I would like to borrow your thoughts on this. In reading Article 159 in its entirety, together with Article 152 of the Constitution, particularly Sub-Article 9 and Standing Order No.66, I believe that the drafters of the Standing Orders and the Constitution envisaged a position of unanimity on that matter. A situation where we have a division, a minority view, and an un-unanimous decision arrived at was not envisaged when this was being written.

So, how do we, as a House, proceed in the absence of a unanimous decision? Does it, therefore, subject it once again to Members of Parliament to be heard? In retrospect, it was 150 Members against seven Members...

**Hon. Speaker:** You have made your point, Hon. Okello. You are a seasoned Member, and you should appreciate what our Standing Orders say. The Report that has been tabled here is from a Committee of 11 Members. Seven have signed and substantiated, and four have penned a dissenting opinion. According to our Standing Orders, the Committee cannot bring to the House two reports. It is one Report with a dissenting opinion; it remains one Report.

Two, there is no provision in the Standing Orders or the Constitution that requires that such a Report must carry total unanimity. It only talks about the majority of Members of the Committee, which is what is before us, Hon. Okello. So, you were trying to borrow my wisdom; I have discharged it to you.

*(Laughter)*

**Hon. Raphael Wanjala** (Budalangi, ODM): On a point of order, Hon. Speaker.

**Hon. Speaker:** Hon. Wanjala, what is your point of order? Mention the Standing Order that you are relying on. That is what every Member has been doing.

**Hon. Raphael Wanjala** (Budalangi, ODM): Hon. Speaker, I know you are biased against me. I am not talking...

**Hon. Speaker:** What Standing Order are you relying on?

**Hon. Raphael Wanjala** (Budalangi, ODM): I do not want to indulge in the issue of what the Report is all about. However, Standing Order No.159 allows this Motion to come in... I have been in this House, and you have been in this House. It is very expensive for a Member of Parliament to bring this kind of Motion. I watched them on television.

**Hon. Speaker:** Which Standing Order did you say? 159? It has no relevance to what you are saying whatsoever. So, take your seat.

*(Laughter)*

Yes, Hon. Sunkuli.

Order, Hon. Members!

Order, Hon. Wanjala. You have had your bite erroneously. The Standing Order you are talking about has absolutely nothing to do with what you are saying.

Yes, Hon. Sunkuli.

**Hon. Julius Sunkuli** (Kilgoris, KANU): Hon. Speaker, I know that you are quite faithful to the Standing Orders.

**Hon. Speaker:** Pardon?

**Hon. Julius Sunkuli** (Kilgoris, KANU): I know you are faithful to the Standing Orders, and it is not for nothing because you and I were in the original Committee that established these

Standing Orders. You know, that was in the 90s. Do you not think that – you sit in the Committee that actually rectifies Standing Orders – it is time you moved that these Standing Orders be amended so that we do not leave the authority of Parliament in the hands of very few people, especially in such a grave matter?

**Hon. Speaker:** Thank you, Julius Sunkuli. You are a lawyer. And you know the law is the law; it is not what it ought to be. What I have said is the law as it is now. The Standing Orders belong to this House. If, in your wisdom, you wish to amend them so be it. It is not the Speaker to amend the Standing Orders. If the House wants to amend them, they are dynamic. As you know, the Standing Orders that you, the late Godana, the late Obwocha and I drafted have been amended several times to where they are today. You can amend them as you wish.

Hon. Members, let me allow a few Members to make comments before we move on to some other business. I will start with the Hon. Opiyo Wandayi.

Each Member has three minutes. I will give the leaders of the majority and minority parties five minutes each, and each Member three minutes.

**Hon. Opiyo Wandayi (Ugunja, ODM):** Hon. Speaker, I think we should be a little more patient on this matter which is very important.

This is the first time this House, since 2010, is dealing with a Motion for the impeachment of a Cabinet Secretary. It is the first time we are dealing with such a situation. Therefore, I want to plead with you to give us more time. I want to start very quickly from where Hon. Okello left. I do not think it was the intention of the framers of our Constitution, 2010, that a group of seven people would countermand a decision of this House. When we took a vote on this matter last Thursday, a whole 149 members of this House voted overwhelmingly to impeach the Cabinet Secretary, Mithika Linturi. I submit that it was not the intention of the framers of the Constitution when they enacted Article 152(9), read together with Standing Order No. 66(7).

Hon. Speaker, I am sure you know and can teach us better. There is danger in this idea of literally interpreting the law. I am sure you know about the Berriman case of 1946 better than I do. A purposive interpretation of the law would lead us to the conclusion that the decision of that Select Committee should have been subjected to validation by the whole House.

Having said that, there is a higher moral responsibility on the part of the Cabinet Secretary and the appointing authority following the overwhelming decision of this House last Thursday in a vote of 149 against 36. I do not think this matter should have gone to the Select Committee. In more decent democracies, the moment this House voted 149 against 36 to send Hon. Linturi home, the decent thing he should have done was to resign. Failure to resign, we would have expected the appointing authority to sack him. Those two have not happened. We are back here today to continue from where we left last Thursday. I persuade Hon. Members not to give up regardless of what a minority of seven Members have decided against all the available evidence. They have decided to let the Cabinet Secretary go scott-free. This House must remain firm and assert its authority.

Following the vote of last Thursday of 149 against 36, this House will be in its rightful place to resolve not to have any dealings with the Cabinet Secretary, Hon. Mithika Linturi. This House, on behalf of the people of this country, has the sovereign power to decide not to recognise Hon. Mithika Linturi as a Cabinet Secretary in this Government despite the resolution of the minority of seven. The minority of seven has brought the authority of this House to shame and disrepute. They have made us a laughing stock in the eyes of the public. To remedy that anomaly, I would be right to persuade this House to decline the recognition of Hon. Mithika Linturi as the Cabinet Secretary moving forward. We should continue to urge the appointing authority, the

President, to take the most logical step to sack this Cabinet Secretary to save this country from the ridicule it has been subjected to.

With those many remarks, I reject.

**Hon. Speaker:** Order, Hon. Wandayi. There is nothing to reject. Just make your comments. We are not going to vote on anything. I now invite Hon. Osoro.

**Hon. Silvanus Osoro** (South Mugirango, UDA): Thank you, Hon. Speaker. This is a House of debate and procedure. This is a granary of wisdom where every profession is represented. We have experienced advocates of the high court, doctors, accountants, bishops, and aspiring men of the cloth. I think Hon. Junet qualifies to be a sheikh. This House draws people from different professions with vast experience in different fields. This is a House where, after a debate, the majority will have their way, and the minority will have their say.

When this Motion was brought before this House, the majority had their way, but thereafter, the procedures took centre stage. Procedures were followed, and both the minority and majority proposed their names, and an ad hoc committee was formed. They elected a Chairperson, Hon. Naomi Waqo, who is a Reverend. She is a person of great integrity and has served this country in her capacity as a Reverend, a Cannon, a Senator, and as the Deputy Majority Whip of this House. All the proceedings were in full glare of the cameras. We all watched what was happening. It was drama. What we heard is similar to what was brought before the matrimonial court the other day. There is no way a House of competence could have admitted the evidence that was presented. There was nothing watertight that was presented.

As much as Hon. Wamboka tried to execute his role as a Member of Parliament to oversee, he did not manage to raise a strong case. He also did not manage to grow his profile by pushing through a watertight case to have Hon. Linturi impeached. I support the Report by this Committee because I believe in it. As a House of debate and one that believes in procedure, we are done with this matter and should proceed with other business.

Thank you, Hon. Speaker.

**Hon. Speaker:** Next is Hon. Robert Mbui. You have three minutes. So, condense your thoughts.

**Hon. Robert Mbui** (Kathiani, ODM): Thank you, Hon. Speaker. Kenyan farmers were duped into purchasing fake fertiliser through the National Cereals and Produce Board (NCPB) under the full glare and watch of the Cabinet Secretary for Agriculture and Livestock Development. A Motion was brought to this House to dismiss that Cabinet Secretary, and Hon. Members voted overwhelmingly to impeach him. A Committee of the House was put together to confirm the report and the vote of the Members of Parliament. Unfortunately, seven of the Hon. Members appointed to the Committee turned the verdict of 149 Members of Parliament. Only four gave a dissenting opinion. For the record, Hon. TJ Kajwang, Hon. Yusuf Farah, Hon. Catherine Omanyoo, and Hon. Robert Mbui stood with the Kenyan Farmers to say enough is enough, and that the Cabinet Secretary must go.

*(Applause)*

Hon. Speaker, the reality is that the Committee, instead of investigating, as this House was told, turned itself into a Supreme Court of Parliament of Kenya, presided over by Lady Justice Naomi Waqo. The rest of us became judges. Our question is, is a Committee of the House supposed to operate like a court, or are we supposed to continue operating like a Committee of the House?

**Hon. Speaker:** Order, Hon. Mbui. I guided you as a Member of the Committee and told you that you are quasi-judicial. Rules of evidence, limitations on hearsay, and everything pertaining to judicial court proceedings apply.

**Hon. Robert Mbui** (Kathiani, ODM): Thank you, Hon. Speaker. We are quasi-judicial, but we became a court of law. We noted one major issue. Some key witnesses were supposed to be called. The Constitution anticipates that we call witnesses. The Standing Orders of this House and the rules of the Committee allowed us to call witnesses. Unfortunately, two key witnesses, the Principal Secretary for Agriculture and Livestock Development and the Chief Operations Officer of one of the Companies supposedly mentioned in this scandal, were not called.

**Hon. Speaker:** Hon. Mbui, as a Member of the Committee, you are being wiser after the event. Next is Hon. John Paul. You have three minutes, so you better compose your thoughts quickly. Give him the microphone.

**Hon. John Paul Mwirigi** (Igembe South, UDA): Thank you very much, Hon. Speaker. I stand to support the Report of the Committee and commend their good work done within 10 days. It is commendable that within 10 days, the Committee gathered evidence and interrogated both parties. Today, it has come to the limelight that Cabinet Secretary Mithika Linturi is clean. When such a Motion of impeachment is brought before this House, it is good for any Member bringing it to do due diligence and gather enough evidence to implicate the targeted Cabinet Secretary.

This Committee consisted of competent Members who could interrogate the Cabinet Secretary. They brought forth to this House that the Cabinet Secretary is clean. It should also be noted that when an impeachment Motion is brought to this House, it should not be brought with a perception that maybe because a person has a bad name or looks, they qualify to be impeached. My advice to the Cabinet Secretary for Agriculture and Livestock Development is that he should stand firm and work for Kenyans so that they can have enough food. The work he is currently doing is good.

Thank you, Hon. Speaker. I beg to support this Report.

**Hon. Speaker:** Hon. Irene Mayaka. You have three minutes.

**Hon. Irene Mayaka** (Nominated, ODM): Thank you, Hon. Speaker. I stand to express my complete disappointment that seven Hon. Members averted the will of very many Members of this House. I am disappointed on behalf of farmers, not only in Nyamira but also in Kenya. Article 153 of the Constitution is very clear. Cabinet Secretaries are accountable individually and collectively to the President of this country. In so doing, a Cabinet Secretary is not exempt from taking accountability when anything goes wrong in their Ministry. The Cabinet Secretary cannot run away from the fact that the ultimate responsibility rests with him.

I watched the proceedings of the Committee. One of the things that caught my eye was when the Cabinet Secretary proudly demonstrated to the Committee the positive things he has done for the Ministry. The same Cabinet Secretary refused to take responsibility when one thing went wrong in his Ministry. Article 201 of the Constitution clearly says that public money shall be spent prudently and responsibly. Therefore, it does not make sense why money allocated to one part of the department was reallocated to NCPB and consequently used in a manner that was not prudent. I do not understand how the Select Committee, the seven of them, decided that this Cabinet Secretary was not culpable of the crimes he committed.

Article 43 of the Constitution is very clear. It says that every person has a right to free access to food, not only food but food of good quality. In his admission, the Cabinet Secretary said that out of the three million bags, only 3,000 bags were fake fertiliser, and they withdrew this from the people. That is not taking enough responsibility for a fault like that. What if this...

**Hon. Speaker:** Your time is up, Hon. Mayaka. Dr Mutunga, you have three minutes.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Thank you, Hon. Speaker, for the opportunity to speak on this Motion.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): As the Chairman of the Departmental Committee on Agriculture and Livestock, I am sure the House knows that we have been making an inquiry into this issue. I understand the feelings of Members. This is the first Motion of impeachment that we have had. I was here during the last term, and there were none. In this term, there is one. The law and the Constitution are very clear. Thank you for going beyond the provisions of Article 152(9)(a) by allowing us to comment on this Motion even if the business has already been done.

As a Committee, we have not completed our work. I want to put it correctly that the Mover of the Motion approached me, and I told him the business was not yet done. It would have been prudent to wait until we finished with the report and tabled it in the House. Then, the Mover would have looked at it and made a decision on whether there was anything that would probably stand the impeachment trial. In my very considered opinion, this Motion was taken in haste. We should have taken more time to consider the report when brought before the House. My Committee has been looking at the entire scope of the subsidy programme. We have unearthed many issues. This was done in the full glare of the media. That is the reason Members of this House believe there was something wrong with this issue, and that Hon. Mithika Linturi had committed a crime. It would have been good to wait for the Report.

Finally, as we move forward as a House, we cannot make decisions based on things we cannot substantiate; things that we cannot fully address and give evidence on. I support the seven Members. We have always made decisions at Committee and broad levels in this House, and there is always voting. The number that is more than the other takes the day. It is not the numbers. It is the decision of the Committee. You have been generous enough to allow us to comment. The Report will be laid on the Table of this House, and the House will look at it and see what has gone on. We are not looking at individuals. We are looking at the entire thing.

**Hon. Speaker:** Hon. Otiende Amollo.

**Hon. (Dr) Otiende Amollo** (Rarieda, ODM): Thank you, Hon. Speaker. In the majority opinion, this Report has singularly failed Kenyans and must carry a badge of shame on behalf of this House. For the avoidance of doubt, Kenyans must know that the six Kenya Kwanza Members of Parliament on the team and their surrogate in the Jubilee Party all voted to save the Cabinet Secretary. Only the four from the Azimio la Umoja One Kenya Coalition Party stood with Kenyan farmers. Kenyan farmers must know who between Kenya Kwanza and Azimio la Umoja One Kenya Coalition Party are truly their friends.

It is good that Parliament spoke in a bipartisan manner. We, as a House, are vindicated. The Committee has failed to respect the House as a whole. In proper democracies, the vote by Parliament should have invited resignation by the Cabinet Secretary without even waiting for the Committee to do its work. We are, however, not in proper democracy under this regime. What must save farmers now is the action taken by the President. The President can act and reflect the wishes of this House by the stroke of a pen. He does not need this House to resolve that issue.

Secondly, it must be noted that some Members had questioned the wisdom of Article 152 of the Constitution. Article 152 mirrors Article 167 in terms of the procedure for removal of a judge, only that in that Article, the Judicial Service Commission plays the role we played and the tribunal plays the role that the Committee did.

It is expected under the Constitution that the Committee would be a *quasi-judicial* Committee that will look into the merits of the issue. Unfortunately for the Committee, most of its Members went with a pre-conception because they had already spoken here against that Motion. Therefore, instead of exercising independence of mind, they went with a fixed thought.

We must learn a lesson. First, we should not allow the Leader of the Majority Party to sabotage such a Motion as he did in this case. Secondly, the Mover should be the one to suggest the names of those constituting the Select Committee. More importantly, we should ensure that the Members are knowledgeable, have integrity and are independent.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Otiende Amollo. Hon. Rindikiri.

**Hon. Mugambi Rindikiri** (Buuri, UDA): Thank you, Hon. Speaker.

**Hon. Speaker:** You have three minutes.

**Hon. Mugambi Rindikiri** (Buuri, UDA): I rise to support the verdict that has been passed by the Select Committee led by their Chairperson, Hon. Waqo. I want to remind this House that every year, we celebrate Easter. During the crucifixion of Jesus, the multitude called for the crucifixion of Jesus, saying: "Let us release Barnabas." What we are hearing now is people calling for the crucifixion of Jesus by saying release Barnabas. As a House, we cannot pretend and I am saddened to hear the Vice-Chairman of this Committee, a man that I respect and a mentor, disowning the sittings. The Vice-Chairman sat in that Committee for three days, including the report-writing and at no single time did he withdraw from the position of Vice-Chairman. The decision of the Chairperson and that of the Vice-Chairman are one and the same, and we, therefore, cannot play to the public gallery. We cannot dictate terms as to what the President of this Republic should do. Hon. Mithika Linturi cannot be sacrificed for doing what is good. He did not ask for those three charges to be brought against him.

First of all, the Mover totally failed to prove the case. The Mover of the Motion brought forth matters that he could not even substantiate. He went ahead to call for evidence support by calling the Principal Secretary and Managing Director of KEL Chemicals. He was looking for evidence which he should have sought before proceeding to bring the Motion to Parliament. Let us abide by the rules of Parliament that we have set ourselves. It is a shame to play to the public gallery by sacrificing one person who has a track record of good performance in this country. We shall not listen to the public but to the rules of Parliament. Thank you.

**Hon. Speaker:** Hon. Junet Mohamed. For avoidance of doubt, I asked your leaders. It happens in every democracy, that on certain issues, the leaders have a discretion to tell the Speaker who they think should speak for them on a matter.

**Hon. Junet Mohamed** (Suna East, ODM): Today is indeed a sad day for our country. For sure, this was not the expectations of Kenyans today. They expected an indictment because of what happened in this country by supplying fake fertiliser to Kenyans. It is a very grievous matter. For us to exonerate a Cabinet Secretary who presided over that, it is a sad thing.

We won the battle, but lost the war. Why do I say so? Since the inception of the new Constitution, this is the first time an impeachment of a Cabinet Secretary has gone through the second stage after collection of signatures, approval by the Speaker, going through the House and then to the Committee. In the earlier two Parliaments, it never used to go past tabling of the Motion. So, we have made progress, and I thank Hon. Wamboka, who remains a hero in this country, for taking the initiative to save Kenyan farmers.

If you watched the proceedings live on Television (TV), instead of Hon. Linturi telling Kenyans how fake fertiliser found itself in the market, he talked about the famous episode of the

soap opera of his love gone bad with Hon. Keitany. If we continue this way, then during national holidays when people are given honours, we should add corruption as one of the honours to be awarded. Corruption should now become a badge of honour in this country. How can this House preside over a Committee Report that has turned the will of 349 Members upside down? And they knew very well that the mood of the House was that they wanted the Cabinet Secretary impeached. It is now the responsibility of the appointing authority to sack the Cabinet Secretary as early as this afternoon.

Lastly, if we were in a mature democracy, the Cabinet Secretary would have resigned long time ago and would not have been in office by now. He should have left the office because he has no moral authority to serve Kenyans anymore. This Parliament cannot be used as a rubber stamp, the way I see it happening today.

If the fake fertiliser thing has gone the way it is going today, then fake medicine, water and everything fake will go through in this country and the people who are going to suffer are Kenyans. If we were elected, this is not what Suna East people expected today. When I saw the constitution of the Committee that was done by the Leader of the Majority Party...

**Hon. Speaker:** Hon. Ichung'wah. Give Hon. Junet two seconds.

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Speaker, when I saw the constitution of the Committee that was done by the Leader of the Majority Party, with seven Members from his side, I knew this is an exercise in futility and the matter was dead on arrival. I could see the faces and I know them having been in these corridors. I have been in Parliament long enough and operated on these corridors. I knew this was *fait accompli*. No report or anything useful would come out of the Committee.

Thank you very much and I submit.

**Hon. Speaker:** Hon. Kimani Ichung'wah.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. I have heard what the Whip of the Minority Party has said, and it is true that if you have been here long enough, like Hon. Junet Mohamed and many others, including Hon. Robert Mbui, who was a Member of this Select Committee, you would know then that impeachment of a Cabinet Secretary is not a matter that you vote and make a decision based on emotions. It is also not a matter that you decide based on whether you like or dislike somebody, or whether they answer your calls or reply to your texts. It is a matter that is based on law.

The preliminary objections you heard from Hon. Otiende Amollo and Leader of the Minority Party speak volumes to the issues that I was speaking to last week. We sought to impeach a Cabinet Secretary without duly considering the provisions of Article 152 of our Constitution, especially Article 152 (7) and our Standing Orders 64 to 68.

You remember me advising Hon. Wamboka, sponsor of the Motion that, if I were him, I would have been patient to allow a logical conclusion of the inquiry by the Departmental Committee on Agriculture and Livestock under the leadership of Hon. Mutunga, and also be patient to allow investigative agencies to investigate and see if there is culpability on either the Cabinet Secretary or any other public officer before proposing an impeachment Motion.

Hon. Speaker, as you said, this Report is good for academic writing. It is important for all the 349 Members of this House to read it. This will help them understand that we cannot anchor our feelings, emotions and liking or disliking somebody when impeaching a Cabinet Secretary. Anytime we want to impeach a Cabinet Secretary or public official, we must base it on the provisions of the law.

Was there particularity in the allegations in this Motion? Last week, I submitted that it was laden with generalities and newspaper articles. Therefore, it would never have passed the test of time, if you subjected it to the provisions of the Constitution, Standing Orders and precedents that courts of law have set. I pointed out the famous former Governor, Hon. Martin Wambora, cases. He is one of the state officers who was impeached more than anyone else. Therefore, I urge Members that this becomes a lesson for us, as a House. If we propose Motions to impeach Cabinet Secretaries for the sake of it, we will make this House extremely impotent because we are acting at the whim of the moment. We are not patient to get substantive issues that can truly impeach a Cabinet Secretary.

I look forward to a day when, under the provision of our Constitution 2010, we will oversee our Cabinet Secretaries in a meaningful way. We, as a House, shall take our work seriously and make sure that if we do an inquiry as we were doing, we base all our deliberations on facts and not emotions. I hope that when we read this Report, we will internalise the reasoning behind those who say that all allegations are not substantiated.

I know some have expressed their minority opinion. I looked at the Report briefly. The Motion is all based on emotions and perceptions. The drafters of our Constitution, including Hon. Otiende Amollo, should have considered including perceptions either under our national values or probably part of the reasons, under Article 152 of our Constitution, you would impeach a Cabinet Secretary. However, our laws, Constitution and Standing Orders do not offer us an opportunity to impeach a Cabinet Secretary or any other public officer based on perceptions. You may perceive somebody as dislikeable, arrogant or corrupt, but that is not provided for in the Constitution and our laws. We are the lawmakers. We are the first people who should be the first defenders....

**Hon. Speaker:** Add him more time.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. When we take oath of office, we swear by the Bible and Holy Quran to defend the Constitution and laws of this Republic. We must always be at the forefront to defend them. This will ensure that if Hon. Junet Mohammed gets the opportunity to serve as a Cabinet Secretary tomorrow, I will not seek to impeach him based on my perceptions that are not objective at all. I will do it based on his performance and what is provided for under our Constitution.

It is easy to speak to the gallery and media because they are saying 'this and that'. I have seen lawyers on the X Application saying that the 11 Members of the Select Committee received Ksh5 million each implying that is the basis on which this Motion will be decided. It is very shameful and unfortunate for an advocate of the High Court of Kenya and a Senior Counsel to speak on issues that could not be substantiated. Any Kenyan who watched the deliberations of this Committee, under the full glare of the media, could tell that the issues could not be substantiated. Hon. Wamboka did not substantiate anything.

I commend Hon. Wamboka for his fortitude and the merit to push through a Motion he knew was dead on arrival, since he could not substantiate what was based on newspaper cuttings and all the other rumours you have heard in town. At least, he had the fortitude to push it on to the end. However, I urge him that next time he should stick to what is provided for by our Standing Orders, laws and the Constitution of the Republic of Kenya. If we do that, this House, and indeed Parliament, will have teeth to bite. Otherwise, if we abuse the provisions of our Constitution to just collect signatures and push issues in an attempt maybe to blackmail or intimidate Cabinet Secretaries, we shall render this House impotent. That will be the end of Parliament. I pray to God and urge members that next time we want to impeach a Cabinet Secretary, it should be based on the law and Constitution.

**Hon. David Ochieng'** (Ugenya, MDG): On a point of order, Hon. Speaker.

**Hon. Speaker:** Order, Leader of the Majority Party. Yes, Hon. Ochieng'. What is the point of order?

**Hon. David Ochieng'** (Ugenya, MDG): Hon. Speaker, I have been listening to Leader of the Majority Party. Is it in order for him to keep on referring to Hon. Wamboka as if he made a mistake in bringing this Motion? This is because, all through his speech, he is insinuating that it was a mistake for him to bring this Motion. Is it in order to do that?

**Hon. Speaker:** Firstly, I did not understand it that way. Secondly, Hon. Wamboka did not make any mistake in exercising his right. That is what Hon. Ichung'wah said. All he said is that he should exercise much more care and bring more tangible evidence. That is what I have heard him say.

Order, Hon. Members. I promised to give five chances to the Majority Party side and Minority Party side. It is done. I will now call the next Order. The matter is over. Clerk-at-the Table, call the next Order.

*(Loud consultations)*

Your Motion was spent; you moved and replied.

Next Order. Order, Hon. Members. Be upstanding.

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

### IN THE COMMITTEE

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

#### THE NATIONAL DISASTER RISK MANAGEMENT BILL (National Assembly Bill No. 24 of 2023)

**The Temporary Chairman** (Hon. David Ochieng'): Order, Hon. Members. This is the Committee of the whole House to consider the National Disaster Risk Management Bill, (National Assembly Bill No. 24 of 2023).

Order, Hon. Members. Those who are receding should do so in order. Those who are remaining should take their seats, so that we can proceed with the Committee of the whole House.

#### *Clause 3*

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): On a point of order, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. David Ochieng'): I have hardly read a clause, Hon. Millie. Is it on Clause 3? Please go ahead.

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**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Chairman. I have several amendments to the Bill. Please, could I be assisted with a physical Order Paper? I am not able to follow or even know whether I have an amendment.

**The Temporary Chairman** (Hon. David Ochieng’): You will of course get one immediately. Serjeants-at-Arms, please get Hon. Millie a physical Order Paper.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you.

*(Clause 3 agreed to)*

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Chairman, I am still trying to consult.

**The Temporary Chairman** (Hon. David Ochieng’): Go ahead and consult with the Leader of the Majority Party. I will give you a minute or two.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): What page is it at?

**The Temporary Chairman** (Hon. David Ochieng’): It is in the Order Paper at the top of page 632.

*Clause 4*

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Chairman: I beg to move:

That, Clause 4 of the Bill be amended by inserting the following new paragraph immediately after paragraph (f)

(fa) protecting vulnerable groups including women, children, persons with disabilities and older persons of the society.”

This amendment seeks to ensure the protection of vulnerable groups, including women, children, persons with disabilities, and older persons of society, when we are having a national disaster. It is good that this Bill is coming at a time when we are dealing with floods. Women, children and persons with disabilities are really suffering because of flooding. Special attention should be given to them during such a time.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairman, do you have something to say on this?

**Hon. Kimani Ichung’wah** (Kikuyu, UDA): I have the microphone; I support.

*(Laughter)*

**The Temporary Chairman** (Hon. David Ochieng’): I want to hear the Chairman on this. Let us try to find him a microphone.

**Hon. Peter Lochakpong** (Sigor, UDA): Thank you, Hon. Temporary Chairman. I also support.

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

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*(Clause 4 as amended agreed to)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairman, do you have an amendment to this? Move to the next one.

*Clause 5*

**Hon. Peter Lochakapong** (Sigor, UDA): I beg to move:  
That, the Bill be amended by deleting Clause 5.

*(Question of the amendment proposed)*

*(Hon. Shakeel Shabbir spoke off the record)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Shakeel, I cannot see you on the screen. You know the rules. Go up there and pick a card. Then I will listen to you. It is that simple. The Serjeants-at-Arms are still there. They can give you a card so that you speak. I will then listen to you.

Hon. Millie.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Chairman. I request the Chairman of the Committee to clarify the proposed amendment. From the current flooding, we have seen it is more effective where you have an intergovernmental framework on disaster management. It becomes problematic if counties and the national government work separately, especially with such a huge magnitude. Could the Chairman explain to us why he thinks this clause, which I think is very good, is not necessary?

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Chairman, go ahead.

**Hon. Peter Lochakapong** (Sigor, UDA): Clause 5 provides for the establishment of an intergovernmental council on disaster risk management. It comprises of 10 Cabinet Secretaries and the Chairperson of the Council of Governors.

The Committee recommended its deletion for the following reasons: The proposed intergovernmental council will be bureaucratic. Remember it is made up of 10 Cabinet Secretaries and the reporting structure is unclear as to how the more than a third of the Cabinet as currently constituted will be reporting to the same Cabinet. That is why we as a Committee recommended to remove the intergovernmental council. The arrangement may occasion delays in critical decision making for effective disaster risk management. Typically, during response, the authority is best placed to discharge the functions than the intergovernmental council. We wanted to do away with many Cabinet Secretaries forming the intergovernmental council.

Therefore, let us delete it.

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

*(Clause 5 as amended agreed to)*

*Clause 6*

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**Hon. Peter Lochakapong** (Sigor, UDA): Hon. Temporary Chairman, I beg to move:  
That, the Bill be amended by deleting Clause 6.  
This is a consequence of deleting Clause 5.

*(Question of the amendment proposed)*

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

*(Clause 6 as amended agreed to)*

Clause 7

**Hon. Peter Lochakapong** (Sigor, UDA): I beg to move:  
That, the Bill be amended by deleting Clause 7.  
This is a consequence of deleting Clause 6.

*(Question of the amendment proposed)*

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

*(Clause 7 deleted)*

Clause 8

**The Temporary Chairman** (Hon. David Ochieng’): Clause 8 has two amendments. One by the Chairman and the other by Hon. Millie. Should the one by the Chair be carried, the one by Hon. Millie falls.

**Hon. Peter Lochakapong** (Sigor, UDA): I beg to move:  
That, the Bill be amended by deleting Clause 8.

The clause provides for the functions of the intergovernmental council. The proposal to delete is a consequence of deletion of Clause 5. If this is carried, Hon. Millie’s amendment on Clause 8 is sorted out.

*(Question of the amendment proposed)*

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Chairman, I know that it is a bit late in the day, but I encourage the Chairperson, if at a later date the Committee could reconsider and bring another body. I wish they had proposed an amendment. When we remove the inter-governmental body, with the crisis that we have just faced as a country, it is really tricky. I hope the Committee will relook at it at a future date.

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

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

*(Clause 8 deleted)*

*(Clauses 9 and 10 agreed to)*

*Clause 11*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairman, proceed.

**Hon. Peter Lochakapong** (Sigor, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 11 of the Bill be amended in paragraph (n) by deleting the words “Inter-governmental Council” and substituting therefor the words “Cabinet and the Summit”.

*(Question of the amendment proposed)*

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

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

*(Clause 11 as amended agreed to)*

*(Clause 12 agreed to)*

*Clause 13*

**The Temporary Chairman** (Hon. David Ochieng’): Again, this Clause has two amendments proposed: one by the Hon. Chairman and another by Hon. Millie. If the one by the Hon. Chairman is carried, Hon. Millie’s will fall. Hon. Chairman, proceed.

**Hon. Peter Lochakapong** (Sigor, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 13 and substituting therefor the following new Clause—

(1) The management of the Authority shall vest in a Board which shall comprise—

- (a) a chairperson appointed by the President;
- (b) the Principal Secretary in the Ministry for the time being responsible for matters relating to disaster risk management or a representative designated in writing;
- (c) the Principal Secretary in the Ministry for the time being responsible for matters relating to finance or a representative designated in writing;
- (d) the Principal Secretary in the Ministry for the time being responsible for matters relating to defence or a representative designated in writing;
- (e) the Principal Secretary in the Ministry for the time being responsible for matters relating to drought management or a representative designated in writing;
- (f) the Chief Executive Officer of the Council of Governors;

- (g) one person, who has knowledge and experience in disaster risk management, nominated by the Council of County Governors and appointed by the Cabinet Secretary;
- (h) a person nominated by the Kenya Red Cross Society and appointed by the Cabinet Secretary;
- (i) a person nominated by the Kenya Private Sector Alliance and appointed by the Cabinet Secretary; and,
- (j) the Director-General of the Authority who shall be an *ex-officio* member of the Board.

(2) The chairperson and members of the Board, other than an *ex-officio* member, shall hold office for a period of three years and shall be eligible for re-appointment for one further term.

Thank you.

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

*(Question of the amendment proposed)*

Hon. Millie.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Chairman. As much as I do not oppose that proposed amendment, I request the Committee Chairman if he could consider adopting my amendment. This is because it seeks to include the Cabinet Secretary for gender. It is because of special considerations that are brought in the previous amendment. Let me give an example. Whenever we talk about floods, sometimes some of us do not see the direct connection to the women and girls that I am talking about. My niece, during the floods, got into an Uber taxi and was almost attacked and raped because there was no rescue at that time. The Uber taxi driver knew that the road was deserted as a result of too much rain, and nobody could go to her aid at that point. There are gender dynamics that people may not actually foresee in situations like that. I request the Chairman to, kindly; adopt my proposed amendment because it does not go against his. It just adds value.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairman, this is a reasonable request. Hon. Millie, being a senior Member of this House, all the things that you do, you should approach the Temporary Chairman, not at the Floor of the House, but by the sides so that you can clean this up. It should not be on the face of the Chairman.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Chairman, because of the earlier drama in the House, it was impossible to engage meaningfully on serious house issues like this.

**The Temporary Chairman** (Hon. David Ochieng’): It is neater like that way. Because you have a number of amendments, I propose that you proceed as per the way I have suggested.

Yes, Hon. Ichung’wah.

**Hon. Kimani Ichung’wah** (Kikuyu, UDA): Hon. Temporary Chairman, I hear what Hon. Millie is saying. Looking at the list, the other justification was to keep the border with the nine members in line with the Mwangozo Code of Governance, probably if the Chairman would be amiable to accommodating Hon. Millie’s amendment by removing the Principal Secretary in the Ministry for the time being in charge of drought management, or a representative designated in writing. We can replace that with Hon. Millie’s recommended Principal Secretary. It is important to have the one for Defence because of the support that we get from the military. The Principal

Secretary in charge of disaster, which in most cases will be in the Office of the President, is okay. The Principal Secretary for finance is okay because of finances, But for drought management, which is part of disaster, we can replace that with the one in charge of gender.

**Hon. Peter Lochakapong** (Sigor, UDA): Thank you, Hon. Temporary Chairman. We did not find a reason for the inclusion of the Principal Secretary in charge of gender. We did not agree to this. But, we have already allowed Hon. Millie's amendment to Clause 4, which talks about protecting vulnerable groups, including women, children and persons with disabilities, we did not really find the rationale for gender in disaster risk management.

Again, as Hon. Ichung'wah, the Leader of Majority Party has said, the Principal Secretary in charge of drought, like we now have a Principal Secretary in charge of Arid and Semi-Arid lands (ASAL) and Regional Development, is really very critical when it comes to disasters and even now. He is asked questions. If this arrangement continues like this, then it would be very key and very critical in terms of matters disaster. I wish we could just go by what we have proposed That is what we as a Committee, thought about. We did find justification for putting the Principal Secretary in charge of gender in terms of disaster.

Thank you.

**The Temporary Chairman** (Hon. David Ochieng'): Thank you. Hon. Mayaka.

**Hon. Irene Mayaka** (Nominated, UDA): Hon. Temporary Chairman, I beg the indulgence of the Chairman on this particular matter. If there are any persons that are affected by droughts, it is women and children. In most circumstances, they do not have rescue centres where they can go to. We saw scenarios of children on the rooftops of houses. All the other people mentioned here, none of them will look at the soft power such as the basic needs of the children. It has to come from gender and if it is not gender, it is social protection. Gender is best suited because it covers both women and children in that respect. I beg the indulgence of the Chairman to reconsider Hon. Millie's amendment.

Thank you.

**The Temporary Chairman** (Hon. David Ochieng'): This has to be done in a neater manner.

**Hon. Peter Lochakapong** (Sigor, UDA): Hon. Temporary Chairman, I hear the Hon. Members. We wanted to also stick to the number of board members. We can agree to move a further amendment to this one to provide for extra Principal Secretary and ensure that a third of the members of the board are of either gender.

**The Temporary Chairman** (Hon. David Ochieng'): We have a further amendment. Therefore, we will take Hon. Millie's amendment, and a further amendment by the Chairman that seeks to remove the provision of a Principal Secretary in charge of drought management, that is, under Clause 13 (e).

*(Question of the amendment proposed)*

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

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

*(Question of the further amendment proposed)*

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

*(Clause 13 as amended agreed to)*

*Clause 14*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Millie.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Chairman, I beg to move:

THAT, Clause 14 of the Bill be amended in subclause (2) by inserting the following new paragraph immediately after paragraph (f)—

(g) is serving as a member of another Board

Clause 14 provides for the qualification of appointments as a chairperson under Section 13(1)(a), and it provides for the qualifications. I am proposing that a person should not be a member of the Board if the person is already serving in another Board. The reason is that we have noticed there are people who serve in two or more boards and yet, there are many Kenyans who would be happy to serve. Even the President is having a challenge with such people. Please, if you could just accommodate that. Thank you.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): I want to understand this clearly, Hon. Millie. Where the law says that the Principal Secretary be a member of the Board, how do you go about it? Are you excluding them and other public officials from this particular proposal? As you know, this has legal consequences.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Chairman, sorry I am not getting you. My proposed amendment is that a person is not qualified for appointment as a chairperson or member of the Board if that person is serving as a member of another Board. This is so that you do not serve as a member of two boards when there are very many Kenyans who would want to serve, too. Why should we have one person serving in two boards when there are many Kenyans who would like to? That is what my amendment is all about.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Let us have the Chairman.

**Hon. Peter Lochakapong** (Sigor, UDA): Thank you, Hon. Temporary Chairman. In regard to the proposed amendment by Hon. Millie on Clause 14, we did not find merit in it. We are talking of a person not qualified for appointment as a chairperson or even member of the Board. Somebody can be appointed as a chairperson while he is a Board member elsewhere. We did not find merit in it. I think there are few instances where we have Board members serving in more than one Board. We did not find it necessary to put it in law.

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

*(Clause 14 as amended agreed to)*

*Clause 15*

*(Hon. Kimani Ichung'wah spoke off-record)*

**The Temporary Chairman** (Hon. David Ochieng'): Hon. Millie.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Sorry, Hon. Temporary Chairman. It is Hon. Ichung'wah who is interrupting me, even though he is managing both sides.

Hon. Temporary Chairman, I beg to move:

THAT, Clause 15 of the Bill be amended in paragraph (d) by deleting the words "permission of the Board" and substituting therefor the words "justifiable cause"

For me, this is a governance issue because under (d), it provides that the office of a member of a Board other than the ex-official shall become vacant if the member is absent from three consecutive meetings of the Board without its permission. I think it is better practice if you say, 'Either notifying the chairperson or without justifiable reason.' We know the politics that are there in boards. Sometimes, somebody can be genuinely sick, request for permission, be denied, and then thrown out. It should, therefore, be upon them to prove that there was a justifiable reason. It is good governance practice.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng'): Chairman.

**Hon. Peter Lochakapong** (Sigor, UDA): Hon. Temporary Chairman, I looked at this proposed amendment that we delete 'permission of the Board' and substitute therefore with 'justifiable cause'. What is a justifiable cause? What would be justifiable somewhere may not be elsewhere. If we say somebody has permission either from the chairman or from the Board, it would be better than saying you are just absent but the cause for your absence is justifiable. How do you measure that?

**The Temporary Chairman** (Hon. David Ochieng'): Hon. Millie.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Chairman, maybe, the Chairman did not listen to me when I was moving. I said, many boards usually have problems because of clauses like this one. It has become good governance practice not to get permission from the chairperson. If a member has a problem, say, with the chairperson, upon requesting for permission, they could be denied and yet, the person is actually sick. When you talk of justifiable reason, then it becomes incumbent upon them to prove whether it is justifiable or not. So that even when one goes to court, then you can actually prove that there was justification. When you say 'permission of the chairperson', the chairperson might refuse and say he or she did not give the permission. This creates autocracy because you are making a chairperson who can be ruling around people. It is just good governance practice.

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

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

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

*(Clause 15 as amended agreed to)*

*Clause 16*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Millie.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Chairman. I am trying to catch up as I move. You will bear with me.

Hon. Temporary Chairman, I beg to move:

THAT, Clause 16 of the Bill be amended in paragraph (c) by—

- (a) deleting the word “is” appearing before the word “absent” and substituting therefor the word “being”
- (b) deleting the words “permission of the Board” and substituting therefor the words “justifiable cause”

One of my proposed amendments is similar to the first one, which is about inserting the words ‘justifiable cause’, but the other one is basically grammatical. In subsection (c), when you say the chairperson or member of the Board may be removed from the office for his being absent, that is not correct English. You just say for being absent. For his being absent may be Suba and not English language. So, that one is about grammar, but the other one is basically the same as the one we have just passed about a justifiable reason.

Thank you, Hon. Temporary Chairman.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): This is just a matter of cleaning up. Chairman, do you have anything to say on this?

**Hon. Lochakapong** (Sigor, UDA): Hon. Temporary Chairman, I think we agree with this particular one. There is no major problem here.

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

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

*(Clause 16 as amended agreed to)*

*(Clauses 17 and 18 agreed to)*

*Clause 19*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairperson.

**Hon. Peter Lochakapong** (Sigor, UDA): Thank you, Hon. Temporary Chairman. I beg to move:

THAT, Clause 19 of the Bill be amended in subclause (2) by deleting the word “co-opt” appearing immediately after the word “resolution” and substituting therefor the word “engage”.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): Yes, Hon. Millie.

**Hon. Millie-Odhiambo Mabona** (Suba North, ODM): Hon. Temporary Chairman, I wish to support the Chairperson. Part of the things that I have been telling you about is good governance practice. I think this is very good governance practice, and I hope most of the drafters can pick this one. Once you establish a committee or a board, and then you co-opt, you are bringing people through the back door. However, if you engage, it means you can hire consultants or the others. So, I really support the Chairperson on this one.

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

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

*(Clause 19 as amended agreed to)*

*(Clauses 20, 21 and 22 agreed to)*

#### Clause 23

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Millie, or is it the Hon. Chairperson? Go ahead.

**Hon. Peter Lochakapong** (Sigor, UDA): Thank you, Hon. Temporary Chairman. I beg to move:

THAT, Clause 23 of the Bill be amended in subsection 2 by inserting the words, ‘or her’, immediately after the word ‘his’.

*(Question of the amendment proposed)*

**Hon. Irene Mayaka** (Nominated, ODM): Thank you, Hon. Temporary Chairman. I just want to commend the Chairperson of the Committee for this amendment. This is very progressive. At least, we are taking cognizance of both genders when we are addressing some of these matters. So, I support this amendment.

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

*(Clause 23 as amended agreed to)*

#### Clause 24

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Millie.

**Hon. Millie-Odhiambo Mabona** (Suba North, ODM): Thank you, Hon. Temporary Chairman. I beg to move:

THAT, Clause 24 of the Bill be amended in subclause (1) by deleting the words “or otherwise in writing from time to time”.

The reason I am proposing this is that clause 24 provides that a director-General shall be competitively recruited and appointed under the terms and conditions of service that shall be specified in the instrument of appointment, which is basically a contract. There is a provision about which I want to encourage Hon. Ichung’wah and the Temporary Chairperson to listen to me. I request that you listen to this so that you can understand the...

**The Temporary Chairman** (Hon. David Ochieng’): I think he is all ears listening to you.

**Hon. Millie-Odhiambo Mabona** (Suba North, ODM): The reason is that the Temporary Chairman has an opportunity to respond. When you say ‘or otherwise in writing from time to time’, it means that the Board will be unilaterally changing the contracts on their own without the input of the director-general. Sometimes, it is good to also learn from experience.

Hon. Temporary Chairman, when I worked for the International Commission of Jurists, I was appointed under a contract. I had a Director who kept on sending me to do very many things. It created a problem and forced me to end my employment before time. That is the reason it should be on the contract but not outside.

*(Question of the amendment proposed)*

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

*(Clause 24 as amended agreed to)*

*(Clauses 25, 26 and 27 agreed to)*

Clause 28

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Millie.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Hallo.

*(Laughter)*

Hon. Temporary Chairman, sorry. This is what happens when you try to multi-task. I am trying to respond to somebody in my constituency, while proposing amendments.

Hon. Temporary Chairman, I beg to move:

THAT, Clause 28 of the Bill be amended by inserting the following new sub clause immediately after in subclause (2)—

“(3) In appointing staff under sub-clause (1), due regard to ethnic, gender representation, representation of young persons and persons with disabilities shall be taken into account”

The import of this Clause is to seek that in appointment of staff, there shall be regard to ethnic, gender representation, and representation of young persons and persons with disabilities.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted)*

*be inserted, put and agreed to)*

*(Clause 28 as amended agreed to)*

*Clause 29*

**The Temporary Chairman** (Hon. David Ochieng’): This is Hon. Chairman's amendment. Proceed.

**Hon. Peter Lochakapong** (Sigor, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 29 of the Bill be amended in subclause (1) by deleting the expression “the Director-General or such other person that the Board may direct” appearing immediately after the word “Secretary”.

The proposed amendment aligns with the Mwongozo Code of Conduct for State corporations which provides that the corporation’s secretary shall be the custodian of the common seal and shall account to the Board for its use.

*(Question of the amendment proposed)*

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

*(Clause 29 as amended agreed to)*

*(Clauses 30, 31, 32, 33 and 34 agreed to)*

*Clause 35*

**Hon. Peter Lochakapong** (Sigor, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 35 of the Bill be deleted and replaced with the following new clause—

Establishment of County  
Disaster Risk Management  
Committees.

35. (1) There is established a County Disaster Risk Management Committee in each county.

(2) The members of the County Committee shall comprise—

- (a) the Governor who shall be the chairperson;
- (b) the county commissioner who shall be the co-chairperson;
- (c) the county executive committee member responsible for matters relating to disaster risk management who shall be the secretary;
- (d) the County Police Commander;
- (e) two persons, a man and a woman, with knowledge and experience in disaster risk management appointed by the Governor;
- (f) a person nominated by the Kenya Red Cross Society and appointed by the Governor;

- (g) a person nominated by the Kenya Chamber of Commerce appointed by the Governor;
  - (h) a person nominated by the civil society organisation with expertise in disaster risk management in the county appointed by the Governor.
- (3) In appointing members under subsection (2) (e), (f), (g) and (h), the Governor shall observe the principle of gender equality, and representation of the youth, persons with disabilities and the marginalised communities.
- (4) The members of a County Committee shall elect one of the members appointed under subsection (2) (e), (f), (g) and (h) to be the vice-chairperson.
- (5) A member of the County Committee appointed under subsection (2) (e), (f), (g) and (h) shall serve for a term of three years and shall be eligible for re-appointment for one further term.
- (6) The members of the County Committee shall serve on a part-time basis and shall be paid such allowance as may be advised by the Salaries and Remuneration Commission.
- (7) The County Committee may engage an expert into its membership for effective discharge of its functions.
- (8) The County Committee shall regulate its own procedure in the conduct of its business and affairs.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Millie, you have an amendment on this. Do you want to say something on that?

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Chairman, clause 35?

**The Temporary Chairman** (Hon. David Ochieng’): Yes.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Do I really have an amendment on clause 35? Oh! Sorry Hon. Chairman. Let me check. Even when I am checking my own amendment, I want to say that I support the proposed amendment. I would urge, because we have actually passed the other one that, if the Chair could... I do not know whether this one still gives room if the architecture is not changed, but might be adopted, which is that the member of the county committee shall ensure that the member elected under clause 3 shall be of a different gender from the chairperson, so that we have a zebra approach. Where the chair is a woman, the vice-chair is a man and vice-versa. Perhaps, Chair, you will advise us because you are moving fast, whether the original architecture is changed by his proposed amendment, if he could kindly adopt my amendment. But if it is not changed, that my second amendment be adopted separately. Otherwise, I support is proposed amendment. It is very good.

**The Temporary Chairman** (Hon. David Ochieng’): Chair.

**Hon. Peter Lochakapong** (Sigor, UDA): So, Hon. Chair, I think with the amendment we have proposed in clause 35 and Hon. Millie’s amendment on the same clause, I think we are going to adopt hers for the second (b). Then the first one will be taken care of by the amendment we have proposed. So, there is no harm. We are in agreement. (b) is okay.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Millie. If you look at what the Chair has said and also look at the new clause at 3 – if you have the Order Paper it is on page 629... It is on page 629 at 3.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM: Hon. Chair, I am not too sure whether the zebra approach is actually on the proposed... He talks about gender equity, which I really support. But the (b) which the Chair has graciously agreed to adopt is talking of the zebra approach for chair and the vice-chair. So, as he has agreed, then, perhaps, if in the amendment my first amendment... I do not know in terms of procedure, if maybe his passes, then I propose my second amendment which is...

**The Temporary Chairman** (Hon. David Ochieng’): Remember Millie, the new committee has no vice-chair.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM: If it has no vice-chair, then mine dies.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. So, this will go either way. I will now put the Question.

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

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

*(Clause 35 as amended agreed to)*

*(Clauses 36 and 37 agreed to)*

Clause 38

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM: Hon. Temporary Chairman, I beg to move:

THAT, clause 38 of the Bill be amended in paragraph (b) by deleting the words “the permission of the chairperson” and substituting the words “justifiable cause”

It is for the same reason that we have adopted a similar amendment on the issue of justifiable course for good governance practice.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairman.

**Hon. Peter Lochakapong** (Sigor, UDA): We have no issue with the amendment.

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

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

*(Clause 38 as amended agreed to)*

*(Clause 39 agreed to)*

*Clause 40*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Millie.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Chairman, I beg to move:

THAT, Clause 40 of the Bill be amended in sub clause (3)(h)(i), by inserting the word “on” before the word “legislative”

*(Hon. Kimani Ichung’wah spoke off the record)*

*(Laughter)*

English. It is merely for legislative elegance, so that it is proper English and not Suba language.

*(Question of the amendment proposed)*

*(Question, that the word to be inserted be inserted, put and agreed to)*

*(Clause 40 as amended agreed to)*

*(Clauses 41 and 42 agreed to)*

*Clause 43*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Millie.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Chairman, I beg to move:

THAT, Clause 43 of the Bill be amended by inserting the following new paragraph immediately after paragraph (c)—

“(ca) establishment of designated public convergence zones in case of emergencies”

Hon. Temporary Chairman, I want to repeat that it is divine that we are dealing with this Bill just when we have been through ravaging floods in the country. Hon. Temporary Chairman, you realise that we had no designated convergence zones where we had flooding. So, we find situations where Eric Omondi had to go with a boat to rescue people, but there is no where they could be taken to. We need to have designated public convergence zones. Even if it is a school, we need to know which school it is. If not, we may then provide classes for instances like that.

Finally, Hon. Temporary Chairman, I witnessed a similar disaster when I was in Indonesia. There was an earthquake. Here in Kenya, if there is an earthquake, we have no clue about where to go. Right now, if there was an earthquake in my house, I do not have a clue about where to go. In Indonesia, everybody knows the designated areas to go to. For us, it may not be an earthquake, but it may be flooding or an unexpected disaster that we have not thought of and we may require

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people to be moved in masses. Therefore, we need designated areas where people can go to in cases of emergencies and disaster.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Mayaka.

**Hon. Irene Mayaka** (Nominated, ODM): Thank you, Hon. Temporary Chairman. I just want to support this particular amendment. I support it because the practice that we even have in most companies and organisations is that in instances of emergency, they have designated places where people are asked to assemble. It is then easy for them to be able to account for each and every person.

The fact is that we saw some very desperate situations, like I said earlier, of children desperately going to rooftops because they did not know where to go. The authorities concerned also did not know the particular places to take those people. Therefore, it is an amendment that is very much in order and I support it.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Bensuda.

**Hon. Atieno Bensuda** (Homa Bay County, ODM): Thank you very much, Hon. Temporary Chairman. I also support this amendment on delineated areas where people can go when there are emergencies.

Apart from the places they go during an emergency or when it is likely to occur, my support is also because of the experience we have had during the floods. I visited some flooded areas and the people who were evicted from their homes because of floods, specifically in Karachuonyo, Osodo and Kobuya. I was happy yesterday that they have been re-located to a church. However, a church situation is also not conducive especially because the church members would require to use the church. What am I saying? This amendment should inform us as a country. We need not wait until we experience disaster for people to start running left and right to occupy churches and primary schools and after which re-locating them becomes a problem. As a country, this is a clear indication that because we have inter-governmental organisations and other different organisations involved in risk or disaster management, we need to have clear designated places per county. It is so that we build....

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

**Hon. Atieno Bensuda** (Homa Bay County, ODM): Just let me conclude. It is critical for Kenyans.

**The Temporary Chairman** (Hon. David Ochieng’): We are not debating.

**Hon. Atieno Bensuda** (Homa Bay County, ODM): We are not debating. I am only adding a voice on the designated places. We actually need clear designated places. This means we need to plan further when we shall be debating on that issue so that each county has a well-designed rescue center where people can run to during emergency and where there are indications of emergency. A good thought-out amendment.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Wanjala.

**Hon. Raphael Wanjala** (Budalang’i, ODM): The issue of disaster in this country (*inaudible*) and what people are going through when they are affected by disaster...

*(Technical hitch)*

Being one of the victims, year-in, year-out, I would tell the whole country and world what we are going through and nobody would understand. Today, what has happened in this country... (*inaudible*) the floods have gone. Those areas (*inaudible*) and they have affected those people that have never been affected. Kenyans have now realised that we need to deal with this situation.

I agree with the Hon. Member. There are some constituencies known for those types of disasters....

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): You are not on the microphone.

**Hon. Raphael Wanjala** (Budalang'i, ODM): Every year we have this problem. Nyando (*inaudible*) Nyakach, up to (*inaudible*). We have all these problems (*inaudible*).

**The Temporary Chairman** (Hon. David Ochieng'): Hon. Wanjala, order! Use the microphone next to you because we are not hearing you well. Go ahead.

**Hon. Raphael Wanjala** (Budalang'i, ODM): As we move (*inaudible*) the pupils who (*inaudible*). Because sometimes the designated place might be very far from the school and the roads are all flooded and impassable. (*inaudible*). We also need to have vehicles so that when these people are stranded, they have a way (*inaudible*) that they may have saved to those places. You cannot go and tell people to move to a higher ground. This person does not know how (*inaudible*) to the higher ground.

**The Temporary Chairman** (Hon. David Ochieng'): Well said. Thank you so much, Hon. Wanjala.

*(Hon. Peter Lochakapong asked to speak)*

Hon. Chairman, okay.

**Hon. Peter Lochakapong** (Sigor, UDA): Thank you, Hon. Temporary Chairman. I see that this proposed amendment by Hon. Millie has the support of the majority of Members. I had a problem understanding this proposal on the establishment of designated public convergence zones in cases of emergency.

In this country, we are aware that there are certain specific areas that are prone to disasters or emergencies while in others, disasters suddenly happen. Since they only happen suddenly, how do we designate zones in those areas? This is a challenge. If you look at that clause keenly, it states that a Member of the County Executive Committee (MCEC) in-charge of risk and disaster management may establish rules to be followed in order to manage a disaster. Additionally, paragraph (c) states that using listed premises as shelters during a disaster is acceptable. As I was saying, in places where disasters like landslides and floods happen after a long time or yearly, how do we establish designated zones?

**The Temporary Chairman** (Hon. David Ochieng'): Thank you, Chairperson. Hon. Millie, do you want to say something on that?

*(Hon. Millie Odhiambo-Mabona spoke off record)*

Though this is quite straightforward, nowadays, every building has a fire convergence zone and so, whether a fire happens or not, it is not an issue. People already know where to go when a fire happens. That is what Hon. Millie is saying in this case and in other disasters. Though, this is not my point to make. Hon. Millie make your point.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Chairman. You have said exactly what I wanted to. There are places that are prone to disasters and

others where they suddenly happen like what we saw recently. Who knew Runda would flood? The people from there could afford to go to an Accommodation in residence bed and breakfast (Airbnb), while others were being told to go to higher grounds and soon they would start climbing trees. We should have designated areas like a neighbourhood school where people can run to in case of floods. If I am a woman with a family and no husband, I will still feel safe and not think of being raped or tortured because it is a designated area with security.

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

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

*(Clause 43 as amended agreed to)  
(Clauses 44, 45 and 46 agreed to)*

Clause 47

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairperson.

**Hon. Peter Lochakapong** (Sigor, UDA): Thank you, Hon. Temporary Chairman. I beg to move:

THAT, Clause 47 of the Bill be amended in subclause (2) (a) by deleting the word “changes” appearing immediately after the word “other” and substituting therefor the word “charges”.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): This is a typo being corrected.

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

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

*(Clause 47 as amended agreed to)  
(Clauses 48, 49, 50, 51,  
52, 53, 54 and 55 agreed to)*

Clause 56

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Millie.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Chairman. I beg to move:

THAT, clause 56 of the Bill be amended in sub clause (2) by inserting the following new paragraph immediately after paragraph (b)—

“(ba) establishment of designated public convergence zones in case of emergencies’

It still speaks to the same issue of establishment of designated public convergence zones in case of emergencies.

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

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*(Question of the amendment proposed)*

Yes, Hon. Passaris.

**Hon. Esther Passaris** (Nairobi City County, ODM): Thank you Hon. Temporary Chairman. I support the designated areas. As a country, we have had many disasters. For example, fire, floods, drought and those that are caused by Government wrongs like clearing riparian land. We need to consider shelters in every constituency. We need people to know shelters are there in case of emergencies. We have been providing mattresses in schools but by the time we are doing that, people have slept on floors. When we have a disaster, people can move to the shelters before they are told to move to higher grounds. That seems to be a failure by us as a Government to deal with all manner of disasters.

Thank you, I support.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Kaguchia.

**Hon. Kaguchia John** (Mukurweini, UDA): Hon. Temporary Chairman, I thank you very much. I support the amendment by Hon. Millie. We need to have shelters for people who have been found in such compromising situations. Under Article 56 of the Constitution, the Cabinet Secretary is supposed to consult governors. We need to ask ourselves if the consultation has to do with concurrence at the national and devolved county levels. Are we going to have concurrence as well? This has been an issue in the past where consultations happen but the other party say there is no concurrence on a particular issue. As the Cabinet Secretary deals with delegated legislation and consults with the governors, we need to understand to what extent he has to agree with the governors. To what extent can this regulation be held where governors are of a different opinion from Cabinet Secretaries? When they consult with governors, does it mean they have to consult with county assemblies? At what point do we need to have consultation and concurrence?

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

*(Clause 56 as amended agreed to)*

Clause 57

**Hon. Peter Lochakapong** (Sigor, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 57 of the Bill be amended by deleting subclause (1) and substituting therefor the following new subclause—

“(1) A public officer currently serving in the National Disaster Operations Centre and National Disaster Management Unit shall be seconded to the Authority for a period not exceeding three years.”

*(Question of the amendment proposed)*

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

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

*(Clause 57 as amended agreed to)*

*Clause 58*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairman.

**Hon. Peter Lochakapong** (Sigor, UDA): Hon. Temporary Chairman, I beg to move:

THAT, clause 58 of the Bill be amended in subclause (1) by deleting the word “Risk” appearing immediately before the words “Management Unit”.

This amendment seeks to capture the name of the National Disaster Management Unit correctly.

*(Question of the amendment proposed)*

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

*(Clause 58 as amended agreed to)*

*Schedule*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Millie, you have an amendment to the schedule?

**Hon. Millie Odhiambo -Mabona** (Suba North, ODM): Yes, Hon. Temporary Chairman. I wish to amend the schedule. However, in agreement with the Leader of the Majority Party, I will only move amendments (a) and (b) and drop part (c) which changes the architecture because we did not provide for it in the main body.

Hon. Temporary Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in paragraph 1(2) by –

(a) deleting the words “may, and” immediately after the word Chairperson and substituting therefor the word “shall”

(b) deleting the word “shall” appearing before the words “convene a special meeting of the Board”

We did not provide for a Vice-Chair. So, because of that, I am bringing an amendment that changes the “may” to “shall.” If you leave that to discretion, no meeting may ever be called. Again, I am proposing the change of the “may” to “shall” in the second one.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Members, you know that Hon. Millie has dropped her amendment of the schedule at sub-paragraph (c) but retains (a) and (b).

*(Question of the amendment proposed)*

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

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

*(Schedule as amended agreed to)*

*Clause 2*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Millie.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Chairman, I need your guidance because I have four different proposed amendments. Can I move them one by one? They are very different in Clause 2.

**The Temporary Chairman** (Hon. David Ochieng’): I propose that you move all of them together, but take each one at a time to explain what they are about.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Chairman, I would request that in case the Chair of the Committee or the Leader of the Majority Party has issues with any of them, I move them one by one. But if they do not have, it is okay.

**The Temporary Chairman** (Hon. David Ochieng’): You will move them together and they will also take them together in case they have an issue with them. Go ahead.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Chairman. I beg to move:

THAT, clause 2 of the Bill be amended—

(a) in the definition of the word “disaster,” by deleting the word “localized” appearing before the word “natural”

(b) by deleting the definition “disaster risk management” and substituting therefor the following new definition—

“disaster risk management” means a continuous and integrated multisectoral, multi-disciplinary process of developing, planning and implementing of policies, strategies and measures aimed at –

(a) having in place a permanent structure of disaster risk management at the county and national level;

(b) identifying and mapping disaster prone or vulnerable areas, situations or people;

(c) issuing early-warning of eminent disaster;

(d) relocating populations in case of eminent disasters;

(e) preventing or reducing the risk of disasters;

(f) mitigating the severity or consequences of disasters;

(g) protecting the most vulnerable populations in disasters including women, children, persons with disabilities and the elderly;

(h) emergency preparedness;

(i) a rapid and effective response to disasters;

(j) post-disaster recovery, restoration and rehabilitation; and

(k) using technology to better manage disasters.

(c) in the definition of the words “emergency preparedness” –

(i) by deleting the word “a state of readiness” appearing in paragraph (a) and substituting therefor the words “measures in place”

(ii) by inserting the following new paragraphs immediately after paragraph (b)—

- (c) having in place a policy at the national and county level on disaster response;
- (d) having in place a structure at the county and national government level that enables quick response in cases of disaster;
- (e) having in place a monitoring system at the national and county level on disaster risk;
- (f) having in place an early-warning system at the national and county level on disaster risk;
- (g) having in place a continuous public education and awareness of the public on disaster risk response including emergency numbers and centres;
- (h) having in place facilities and equipment for effective and quick response to disasters including fire trucks, land, water and air ambulatory services; and
- (i) establishing centers for emergency convergence during disasters.

It was either the Leader of the Majority Party or the Chair who when contributing to this Bill raised a concern about the use of the word “localised.” When you talk about localised disaster, it limits response because not all the times is a disaster localised. So, I am proposing we remove the word “disaster” appearing before the word natural.

In (b), I am just substantively adding other segments that are not provided. For instance, one is identifying and mapping disaster prone or vulnerable areas, situations or people and also issuing early warning of imminent disaster, relocating populations in case of imminent disaster; and protecting the most vulnerable populations in disasters, including women, children, persons with disabilities and the elderly; and using technology to better manage disaster. For example – like I told you – when I was in Indonesia, we had an earthquake and I had no idea that we had an earthquake. However, there was an automated system that informed me there was an earthquake. So, if we can also use automated systems and technology more, it will help.

In (c), one of the things that I want to mention – there are many and I want to ask Members to look at them in the Order Paper page 631 at the bottom... One of the things that the Member for Budalang’i raised is the issue of having in place facilities and equipment for effective and quick response to disaster, including fire trucks and land, water and air ambulatory services. During the disaster, I was informed that one of my islands, Remba Island, was going under. How would you rescue people in Remba Island if there are no ambulatory or air services and how fast can they be rescued? So, those are the issues that I am raising, other than establishing centres for emergency convergence and having a structure at the county and national government levels for quick response. Those are my proposed amendments.

There is also the issue of continuous public education and awareness of disaster risk response, including emergency numbers and centres. Some of the videos that were commonly shared were of people on motorcycles who lost their lives trying to pass through flooded areas. That requires public education. I wish we had posthumous fines for people who kill themselves in such situations. Public education can deal with such issues. Those are my proposed amendments.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): I would like to start with the Chairperson, followed by the Hon. Leader of the Majority Party.

**Hon. Peter Lochakapong** (Sigor, UDA): Thank you, Hon. Chairman. We may not have a problem with a majority of the proposals but the definition of disaster means progressive, sudden, widespread and localised. We can retain the term ‘localised’ when it is not widespread. We can agree on the rest.

Thank you.

**The Temporary Chairman** (Hon. David Ochieng’): Proceed, Hon. Millie.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Chairman, sometimes, I make many amendments. I made this particular one when I was airborne with one of the clerks. She told me that she now understands why I had so many amendments. While people were sleeping, I was moving my amendments airborne. What they are proposing makes sense because it caters for widespread and also localised. I therefore drop my amendment regarding the term ‘localised’.

*(Proposed amendment by Hon. Millie Odhiambo-Mabona  
to clause 2 dropped)*

**The Temporary Chairman** (Hon. David Ochieng’): It is on record that Hon. Millie’s amendment to Clause 2(a) is hereby dropped.

Proceed, Hon. Leader of the Majority Party.

**Hon. Kimani Ichung’wah** (Kikuyu, UDA): Hon. Temporary Chairman, I rise to support. I take this opportunity to commend Hon. Millie, not just for the many amendments, but for amendments that make a lot of sense and have enriched this Bill. It is also true that we have not had a good policy on disaster risk management in this country. I have just been informed that there are six young men in my office, who I believe are great heroes in our country because they risked their lives to rescue a young girl somewhere in Korogocho, Nairobi. Many Kenyans watched those young men risking their lives. They are waiting for me in my office and I invite Hon. Members to just shake their hands. This speaks volumes about the state of our disaster risk management in this country. Allow me to commend Hon. Millie for enriching this debate.

I was just telling the Hon. Member for Budalang’i that in as much as he has said in jest about inviting floods into other areas that have not been prone to floods, but now many Kenyans appreciate how ravaging floods can be to people’s livelihoods, not just in Budalang’i, but in many other areas including this city. As the Member for Budalang’i was said, people may have imagined that it can only flood in areas around Korogocho, Mathare, Kibra and Kawangware along the Nairobi River frontage. This time, however, we saw floods relocating people in Runda and Gigiri and in posh estates like Lavington, areas where ordinarily people may never have appreciated the suffering of the people of Budalang’i. Today, Kenyans will appreciate. I must commend all these Members who have endured this evening to ensure that this country has a Disaster Risk Management Bill and an Act that will help us to better coordinate disaster management.

In conclusion, as I was moving this Bill, I indicated that what motivated me to come up with it was the suffering that I saw with young Kenyans and their parents after the Garissa University attack. We did not even have systems to identify bodies if fingerprints were disfigured because of the heat that was in Garissa at that time. I pray that, as we send this Bill to the Senate, it will eventually become an Act of Parliament that will help us, as a country, to better manage our disasters.

Let me take this opportunity on the Floor of this House, on behalf not just of the parents of that young girl from Korogocho but Kenyans at large, to thank those six young men. I wish I had already met them; they are waiting in the office. I have not got their names. I would have mentioned them one by one by name. Those young men are our true heroes. They showed us what we should do when adversity finds us wherever we are – that we can all rise to the occasion and save a life. Those are my heroes this year. If His Excellency the President and those who nominate people to be designated as heroes would see the actions of those young men, they should be in the roll of those who will be awarded as heroes of our times on Mashujaa Day.

Thank you.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. I thought we should close this, but let me hear what Hon. Wanjala wants to say. He is my neighbour. Go ahead.

*(Hon. Raphael Wanjala spoke off the record)*

Move to the microphone on your left.

**Hon. Raphael Wanjala** (Budalang’i, ODM): Thank you, Hon. Temporary Chairman. Today, the Member for Budalang’i, Hon. Raphael Wanjala, will have a sound sleep. I take this opportunity to thank the Leader of the Majority Party. Sometimes, we are here but our Standing Orders and some of the laws limit us in what we can do because of what is involved. Our Leader of the Majority Party has taken advantage of the resources he can access and that is why he has done this. It is sometimes difficult to bring a Private Member’s Bill.

I started suffering from disasters when I was a small boy going to school. I moved to various schools because of the floods. I could not access school. Today, our people are still suffering. With this kind of Bill, disasters will be managed. If you go to Budalang’i, you will see people living in lowlands. Now that this Government has come up with a noble idea of affordable housing, those people cannot afford those houses, but because it is taxpayers’ money, they can identify places in Budalang’i, build those houses and accommodate those people who lose their houses year-in, year-out. The Government should take over that land and grow rice. Rice grows in Budalang’i because we have enough water.

Now that we are here, these are the issues that we are going to advocate for our people. Thank you, Leader of the Majority Party, for bringing this Bill.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Passaris.

**Hon. Esther Passaris** (Nairobi City County, ODM): Thank you. Hon. Temporary Chairman. I rise to support the amendment. We definitely need to equip ourselves to cope with this, but we also have to recognise that training is crucial. There are many citizens that have really supported the disaster response and I am glad that the Leader of the Majority Party has said that we should reward them through awards during the State commendations.

I will be bringing him a list of all those that supported us in Nairobi. However, more than that, I think we could co-opt Kenya Red Cross because there are people that are born to be there for disasters and are always there. We have a young lady called November in Nairobi who does amazing work. All the people, including the policeman who lost his life, should be recognised for the work they did in response to the disasters that we had with the floods.

Training is mandatory and, therefore, we should not just train the ones that we have in our employment, but also those who are in the community so that they can be effective in how they respond to disasters and not risk their lives. I want to commend the Committee and Leader of the

Majority Party for this. We are going to make history here on how we respond to disasters in the future.

Thank you.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Chairman, 30 seconds please. The microphone is yours.

**Hon. Peter Lochakapong** (Sigor, UDA): Hon. Temporary Chairman, thank you for giving me this opportunity. I want to commend the Leader of the Majority Party, Hon. Kimani Ichung’wah, for bringing this Bill, which was committed to my Committee. With what we have done, I now know that we have the legal framework. We hope our colleagues in the Senate will fast track this so that we can have a law that can guide us in managing disasters.

I also want to commend and thank Hon. Millie Odhiambo, Member for Suba North, for the many amendments that she has brought which were logical to this Bill.

Thank you very much.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Millie, 20 seconds please.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you Hon. Temporary Chairman. I also want to commend the Leader of the Majority Party and Chairman of the Committee. I was telling the Leader of the Majority Party off record, but I now want to tell him on record, that he needs to encourage his Members that beyond the politics, there are those of us who are very serious in doing Government business for the country and this is the stage, and he knows that.

Sometimes, he asks people from his side that when I bring some amendments, because they see Millie, they just say “kill”. I am not doing it for me; I am doing it for posterity and for this country. Please encourage your Members, and once more, congratulations for a good job.

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

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

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

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

*(Clause 2 as amended agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Chairman** (Hon. David Ochieng’): I now call the Mover to move for reporting.

**Hon. Kimani Ichung’wah** (Kikuyu, UDA): Hon. Temporary Chairman, I beg to move that the Committee do report to the House its consideration of the National Disaster Risk

Management Bill, (National Assembly Bill No. 24 of 2023), and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

IN THE HOUSE

*[The Temporary Speaker (Hon. David Ochieng') in the Chair]*

### MOTION

#### CONSIDERATION OF REPORT ON THE NATIONAL DISASTER RISK MANAGEMENT BILL

**The Temporary Speaker** (Hon. David Ochieng'): I wish to call upon the Chairperson to report to the House the proceedings of the Committee of the whole House.

**Hon. Peter Lochakapong** (Sigor, UDA): Hon. Temporary Speaker, I beg to report that the Committee of the whole House has considered the National Disaster Risk Management Bill, (National Assembly Bill No. 24 of 2023), and approved the same with amendments.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. David Ochieng'): Mover.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Speaker, I beg to move that the House do agree with the Committee in the said report. I request Hon. Irene Mayaka to second the Motion for agreement with the Report of the Committee of the whole House.

**Hon. Irene Mayaka** (Nominated, ODM): Hon. Temporary Speaker, I second.

*(Question proposed)*

**The Temporary Speaker** (Hon. David Ochieng'): Leader of the Majority Party, do you have anything to say on this Bill?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Temporary Speaker. Once again, allow me to take this opportunity, as we conclude, to thank all the Members who have contributed to the debate of this Bill from its Second Reading to now the Third Reading.

I mentioned the young heroes here in Nairobi who saved the young girl whom we all witnessed on television. Since I have their names, I seek your indulgence to recognise and appreciate the efforts of Michael Njehu, Haron Ng'ang'a, Benjamin Muoki, Chris Kamau, Anthony Muigai and Dennis Mwangi. Those six heroes from Korogocho saved the young girl whom I referred to earlier. On behalf of Kenyans, once again, I commend them for their great work. As we set up this National Disaster Risk Management Authority, this is an opportunity for it to appreciate not only the efforts of those young men but also the efforts of many other heroes around the country who act to save lives. When this Bill becomes an Act of Parliament, the Authority should use the opportunity to identify such young men to train and offer them the

requisite skills. This is because they will be the first responders within our communities whenever a disaster, like those floods, occur. Those young men do not work for the Kenya Navy.

*(Hon. Esther Passaris spoke off the record)*

The Member for Nairobi City County has informed me that it is young men and women. I said ‘men’ because I was speaking about those young men from Nairobi City County. However, I also appreciate the young and elderly women from Korogocho who cheered on and prayed for those six young men as they swam in very strong tides of floods to save the soul of the young girl. It will take time to identify and train such young men and women in our country to become first responders. Disaster strikes the neighbourhoods where they live. The first responders to any disaster count most. During road accidents, the people at the scene save lives. We should have as many of our young men and women as possible trained. Maybe the National Youth Service (NYS) and other Government agencies should train as many people as possible not just how to save lives during accidents and disasters like floods and earthquakes, but also in all manner of disasters.

I commend those young men and Members, especially those that have proposed amendments and others: Hon. Irene Mayaka and the Member for Nairobi, Hon. Passaris. I commend the Member of Dagoretti South, Hon. KJ, and Hon. Kaguchia from Mukurweini. Of course, I commend the indomitable Chair, the only Chair from West Pokot County. He knows many more would have lost lives were it not for fast responders saving many people on that fateful day disaster struck West Pokot. I commend the Chair, Hon. Lochakapong, for the efforts he has made to ensure this Bill gets to where it is.

Thank you.

**The Temporary Speaker** (Hon. David Ochieng’): Thank you. Hon. Members, the decision on agreeing with the Report of the Committee of the whole House will be voted the next time this matter is slotted for the Third Reading.

*(Putting of the question deferred)*

## ADJOURNMENT

**The Temporary Speaker** (Hon. David Ochieng’): The time being 7.06 p.m., this House stands adjourned until Tuesday, 4<sup>th</sup> June 2024 at 2.30 p.m.

The House rose at 7.06 p.m.