



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT**

**NATIONAL ASSEMBLY**

**THE HANSARD**

**VOL. III NO. 31**

## THE HANSARD

Thursday, 18<sup>th</sup> April 2024

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

**Hon. Speaker:** Serjeant-at-Arms, ring the Quorum Bell. Leader of the Majority Party, how come the most invisible Members on both sides in this House are the Whips?

*(Laughter)*

*(The Quorum Bell was rung)*

Order, Hon. Members. We now have a quorum to transact business. Clerks-at-the-Table.

PAPERS

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

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

1. Competition and Consumer Protection Law Digest (1st Edition) from the Competition Authority of Kenya;
2. Reports of the Auditor-General and Financial Statements of Public Service Commission Car Loan and Mortgage Scheme Fund for the Six Months Period ended 30<sup>th</sup> June 2018 and for the years ended 30<sup>th</sup> June 2019, 2020, 2021, 2022 and 2023 and the certificates therein;
3. Reports of the Auditor-General and Financial Statements for the year ended 30<sup>th</sup> June 2023 in respect of:
  - (a) Road Maintenance Levy Fund – Kenya Rural Roads Authority;
  - (b) Human Resource Management Professionals Examinations Board;
  - (c) Kenya Universities and Colleges Central Placement Service Staff Mortgage and Car Loan Scheme;
  - (d) National Government Constituencies Development Fund Board;
  - (e) School Equipment Production Unit;
  - (f) Nuclear Power and Energy Agency;
  - (g) Wildlife Research and Training Institute;
  - (h) National Research Fund;
  - (i) Council of Legal Education;
  - (j) Assets Recovery Agency;
  - (k) Tharaka University;
  - (l) Kenya Tourism Board;
  - (m) Hydrologists Registration Board; and

(n) Mwea Rice Mills Limited.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you. Chairperson of the Departmental Committee on Blue Economy, Water and Irrigation, Hon. Bowen.

**Hon. Kangogo Bowen** (Marakwet East, UDA): Hon. Speaker, I beg to lay the following paper on the Table:

Report of the Departmental Committee on Blue Economy, Water and Irrigation on its Consideration of the Senate Amendments to the Water (Amendment) Bill (National Assembly Bill No.33 of 2023).

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you. Chairperson of the Departmental Committee on Administration and Internal Security, Hon. Raso.

**Hon. Ali Raso** (Saku, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Administration and Internal Security on the Budget Implementation for the Second Quarter of the Financial Year 2023/2024 with respect to:

1. Vote 1011 - Executive Office of the President;
2. Vote 1012 - Office of the Deputy President;
3. Vote 1013 - Office of the Prime Cabinet Secretary;
4. Vote 1014 - State Department for Parliamentary Affairs;
5. Vote 1015 - State Department for Performance And Delivery Management;
6. Vote 1016 - State Department for Cabinet Affairs;
7. Vote 1017 - State House;
8. Vote 1024 - State Department for Immigration and Citizen Services;
9. Vote 1025 - National Police Service;
10. Vote 1026 - State Department for Internal Security and National Administration;
11. Vote 2101 - National Police Service Commission; and,
12. Vote 2151 - Independent Policing Oversight Authority.

Thank you, Hon. Speaker.

**Hon. Speaker:** Vice-Chairperson of the Departmental Committee on Trade, Industry and Cooperatives.

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Speaker, I beg to lay the following paper on the Table:

Report of the Departmental Committee on Trade, Industry and Cooperatives on its consideration of the County Licensing (Uniform Procedures) Bill (Senate Bill No.9 of 2022).

**Hon. Speaker:** Thank you. Next Order.

**Hon. Onesmus Ngogoyo** (Kajiado North, UDA): On a point of order, Hon. Speaker.

**Hon. Speaker:** Yes, Hon. Ngogoyo. Give him the microphone.

**Hon. Onesmus Ngogoyo** (Kajiado North, UDA): Thank you, Hon. Speaker. Is it in order for Hon. Kaguchia, the Member for Mukurweini, to walk into this House while dressed inappropriately? Hon. Speaker, just recently, you read a very elaborate code of dressing in *Bunge*. Hon. Kaguchia has rudely walked into this House dressed in a manner that is not Parliamentary. He goes ahead to walk just beside the Bar and rudely interrupts the proceedings of *Bunge* while dressed in a very unparliamentary way. Is that in order? He has sat in the Chair

at the County Assembly. His dressing is in true defiance of your ruling, which was very elaborate. Is it in order for him to continue to sit in this House?

**Hon. Speaker:** Hon. Kaguchia, you are improperly dressed. There is no provision for defending yourself.

*(Laughter)*

I belong to the same profession as you. In my 30 years in this House, I have never come here dressed like that, although I also go to court dressed that way. Go and dress up then come back.

*(Loud consultations)*

Even your seniors like Hon. Chepkonga have never attempted that.

*(Laughter)*

Hon. Kagucia, you are a stranger in the House. You cannot transact any business with the Chair.

**Hon. Charles Nguna** (Mwingi West, WDM): On a point of order.

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

**Hon. Charles Nguna** (Mwingi West, WDM): Thank you, Hon. Speaker. I am used to the Leader of the Minority Party seating in front of me.

**Hon. Speaker:** What is out of order?

*(Laughter)*

**Hon. Charles Nguna** (Mwingi West, WDM): Hon. Ruku is seating in a position he is not supposed to. We want a communication on whether his position in Parliament has changed. This seat is meant for the Leader of the Minority Party and not Hon. Ruku. I seek your guidance on this.

*(Laughter)*

**Hon. Speaker:** Hon. Nguna, you are wailing louder than the bereaved. The owner of the seat is not complaining.

*(Laughter)*

**Hon. Speaker:** Hon. Yakub Adow.

## REQUEST FOR STATEMENTS

### DILAPIDATED STATE OF ROADS IN TANA RIVER COUNTY

**Hon. Yakub Adow** (Bura, UPIA): Thank you, Hon. Speaker.

Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Transport and Infrastructure regarding the deteriorating state of roads within Bura Constituency, Tana River County.

Hon. Speaker, the Kenya National Highways Authority (KeNHA) is responsible for the development, rehabilitation, management and maintenance of national roads. In carrying out these functions, KeNHA receives funds as appropriated by the National Assembly. Rehabilitation of roads is expected to be regular, and as and when required due to damages that may arise from time to time. During the *El Nino* floods in 2023, the heavy rains caused adverse effects on roads leading to road cut offs in various sections within my Constituency, which is Bura, and sections within Nairobi-Garrissa and Garrissa-Mombasa Road which have adversely affected the transportation system.

The recent incident on 9<sup>th</sup> April 2024, involving a bus swept away by floods in Arer between Bangaley and Madogo in Bura Constituency, Tana River County, underscores the urgent need for action, particularly given the road's prolonged neglect since the *El Nino* floods.

Hon. Speaker, it is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Transport and Infrastructure on the following:

1. Why has the Kenya National Highways Authority (KeNHA) not adequately addressed and resolved these issues and why are repairs conducted on these road sections of substandard quality bearing in mind this is not the first incident?
2. What strategies have been put in place by the Ministry of Roads and Transport to address the dilapidating condition of other road networks within Bura Constituency and Tana River County at large?
3. What measures has the Ministry of Roads and Transport taken to ensure equitable development and enhancement of key road networks throughout the country?

Thank you, Hon. Speaker.

**Hon. Speaker:** Chairperson, Transport and Infrastructure. Hon. GK. Two weeks?

**Hon. George Kariuki** (Ndia, UDA): Yes, two weeks will be sufficient?

**Hon. Speaker:** Hon. Martha Wangari.

#### DISTRIBUTION OF ORGANIC FERTILISERS TO FARMERS IN THE COUNTRY

**Hon. Martha Wangari** (Gilgil, UDA): Thank you, Hon. Speaker. Pursuant to the provisions of Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Agriculture and Livestock regarding the organic fertiliser (GPC Brand) distributed by the National Cereals and Produce Board to farmers in the country.

Hon. Speaker, the Government has been distributing subsidised fertiliser marketed as organic to farmers under the name GPC Plus Organics. Regrettably, farmers have reported instances of stunted crop growth and diminished harvests following the use of this fertiliser. Recent investigations have revealed alarming findings indicating that the fertiliser circulating in the market may be counterfeit. Furthermore, tests conducted on the fertiliser have shown that it does not meet the requisite organic standards as set by the Kenya Bureau of Standards (KEBS).

Hon. Speaker, the effects of this issue extend beyond agricultural setbacks as they pose a direct threat to food security in the country and the livelihood of our farmers.

Hon. Speaker, it is against this background that I request for a Statement from the Chairperson of the Departmental Committee on Agriculture and Livestock on the following.

Could the Chairperson:

- (a) Provide a report detailing the results of standardisation analysis of the precise composition of the fertiliser and the criteria that guided the Ministry of Agriculture and Livestock and KEBS in approving distribution of the fertiliser to farmers.

- (b) State the plans that the Ministry of Agriculture and Livestock is undertaking to:
- (i) identify the number of farmers who used the said fertiliser and the corresponding acreage of affected land;
  - (ii) establish the long-term effects on the soil and future production as a result of use of the fertilizer;
  - (iii) institute remedial steps to the farmers including possible compensation.
- (c) State what measures have been put in place by the Ministry of Agriculture and Livestock, the Kenya Bureau of Standards and Kenya Plant Health Inspectorate Service (KEPHIS) to ensure that any fertiliser sold to farmers meets the set quality standards.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you. Chairperson, Departmental Committee on Agriculture and Livestock. Who is the Vice-Chairperson of that Committee? Or, any Member? Leader of the Majority Party, can you inform your Chairperson to bring a Statement in the next one week in view of the importance of this matter.

**Hon. Owen Baya** (Kilifi North, UDA): Much obliged.

**Hon. Speaker:** Next. Hon. Timothy Toroitich, the Member for Marakwet West

#### REMUNERATION OF THE NATIONAL POLICE RESERVISTS

**Hon. Timothy Kipchumba** (Marakwet West, Independent): Honourable Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on National Administration and Internal Security on the remuneration of the National Police Reservists.

Hon. Speaker, Section 110(3) of the National Police Service Act, 2011 provides that the National Police Reserve Officers may be deployed within Kenya to aid in maintaining law and order, preserving peace, protecting life and property, preventing and detecting crime, apprehending offenders, and enforcing all relevant laws and regulations falling within the mandate of the National Police Service. The law further provides that National Police Reserve (NPR) officers serve voluntarily and are not entitled to remuneration, except for prescribed allowances. This is despite the fact that NPR officers are bound by the same requirements as regular police officers and are supervised by the National Police Service. These lopsided terms of engagement have led to low morale among NPR officers and risks exacerbating the security challenges in banditry-prone areas.

Hon. Speaker, it is against this background that I request for a Statement from the Chairperson of the Departmental Committee, National Administration and Internal Security on the following.

Could the Chairperson:

- (a) Provide the details of the National Police Reservists currently receiving allowances as specified under section 115(1) of the National Police Service Act, 2011 and the criteria used to determine the allowances?
- (b) Enumerate measures that the Government has put in place to ensure equitable compensation for NPR officers considering their roles and responsibilities?
- (c) Elaborate on the process of vetting and training of NPR officers to ensure compliance with constitutional and legal standards?

I, thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Timothy.

Hon. Raso, that is your Committee. Two weeks?

**Hon. Ali Raso** (Saku, UDA): Two weeks, Hon. Speaker.

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

**Hon. Speaker:** Hon. Chepkonga.

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): Thank you very much, Hon. Speaker.

There was an attempt by Hon. Kagucia to intimidate you but when you threw him out, I was surprised that he had his clothes outside the Chamber which appears to be better than mine. We must congratulate him for being of good behaviour. He does not need to pretend that he is still the Speaker of Nyeri County when that came to an end. He now looks very smart and we thank him.

**Hon. Speaker:** Nobody will be congratulated for doing what is right.

*(Laughter)*

Hon. Kagucia was just trying to test the will of the Speaker. And those who think like him should know they have no space here.

**Hon. Irene Mayaka** (Nominated, ODM): On a point of order, Hon. Speaker.

**Hon. Speaker:** Yes, Hon. Irene Mayaka.

**Hon. Irene Mayaka** (Nominated, ODM): Hon. Speaker, thank you for the opportunity.

I just want to raise a point of concern; that I raised a Statement here to the Departmental Committee on Social Protection on the current status of Anti-FGM on 12<sup>th</sup> March, and up to date, I have not received any response. So, I am a bit concerned that the Committee has taken longer than it had said it would.

**Hon. Speaker:** Chairperson, Departmental Committee on Social Protection. Is that Hon. Alice or Hon. Karemba?

**An Hon. Member:** Hon. Alice.

**Hon. Speaker:** Where is Hon. Alice or the Vice-Chairperson?

Leader of the Majority Party, instruct the Hon. Chairperson that they should bring the report or the answered Statement by Tuesday afternoon.

**Hon. Owen Baya** (Kilifi North, UDA): Much obliged, Hon. Speaker.

**Hon. Speaker:** Next. Hon. Rael Kasiwai, the Member for West Pokot County.

#### MAIZE SEEDS SHORTAGE IN NORTH RIFT

**Hon. Rael Kasiwai** (West Pokot County, KUP): Thank you, Hon. Speaker.

Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Agriculture and Livestock regarding the critical shortage of maize seeds in the North Rift Region.

Hon. Speaker, maize is the main staple food in the country, accounting for a significant portion of the country's Gross Domestic Product (GDP). The maize subsector not only fuels economic growth through foreign exchange earnings but also serves as a vital source of income, employment and sustenance for countless families. Unfortunately, the North Rift, a pivotal grain-producing region, is currently experiencing severe scarcity of maize seeds. Despite favourable weather conditions, thousands of farmers do not have any maize seeds to plant for the season. This shortage, coupled with pre-existing challenges in fertiliser availability, threatens to force farmers into utilising subpar and uncertified seeds, jeopardising both production levels and food security across the nation, and the livelihood of farmers in the North Rift Region.

Hon. Speaker, it is against this background that I request for a Statement from the Chairperson of the Departmental Committee on Agriculture and Livestock on the following:

- a) Can a report be provided on the current maize seed shortage situation in the country?

- b) What measures have been put in place by the Ministry of Agriculture and Livestock and the Kenya Seed Company to deal with the maize seed shortage crisis and ensure timely, and equitable access to quality seeds for farmers?

Thank you, Hon. Speaker.

**Hon. Speaker:** Chairperson, Departmental Committee on Agriculture and Livestock. Leader of the Majority Party, where is your Chairperson of the Departmental Committee on Agriculture and Livestock?

**Hon. Owen Baya** (Kilifi North, UDA): I am surprised by the Chairperson. He is a very diligent Member who is always in the Chamber. There must be something that has held him but I will definitely, inform him about the timelines.

Thank you.

**Hon. Speaker:** Advise him to bring a response to the Statement on Wednesday of next week.

**Hon. Owen Baya** (Kilifi North, UDA): Thank you, Hon. Speaker.

**Hon. Speaker:** Next Order. Yes, hold on. Get the microphone first. There you are. Go on.

**Hon. Omar Mwinyi** (Changamwe, ODM): I was supposed to raise a point of order on a Request for Statement under Order No.7. I am surprised you have skipped me.

**Hon. Speaker:** You are not on my list.

**Hon. Omar Mwinyi** (Changamwe, ODM): The Table Office advised me.

**Hon. Speaker:** By who?

**Hon. Omar Mwinyi** (Changamwe, ODM): The Table Office.

**Hon. Speaker:** The Table Office advised you, but the Speaker does not have that advice. What was the Statement about?

**Hon. Omar Mwinyi** (Changamwe): Very interesting. It was about the national housing fair.

**Hon. Speaker:** The one I approved for you sometime back.

**Hon. Omar Mwinyi** (Changamwe, ODM): Exactly. You have even approved this one as well.

**Hon. Speaker:** I am sorry. It is not on our Orders. Can you furnish a copy to the Clerks-at-the-Table?

**Hon. Omar Mwinyi** (Changamwe, ODM): You gave this one before I entered the Chamber.

**Hon. Speaker:** Just take your seat as I check for you.

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

Hon. Omar Mwinyi, are you ready on the Request for Statement?

**Hon. Omar Mwinyi** (Changamwe, ODM): I am ready.

**Hon. Speaker:** Give it to him. Go ahead and do so. They will rectify their records.

## POINT OF ORDER

### REQUEST FOR STATEMENT ON THE CHANGAMWE NATIONAL HOUSING CORPORATION ESTATE

**Hon. Omar Mwinyi** (Changamwe, ODM): Thank you, Hon. Speaker. I rise on a point of order pursuant to the provision of Standing Order 83 as a follow-up on a Request for Statement raised under Standing Order 44(2)(c).

You may recall that I requested for a Statement from the Chairperson of the Departmental Committee on Housing, Urban Planning and Public Works on 25<sup>th</sup> October 2023, regarding the management of houses and treatment of tenants at the Changamwe National Housing Corporation (NHC) Estate, which is in my Constituency. In the Request for Statement, I expressed concern that the NHC was mishandling tenants and residents of the NHC Estate, and had failed to provide amenities, including a sewerage system.

On 6<sup>th</sup> December 2023, the Chairperson of the Departmental Committee on Housing, Urban Planning and Public Works submitted a Statement from the Cabinet Secretary of Lands, Public Works, Housing and Urban Development in response to my request. However, the response from the Ministry was wanting. It did not address the concerns I raised. Consequently, you directed the Committee to engage the Cabinet Secretary to ensure that my concerns were adequately addressed and to report to the House. You further directed the Committee to invite me during the engagement with the Cabinet Secretary for Lands, Public Works, Housing, and Urban Development. Regrettably, the Committee took no action on the matter despite the express directions you issued from the Chair on 6<sup>th</sup> December 2023.

Owing to the failure of the Committee to take action, the NHC has since proceeded with the eviction of tenants and demolition of the Changamwe NHC Estate without engaging the affected residents, thereby confirming the fears of the residents. My understanding is that the directives you issue from time to time mean orderly conduct of proceedings of the House and ensuring that the House executes its constitutional functions as required. Therefore, I am of the view that the conduct of the Departmental Committee on Housing, Urban Planning, and Public Works, in failing to carry out further inquiry and reporting to the House as you directed, amounts to relegation of duty. It is also my view that the Committee ought to have taken this responsibility and your directive seriously and ensured timely consideration of the matter.

Since the matter continues to affect members of the public in Changamwe, I stand to seek your guidance and request you to direct the Departmental Committee on Housing, Urban Planning, and Public Works to conduct an inquiry into the eviction and demolitions in Changamwe immediately, and report back to the House within 21 days from today. This will facilitate the House to execute its role of deliberating and resolving issues of concern to the people as provided for under Article 95 of the Constitution. Further, should the Committee fail to adhere to this timeline, may I request that you allow me to request this honourable House to establish an *ad hoc* Committee to inquire into the matter?

I submit and seek your guidance. Thank you.

**Hon. Speaker:** Where is the Chairman of the Departmental Committee on Housing, Urban Planning, and Public Works? Is it Hon. Johana Ng'eno? Hon. Owen, where is your Chairman?

**Hon. Owen Baya** (Kilifi North, UDA): Hon. Speaker, I may not be able to vouch for him.

**Hon. Speaker:** Can you bring to his attention the concerns of the Hon. Member and ask him to prepare a Response?

**Hon. Owen Baya** (Kilifi North, UDA): Much obliged, Hon. Speaker. I would like to get that Statement so that I send it to him. Thank you. Much obliged.

**Hon. Speaker:** Thank you.

Hold on before the next Order. We have the Thursday Statement by the Leader of the Majority Party, Hon. Owen.

## STATEMENT

BUSINESS FOR THE WEEK OF 22<sup>ND</sup> – 26<sup>TH</sup> APRIL 2024

**Hon. Owen Baya** (Kilifi North, UDA): Thank you, Hon. Speaker. This is a Statement by the Leader of the Majority Party on the business of next week.

Pursuant to the Provisions of Standing Order 44(2)(a), I rise to give the following Statement on behalf of the House Business Committee, which met on Thursday, 16<sup>th</sup> April 2024, to prioritise business for consideration during the week. With regard to business scheduled for Tuesday next week, the House will continue the debate in the Second Reading of the following Bills, should they not be concluded today:

1. The County Licensing (Uniform Procedure) Bill (Senate Bills No.9 of 2022), which we have tabled today and expect robust debate today.
2. The Statute Law (Amendment) Bill of 2023.
3. The Land Laws (Amendment) Bill (No.2) of 2023.
4. The Independent Electoral and Boundaries Commission (Amendment) Bill of 2024.

It is good to note that the Independent Electoral and Boundaries Commission (Amendment) Bill of 2024 is part of the National Dialogue Committee (NADCO) Bills that need to be debated. We need to finish these so that we can establish the Independent Electoral and Boundaries Commission (IEBC).

Additionally, debates on the following Motions will also be undertaken should they not be concluded today:

1. Report of the Departmental Committee on Defence, Intelligence and Foreign Relations on its consideration of the African Union Convention on cross-border cooperation.
2. Reports of the Auditor-General on the National Government Constituencies Development Fund for the nine constituencies in Bungoma County, which were tabled.
3. We will also look at a Report of the Public Petitions Committee on its consideration of Public Petitions on funds spent contrary to the provisions of Article 223 of the Constitution.
4. We also have reports from the Auditor-General and financial statements of specified state corporations.
5. Reports of the Committee on Parliamentary Broadcasting and Library on enhancing reports of parliamentary business on online platforms.
6. Reports of the Committee on Regional Integration on its inspection of the semi-autonomous institutions of the East African Community, Uganda.
7. Report of the Committee on the implementation status of Reports on Petitions and Resolutions passed by the House.
8. Reports of the Departmental Committee on Trade, Industry, and Cooperatives on its consideration of alleged unfair trade practices by foreign investors in the county.

In accordance with the provisions of Standing Order 42A(5) and (6), I wish to convey that the Cabinet Secretary of Interior and National Administration is scheduled to appear before the House on the Afternoon of Wednesday, 24<sup>th</sup> April 2024, to respond to various Questions as I enumerate them:

1. Question by Private Notice No.004/2024 by the Member for Gilgil, Hon. Martha Wangari, regarding the death of Yiasmin Njoki in Gilgil, Nakuru County.
2. Question by Private Notice No.005/2024 by the Member for Samburu North, Hon. Eli Letipila, regarding the status of the investigation into the death of Hon. Paul Leshimpiro, MCA for Angata Nanyukie Ward.
3. Question by Private Notice No.006/2024 by the Member for Luanda, Hon. CPA Dick Maungu, regarding the rising insecurity and sporadic attacks in Luanda

Constituency that led to the killing of Mr. Benson Maina of ID No.37696704, and several other victims.

4. Question by Private Notice No.008/2024 by the Member for Lugari, Hon. Nabii Nabwera, whom I saw a few minutes ago. It is regarding the status of investigations into the circumstances that led to the death of Mr. Bonventure Ounza Olumbe of ID No.38063032 and Mr. Calistus Apwoka of ID No.41444793 on 20<sup>th</sup> February 2024.
5. Question by Private Notice No. 011/2024 by the Member for Moyale, Hon. (Prof) Jaldesa Guyo, regarding the status of investigations into the circumstances that led to the shooting of Ms. Kabale Galgallo Guyo on 8<sup>th</sup> April 2024.

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

Hon. Speaker, protect me from the Majority Whip, who has just come in, and wants me to notice him. He is distracting me.

*(Laughter)*

6. Question No.271/2023, which is a question that has stayed for some time, by the Member for Laisamis, Hon. Joseph Lekuton, regarding staffing of birth certificates and registration offices in Laisamis and Loiyangalani Sub-Counties.
7. Question No.002/2024 by the Member for Matungu, Hon. Peter Nabulindo, regarding the surge in cases of livestock theft in the Western Region and in particular Matungu Constituency.
8. Question No.003/2024 by the Member for Kinango, Hon. Gonzi Rai, regarding the deployment of the contingent of the General Service Unit (GSU) to Kazamoyo Village in Kwale County.

This is a question that has stayed for a long time and we hope that the Hon. Speaker will tackle it as he comes on Wednesday.

9. Question No.005/2024 by the Member for Bahati, Hon. Irene Njoki, regarding the replacement of the vehicle with registration plate No.GKB 34OJ assigned to Deputy County Commissioner, Nakuru North Sub-County.
10. Question No.037/2024 by the Member for Isiolo South, Hon. Tubi Bidu, regarding the issuance of Identification Cards to Residents of North Eastern and bordering regions.

Hon. Speaker, the President talked about this matter recently, but I think the Cabinet Ministry will respond to it again.

11. Question No.045/2024 by the Member for Fafi, Hon. Yakub Farah, M.P., regarding actions taken by the Government to enhance security in Fafi Constituency.
12. Question No.048/2024 by the Member for Emuhaya, Hon. Omboko Milemba, regarding the security of non-local teachers in Mandera County.
13. Question No.050/2024 by the Member for Kilome, Hon. Thaddeus Nzambia, regarding the gazettelement of the Nzai Sub-Location in Makueni Constituency.

Hon. Speaker, the House Business Committee shall reconvene on Tuesday, 23<sup>rd</sup> April 2024, to schedule business for the rest of that week.

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

I thank you, Hon. Speaker

**Hon. Speaker:** Thank you, Deputy Majority Leader. Next order.

**BILLS***First Reading*THE CULTURE BILL  
(NATIONAL ASSEMBLY BILL NO.12 OF 2024)

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

**Hon. Speaker:** Thank you, Hon. Members. Upon the request of the Leader of the Majority Party, I will rearrange business in a minor manner so that Order No.10 will precede Order No.9 which will follow thereafter. So, call out Order No.10 as the next Order.

*Second Reading*THE COUNTY LICENSING (UNIFORM PROCEDURE) BILL  
(Senate Bill No.9 of 2022)

**Hon. Speaker:** The Chairperson, Departmental Committee on Trade, Industry and Cooperatives. Hon. Marianne, are you the one moving?

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

**Hon. Speaker:** Go ahead.

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Speaker, I beg to move that the County Licensing (Uniform Procedure) Bill, (Senate Bill No.9 of 2022), be now read a Second Time. I request Hon. Adams Kipsanai to second.

**Hon. Speaker:** You have not moved the Bill.

**Hon. Marianne Kitany** (Aldai, UDA): Sorry.

**Hon. Speaker:** It is not that simple. What is the Bill about?

**Hon. Marianne Kitany** (Aldai, UDA): Thank you, Hon. Speaker. The Report contains proceedings of the Departmental Committee on Trade, Industry, and Cooperatives on its consideration of the County Licensing (Uniform Procedure) Bill, (Senate Bill No.9 of 2022).

**Hon. Speaker:** Order, Vice-Chairperson. You are not moving a report. You are moving a Bill. Move the Bill. Start by saying, "I beg to move," read the title of the Bill, and conclude by saying, "Be now read a second time." Then start telling us what the Bill is all about. Your Report may be helpful but we are not moving it.

*(Loud consultations)*

Hon. Owen, can you assist the Vice-Chairperson of the Departmental Committee on Trade, Industry, and Cooperatives?

*(Hon. Owen Baya consulted with Hon. Marianne Kaitany)*

If whoever wanted to second you is more conversant with the Bill, you can let him move, then you can second.

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Speaker, I beg to move that the County Licensing (Uniform Procedure) Bill (Senate Bill No.9 of 2022), be now read a Second Time.

Hon. Speaker, this Bill is about the uniform licensing that should be done by the county governments. As we speak, they do their licensing haphazardly, and they do not have a uniform way in which these licenses can be issued. There are instances where counties charge licenses or fees for goods that are moving across counties. Every county government decides to charge licenses for each of those goods. At the end of the day, the cost of doing business in Kenya becomes very high because of the high costs that have been imposed on the goods that are moving across counties.

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

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

Hon. Deputy Speaker, the other issue that this Bill seeks to achieve is to ensure that licenses that are charged upon counties are addressed at fair prices that every other licensee is able to afford. There is also need to maintain public confidence in the respective sectors under which the license is being issued. The imposition of the license fee is carried out in a manner that does not hamper the respective business or industry, and also to ensure that information on conditions for the issuance of license and licensing procedures is by the provision of the Access to Information Act, which is already in place.

There is also need for cost-effectiveness in the trade licensing procedures. Its purpose is to ensure that at the time of issuing these licenses, they should be simple and that services are accessible to the people applying for the licenses within their various counties.

The Bill also seeks to ensure the importance of declaring and upholding proper standards of conduct by licensees. Additionally, it also seeks to promote efficiency and effectiveness in the administration of license procedures which are undertaken fairly and transparently to ensure that every person who is applying for a license in whichever part of the country is taken through the process fairly and transparently.

Hon. Deputy Speaker, the Bill seeks to also ensure that we protect consumers of goods and services; that we also ensure public safety and promote environmental protection as licensees are being taken through licenses.

Finally, the Bill seeks to maintain public confidence in the respective sectors so that any imposition of any fees in the counties is carried out in a manner that will not hamper the respective businesses or industries.

Hon. Deputy Speaker, I beg to move that this Bill be read a second time. I would request the Member of Parliament for Keiyo North, Hon. Adams Kipsanai, to second it.

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

**Hon. Adams Korir** (Keiyo North, UDA): Thank you very much, Hon. Deputy Speaker. Before I proceed to second this Bill, I wish to state the following.

First, I congratulate the originator of the Bill. This Bill will help Kenyans in doing business. The youth of this country will eventually find ease in doing their businesses. Many required licenses that the county governments are demanding will no longer be needed.

Secondly, it will protect professionals. People who are doing pharmaceutical businesses, like the pharmacists, will no longer be needed to pay the money that goes to the board and the county governments.

Thirdly, is to protect the consumers. Currently, as a country, our people are suffering from consuming illicit drinks. This is because the licenses are being issued without thorough interrogation. This Bill recommends that we have a vetting board that includes the National Government Administration Officers (NGAO) officials, who can sit and vet before approving the licensing of those businesses.

Otherwise, Hon. Deputy Speaker, I second the Bill. Thank you very much.

*(Question proposed)*

**Hon. Deputy Speaker:** Hon. Owen Baya.

**Hon. Owen Baya** (Kilifi North, UDA): Thank you, Hon. Deputy Speaker. This is a very important Bill for which I beg to support. The County Licensing (Uniforms Procedure) Bill, Senate Bill No.9 of 2022 is co-sponsored by the by Senator Omar Mariam Sheikh.

The Bill was passed by the Senate with amendments on 21<sup>st</sup> February, 2024. Subsequently, this Bill was submitted to the National Assembly. It was first tabled and read a first time on 28<sup>th</sup> February 2024 and committed to the Departmental Committee on Trade, Industry and Cooperatives pursuant to Standing Order 143(2). This is a very important Bill whose principal objective is to provide for a national legislative framework for uniform procedures for the licensing of various activities by county governments.

Hon. Deputy Speaker, you will realise that every county government in this country has its own way of licensing. Therefore, there are very many variations that have made it very difficult to do business in Kenya thus the need for a uniform procedure for licensing. In addition, the Bill will ensure certainty in the licensing processes in all counties and encourage private sector players to do business in the counties. This will unhook the issues that we have when it comes to licensing in the counties. If we have investors coming in and then we discover that each county has different procedures, the only way we can ensure that there is uniformity and ease of doing business in the country is through this Bill.

The objective of this Bill as enumerated in there is the need to protect consumers of goods and services, ensure public safety and promote environmental protection. There is need to maintain public confidence in the respective sectors under which the license is issued and the imposition of licensing fees is carried out in a manner that does not hamper the respective business. A good environment for doing business is very important in the counties.

The county governments of Mombasa, Kilifi and Kwale are neighbours. If you want to transport sand from Kilifi to Shanzu you will find that when you get there, the County Government of Mombasa has a different procedure. The same business person is now exposed to a different procedure. He has again to start a new procedure before he finishes that and takes the material to Kwale. When he gets across the ferry, he is stopped by the County Government of Kwale and again subjected to a different procedure. At the end of the day this investor or business person who wants to do business with these three counties has issues and loses a lot of money along the way. However, if we have a uniform procedure on how to do things, it will make it very easy for a business person who wants to do business at the Coast.

I hope Hon. Omar Mwinzi has understood the import of this Bill to ensure that even him as a businessman for whom I know he is a very astute businessman in land matters, does not have issues in transacting land matters with the County Government of Kilifi, Mombasa or Kwale, so that his land continues to be safe in the hands of the county governments.

*(Loud consultations)*

Hon. Deputy Speaker, allow me to continue. They need to ensure that licensing procedures are simple and that licensing services are accessible to a person applying for a license. Accessibility is key in doing business. Sometimes we have had a situation where a trader wants to trade with Kilifi, Kwale, Tana River and Makueni, but the office in Kilifi is open on Friday while the other one opens for licensing on Saturday. It becomes very difficult to ensure that there is accessibility. What this Bill will do is to ensure that the licensing procedures are simple, accessible and easy to get for any business person who wants to do business.

The importance of declaring and upholding proper standards of conduct by licensees is very important. Sometimes, the uncouth business behaviours of licensees are rude and uncontrollable. They want to do everything by themselves and this makes it very difficult for business people. If we pass this Bill, it will ensure that licensees are people who have a standard operating procedure, which they can use to ensure that they do business very well.

This is a very important Bill which will promote efficiency and effectiveness in the administration of licensing processes in the counties to ensure that they are undertaken in a fair and transparent way. This Bill from the Senate is going to help run counties for them to be able to generate enough revenue and ensure that there is ease of doing business. We have an opportunity as the 13<sup>th</sup> Parliament to ensure that we streamline businesses in the counties.

Hon. Deputy Speaker, own source revenue has been a key problem for counties. They budget, give huge budget estimates for own source revenue, but they are unable to collect this revenue because of the hindrances that are within the licensing regime. This Bill will ensure that our counties now collect enough local revenue so that they do not have to depend entirely on the national Government. They can now have a uniform, transparent, easy and efficient procedure for licensing. This will help counties to generate more local revenue for themselves.

With all those many remarks, I support this, Bill. I would also ask, the Hon. Omar Mwinyi, the great man from Mombasa, the leader from Changamwe, who has been tried, tested and proven to be a quality leader to support this Bill on behalf of the people of Mombasa.

I thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** The Member for Kitui South, Hon. (Dr) Rachael Nyamai.

**Hon. (Dr) Rachael Nyamai** (Kitui South, JP): Thank you very much, Hon. Deputy Speaker. I will just make a few comments on this Bill. Before I do, I would like to encourage more support to Chairpersons of Committees so that they do not struggle when moving their Bills for Second Reading. I state that as a third-term Member. It is extremely important to support them.

This is a very important Bill moved by Hon. Kitany. I listened to her as she moved and the Secunder. The purpose is to ensure that counties do not have different systems of licensing so that we provide as much support as possible to investors. Investors get attracted to a country called 'Kenya'. As they do their feasibility studies, they realise that Kenya also has counties. At times, they find themselves operating in more than one county. This Bill encourages counties to have a very simple system of licensing, possibly a uniform one, so that they do not struggle. It is very important that it is passed. Investors will invest in different counties without struggling to ensure they follow different systems from one county to the other.

I would like to focus on payments, especially levies on roads. When investors are transporting goods, for example, from Nairobi to Kitui, they find themselves paying levies to Nairobi City County. On the way, if they use Mombasa Road they will pay to Makueni County, and then as they cross to my constituency pay levies to Kitui County. Those are three levies. This is a matter that needs to be looked at because it increases the costs of doing business. All these costs are levied on customers. If we have an easier way of making it easier to do business, we will have more investors and ensure our counties grow. Counties will collect more funds and have more development. It is through these companies constructing in our villages that we can get more and more young people employed. This is a Bill that must be supported.

Thank you very much for the opportunity. I support.

**Hon. Deputy Speaker:** Member for Likoni, Hon. Mishi Mboko.

**Mhe. Mishi Mboko** (Likoni, ODM): Asante Mhe. Naibu Spika. Ninasimama kuunga mkono Mswada huu ambao unazungumzia leseni na kuhakikisha taratibu zake ziko na usawa katika Jamhuri yetu ya Kenya. Jambo hili ni muhimu sana kwa sababu litawalinda watumiaji wa bidhaa na huduma, kwa wale ambao hawajaelewa, *the consumers*, ili waelewe taratibu zinazofuatwa kupata leseni. Kuna taratibu tofauti katika kila kaunti. Tukiwa na taratibu tofauti,

mara nyingi tunawaumiza watumiaji na waekezaji ambao wanakuja kwenye kaunti zetu kuboresha uchumi.

Mswada huu umezungumzia wakati kaunti inataka kubadilisha malipo ya leseni lazima ifanye mkutano na washikadau, ile tunaita kwa Kiingereza *public participation*. Wazungumzie swala lile kwamba wamebadilisha yale malipo. Hivi sasa unapata katika kaunti nyingi, wanaamka tu na wanasema pengine kwamba kuegeza gari limepandishwa, na mtalipa pesa hizi. Ama ile pesa ya *cess* imepandishwa, na mtalipa pesa hizi, pasi na kuwahusisha wale washikadau. Vilevile, Mswada huu umezungumzia kwamba yale malipo yatakayowekwa hayatakuwa ya kuumiza yule mtumiaji ama muwekezaji. Yatamwezesha yule mwekezaji ama mtumiaji wa bidhaa. Iwapo mtu anataka kupata zaidi ya leseni moja, Mswada huu unaonyesha taratibu ambazo zitafuatwa ndio asiwe na ugumu wa kuweka yale maombi ya leseni. Kwa hivyo, kutakuwa na taratibu za usawa, pasi na kuumiza watumiaji. Pia, Mswada unasema huduma na bidhaa zinapaswa ziwe bora. Sio eti kutakuwa na huduma tu ambayo si bora, ama kutakuwa na bidhaa ambazo si bora. Lazima ziwe ni bidhaa na huduma bora.

Vilevile kutakuwa na kanuni ama alama ya siri, ile kwa Kiingereza tunaita *code*. Kutakuwa na alama za siri tofauti katika kila leseni ambayo mtu atakua ameomba. Tukiwa na moja tu, hapo huwa tunakuwa na mchanganyiko na tunaleta shida kwa wale watumiaji ama waekezaji. Tutakuwa na hizo alama za siri ama kanuni tofauti katika kila kaunti. Haiwezi kuwa kaunti ya Kilifi na Nakuru itakuwa na hiyo alama moja. Tukifanya hivyo, tunaleta tofauti ama sintofahamu kwa wale watumiaji wakati wameweka maombi ya kupata leseni zile.

Mswada huu umerahisisha ama kuweka mambo wazi na umeleta uwajibikaji katika kupata leseni. Utumiaji unaeleza malipo ya leseni yatakavyolipwa yatakuwa ni kwa njia gani. Tumekuwa na shida sana. Wananchi wengi wanalia. Unapata tu mambo yanaongezwa kila uchao. Tukiangalia hali yetu ya kiuchumi vile ilivyo, japokuwa sasa hivi tunaona mambo pengine huenda yakabadilika yakawa mazuri, Wakenya wengi bado wanapata shida sana kwa sababu hakuna sheria mwafaka kama hizi. Tukiwa na sheria ya kitaifa ambayo itakuwa imesimamia kaunti zote, basi hakuna gavana ama kaunti ambayo itaenda kinyume kwa sababu sheria ni msumeno na inakata mbele na nyuma. Lazima ifuatwe.

Mbali na yale mambo mengi ambayo yatafanya, pia katika mambo yetu ya mazingira, ile tunaita kwa Kiingereza *environmental protection*, sheria hii itachunga mazingira. Mswada huu pia umezungumzia zile taratibu ama njia zitawekwa ziwe ni nyepesi na wananchi apate maelezo. Tunasema *access to information*; awe anaweza kupata maelezo pasi na kuwa na vizuizi. Katika jambo hili, kuna mambo mengi sana ya ufisadi. Unapata mtu anaambiwa akitaka leseni ama fomu lazima kwanza achotee mtu. Tunataka Mswada huu uwe na wepesi wa kupata maelezo na taratibu zinazohusika katika mambo ya kupata leseni. Nimefurahishwa sana na jambo hili kwa sababu litahusisha washikadau. Kwa hivyo, hakutakuwa na pahali mshikadau atalalamika na aseme hakujua au hakuhusishwa mambo yanapoenda kwa njia ambayo haikuwa imepangwa.

Naibu Spika, ninakushukuru sana kwa sababu unaenda kwa mkutano mwingine muhimu. Niwaambie Wabunge wenzangu, kesho Rais atakuwa katika maeneo ya Bunge Tower kutufungulia jumba lile kirasmi. Nyote mnaalikwa. Poleni, haikuwa mada hiyo, lakini ninawaalika.

Ahsante.

**Hon. Deputy Speaker:** Member for Wundanyi, Hon. Danson Mwashako. Member for Matuga, Hon. Kassim Tandaza.

*(Technical hitch)*

**Hon. Kassim Tandaza** (Matuga, ANC): Asante sana, Mhe. Naibu Spika, kwa kunipatia fursa hii niweze kuchangia mjadala huu muhimu sana katika nchi yetu ya Kenya hasa

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baada ya kupitishwa kwa Katiba 2010. Licha ya kuwa Katiba ilileta mambo mengi mazuri, pia ilileta changamoto. Iisisitiza sana kwamba kaunti zetu zitengeneze fedha za ndani kwa ndani licha ya ule mgao ambao unatoka kwa Serikali kuu. Hii ilifanya kaunti nyingi kufikiria njia za kuokota pesa kutoka kwa wananchi. Moja ya njia hizo ni kutoa leseni kwa utafutaji wa rasilimali ambazo zinatoka sehemu mbalimbali.

Kama ilivyopendekezwa katika huu Mswada ambao ninaunga mkono, ni jambo la kuhuzunisha kwamba biashara inakuwa ngumu kufanya. Wakati mwingine hata sio biashara tu, hata usafiri. Lori ambalo hata halijabeba kitu likipita kaunti moja hadi nyingine imekuwa ni kama kupitia nchi moja mpaka nyingine. Kwamba, lazima liwe na vibali vya kaunti ambako linaenda licha ya kutozwa ushuru wa ule mzungo ambao limebeba. Hivi vibali ambavyo kaunti zinatoa kwa magari ya mizigo si halali. Tunajua kuwa katika nchi hii, tunayo Wizara inayohusika na kutoa vibali nayo ni Wizara ya Uchukuzi. Na kama ni *insurance* basi inakua ni ya Kenya nzima. Lakini kaunti zingine zimeweza kutoa vibali vya kadi na kubandika katika magari, kuonyesha gari hili linaruhusiwa kufanya biashara katika eneo lao. Jambo hili halina msingi, bali ni hali ya kuhangaisha wanabiashara. Ni hali ya kufanya bidhaa ziwe ghali zaidi ilhali tunazungumzia ni vipi wananchi wa kawaida wanaweza kupata afueni kibiashara.

Nchi hii ni moja na kaunti zililetwa kwa sababu ya kupeleka huduma mashinani. Lakini saa hizi zimekuwa zikiwafinya watu kupitia hizi sheria zao. Kutoka maeneo ya Kwale kuingia Mombasa ni kama ambaye unavuka mpaka wa Lunga Lunga kutoka Kenya kwenda Tanzania. Kwa hivyo, Mswada huu ni muhimu na unahitaji kuungwa mkono na kupitishwa haraka inavyowezekana ili biashara zifanywe bila matata ama pingamizi yoyote.

Mhe. Naibu Spika, jambo jingine ambalo ni la kuhuzunisha ni ufadhili. Kwa mfano, pale Kaunti ya Kwale labda ufadhili utapitia Bandari ya Mombasa ambayo ni kaunti nyingine. Kwa mfano, mtu amenuia kusaidia shule za Kwale kwa kuzipa kompyuta ama vitu ambavyo vitatumika katika darasa. Kisha gari linapofika mpakani kati ya Kaunti ya Mombasa na Kwale pale Likoni yule mfadhili analazimika kulipa ushuru tena licha ya kuwa pengine ashlipa kwa Serikali kuu bandarini. Kaunti bado inahitaji ushuru tena ulipwe ili vyombo viweze kuingia ilhali bidhaa si za biashara - ni mtu binafsi amejitolea kutoa ufadhili kusaidia watu wetu. Lakini yule afisa ambaye amewekwa pale kwenye kituo cha *cess* anashauri kwamba ni lazima gari lolote linalopita hata ingawa ni la ufadhili lilipe ushuru la sivyo atalifungia. Inabidi mwenye gari azungumze na mstahiki gavana ama mkubwa ambaye anahusika, ili gari liachiliwe. Sisi kama Bunge tuna jukumu la kuona kwamba hali tata kama hizi haziwezi kuendelea. Ikiwa watatoza ushuru basi mtu akiwa ametoka Kilifi akienda Kwale, akilipa ushuru Kaunti ya Kilifi, aweze kubeba risiti kuonyesha tayari ashali pia katika gatuzi moja na anastahili kuubeba mzungo mahali popote pale Kenya. Hii ni kwa sababu nchi ni moja. Alikotoa bidhaa yule mfanya biashara amelipishwa, pengine, Ksh200 na akifika Mombasa analipishwa Ksh800. Akivuka Kwale analipishwa labda Ksh1,000. Je, atapataje faida yake?

Mhe. Naibu Spika, ninaunga Mswada huu mkono ili uweze kupitishwa mara moja. Magavana wetu licha ya kuwa wana majukumu ya kutafuta hela, wasitafute kwa kuumiza wananchi. Wasifanye maisha yao yawe magumu mpaka wanashindwa kufanya biashara.

**Hon. Deputy Speaker:** Member for Kwanza, Hon. Ferdinand Wanyonyi.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Order! Thank you very much, Hon. Deputy Speaker, for giving me an opportunity to contribute to this very important Bill by the Senate. It is common sense when it comes to finding out...

*(Loud consultations)*

Hon. Deputy Speaker, can you protect me from the crowd that is in front of me? Order! Get out of my way! I am being engaged while I am on the Floor of the House by a passer-by. Can you call them to order?

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**Hon. (Dr) Rachael Nyamai** (Kitui South, JP): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is your point of order, Hon. (Dr) Nyamai? Let me allow her point of order.

*(Several Members spoke off the record)*

**Hon. (Dr) Rachael Nyamai** (Kitui South, JP): Thank you, Hon. Deputy Speaker. Is it in order, for Hon. Ferdinand, the Member for Kwanza to purport giving instructions to other Members while you are seated on your seat? Is it in order for the Member for Kwanza who has been in this House, I think this is his fourth term, to control the House by saying, "Order! Order!" when you are seated on your seat?

**Hon. Deputy Speaker:** Member for Kwanza, you are appropriately advised. Do not usurp my powers. You may proceed.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Hon. Deputy Speaker, thank you very much, for protecting me. Firstly, it is important that we make...

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

**Hon. Deputy Speaker:** Hon. David Kiplagat, what is your point of order?

**Hon. David Kiplagat** (Soy, UDA): How can Hon. Ferdinand, the Member for Kwanza, refer to Members as passers-by? I do not know what he means by that. He should apologise and withdraw that statement.

**Hon. Deputy Speaker:** Hon. Ferdinand, you may proceed. I did not hear that part so you are safe.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Once again, thank you, Hon. Deputy Speaker for protecting me from my hazardous friends.

First, I want to make it very clear that the vetting of applicants for licenses from one county to another should be uniform. If one is doing business in one county, it should be very easy to move to another county because the procedure is the same. This will prevent cases where one county has a different procedure of issuing licences from the other. It is important to have uniformity, particularly for foreigners who conduct business in our country improving the economy. If one was to conduct business in Mombasa and came to Nairobi or Kitale, where I hail from, having a uniform procedure will encourage them. That makes it easy and attractive for foreign investors thereby improving the economy. The procedure should be uniform in Mombasa, Nyeri, western Kenya and all other areas.

Additionally, this protects the consumers. When one purchases goods from different counties it should be uniform. It will equally protect business owners from being charged different rates to conduct business in different counties, for instance, Ksh200,000 versus Ksh20,000. I think this Bill will assist. Kenya is one. It does not matter whether you are in Nyanza, western, Rift Valley or elsewhere. The procedure should be the same. We must protect consumers and businesses.

I would also like to emphasise what another Hon. Member had mentioned. When the procedures are simple, the counties will be able to collect more revenue. If the procedure in western differ from the one in central region, it discourages business people and that impacts the development of our country. We need to develop our country for future prosperity. Therefore, let us have uniformity in all aspects including the consumer, licensing, or relocation of businesses. I agree with the former contributor who mentioned that when you drive from one county to another, there are no boundaries. If stopped while moving from one county to another and are required to pay extra money on the road, it becomes protective, unnecessary, cumbersome, and restrictive.

With those few remarks, I support this Bill and hope this House will expedite it in support of the Senate and for the future of this country.

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

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

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Next is the Member for Marakwet West, Hon. Timothy Toroitich.

**Hon. Timothy Kipchumba** (Marakwet West, Independent): Thank you, Hon. Temporary Speaker, for the opportunity to contribute on this important Bill. I rise to support the County Licensing (Uniform Procedures) Bill (Senate Bill No.9 of 2022). I have read that the intention of this Bill is to establish a uniform procedure for licensing by county governments and for connected purposes. When devolution happened in Kenya, its architecture was never well thought out. When county governments were given power to make certain laws on issuance of licenses, the disparity in procedures and the fees charged has brought a lot of complexities for businesses in this country. You find a county charging a higher fee compared to other counties. As much as they have the power to determine the fee to be charged through their local finance Acts, I think it brings issue of inequality. When a tax is not uniform, it becomes difficult to obey that law.

If you look at the records of our courts, there are too many legal battles that have arisen out of cross-border taxation matters. In cross-border collection of local revenue, some counties have higher taxes than others. I believe that uniform legislation will sort out this issue to provide a uniform mechanism of collecting revenue and issuance of licenses in this country. There are multiple inconsistencies in the regimes of tax and levy collection. This kind of legislation will create uniformity of procedures that are put in place and reduce issues of inequality in our country. This issue has affected private investors. If foreign private investors want to invest in the northern region, where I hail from... Various counties have different regimes of levying certain charges which creates an inconsistency. If this legislation is passed, it will ease doing businesses in those counties.

I rise to support this legislation insofar as it sets the standard or uniform procedures of processing or charging fees and the minimum legal requirements in the processing of licenses.

I support. Thank you.

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Thank you very much. Next is the Member for Bondo, Hon. (Dr) Gideon Ochanda.

**Hon. Gideon Ochanda** (Bondo, ODM): Thank you, Hon. Temporary Speaker. I rise to partly support the Bill. The bit that I support is the logic and practicality behind the difficulties we face from time to time in terms of movement of goods and services. On the other hand, there is a problem of uniformity. As I have said before, we are over legislating for counties. In my view, the issue of uniformity is unconstitutional. The spirit of the Constitution is that we are diverse. We need to do things in the best interest of the local situations that counties find themselves in. Every single time we come up with legislations that set uniformity and dictate what counties do, in my view, it is not good for the counties and for the House.

The Constitution requires that as much as the counties are interdependent, they are also separate. We have 48 governments and they offer all manner of services. It is true that counties exist in their own geographies, but they do not exist in isolation. They exist in relation to others. They have to relate with others. However, that kind of legislation needs to be left to the county assemblies of each particular county government to come up with, so that they legislate on how to relate with other counties in terms of movement of goods and services.

We are not getting one element right and it needs to be checked. This is not the first Bill that talks about issues of uniformity or that tries to set certain things for the county

governments. The county governments are supposed to be semi-independent and to come up with their own legislations and procedures of how to do things.

There is a requirement in the Constitution of how counties should raise revenue. They are supposed to be competing in terms of local revenue-raising arrangements. Enforcing uniformity will curtail some counties which may want to raise a little bit more through internal revenue generation. There is a problem. As a matter of caution, somebody may run to court to challenge this Bill if we do not look at it very carefully in terms of its constitutionality and principles of devolution.

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Hon. Eric Muchangi, the Member for Runyenjes aka Karemba.

**Hon. Muchangi Karemba** (Runyenjes, UDA): Hon. Temporary Speaker, it is also right to call me Hon. Karemba. It is my name and it features on my national identity card.

I support the Bill. It is time that we had a uniform law that governs the way business is conducted in counties. One of the roles of the Government is to regulate and facilitate the ease of doing business in the country. The Government can only employ around one million people in the public service. The rest of the people in this country are employed by the private sector. That is where they have been absorbed. The proposed law is supposed to facilitate the ease of doing business. That is where it matters most.

It is very difficult for new and small business owners to move around the country selling goods and supplying items. If you have a business that is domiciled or registered in Nairobi and you want to move your items to counties like Kiambu, Kirinyaga, Chuka, Tharaka Nithi or even Meru, you are required to pay distribution licenses in all those counties. It is very difficult to get resources to pay for those licenses and still make a margin of profit from those businesses. You will find that most businesses end up collapsing or dying as a result of multiple levies that are charged on them.

This is a very timely proposal. Everybody should support this Bill so that we have a standard or uniform way of charging levies across the counties, so that we can give businesses an opportunity to thrive. This law will help our country to be competitive in terms of doing business. That is where it matters.

Once again, I support the Bill. It is timely and everyone should support it because it is a good idea.

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Hon. Members, I would now like to call upon the Mover to reply. Mover, you can donate a few minutes.

**Hon. Marianne Kitany** (Aldai, UDA): Thank you, Hon. Temporary Speaker. The object of the Bill is to facilitate the ease of doing business in this country. Many businesspeople currently find it very expensive and difficult to engage in business, which creates lack of competition in the country.

I love the interest that the Bill has generated in Members from both sides of the House. Members have talked about the object of the Bill, which is to ensure that we have one uniform licensing regime because Kenya is one and we would like to make life easy for businesses and businesspeople. The cost of transporting goods across counties is currently a very expensive affair because as you cross each county, licenses or levies are charged on your goods. This Bill will ensure that the cost of transportation of goods between counties or inter-counties is harmonised. Therefore, consumers will get goods at a very good price.

There is also the issue of alcohol and substance abuse. Because of the current licensing regime, counties are issuing licenses haphazardly to any business without caring whether the business is near a school or market. This Bill is timely and it will ensure that we protect consumers from harmful business practices. For example, licensing of the sale of alcohol will be done in a manner that is acceptable to the community. Alcohol dens should not be found near schools or areas that can cause harm to young children.

The Bill also creates a licensing authority which will vet the issuance of licenses as opposed to licensing being done by individuals to avoid issues of corruption. Some Members have mentioned how getting licenses in various counties is marred with a lot of corruption. The licensees or traders have to part with a lot of money before licenses are issued. At the end of the day, they may not be able to recover that money due to the cost of doing business. As anticipated in the Bill, the licensing authority will help to avoid corruption. If a license application is rejected, a review body has been set up to look into why that license was rejected so that licensees get justice and value for their money.

The other issue that has come out is that the cost of licenses is too high for many licensees. The Bill seeks to ensure that before licensees pay the license fees, details of the license will first go to the county assemblies for approval before it is implemented. More importantly, there is room for public participation where the public shall review these license fees to decide whether they agree or disagree with their being levied or their increase. This will help businesses so that we avoid the current scenarios where a county government may just unilaterally decide to increase license fees for certain license categories, therefore, making the cost of doing business in a county very expensive or unattainable for the licensees.

The duration of licenses is another issue that has come up on the Floor. The Bill will seek to clear the issue of duration of licenses. It will now be a year from the date of issue as opposed to a calendar year. Some licensees would get a license in September and by December it has already expired. The duration of a license will be one year from the date of issue.

This Bill also seeks to ensure that the licences are issued electronically. It has given the county governments a period of within three years to ensure that systems are in place. Anybody applying for a licence does not need to go to the office physically, but can do it electronically. This will avoid corruption in these offices.

The Bill will also stop double taxation for entities or professional bodies that are licensed at national level. More importantly, there are professional bodies which the county governments do not consult before issuing licences. For example, there are some quack pharmaceutical businesses that are being issued with licences. This Bill will ensure that county governments shall consult professional bodies before any licence is issued or approved for issuance. This will help us to ensure the value and quality of goods and services received will be commensurate with what the common *mwananchi* requires.

The Bill also requires that the quality of goods and services provided are of high standard. The current scenario is that some of the goods that are provided, issued or sold to unsuspecting consumers are not of high standard. The county governments will liaise with Government entities, like Kenya Bureau of Standards (KEBS), to ensure that the goods they license will be of high quality and standard. This is because we are the Kenyan consumers. We will consume these products, goods or services.

This Bill will ensure that there is protection of consumers. It will also ensure there is standardisation of the goods that will be sold within the various sub-counties. It will also ensure that the Licensing Board has a uniform way of licensing, whether you want to grant, renew, transfer or replace a licence. It will be the requirement of the licensing authorities within the counties to give any comments or rejections to the licensee in writing. This is to avoid corruption which is an issue that has been raised by many of the contributors today. If communication is done in writing, it will avoid situations where licensees are told to bribe for them to get licences. If there is any further information required, the licensees will be given in writing.

This Bill also has the timelines within which a licence can be issued. It has been set at 28 days. If there are any comments or requests required by the licensing authority from the licensees, the timeframe within which a licensee should respond has been given. This is to ensure that the licensing regime is free from corruption.

This Bill will come in handy. It is very good and timely so that all county governments can conform to the uniformity. There is only one issue that was raised; uniformity may be unconstitutional. As a Committee, we have looked at it and we confirm that there is nothing unconstitutional about it.

Hon. Temporary Speaker, with these remarks, I beg to reply. Pursuant to the provisions of Standing Order 53(3), I wish to request that putting of the Question be deferred to another day.

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Thank you very much, Hon. Marianne, for ably replying to this Bill. Hon. Members, putting of the Question is deferred to another time, as will be scheduled by the House Business Committee (HBC).

*(Putting of the Question deferred)*

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Hon. Members, as per the re-organisation of the Order Paper, we will go back to Order No.9.

THE NATIONAL LAND COMMISSION (AMENDMENT) BILL  
(National Assembly Bill No.43 of 2023)

*(Moved by Hon. Owen Baya on 16.4.2024)*

*(Resumption of debate interrupted on  
17.4.2024 – Afternoon Sitting)*

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): This is resumption of debate that had a balance of three hours. The Member who was on her feet is not in. The Bill is now open for debate. I will give the first opportunity to the Leader of the Minority Party.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity to contribute to this Bill. I suppose I have 10 minutes or more. I am not sure. I seek your advice on the number of minutes that I have to contribute to this Bill. Let me proceed.

At the outset, I declare that I totally support this Bill which was sponsored by Hon. Owen Baya, Deputy Leader of the Majority Party, as a matter of principle. I looked at the section of the Act which is being amended. I can say, without fear of contradiction, that both Sections 14(1) and 15 of the Act were, in my considered view, unconstitutional initially. Why do I say so?

I hope the Leader of the Majority Party will listen to me because I am raising very fundamental issues here that may be of interest to him, going forward. For his benefit, I repeat that I support this Bill, as a matter of principle. As I have said, I have looked at the sections of the National Land Commission Act that Hon. Owen Baya is proposing to amend. I can say, without fear of contradiction, in my considered view or opinion, they were unconstitutional initially. Why do I say so? Whenever Parliament is called upon to enact laws or give effect to particular provisions of the Constitution, it cannot be that same law becomes a limitation or hindrance to the very provisions of the Constitution that it seeks to effect.

Article 67 of the Constitution focuses on the powers and functions of the National Land Commission (NLC). Article 67(2)(e) of the Constitution states that the function of NLC is to initiate investigations, on its own initiative or on a complaint, into present or historical land injustices, and recommend appropriate redress. These are powers that were given to the NLC by the Constitution. The drafters of the Constitution and Kenyans generally gave these powers to the National Land Commission through this Constitution. However, in the National Land

Commission Act, you find very glaring attempts to change the Constitution. If the drafters had intended that this function would only be performed within a specified period of time, then nothing stopped them from specifying so in the Constitution.

In Section 14(1), the Act goes ahead to suggest that the Commission shall within five years of the commencement of this Act, on its own motion or upon a complaint...and so on and so forth, undertake the function contemplated under Article 67(2)(e) of the Constitution. Whereas the Constitution has left it open, an ordinary Act of Parliament purports to enforce a time limitation. What was the wisdom of the House when it enacted this legislation? What was in the mind of the House? Was the House of the view that these historical land injustices would have been dealt with conclusively within five years? That the Commission would have dealt with all historical land injustices within five years? Was that the thinking of Parliament when it enacted this statute law?

My submission is that the House erred. It made a great error in purporting to limit the timeframe within which historical land injustices would be addressed by the National Land Commission. Therefore, the only limit that is available... We are lucky that the courts have not been moved to declare this section of the Act unconstitutional.

Therefore, Hon. Baya has given us and Kenyans in general, a golden opportunity to right the wrong that was occasioned through the enactment of this statute law. The only remedy for this ambiguity, illegality and unconstitutionality is to adopt the amendment being proposed by Hon. Owen Baya. We should allow the National Land Commission to undertake and execute its mandate and perform its functions as clearly contemplated under Article 67(2) of the Constitution. Otherwise, if we were to go with the provisions of this Act that no more historical land injustices cases will be dealt with by the Commission, how would we want Kenyans to deal with them? If by this limitation under the Act, the National Land Commission would no longer undertake its function under Article 67(2)(e), then who would perform that function? If the National Land Commission is barred from performing that function by dint of the provisions of the National Land Commission Act, who would be called upon to perform that function? That is the question we should be asking as a House.

Who shall we now go back to? Because in the current Constitution, no other authority has that function. No other authority or person can perform that function under Article 67(2)(e) other than the National Land Commission. Not the President, the Cabinet Secretary for Lands, Housing and Urban Development or anybody else. Do you want Kenyans to now go back to the rule of the jungle and square out their issues physically? For instance, if I feel that a land injustice was occasioned on me and the body mandated by the Constitution to address it is unable to do it, what do I do? Do I square it out with the person whom I feel has caused me the injustice?

It is only logical that the amendments being proposed by Hon. Owen Baya are endorsed and approved in totality by this House. In fact, this process should be expedited. As we speak, I know that there are cases pending before the National Land Commission. They might be cases which have come from elsewhere or which they have initiated on their own volition.

I know my friend Hon. Caroli Omondi is itching to speak to this. I will plead that we give him time to say something after this. To get to know what is in mind about this particular matter.

Hon. Temporary Speaker, from where I sit, I do not think we have any other route to cure this problem. I, therefore, plead with you Hon. Members and colleagues to expedite this Bill. Let us just adopt it like yesterday and have it assented to, for us to go back to where we should have been from the very beginning. We must allow the National Land Commission to perform its functions.

With those very many remarks, I support. Thank you.

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Temporary Speaker. I also rise to support this Bill by the Deputy Leader of the Majority Party, the very good Member for Kilifi North Constituency, and my very good friend.

This Bill, as the Leader of the Minority Party has said, is quite progressive. I agree with him that in the first instance, particular provisions in the law as it were, were indeed unconstitutional. You cannot limit what is expressly provided for in the Constitution through a statute. That is what Parliament had done. I believe in hindsight now because the Leader of the Minority Party and myself were in that House of the 11<sup>th</sup> Parliament. That was erroneous. It is said that it is only fools who do not change their minds. Since we are not fools, as a House, we ought to change our minds and align the statutes to the Constitution.

There are many land issues in this country, and not just historical land injustices. I know there are those who are in fear that this provision may give the National Land Commission an opportunity to look into private land matters and all that. But what is of greater importance to me is the disposition of public land.

Hon. Temporary Speaker, it is good that you are sitting as the Temporary Speaker today because you were the Chairperson of the Departmental Committee on Lands in this House in the last Parliament. You therefore know the number of land parcels around the country that have been taken up by the cartels. Those cartels are now taking advantage of the absence of this provision in the law to take up public land and subdivide it and corruptly process titles through the Ministry of Lands, Housing and Urban Development. They are now taking up land that is otherwise public land. There are many instances across the country, including in my own constituency where cartels have taken a chunk of over 100 acres of land that formerly belonged to the Kenya Forest Service. They have subdivided it and over the years, they have been trying to sell that land to innocent third party buyers. You can imagine the tragedy that befalls people when they buy land that has a title, having searched and found it to be clean only to learn later that the people who sold to them were illegitimate owners. It is only an independent commission that can fix some of these issues. This is the rot that has bedevilled the Ministry of Lands over the years. This is not something that can be fixed by the Ministry itself; they need a third eye which is the National Land Commission (NLC).

The drafters of our 2010 Constitution had every reason not to trust the Ministry alone. They created another independent arm, NLC to oversee what is being done in matters public land. I restrict myself to the issue of public land because that is where the rubber meets the road on matters theft of land.

When Sections 14 and 15 of NLC became redundant or lapsed within the five years after the commencement of the Act, NLC was left as an impotent body. Today, they would see Hon. Kimani Ichung'wah grabbing public land but because I am in a position of influence, I will get my way through the Ministry of Lands, process titles, subdivide it, dispose of it, and NLC would absolutely do nothing. This is what we want to correct. I commend the Member for Kilifi for having this Bill done.

I had a similar Amendment Bill last year which I had done as a Private Members Bill. The Ministry of Lands prevailed upon me to drop that particular amendment and they would incorporate it into a bigger Lands Amendment Bill that they were processing. I was shocked when the bigger Lands Amendment Bill came as these particular provisions were not provided for. And that is why I support Hon Owen Baya today as he has replicated exactly what I had done in my Amendment Bill that the Ministry of Lands prevailed me to drop in pretext that it was going to bring it together with the bigger Bill which is before the House. Without pre-empting debate, it is listed as Order 13.

Order 13, Sections 14 and 15 of the National Lands Commission Act were left out. I am obligated because it was originally my Bill. I support the Bill sponsored by my deputy because it captures the spirit of what the country wants.

The country desires to have a National Land Commission that has tooth to bite not one that cannot act when the people of Kenya are being dispossessed of their land by cartels and thugs. The cartels and thugs access power and can access the Ministry of Lands, and corruptly change public land into private hands. We can only depend on NLC to correct some of these ills. If and when the House adopts this Bill and gives NLC powers that they ought to have, they must move with speed to secure all public land, and in some instances private land.

I have a case in mind: you may have seen in the news a parcel of land next to Windsor Golf Hotel, on the border of Kiambu and Nairobi County. A small group of people changed ownership of a company of very old men who bought land many years ago by influencing people at the land's office, changed titles and transferred those titles to other people. These are matters under investigation. There is a Senior Police Officer in Nairobi who purports to be having breakfast with the Deputy President and dinner with the President. He forces police officers to guard the stolen land. You may dine with the President and have breakfast with the Deputy President or have lunch with the Leader of the Majority Party. However, you shall have no opportunity to steal land from the people of Kenya on account of the office you hold, because you can commandeer officers with guns.

This is the injustice being meted out on the people of Kenya over their land. We do not have a provision in law where those who feel treated unfairly can run to NLC and have the titles revoked. You will be shocked by that particular case around Windsor Golf Hotel; that none other than the Principal Secretary in charge of lands cancelled the particular titles or instigated the cancellation of those titles. There are senior police officers who are involved, and who now use their powers in the police to guard goons taking charge of private land. The other day, none other than the Cabinet Secretary herself, Ms Alice Wahome was locked out of her property in Loresho. There are goons and policemen who think they are a power unto themselves. That particular officer knows himself, and I want to tell him from the Floor of this House that there shall be no inch of grabbed land in Nairobi or its environs on account of a few claiming to dine and wine with who is who. Public land would remain public land and private land would remain private land.

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

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): I hope Hon. Opiyo does not have grabbed land.

**The Temporary Speaker** (Hon. Rachael Nyamai): What is out of order, Hon. Opiyo Wandayi.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Temporary Speaker, for sure Wandayi and land grabbing cannot be in one sentence. What the Leader of the Majority Party is saying is extremely serious. Is it possible that you could persuade him to name this officer? This House cannot continue to operate in generalities. The officer needs to be named and if not nameable, we need to know the force behind him. I do not think there can be an officer in the National Police Service who can have power and authority over and above the Leader of the Majority Party.

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): That is out of order.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Can you compel him to name the said police officer?

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): The Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Temporary Speaker. To quickly respond to the Leader of the Minority Party, there are people who have more powers than me. I cannot command a police officer. There are officers who have powers to command officers serving below them. If the Leader of the Minority Party was keen, I said it is a matter that is under investigation, and I do not want to jeopardise the investigations by naming people.

**The Temporary Speaker** (Hon. Rachael Nyamai): The Leader of the Majority Party, you did not state any name. I was keenly following, and therefore, nothing is out of order.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): I said a senior police officer who has the capacity and ability to command other officers. That tells you it is from the rank of a Sergeant, an Officer Commanding a Police Station (OCS), an Officer in Charge of Police in a District (OCPD), a County Commander, a Regional Commander, a Deputy Inspector-General or an Inspector-General. I did not name anybody, and I am not at liberty at this stage to do so, so as not to jeopardise the ongoing investigations. I know the owners of the land are preparing to petition this House when the investigations are over, and we shall name them.

This Administration, under President William Ruto, does not condone theft of public land by whoever; whether you are a police officer or a chief. Yesterday in my constituency, I had to intervene on a certain case: An Assistant Chief had grabbed land belonging to 130 squatters and subdivided it among seven members. I thank the area Deputy County Commissioner for quickly intervening to ensure that the people of Ruanyaga get back their rightful share. Once we restore the powers under Sections 14 and 15 of the National Land Commission Act, the NLC will use this to safeguard a lot of public land in many counties. An example is Kiambaa Constituency in Kiambu County, where you will not find a single piece of public land – not even a half an acre – on which to implement the affordable housing agenda.

The Government of Kenya has this opportunity to actualise the affordable housing agenda and ensure that grabbed public land is restored back to the public. You have seen many people across the country crying foul when the national Government moved to repossess land. The Ministry of Lands, Housing and Urban Development needs not fight with anybody but just give or issues of grabbed public land to the NLC. The Commission will have powers to revoke those titles and evict those occupying public land, and then we can then implement affordable housing projects on the land. That is the case in many of our urban centres, and not just in Nairobi City County.

Before the Leader of the Minority Party rose on a point of order, I was saying that you saw the Cabinet Secretary of Lands being stopped from accessing land by a group of goons in Loresho the other day. She went to help a private citizen whose land was being grabbed. It is not by accident that all these things touch on the police and are happening in Nairobi. It is not by accident. I have taken liberty to speak to it because I hear many people in Nairobi are threatened not to talk about it. We shall talk about it here. To the officer abusing his powers to grab land in Nairobi, your day is coming. In Kiswahili they say *siku za mwizi ni arubaini*. The 40<sup>th</sup> day is coming.

We, as an institution and as leaders, must play a part in ensuring that we empower our institutions. There is no better institution to empower other than an independent constitutional commission created by our Constitution of 2010. I agree with those who have argued and subscribed to the idea that the particular provisions giving them a timeframe of five years was, indeed, unconstitutional. On the hindsight, it is only up to this House to correct that anomaly.

Therefore, I support this Bill. I congratulate the Member of Kilifi North, who is also the Deputy Leader of the Majority Party, for bringing it to the House and giving life to Sections 14 and 15 of the National Land Commission Act once more.

I support.

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Thank you very much Leader of the Majority Party. Hon. Caroli Omondi, the Member for Suba South.

**Hon. Caroli Omondi** (Suba South, ODM): Thank you very much for giving me the opportunity to speak on this proposed amendment Bill.

I begin by acknowledging the great mischief perpetrated by whoever drafted Section 14 that we are seeking to amend. If you read it in totality, you first get the impression that there were noble intentions when they say “within five years.” You also get the impression that the

purpose was to give time for expedition of the filing and determination of any reviews regarding grants and disposition of public land. If you go down, you realise that such reviews and determinations require to be completed for all grants and dispositions. The words ‘if all.’ That means anything that was done, probably from 1963 to 2010. That comes to 2015. You can clearly see the mischief in a law that creates an impossible task to perform.

I support the proposal by Hon. Owen Baya that we delete “within five years” in that section. We should equally delete “all” and insert “any” so that it becomes a continuous process. I wanted to point out to the Leader of the Minority Party that Section 14 deals with alienation of public land. Historical injustices are under Section 15. If you read it, you can clearly see that a very serious mischief was created. I will be moving an amendment so that we delete the phrase “all grants and dispositions” and put “any” at the appropriate time. If we do not do that, what this limitation of five years means is that you cannot review any grant or disposition after five years. That is after 2015. They were shielding whoever would be dealing with alienation or disposition of public land after that five-year period.

Secondly, if you go to Section 5, it says, “the commission finds that the title was acquired in an unlawful manner, the commission shall direct the registrar to revoke the title.” That is the correct procedure because unlawful allocation is where public land that was not available for alienation is given out. That has been very common. What is unlawful is not defined. We will need to create some definition for that. If you go down to Section 5(6), you will find that irregularly acquired is defined, but certain elements critical to what this Act needs to address are missing. Irregularly acquired land is where land is available for allocation but the correct procedure was never followed. In that case, the drafters were very clever. They are saying they will not recommend revocation but rectification where there is irregular allocation. You will be given a chance to remedy the wrong. What they are not saying is that you will become a beneficiary of your fraud where the irregularity was tainted with fraud and deliberately fraudulent.

We need to relook at the definition because irregular allocation is defined in the Act. We need to look at that and distinguish honest mistake or irregularity from deliberate fraud. In that case, if that is established, revocation should follow because you cannot benefit from illegal activity. Section 5(7) says, “no revocation of the title shall be effected against a bona fide purchaser for value without notice of defect in the title.” The lawyers in the House will tell you that there is a principle in law and Latin known as *nemo dat quod non habet*. You cannot give that which does not belong to you. You cannot pass a better title than the one you have.

If it is established that your title was fraudulent, a third-party purchaser equally cannot get a better title. There are exceptions. This is one of them. It is a good exception where an innocent purchaser has bought a property without having defect in the title. What they do not tell you is that the original beneficiary or the person who committed the fraud, if not compelled to undertake restitution, becomes a beneficiary of his or her fraud. In other words, there will be cases of unjust enrichment where people will benefit from illegal activities. Again, we will be proposing an amendment. In case of irregular or unlawful allocation, the person who committed the fraud will be required to make restitution either to the state or to the person who paid them. They should make restitution to the person who paid them where there is a revocation. Where there is just restitution, they should be required to pay whatever they received or the value of the property depending on whichever is higher.

Further, I would like to go to the historical injustices in Section 17(3)(d) where my Leader of the Minority Party was very passionate. They imposed a five-year limit to historical injustices. It takes time if you want to look at historical documents in order to handle a matter and show that you were displaced, and your community lived there. Some of these documents are not even within the Republic of Kenya. They are in the archives in England. It was a

mischievous. I support the deletion of this clause so that issues of historical injustice or review of grants or disposition of public land are continuous and permanent power vested in the NLC.

As we undertake all these things, I want to point out that we need to be very careful. When you deal with land, there is very serious potential to disrupt the good commercial order of society. You can see the case of Zimbabwe, where the food basket has become a basket case by, again, issues of land. There are also very serious complications. When you are dealing with historical issues in Africa you need to remember, like in the case of Kenya, that the first formal registration of land was in 1905 and this law talks about 1895. So where do you start and where do you get the materials? The communal land ownership in Kenya was very fluid. There were no common boundaries. We used to have what was called usufructuary rights. You used land, then you moved on when you got tired of it. To make matters even worse, the coastal strip had a different legal system. We had the Sultan of Oman exercising domain at the coast and establishing land. That is why we have the Mazrui Land Act and all those other issues.

I would ask that as we support, let us have an open mind and we make those amendments as I have suggested.

Thank you very much, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Hon. Millie Odhiambo, are you on a point of order? Yes, you may proceed.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity.

I rise on Standing Order 1. I do not have my Standing Orders here, but this is something that can be within your discretion. We are proceeding in this House like everything is normal. We are hearing rumours of an air crash involving the Chief of Defence Forces (CDF), Francis Ogolla and five others. That is something of national interest and serious national concern. The Leader of the Majority Party is here. I think it would be good if he can allay our fears on whether it is true or not so that we can deal with this. I think it would be appropriate for us, as a House, not to proceed with the National Land Commission Bill when we are having such a serious national issue of national interest. Can he confirm whether the issue of the crash is true or whether it is merely a rumour? This is a very serious issue. Can we, please, be updated?

Thank you.

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Leader of Majority Party, are you able to respond?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Temporary Speaker. I hear what Hon. Millie has said. I confirm that, indeed, it is true that there has been a crash of a Kenya Defence Forces (KDF) helicopter, which we have seen in the news. Being responsible leaders, we do not want to speculate as to the cause of the crash. We are all awaiting news. It is being reported in the news that a number of people have lost their lives and there are few who have survived. It is only fair that we leave it to the KDF, because they are already on the ground, to confirm how many people have lost their lives and how many have survived. Let them establish the identities of those who were there and first communicate to their kin before the news is broken in any other manner. That is the most responsible thing to do.

Let me take this opportunity to convey my condolences to the families of those who may have lost loved ones in that crash. It is unfortunate that that had to happen. I am told the helicopter crashed somewhere in Elgeyo Marakwet.

Hon. Temporary Speaker, I beg that we leave it at that so that we do not get into speculation since we do not know which officers were on that flight, who has survived and who has passed on. Let us allow the relevant authorities to do what they need to do – like, first, communicate to the families of the ones who may have lost their lives. The country will be updated by the relevant authorities at the right time. I really beg that we leave that matter as it is for now.

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Hon. Members, I see two interventions but I will certainly not entertain points of order. I suggest that we proceed as per what has been stated by the Leader of the Majority Party. Taking into account the sensitivity of the matter that has been raised by Hon. Millie Odhiambo, I would like to state that we proceed as per the direction that has been given by the Leader of the Majority Party. I am avoiding us getting into a discussion on a matter that is not very clear to us.

Hon. Members, I will give opportunity to the Hon. Peter Kihungi, Member for Kangema. Are you in the House?

**Hon. Peter Kihungi** (Kangema, UDA): Thank you, Hon. Temporary Speaker. I stand to support the Bill by Hon. Baya.

One thing I would like to say is that the limited timeline within which the Commission could deal with historical injustices on matters to do with land could have affected many important things and some of the land injustices that needed to be sorted. As of now, most of the land, especially land under the county governments, has been grabbed. Those who undertook physical planning during the tenure of the former local authorities set aside land for cemeteries where people could bury the homeless. The planners had foreseen a situation where we could no longer continue to bury our people on our lands. Most of the land that was set aside for public cemeteries has already been grabbed. There was an instance in my constituency where a person who did not have land died, and we found that most of the cemeteries had been grabbed and occupied.

I wish to support the Bill. Anybody who has Government land or has grabbed land must understand that, that land will continue to be Government land however long it takes.

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

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): I am sorry for disrupting you, *Mheshimiwa*. I would like to give an opportunity for a point of order by the Leader of the Minority Party.

## QUORUM

**Hon. Opiyo Wandayi** (Ugunja, ODM): Thank you, Hon. Temporary Speaker. I rise on two issues. One, given the anxiety that has engulfed the nation following that helicopter incident, I do not think it would be proper for the House to continue with business as usual without clarity being provided on the nature of that helicopter incident and the casualties, if any. So, it would be proper, as a way of honouring those who have been affected one way or the other by that incident, for the House to adjourn and resume next week.

More seriously, the House has no quorum. All the other reasons are basic but more seriously, there is no quorum. I think we just have to adjourn. Thank you.

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): He was on a point of order and he has raised the matter of quorum. We will follow the procedure for quorum. Sergeant-at-Arms, I order that the Quorum Bell be rung for 10 minutes.

*(The Quorum Bell was rung)*

## ADJOURNMENT

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Hon. Members, at the expiry of 10 minutes, the House is not able to raise a quorum. Therefore, the House stands adjourned until Tuesday, 23<sup>rd</sup> April 2024, at 2.30 p.m.

The House rose at 5.10 p.m.

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