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THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

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THE HANSARD

Thursday, 21st March, 2024

The House met at 9.30 a.m.

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

PRAYERS

QUORUM

Hon. Deputy Speaker: Hon. Members, there is no quorum. I direct that the Quorum Bell be rung for ten minutes.

(The Quorum Bell was rung)

Hon. Deputy Speaker: Hon. Members, let us proceed.

PAPERS

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

1. The following documents relating to statutory instruments from the Ministry of Health—
 - (a) Legal Notice No.49 of 2024 relating to the Social Health Insurance Regulations, 2024;
 - (b) Legal Notice No.48 of 2024 relating to the Social Health Insurance (Tribunal Procedure) Rules, 2024;
 - (c) The Explanatory Memorandum on the Regulations and Rules;
 - (d) The Regulatory Impact Statement on the Regulations and Rules;
 - (e) The Consolidated Written Submissions Matrix;
 - (f) The Consolidated Physical Public Participation and Stakeholder Engagements Matrix;
 - (g) Report of the Public Participation and Stakeholder Engagements;
 - (h) Public Notices, Correspondence and Attendance Lists for Stakeholder Engagement and Public Participation.
2. Legal Notice No.50 of 2024 relating to the National Electronic Single Window System (General) Regulations, 2024, and the Explanatory Memorandum from the National Treasury (to be referred to the Committee on Delegated Legislation).
3. The Combined Sixth and Seventh Reports of all treaties ratified by Kenya from the Ministry of Foreign and Diaspora Affairs (to be referred to the Departmental Committee on Defence, Intelligence and Foreign Relations).

Hon. Deputy Speaker, I beg to lay.

(Hon. Naomi Wako laid the Papers on the Table)

Hon. Deputy Speaker: Chairman of the Decentralised Funds Accounts Committee, you have a Paper to table.

Hon. Gideon Mulyungi (Mwingi Central, WDM): Hon. Deputy Speaker, I beg to lay the following Paper on the Table:

Fourth Report of the Decentralised Funds Accounts Committee on its consideration of the reports of the Auditor-General on the financial statements of the National Government Constituencies Development Fund (NG-CDF) account for the Financial Years 2016/2017, 2017/2018, 2018/2019, 2019/2020, 2020/2021 and 2021/2022.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Next order.

NOTICE OF MOTION

ADOPTION OF REPORT ON FINANCIAL STATEMENTS FOR NG-CDF ACCOUNT

Hon. Gideon Mulyungi (Mwingi Central, WDM): Hon. Deputy Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Decentralised Funds Accounts Committee on its consideration of the reports of the Auditor-General on the financial statements of the National Government Constituencies Development Fund (NG-CDF) account for the financial years 2016/2017, 2017/2018, 2018/2019, 2019/2020, 2020/2021 and 2021/2022, laid on the Table of the House on Thursday, 21st March 2024.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Next Order.

MOTION

CONSIDERATION OF REPORT ON THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO. 2) BILL

THAT, this House do agree with the report of the Committee of the whole House on its consideration of the Statute Law (Miscellaneous Amendments) (No. 2) Bill, (National Assembly Bill No. 68 of 2023).

(Moved by Hon. George Murugara on 21.3.2024)

(Resumption of consideration interrupted on 21.3.2024)

(Question put and agreed to)

BILL

Third Reading

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO. 2) BILL (National Assembly Bill No.68 of 2023)

Hon. Naomi Waqo (Marsabit County, UDA): Hon. Deputy Speaker, I beg to move that the Statute Law (Miscellaneous Amendments) (No.2) Bill, (National Assembly Bill No.68 of 2023), be now read a Third Time.

I request Hon. Abraham to second.

Hon. Abraham Kirwa (Mosop, UDA): Hon. Deputy Speaker, I second.

(Question proposed)

Hon. Deputy Speaker: Is it the mood of the House that we put the question?

Hon. Members: Yes!

(Question put and agreed to)

Hon. Samuel Atandi (Alego Usonga, ODM): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is your point of order?

Hon. Samuel Atandi (Alego Usonga, ODM): Hon. Deputy Speaker, I fear that we are making approvals when the House does not have sufficient quorum. We do not have quorum but we have gone ahead to make serious approvals on those Bills.

(Loud consultations)

There is no quorum. Just count the Members present.

Hon. Deputy Speaker: The numbers are there. It has been confirmed that we have quorum.

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

Let us proceed to the next Order.

BILL

First Reading

THE INSURANCE PROFESSIONALS BILL
(National Assembly Bill No.13 of 2024)

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

Hon. (Dr.) James Nyikal (Seme, ODM): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Nyikal, you are becoming popular for being a nuisance and trying to cause trouble in the House. Let us conduct the business of the House with the decorum that the country deserves.

Let us proceed.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

[The Temporary Chairlady (Hon. Martha Wangari) in the Chair]

THE HOUSES OF PARLIAMENT (BICAMERAL RELATIONS) BILL
(National Assembly Bill No.44 of 2023).

(Hon. Simon King'ara and Hon. Moses Kirima consulted along the aisle)

The Temporary Chairlady (Hon. Martha Wangari): Order, Hon. Members. Hon. Kirima and Hon. King'ara, take your seats.

Hon. Members, we are in the Committee of the whole House. We will start with the Houses of Parliament (Bicameral Relations) Bill (National Assembly Bill No.44 of 2023).

Clause 3

Hon. George Murugara (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move: THAT, Clause 3 of the Bill be amended—

- (a) in paragraph (b) by deleting the words “of the Houses” appearing immediately after the word “either” and substituting therefor the word “House”;
- (b) in paragraph (h) by deleting the words “by the Constitution for purposes of” appearing immediately after the word “contemplated” and substituting therefor the word “under”;
- (c) in paragraph (j) by inserting the following new subparagraph immediately after subparagraph (iv)—
“(v) The procedure governing joint sittings between the Committees of Parliament;”
- (d) in paragraph (k) by deleting the words “their respective functions” appearing immediately after the word “Parliament” and substituting therefor the words “of their respective functions, or otherwise”.

The justification is that we have to correct the typographical errors. We have to include the provision of a procedure to govern joint sittings between the committees of the two Houses as an object of the Bill.

I beg to move.

The Temporary Chairlady (Hon. Martha Wangari): Thank you.

(Question of the amendment proposed)

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

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

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

(Clause 3 as amended agreed to)

(Clause 4 agreed to)

Clause 5

Hon. George Murugara (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move: THAT, Clause 5 of the Bill be amended—

- (a) in subclause (1) by inserting the words “and assented to by the President” immediately after the word “Constitution”;
- (b) in subclause (2) by inserting the words “and assented to by the President” immediately after the word “Constitution”.

The justification is to align the provisions in the clause with the language of Article 116 of the Constitution.

(Question of the amendment proposed)

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

(Clause 5 as amended agreed to)

Clause 6

Hon. George Murugara (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move: THAT, Clause 6 of the Bill be amended—

(a) in subclause (2) by deleting the words “county governments” appearing immediately after the word “concerns” and substituting therefor the word “counties”;

(b) by inserting the following new subclause immediately after sub-clause (2)—
“(2A) in determining whether a question has arisen under Article 110 (3) of the Constitution, a Speaker shall, for the purposes of sub-section (2)—

- (a) consider the Bill’s purpose, intent and legal effect;
- (b) examine the contents of the Bill and the memorandum of objects and reasons to ascertain its inherent nature;
- (c) consider whether the Bill falls under the exclusive mandate of the National Assembly pursuant to Article 109(3) of the Constitution; and,
- (d) consider whether the provisions of the Bill specifically affect the functions and powers of county governments as set out in the Fourth Schedule to the Constitution.

(c) by deleting sub-clause (5).

The rationale is to align the provisions of the clause with the language of Article 110 (3) of the Constitution.

(Question of the amendment proposed)

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

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

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

(Clause 6 as amended agreed to)

(Clauses 7, 8 and 9 agreed to)

Clause 10

Hon. George Murugara (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move: THAT, Clause 10 of the Bill be amended—
(a) in subclause (2) by deleting the word “Speaker” appearing immediately after the words “Speaker of the originating House”;
(b) in subclause (4) by deleting the word “on” appearing immediately after the words “notify the House” and substituting therefor the word “of”.
The rationale is to correct some typographical errors.

(Question of the amendment proposed)

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

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

(Clause 10 as amended agreed to)

Clause 11

Hon. George Murugara (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move: THAT, Clause 11 be amended by deleting subclause (1) and substituting therefor the following new subclause—
“(1) Where the Speakers are unable to jointly resolve a question arising under Article 110 (3) of the Constitution, the Speakers may-
(a) refer the Bill to its sponsor for further consideration;
(b) jointly appoint any person or body of persons to make such recommendations within fourteen days on the way forward as may be appropriate.”

The rationale for the amendment is to allow the sponsor of a Bill to reconsider the particular content on which the two Speakers have been unable to jointly resolve a question that has arisen. We have also increased the period given to the person or a body of persons appointed to advise the Speakers on such content from a maximum of seven days to a maximum of 14 days. That is when a Bill is taken from one House to the other and the two Speakers cannot agree and, therefore, we need to have a resolution mechanism in which either the sponsor or a person appointed by the two Speakers reconciles the position.

(Question of the amendment proposed)

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

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

The Temporary Chairlady (Hon. Martha Wangari): There is a proposed amendment by Hon. Ojiambo Oundo to amend sub-clause (1)(b) but, the consequence of carrying the Chairman's amendment is that his falls automatically.

(Proposed amendment by Hon. Ojiambo Oundo dropped)

(Clause 11 as amended agreed to)

Clause 12

Hon. George Murugara (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 12 of the Bill be amended—

(a) in sub-clause (2) by deleting the word “shall” appearing immediately after the words “of a money Bill, the Assembly” and substituting therefor the word “may”;

(b) in subclause (3) by—

(i) inserting the word “or” immediately after the word “Constitution” appearing in paragraph (a);

(ii) by deleting paragraph (b) and substituting therefor the following new paragraph—

(b) the relevant departmental committee of the Assembly or a Member be at liberty to adopt the Bill and that the Bill be deemed to have originated in the Assembly pursuant to the provisions of Article 109(5) of the Constitution.”

The justification is that we have to align sub-clause (2) with the provisions of Article 114 of the Constitution. Secondly, we have to amend the reference to co-sponsorship of a Bill by Members of different Houses to a process where a Member or a Committee of the other House adopts a Bill.

In essence, we are providing that two Members of separate Houses cannot co-sponsor a Bill. Once a Bill moves from one House to the other, the person who will move it in the other House will adopt it, and not co-sponsor it.

(Question of the amendment proposed)

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

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

(Clause 12 as amended agreed to)

Clause 13

The Temporary Chairlady (Hon. Martha Wangari): Mover.

Hon. George Murugara (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move: THAT, Clause 13 of the Bill be amended—

- (a) in the marginal note by deleting the word “Co-sponsorship” and substituting therefor the word “Adoption”;
- (b) in sub-clause (1) by deleting the words “to co-sponsor a Bill with” appearing immediately after the words “in charge of a Bill intends” and substituting therefor the words “that his or her Bill be adopted by”;
- (c) in sub-clause (2)(b) by deleting the word “co-sponsor” appearing immediately after the words “nominated to” and substituting therefor the word “adopt.”

The justification is to amend the reference to co-sponsorship of a Bill by Members of different Houses to a process where a Member adopts the Bill.

(Question of the amendment proposed)

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

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

(Clause 13 as amended agreed to)

Clause 14

The Temporary Chairlady (Hon. Martha Wangari): Mover. We will start with the amendment by Hon. Ojiambo Oundo.

Hon. (Dr.) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 14 of the Bill be amended—

- (a) in sub-clause (2) by inserting the words “within four sitting days or, when on recess, within seven calendar days” immediately after the words “mediation committee”;
- (b) by deleting sub-clause (4) and substituting therefor the following new sub-clause—

“(4) The Chairperson of the mediation committee shall be appointed from the members of the House that rejected the Bill and the Vice-Chairperson shall be appointed from the members of the House that originated the Bill.”

The import of the amendment, as it is in the parent Bill, sub-clause 2 does not provide any timing as to when, either the Speaker of either House can appoint the members of the mediation committee. It is left open-ended. I am, therefore, proposing that to make it neat and make the process progress as soon as possible after a communication is made by the Speaker, within four sitting days or when in recess, or within seven calendar days and immediately after the words “mediation committee”... This is essentially to put some timelines so that we do not leave the matter in abeyance inordinately too long.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. Martha Wangari): Chairperson, Departmental Committee on Justice and Legal Affairs.

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Temporary Chairlady. I have looked at the proposed amendment and consulted with Hon. Chepkong'a, who is the Mover or the sponsor of the Bill, and we are of the view that it enhances and makes it better by incorporating that proposal. We, therefore, concede to the proposed amendment.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Chepkong'a, has Hon. Murugara spoken for you?

Hon. Samuel Chepkong'a (Ainabkoi, UDA): Yes, and I thank you.

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

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

The Temporary Chairlady (Hon. Martha Wangari): Mover for the second amendment on Clause 14, Hon. Chairperson.

Hon. George Murugara (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move: THAT, Clause 14 of the Bill be amended in sub-clause (7) by inserting the words "the Chairperson, Vice-Chairperson or" immediately after the words "House by";

The justification is that we have to allow the chairperson, the vice-chairperson or a member of the mediation committee to table the report of the committee to the House.

(Question of the amendment proposed)

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

(Clause 14 as amended agreed to)

Clause 15

The Temporary Chairlady (Hon. Martha Wangari): Mover.

Hon. George Murugara (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move: THAT, Clause 15 of the Bill be amended—

- (a) in sub-clause (2) by deleting the words "and Senators" appearing immediately after the words "National Assembly" and substituting therefor the words "and the Senate";
- (b) in sub-clause (4) by deleting the words "or more" appearing immediately after the word "two-thirds"

The rationale is to correct a typographical error and to set the quorum of a joint committee to, at least, two-thirds of all Members of the Committee.

(Question of the amendment proposed)

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

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

(Clause 15 as amended agreed to)

Clause 16

The Temporary Chairlady (Hon. Martha Wangari): Mover.

Hon. George Murugara (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move: THAT, Clause 16 of the Bill be amended—

(a) in sub-clause (1) by inserting the words “with the written permission of the Speakers of the National Assembly and the Senate” immediately after the word “may”;

(b) by inserting the following new sub-clauses immediately after sub-clause (1)—

“(1A) The quorum of a joint sitting shall be a third of its members from the National Assembly and a third of its members from the Senate.

(1B) Unless a decision is reached by consensus, any vote to be taken in a joint sitting shall be by separate Houses.”

The rationale is to require committees of the two Houses to hold a joint sitting to obtain the permission of both Speakers, (not to do it on their own motion) and to set the quorum requirements and modalities of conducting a vote in a joint sitting of the committees. Each House will have to vote separately. Therefore, we will not have the House with the majority number of Members carrying the day to the disadvantage of the House with lesser Members.

(Question of the amendment proposed)

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

(Clause 16 as amended agreed to)

(Clauses 17 and 18 agreed to)

Clause 19

The Temporary Chairlady (Hon. Martha Wangari): Mover. Hon. Ojiambo Oundo.

Hon. (Dr.) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 19 of the Bill be amended—

(a) in sub-clause (4) by inserting the words “and a memorandum on the extent to which the relevant committee has incorporated the views of the public in the Bill” immediately after the words “report on the Bill”;

(b) by deleting sub-clause (8).

The import is to add a document to be supplied by the House referring back to the other House so that we deal with the issue of public participation. “And a memorandum on the extent to which the relevant committee has incorporated the views of the public in the Bill”.

These are consequential amendments because there is a clause already in the Bill that requires that where public participation has to be done, the other House has to dispense of public participation to avoid duplication. To make it cleaner and to assuage everybody, let us just add “and a memorandum”, indicating, yes, we received these views and this is what we incorporated. Then left out “the following” to comply with the Constitution.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. Martha Wangari): Hon. Chepkong’ a.

Hon. Samuel Chepkong’a (Ainabkoi, UDA): Hon. Temporary Chairlady, we totally reject that proposal. The import of that proposal is that every memorandum from the members of the public must be included. We are seeking the views of the public and a memorandum cannot be part of the law, but just an assistance in the making law. You cannot say that it has to be considered, forcing the House to consider a memorandum and that if we do not, it becomes a point of contention in court.

You are tying the hands of the Members of Parliament. Hon. Oundo, where have you ever heard of that one? You cannot force Members of Parliament to do something. Article 94 of the Constitution is very clear. The mandate of the Members of Parliament is to legislate. In our legislative mandate, you cannot, therefore, delegate to somebody else. We have accepted the other good amendments, but this is bad. It will neither help this House nor advance the interrelations between the two Houses.

The Temporary Chairlady (Hon. Martha Wangari): I do not want you to respond, Hon. Oundo. Let me give the Chairperson of the Departmental Committee on Justice and Legal Affairs, then you, because you are the Mover.

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Temporary Chairlady. We reject this proposal because it recommends that we have to include what the public says in a law that Parliament is proposing. The constitutional provision is that we have to consider the participation of the public, but we are under no obligation whatsoever to include whatever they say in the law we are passing. This goes over what is provided. Therefore, we need to reject it.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Oundo.

Hon. (Dr.) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, whatever fate befalls that particular amendment, let me just clarify that we are asking for a seamless transfer of information from one House to another. This is because there is already a requirement in the Bill that says that where public participation has been done, the other House can adopt what has been done without necessarily going to do another public participation. So, I am not asking that they present the various memoranda that have been presented by the members of public. All I am saying is that they present a report confirming, for example, that certain views were received from certain groups. It is a very simple statement. It is just a memorandum. It is as simple as that. I am not saying that we transmit the written memorandum from the members of the public.

In any case, Hon. Temporary Chairlady, the provision of the Constitution about public participation is not cosmetic. It is not a farce. It was meant to guide legislative process because Members of Parliament act on behalf of the electorate; they do not act on their own behalf. So, whatever fate befalls this amendment, it is just enhancing it.

The Temporary Chairlady (Hon. Martha Wangari): You have made your point, Hon. Oundo. Member for Tigania West.

Hon. (Dr.) John K. Mutunga (Tigania West, UDA): Thank you, Hon. Temporary Chairlady. I want to comment on this issue. Indeed, it is possible to get a report from the other House about the public participation that has been conducted. In the near future, probably, we

shall have a law on public participation prescribing exactly how public participation is supposed to take place. But supposing the other side decides to say: "This is the report. However, we left out 1, 2, 3, 4, and 5". Shall we have an end to that process? Let us just leave the amendment as it is.

(Question, that the words to be added be added, put and negated)

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

(Clause 19 agreed to)

Clause 20

The Temporary Chairlady (Hon. Martha Wangari): This will be moved by Hon. Chepkong'a on behalf of the Leader of Majority Party.

Hon. Samuel Chepkong'a (Ainabkoi, UDA): Correct. I have instructions to do so.

Hon. Temporary Chairlady, I beg to move:

THAT, Clause 20 of the Bill be amended by inserting the following new sub-clauses immediately after sub-clause (4)—

(5) If a court is satisfied that a House of Parliament, in an attempt to resolve a dispute, has not exhausted all the mechanisms of alternative dispute resolution as contemplated under this section and refers the dispute back for the reason that the House of Parliament has not complied with this section, the expenditure incurred by that House of Parliament in approaching the court shall be regarded as wasteful expenditure.

(6) The costs in respect of the wasteful expenditure under subsection (5) shall, in accordance with a prescribed procedure, be recovered without delay from a public or state officer, including a holder of a political office, who caused the House of Parliament not to comply with the requirements of this section.

The import of this is that since we have agreed on alternative dispute resolution, no House will decide to go to court on their own Motion. First, it must exhaust the procedures that are provided in this Bill. That is mediation, reconciliation or arbitration. If one goes to court without following this procedure, they will be held personally responsible for the cost that will be incurred by whichever House to defend that petition that is placed before the court. This is to prevent people from rushing to court without exhausting the internal mechanisms that are contained in the law that we are about to pass.

I thank you.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. Martha Wangari): Hon. Oundo.

Hon. (Dr.) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, I want Hon. Chepkong'a and Hon. Murugara to listen carefully. We must never legislate in vain. The Bill of Rights allows access to the court of law, and there should be no impediments to access the courts of law. Any Bill that purports to limit access to courts of law is essentially unconstitutional.

I understand where the Leader of the Majority Party is coming from, which is to avoid frivolous applications to the courts and to avoid situations where we waste time. However,

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legislating any measures to gag access to a court of law is unconstitutional. We have fought for free access to the courts of law for many years. Please, the two of you are eminent lawyers. You must seriously look at this particular amendment to avoid a situation that obviously makes a mockery of a legislative making process. Honestly speaking, review this. This is gagging members of wherever. It is unprofessional. In any case, Hon. Speaker, the place of legislation does not always mean you end up being successful. Honestly speaking, how? Hon. Nyikal, how?

The Temporary Chairlady (Hon. Martha Wangari): Hon. Members, kindly use your cards on interventions. Hon. Chepkong’ a.

Hon. Samuel Chepkong’ a (Ainabkoi, UDA): Hon. Temporary Chairlady, I sympathise with my very good friend, Prof. Oundo. There is a plethora of cases where it has been decided that, if there is an internal resolution mechanism, you first go there. Even if you went to court today, they would tell you to go back. If there is an arbitration clause, it is something that is known. We have made it clear that you do not need to go to court. You first need to exhaust the internal mechanisms of resolving the disputes between the Houses. In fact, it is good for you so that we do not need to wash our dirty linen in court, which is outside our Houses. Why do you want someone else to decide on our issues?

The Temporary Chairlady (Hon. Martha Wangari): You have made your point, Hon. Chepkong’ a. Hon. Member for Ndhiwa.

Hon. Martin Owino (Ndhiwa, ODM): Hon. Chepkong’ a, we want this to be good, but this is very dangerous. For example, if a court is satisfied, where is the mechanism that will tell us that between these two Houses...? Sometimes, these things are driven by interests. Delays can also be there. We are talking of a mechanism which is not even there to be depended upon. This is dangerous.

Please drop this. It will not help us, as a House.

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

(Clause 20 as amended agreed to)

(First and Second Schedules agreed to)

Clause 2

The Temporary Chairlady (Hon. Martha Wangari): Hon. Martin Owino, you have an amendment.

Hon. Martin Owino (Ndhiwa, ODM): Yes. Hon. Temporary Chairlady, I beg to move: THAT, Clause 2 of the Bill be amended by inserting the following new definitions in proper alphabetical sequence —

“Originating House” means a House of Parliament in which a Bill is first introduced; and,

“Second House” means a House of Parliament other than the originating House.

The import of this is that the words ‘Originating House’ and the ‘Second House’ has been used prominently in the Bill. So, I am trying to define them. What I am doing is ensuring they are defined so that they are properly in the Bill. That is all.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. Martha Wangari): Chairperson of the Departmental Committee on Justice and Legal Affairs.

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Temporary Chairlady. I have listened to the proposed definition of the Originating House and Second House. I have no problem with this because the terminology used in the Bill has to be correctly defined. I agree with this.

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

(Clause 2 as amended agreed to)

Long Title

The Temporary Chairlady (Hon. Martha Wangari): Chairperson, you have an amendment to the Long Title.

Hon. George Murugara (Tharaka, UDA): Yes I do. Let me get it right.

Hon. Temporary Chairlady, I beg to move:

THAT, the Long Title of the Bill be amended by inserting the word “a” immediately after the words “matters of”;

The essence of this is just to insert one missing word.

(Question of the amendment proposed)

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

(Long Title as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

Hon. Silvanus Osoro (South Mugirango, UDA): On a point of order, Hon. Temporary Chairlady.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Osoro, what is out of order?

Hon. Silvanus Osoro (South Mugirango, UDA): Thank you, Hon. Temporary Chairlady. I intend to take Clause 14 (d) for recommittal at the right time.

The Temporary Chairlady (Hon. Martha Wangari): It is noted. We will do that later. I now call the Mover to move reporting.

Hon. (Samuel Chepkong’ a (Ainabkoi, UDA): Hon. Temporary Chairlady, I beg to move that the Committee do report to the House its consideration of the Houses of Parliament (Bicameral Relations) Bill, (National Assembly Bill No. 44 of 2023), and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

THE STATUTORY INSTRUMENTS (AMENDMENT) BILL

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(National Assembly Bill No. 3 of 2024)

The Temporary Chairlady (Hon. Martha Wangari): Hon. Members, we shall continue with the Committee of the whole House to consider the Statutory Instruments (Amendment) Bill, (National Assembly Bill No. 3 of 2024).

Clause 2

The Temporary Chairlady (Hon. Martha Wangari): Mover.

Hon. (Samuel Chepkong'a (Ainabkoi, UDA): Thank you, Hon. Temporary Chairlady. I beg to move:

THAT, clause 2 of the Bill be amended by deleting the proposed new subsection (5) and substituting therefor the following new subsection—

“(5) Where it comes to the attention of the Committee that a Cabinet Secretary responsible for a regulation-making authority has failed to submit a statutory instrument in accordance with subsection (1), the committee may, by a resolution, require the Cabinet Secretary to publish a notice in the gazette within seven days from the date of the resolution to the effect that the statutory instrument is a nullity, and to submit the notice to Parliament upon publication.

The import of this amendment is that the Cabinet Secretary responsible for a regulation-making authority who fails to submit a statutory instrument in accordance with the law will be required by a resolution of this House to publish a notice in the gazette that the statutory instrument is a nullity. So that no member of the public can rely on a regulation that is null and has not been brought to the House.

Thank you.

(Question of the amendment proposed)

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

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

(Clause 2 as amended agreed to)

Clause 3

The Temporary Chairlady (Hon. Martha Wangari): We have a proposed amendment by Hon. Ojiambo Oundo.

Hon. (Dr.) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Temporary Chairlady. I beg to move:

THAT, the Bill be amended by deleting clause 3.

The reason is that the original Bill says that the provision of subsection 1 shall not apply to any rules, regulations and orders emanating from a court of competent jurisdiction in Kenya. Deleting that clause, as already provided for in this Bill, would mean typical court orders, practice notes and regulations governing the conduct of court processes will be subjected to the Statutory Instruments Act.

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I have also looked at the amendment being moved by the Committee, in which they have said rules and regulations, since they have common applications all over, will be deleted. However, we allow court orders to remain as they are. If the Committee amendments are carried, I will drop my amendment. This is because my apprehension and that of others will have been covered. You cannot subject court orders to the process of statutory instruments as required in the Act.

Thank you, Hon. Temporary Chairlady.

The Temporary Chairlady (Hon. Martha Wangari): Are you dropping your amendment on record? Yours is a deletion.

Hon. (Dr.) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, my apprehension is this: If I drop my amendments and then amendments proposed by the Committee are lost...

The Temporary Chairlady (Hon. Martha Wangari): We are already prosecuting your amendment, which is a deletion.

Hon. (Dr.) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Temporary Chairlady. Let us do this since the Committee's amendment takes precedence over a Member's amendment. Allow me to approve mine as a precaution because I am not God. I do not know how they will vote.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Oundo, you have been here long enough. You are prosecuting your deletion. Allow me to put the question on your amendment and then, whatever happens to yours will determine what happens to the other one. First, allow me to propose the question because I have not. Hon. Nyikal, please hold on a bit.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. Martha Wangari): Hon. Nyikal, I will give you a few minutes.

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Chairlady. We have an agreement in this area except the procedure. Sometimes, I see that if one amendment will cover... We normally start with the Committee's amendment, and if it passes, then the Members drop theirs. The one that passes covers the other one. But if he drops his and the other one fails, we are left... So, if we go the procedural way, it will help. Hon. Oundo will feel safe that he is covered and will drop his amendment. Hon. Chepkong'a, we have done this many times. I do not know why we are doing it the other way around this time.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Chepkong'a.

Hon. Samuel Chepkong'a (Ainabkoi, UDA): Hon. Temporary Chairlady, this is a matter that was discussed exhaustively in the Committee. We took the legal counsel's advice. If we go the route Hon. Oundo wants, the civil procedure rules will never be brought to this House. I wish to request that you let me move mine, because it will be adopted. If you are going to delete it, it means that the....

The Temporary Chairlady (Hon. Martha Wangari): Hon. Chepkong'a, you are totally out of order. Do not pre-empt debate. You cannot say that because Hon. Members have not taken a vote on your amendment. You have not even prosecuted your amendment.

Hon. (Samuel Chepkong'a (Ainabkoi, UDA): I was trying to persuade him, but if he refuses to drop it, we will oppose it.

The Temporary Chairlady (Hon. Martha Wangari): We are not dropping at this point. We are already prosecuting it. So, allow me to put the Question.

Hon. (Samuel Chepkong'a (Ainabkoi, UDA): We oppose it because you know it is...

The Temporary Chairlady (Hon. Martha Wangari): It is your right to oppose, Hon. Chepkong'a. Member for Marakwet West, Hon. Timothy Kipchumba, proceed.

Hon. Timothy Kipchumba (Marakwet West, Independent): Thank you, Hon. Temporary Chairlady.

Initially, I had associated myself with the amendments by Hon. Oundo. But having looked at the proposed amendment by the Committee that is chaired by Hon. Chepkong'a, I support the amendment as proposed by the Committee that we retain rules and regulations to be subjected to the process of statutory instruments and we delete the words "orders of the court" and, therefore, not subject them to scrutiny by this House. I stand to support the amendment by the Committee.

The Temporary Chairlady (Hon. Martha Wangari): We are not there yet, Hon. Timothy. You are following Hon. Chepkong'a's line. We have not yet prosecuted Hon. Chepkong'a's amendment. We are on Hon. Oundo's amendment on deletion. Any other Member? If not, I will put the Question.

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

We have a further proposed amendment by the Chairman of the Committee on Delegated Legislation, Hon. Chepkong'a.

Hon. (Samuel Chepkong'a (Ainabkoi, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 3 and substituting therefor the following new clause—

3. Section 12 of the Principal Act is amended by deleting the words "rules, regulations and" appearing in subsection (3).

The import of this, as clearly set out by my very good friend, Hon. (Dr.) Oundo, is that we want to remove court orders from being subject to consideration by this House. Courts are independent in their nature. We are saying that scrutiny should only apply to rules and regulations.

Thank you.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. Martha Wangari): Hon. Member for Funyula, you must have a say on this.

Hon. (Dr.) Ojiambo Oundo (Funyula, ODM): Indeed, I agree with Hon. Chepkong'a. That is why I said I am just holding my breath and keeping my fingers closed since they know how to vote in unison. Can the Almighty God descend in their hearts and vote in unison to maintain the independence of the Judiciary, which we have fought for since the repeal of Section 2A of the old Constitution?

Thank you, Hon. Temporary Chairlady. I pray hard that my prayers may be heard. The Whip of the Minority party, do the way you do it.

(Laughter)

The Temporary Chairlady (Hon. Martha Wangari): Member for Marakwet West.

Hon. Timothy Kipchumba (Marakwet West, Independent): Hon. Temporary Chairlady, I can now procedurally support the amendment by Hon. Chepkong'a. Court rules and regulations must be subject to scrutiny by this House so that we can look at civil procedure rules. The only thing to be exempted is the court orders. There is no way this House can scrutinise court orders.

I support the amendment that this House looks critically at rules and regulations that are adopted by the Judiciary.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Sunkuli.

Hon. Julius Sunkuli (Kilgoris, JP): Hon. Temporary Chairlady, as the Committee on Delegated Legislation, we carefully looked at that clause. It was the effort of our scrutiny that produced it. Although the courts make rules that are subject to the approval of the Committee on Delegated Legislation, there are other things, like court orders, which we cannot look at. The Judiciary is independent, but the rules they make, which will affect the public other than their judgements, should be subject to scrutiny. So, we support.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): I support this because it supports the rule of law.

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

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

(Clause 3 as amended agreed to)

Clause 4

The Temporary Chairlady (Hon. Martha Wangari): There is a proposed amendment by the Hon. Chairman.

Hon. (Samuel Chepkong'a (Ainabkoi, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 4.

The import of this is that it is not possible to bring all emergency regulations to the House. For instance, the COVID-19 Rules. They cannot be brought to the House because that is an emergency. They are approved by the Committee which quorate. It has 21 Members, and that should not be a problem. We considered this in the Committee and agreed that this clause be deleted.

(Question of the amendment proposed)

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

(Clause 4 deleted)

(Clauses 5, 6, 7 and 8 agreed to)

Clause 9

The Temporary Chairlady (Hon. Martha Wangari): Mover.

Hon. (Samuel Chepkong'a (Ainabkoi, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 9 and substituting therefor the following new clause —

9. Section 27 of the principal Act is amended by inserting the following new subsection immediately after subsection (2) —

“(3) Any statutory instrument that was in operation and that would otherwise stand automatically revoked on any day before the commencement of this provision, shall continue to operate and to have effect as if the instruments had not been automatically revoked on that date.”

The import of this proposed amendment is to cure the effect or the impact of Section 21, which provides that the regulation shall lapse after ten years. Those regulations must be reviewed and brought to the Committee. As we know, we have almost 1,900 regulations that are lapsing as a consequence of lapse of time. We have said that the regulations must not lapse as a consequence of time. They must lapse because an event has taken place, and that event should include an amendment to the parent Act. If the parent Act has not been amended, why should it lapse? They should continue to operate. That is the gist of this particular amendment.

Thank you.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Oundo, hold on a moment I propose the Question.

(Question of the amendment proposed)

Hon. (Dr.) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, that is a progressive amendment, and that is how we should always avoid wastage of resources, duplication and cumbersome processes.

We must also pass a warning to regulatory authorities that some regulations could actually be outdated by now. Some that were made and passed in the 1960s and 1970s could be outdated. They should not use this amendment to continue with obsolete and draconian regulations. They should progressively review them to align with the current situation, the Constitution and the ever-changing environment in this country.

I call upon the Committee on Delegated Legislation, as we had started last term, to progress. We were with you, Hon. Vice-Chair. We need to progressively relook at all the regulations and find out the ones that require re-doing and the ones that can remain as they are for the time being, knowing the constraint of resources.

I support the amendment.

The Temporary Chairlady (Hon. Martha Wangari): Thank you. Member for Marakwet West.

Hon. Timothy Kipchumba (Marakwet West, Independent): Hon. Temporary Chairlady, I rise to support the amendment by the Committee. The sunset clause on the lapse of these instruments was very dangerous for this country. I thank the Committee for coming up to save the country because this could have caused monumental legal challenges in the legal landscape. Therefore, I rise to support this amendment.

(Hon. Jared Okello spoke off the record)

The Temporary Chairlady (Hon. Martha Wangari): Hon. Jared Okello, use your card. You are seated in the wrong seat. Anyway, I will give you the Floor. Take one minute.

Hon. Jared Okello (Nyando, ODM) Thank you.

I am a Member of the Committee on Delegated Legislation. I agree with the proposal because Section 13 of the Statutory Instruments Act gives the Committee powers to summon any Government agency whose Regulations have become obsolete either by dint of time or relevance. Therefore, this really cures that kind of concern so that they do not have to lapse after 10 years.

Hon. (Dr.) Ojiambo Oundo (Funyula, ODM): On a point of order, Hon. Temporary Chairlady.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Oundo, I want to confirm that Hon. Jared Okello may be considering moving but, I am not sure. He can confirm. I will give you a minute. What is out of order?

(Laughter)

Hon. (Dr.) Ojiambo Oundo (Funyula, ODM): I am flabbergasted, apprehensive and worried that our good Member has crossed the Floor without folding the party. That neighbour is none other than the good Member of Parliament for the people of Nyando Constituency. Would you kindly come where you belong? You look so uncomfortable on the other end and everybody is worried. Can you come back to where you feel more comfortable?

(Laughter)

The Temporary Chairlady (Hon. Martha Wangari): Member of Nyando, I am giving you a right to reply.

Hon. Jared Okello (Nyando, ODM): Hon. Temporary Chairlady, I have been adversely mentioned by Hon. Oundo who brings unnecessary imbroglia into this matter. I am seated next to my Committee Chairman. These amendments originated from our Committee. I am assisting him to push these amendments to the very end. I belong to the Orange Democratic Movement (ODM). I belong to the Azimio Coalition; now and forever.

(Laughter)

The Temporary Chairlady (Hon. Martha Wangari): That is well noted, Hon. Members.

(Question of the amendment proposed)

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

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

(Clause 9 as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

(Loud consultations)

The Temporary Chairlady (Hon. Martha Wangari): Order, Hon. Members. We have come to the end of the Committee of the whole House on the Statutory Instruments (Amendment) Bill, (National Assembly Bill No. 3 of 2024). I call upon the Mover to move reporting. Hon. Naomi Waqo, on behalf of the Leader of the Majority Party.

Hon. Naomi Waqo (Marsabit County, UDA): Hon. Temporary Chairlady, I beg to move that the Committee do report to the House its consideration of the Statutory Instruments (Amendment) Bill, (National Assembly Bill No. 3 of 2024), and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

As per the Order Paper, we were to proceed to the Committee of the whole House for the National Government Coordination (Amendment) Bill, (National Assembly Bill No. 25 of 2023), sponsored by Hon. Injendi. I have so far received a request to step the Bill down from the Mover. I have assented to it. Therefore, I will give one minute to Hon. Malulu Injendi. Hon. Malulu Injendi, take a minute and explain. Give him the microphone.

Hon. Malulu Injendi (Malava, ANC): I am requesting that we step down this Bill because some amendments came as late as yesterday evening. This is to give room for further consultations on the Bill, particularly by the Departmental Committee on Administration and Internal Security. Since I am stepping it down because of amendments from the Committee, I request the Chair to second.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Oundo

Hon. (Dr.) Ojiambo Oundo (Funyula, ODM): Yes. I was an interested party. The Chairman of the Committee has intimated to us that a comprehensive Bill is coming. The issue of village elders and organising National Government Administrative Officers (NGAO) leadership on the ground has remained unresolved for far too long. This is the time we put it correctly.

However, it is just a matter of procedure and courtesy to appreciate some things. Hon. Malulu Injendi progressed this Bill to this extent with the support and approval of the Committee. It would have been far much better, out of courtesy and respect for the people of Malava Constituency, to have told him early enough. That his Bill was dead on arrival, dead like a dodo, instead of honestly speaking, carrying it to this entire end and appearing here. The import here, and I need to be corrected, is that his Bill is dead if he drops it at this moment. It can never be reinstated until after six months or during the next Session. That is the import. I have dropped my amendments because he has already withdrawn the Bill.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Oundo, I just want to guide the House. When a Member requests to step down a Bill, the House Business Committee will decide on the rescheduling because the Speaker has assented to it. It is not dead.

Hon. Tongoyo.

Hon. Gabriel Tongoyo (Narok West, UDA): Thank you. Firstly, I appreciate that you have corrected what the Member has alluded to earlier. The Bill is not dead. It has just been stepped down. I agree with what has been said by the Sponsor of the Bill. After consultation, we agreed that we step it down so that we give room for more consensus and deliberations. It is true that we already have a Bill on the coordination of the national Government. It is a Committee Bill. It is before the Committee, at the pre-publication stage. We were trying to see how to accommodate all interests. With that, I second *Mheshimiwa* Malulu so that we give room for more consultation and deliberation.

The Temporary Chairlady (Hon. Martha Wangari): That is enough for that Bill. It will be rescheduled appropriately.

(Bill withdrawn)

The next on the Order Paper was to be the National Government Administration Laws (Amendment) Bill, (National Assembly Bill No. 73 of 2023), by the Leader of the Majority Party. Again, the Leader of the Majority Party has asked the Speaker to step it down and the request has been acceded to. This Bill will be prosecuted later.

(Bill deferred)

Hon. Members, we will now move to reporting because we have come to the end of the Committee of the whole House.

(The House resumed)

IN THE HOUSE

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

MOTIONS

CONSIDERATION OF REPORT ON THE STATUTORY INSTRUMENTS (AMENDMENT) BILL

Hon. Deputy Speaker: Chairperson.

Hon. Martha Wangari (Gilgil, UDA): Hon. Deputy Speaker, I beg to report that the Committee of the whole House has considered the Statutory Instruments (Amendment) Bill, (National Assembly Bill No.3 of 2024), and approved the same with amendments.

Hon. Deputy Speaker: Mover.

Hon. Naomi Waqo (Marsabit County, UDA): Hon. Deputy Speaker, I beg to move that the House do agree with the Committee in the said report. I request Hon. Faith Gitau to second.

Hon. Faith Gitau (Nyandarua County, UDA): I second.

(Question proposed)

(Putting of the question deferred)

CONSIDERATION OF REPORT ON THE HOUSES OF PARLIAMENT (BICAMERAL RELATIONS) BILL

Hon. Deputy Speaker: Chairperson.

Hon. Martha Wangari (Gilgil, UDA): Hon. Deputy Speaker, I beg to report that the Committee of the whole House has considered the Houses of Parliament (Bicameral Relations) Bill, (National Assembly Bill No.44 of 2023), and approved the same with amendments.

Hon. Deputy Speaker: Mover.

Hon. Samuel Chepkong'a (Ainabkoi, UDA): Hon. Deputy Speaker, I beg to move that the House do agree with the Committee in the said report. I also request the Member for Kirinyaga County to second.

Hon. Njeri Maina (Kirinyaga County, UDA): I second.

(Question proposed)

Hon. Deputy Speaker: There is a point of order from Hon. Osoro.

Hon. Silvanus Osoro (South Mugirango, UDA): Thank you, Hon. Deputy Speaker. I had given notice for recommitment.

I beg to move that the House agrees with the Committee in the said report, subject to recommitment of clauses 14. I ask Hon. Chepkong'a to second.

Hon. Samuel Chepkong'a (Ainabkoi, UDA): I second.

(Question proposed)

Hon. Deputy Speaker: Members, if you wish to contribute on this, press the intervention button. If there is none, we shall defer the putting of the question to the next Sitting.

(Putting of the question deferred)

Next Order.

BILL

Second Reading

THE LAND LAWS (AMENDMENT) BILL
(National Assembly Bill No.65 of 2023)

Hon. Deputy Speaker: The Leader of the Majority Party is not here and so, we move to the next Order.

(Bill deferred)

MOTION

ADOPTION OF REPORT ON FINANCIAL STATEMENTS FOR THE
KENYA SLUM UPGRADING LOW-COST HOUSING AND
INFRASTRUCTURE TRUST FUND FOR FINANCIAL YEARS
2017/2018 TO 2021/2022 AND THE ALCOHOLIC DRINKS
CONTROL FUND FOR FY 2017/2018

Hon. Deputy Speaker: The Chairperson of the Special Funds Accounts Committee.

Hon. Fatuma Mohammed (Migori County, Independent): Hon. Deputy Speaker, thank you for giving me this opportunity. I beg to move:

THAT, this House adopts the Report of the Special Funds Accounts Committee on its consideration of the Report of the Auditor-General on the Financial Statements for the Kenya Slum Upgrading Low-Cost Housing & Infrastructure Trust Fund for the Financial Years 2017/2018 to 2021/2022, and the Alcoholic Drinks Control Fund for the Financial Year 2017/2018, laid on the Table of the House on Wednesday, 18th October 2023.

The Committee received oral and written submissions from the following accounting officers:

1. Mr. Charles Hinga, Principal Secretary, State Department for Housing and Urban Development.

2. Prof. John Muteti, Acting Chief Executive Officer (CEO), National Authority for the Campaign Against Drug Abuse (NACADA).

Hon. Deputy Speaker, the oral and written submissions received formed the basis of observations, findings and recommendations of the Committee as outlined in this Report under each of the audit queries. They are also contained in the minutes and *Hansard* Reports of the Committee's proceedings.

During the examination of the audited reports, the Committee noted general observations which appear frequently within the two Funds in the various financial years. One of the audit queries arose because of the failure by the accounting officers to comply with the format prescribed by the Public Sector Accounting Standards Board (PSASB) in the presentation of financial statements. This led to inaccuracies, unexplained or unreconciled variances.

The Committee recommends that the accounting officers ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed in the preparation of the financial statements, in compliance with Public Finance Management (PFM) Act, 2012, and in accordance with the standards prescribed by the PSASB as per Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2012.

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

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

Hon. Temporary Speaker, we observed that there was late submission of documents. Most of the audit queries raised by the Auditor-General emanated from failure by accounting officers to submit necessary documentation or explanation required during the audit process, as provided for in Section 31 of the Public Audit Act, 2015. The Committee recommends that the accounting officers ensure timely submission of accounting documentation that are required for audit verification during the audit, as per the provisions of Section 31(4) of the Public Audit Act, 2015.

The Committee also observed that the accuracy of the cash and cash equivalents in the financial reports of the Funds could not be confirmed on account of bank receipts not recorded in the cash book. The accounting officers attributed the same to the failure by the beneficiaries to submit bank slips to facilitate the reconciliation of the receipts. They submitted that the bank statement did not have the details of the beneficiaries such as beneficiary's name, national identification number and house number. The absence of the bank slips made it difficult to post the receipts in the cash book due to lack of the said details.

The Committee recommends that the accounting officers engage the banks to develop a payment system that captures depositor's details, including the national identification number and house number of the beneficiaries to ensure complete identification and reconciliation of receipts.

The Committee also observed that the Kenya Slums Upgrading Low-cost Housing and Infrastructure Trust Fund (KENSUF) had pending bills of Ksh172,547,235 in the Financial Year 2021/2022, despite the Fund having a balance of Ksh518,262,835. Consequently, the Fund risks incurring significant unqualified interest costs and penalties due to delay in settling invoiced bills. In addition, failure to settle the bills during the year in which they relate adversely affects the provisions of the subsequent year which they must be settled as a first charge.

During the examination of the audited reports, the Committee noted the following general observations which appear frequently with the two Funds in the various financial

years. We observed that some of the audit queries arise because of the failure by the accounting officers to comply with the PSASB and presentation of the financial statements which led to inaccuracies, unexplained or unreconciled variances.

While considering the Report of the Auditor-General on the financial statements of the Alcoholic Drinks Control Fund for the Financial Year 2017/2018, the Committee observed that the Fund invested in Treasury Bills as follows. On 22nd May 2017, the Fund invested in 91 days Treasury Bills with a face value of Ksh500 million which matured on 23rd August 2017. The second investment was done on 22nd January 2018 with a face value of Ksh200 million which matured on 23rd April 2018. The interest rate was 8.65 per cent. The Committee also observed that the funds from the investment of Treasury Bills totalling Ksh700 million were deposited in a bank account at the Co-operative Bank of Kenya, Ukulima Branch, Nairobi.

Further, the accounting officer did not provide a break down or any documentary evidence for audit verification to support the expenditure of Ksh700 million received from the investment of Treasury Bills. He did not provide any documentary evidence indicating how Ksh700 million received from the investment of Treasury Bills and the interest earned was expended, considering that the licensing of alcohol outlets was undertaken by the counties as from 1st July 2018. The Committee recommends that within three months of the adoption of this Report, the Auditor-General will conduct a special audit of Ksh700 million received from the investment in Treasury Bills and the interest earned, and submit its findings to the National Assembly for further examination.

Thank you, Hon. Temporary Speaker. I request Hon. Christine Ombaka, who is a committed Member of our Committee, to second the Motion.

Hon. (Dr.) Christine Ombaka (Siaya County, ODM): Thank you, Hon. Temporary Speaker. I rise to second this Motion.

As a Committee, we noticed that there is frequent lack of documentation that is required for auditing which causes delay. This is overwhelming because it sometimes takes two to three years to audit a firm. Complications arise sometimes when the accounting officer is not available because he has retired. Some of the challenges that emerge is that auditing is a good thing to do all the time, but it must be done at the relevant time. If it delays for too long, then you lose out on certain people who may answer certain questions that auditors require. The most important thing we, as a Committee, noted is that documentation is always missing, late or it is not up-to date.

Hon. Temporary Speaker, I support and second the Motion. Thank you.

(Question proposed)

The Temporary Speaker (Hon. Martha Wangari): Hon. Makali Mulu.

Hon. (Dr.) Makali Mulu (Kitui Central, WDM): Thank you very much, Hon. Temporary Speaker. I rise to add my voice to this important discussion. At the outset, I thank the Chairperson of the Special Funds Accounts Committee and its membership for bringing this important Report, which has just been presented.

Listening to the issues the Chairperson is raising and having listened to the Chairperson of the Public Accounts Committee (PAC) about two weeks ago, this Report gives a very bad picture of what is happening. When PAC was...

The Temporary Speaker (Hon. Martha Wangari): Hon. Makali, please, hold on. Take your seat for a moment. There is some confusion because what was moved by Hon. Fatuma was the Kenya Slum Upgrading Low-Cost Housing and Infrastructure Trust Fund Report. Is that correct? Allow me to propose the right Question because I proposed the Question on a different Motion.

(Question proposed)

Is that the one you are contributing to, Hon. Makali Mulu? Okay. Continue.

Hon. (Dr.) Makali Mulu (Kitui Central, WDM): Actually, that is Order No.12. As I was saying, having listened to the Chairperson of the Committee and the Chairperson of PAC two weeks ago, you realise that many of the findings are similar. What worries me most is that the PAC Report looks at the Ministries, and this Report focuses more on parastatals. It is very worrying when I see similarities in terms of recommendations both at the parastatal and ministerial level.

One of the things we have always talked about, which is worrying, is the lack of financial statements or delayed provision of the same. We have hired qualified accountants in those organisations and institutions, most of whom are Certified Public Accountants of Kenya CPA (K)). Before they write their name, they indicate the title “CPA” implying that they have done accounting up to the highest level in this country. Why can they not provide financial statements on time? Unless it is a deliberate move to sabotage the whole process... I see a situation where this is being done deliberately over time to make sure that those who are accountable for those issues retire or leave office before the reports find their way to Parliament where they can be questioned. It is very difficult for our committees to ask hard questions to officers who are now sitting in those offices, who were not there when those bad things were being done. It causes a lot of confusion.

We must come up with a way or a strategy of how to handle this matter as a House. Otherwise, this House will continue being a talk-shop but with no action. At the end of the day, Kenyans will never get value for their money.

Look at the issue of pending bills. This is a parastatal. They normally get a one-line budget item where you give them a lump-sum and then they budget for their issues at that level. What happens? You give them that budget, they know very well they have pending bills but they do not pay. They go ahead to implement other activities and year-in, year-out, we continue reporting on pending bills. This is very unfair and, more so, when we are using public resources. The Constitution is very clear that we must use public resources prudently so that Kenyans can get value for money.

Pending bills are killing our local business people. They supply goods and services, are never paid on time, and their businesses collapse because they have taken bank loans and yet, they have not been paid. The banks continue charging interest and over time, those small businesses collapse. We then talk about economic growth. How do you grow an economy if you do not pay people who supply goods and services?

Another worrying issue has been reported. A Chief Executive Officer (CEO) takes the money of a parastatal or institution and procures Treasury Bills (T-Bills), which are later redeemed. As a result of that investment, the institution gets Ksh700 million. The CEO can then not account for that money. When he is requested to account for the money, there are delays in accounting. Those are the issues we have been talking about. The Government gives money to a parastatal, which is then used to buy T-Bills. The money earns interest for that institution and, at the end of the day, the CEO cannot account for it. Who loses? The Government loses. We have always said it is time this country came up with a single Treasury account so that the Government will never use Government money to buy T-Bills. Instead of borrowing money, the Government can use that money to implement programmes and projects. We will be helping this country.

Any time we sit here and listen to those reports from our oversight committees like PAC and the Special Funds Accounts Committee, you start wondering how long this story of lack of accounting documents and financial statements, delayed financial statements, failure to

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pay pending bills and mis-direction of public resources will go on. If we want to encourage those committees to do their work seriously, we must come up with a mechanism to refer those reports to the Committee on Implementation once they are tabled and debated.

We want to see accounting officers who cannot account for money being taken to court and jailed. At the end of the day, they will know that public money should be used prudently to benefit Kenyans and taxpayers, and not to benefit a few Kenyans who want to pocket that money for their families. If we go in that direction, this House will be seen to have “teeth” to bite. Otherwise, we will continue talking and, at the end of the day, we will never change this country. People will mis-direct, misappropriate and steal public resources. I do not think that is the Kenya we want.

With those many remarks, I thank the Chairperson of the Committee and its membership for this good effort. We must now make sure that their recommendations are implemented. They need to be on the neck of the Chairperson of the Committee on Implementation so that those recommendations can be implemented.

I support the Report.

The Temporary Speaker (Hon. Martha Wangari): Member for Kirinyaga.

Hon. Njeri Maina (Kirinyaga County, UDA): Thank you, Hon. Temporary Speaker. I rise to support the Committee findings. I specifically want to narrow down to the Alcoholic Drinks Control Fund for the Financial Year 2017/2018. It is quite unfortunate that my county is one of the most affected by the sale of prohibited alcohol. We must ensure that this Fund invests in the rehabilitation of persons who are affected by alcohol. It goes without saying that health is now a devolved function, but the county governments are unable to shoulder the issue of rehabilitation.

Hon. Temporary Speaker, the national Government must ensure that the investment of those funds... The Committee has reported that Ksh700 million was invested in Treasury Bills, but there is no proper record of the breakdown of where the accrued benefits went or were applied to.

It is, therefore, important we ensure that, that Fund is applied to ensure we have rehabilitation centres in all our 47 counties. We must cater for the issues that have plagued us as at now. I want to commend the Deputy President, Hon. Rigathi Gachagua, for his very spirited fight against illicit brews and second-generation alcohol. As we fight to ensure we save the next generation, what about those who have already been lost to abuse of alcohol in this nation? We must ensure that we also salvage them and try to mitigate the effects of the long-term usage of alcohol.

I, therefore, support this and urge the Committee to ensure that this report does not die on the floor of the august House. Let us have an accountability perspective of where the Ksh700 million and the profits from the same were applied to. They must be ploughed back as Community Social Responsibility (CSR) to communities that are affected by alcohol in this country.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Member for Marakwet West, Hon. Timothy.

Hon. Timothy Kipchumba (Marakwet West, Independent): Thank you, Hon. Temporary Speaker, for giving me an opportunity to contribute on this very important Report of the Auditor-General. I wish to thank the Chairperson of the Committee, my friend, Hon. Fatuma Mohammed, for the good work that she has done in chairing the Committee.

Hon. Temporary Speaker, the issue to do with alcoholic drinks in this country was initially under the national Government. The famous “Mututho Law” was passed in the year 2010. At that particular time, the National Campaign Against Drug Abuse Authority was under the national Government but, pursuant to the promulgation of the Constitution 2010, that

particular function was transferred to the county governments because health became a fully devolved function. Since the function is devolved to the counties, each county government has passed a legislation to suit it. The challenge now is that we have 47 different legislations regulating the use of alcoholic drinks in this country. This is something that we need to rethink as a country.

It even becomes a challenge in terms of audit by the Committee on Special Funds as it questions or brings issues in terms of jurisdiction, whether a committee of this House can check the excesses in terms of the legislation of the county government or audit a devolved function. This becomes a big challenge.

Hon. Temporary Speaker, counties are raising funds pursuant to the legislations that they pass. There are committees on alcoholic drinks at the county level. However, we need to re-look into it. Can the Special Funds Accounts Committee look at whether the funds raised by the county governments meet the needs of the people in those counties? I have a challenge. If you look at this Report, this Committee, unless I am advised otherwise, is not able to ascertain and audit the funds that are channelled through the county governments. What is happening now is that the county governments have formed committees and sub-committees to issue licenses and regulate alcoholic drinks in the counties.

The question of devolution and that of the functions of the county governments in holding those funds comes into question. We need to come up with a way that the funds raised by the county governments through licensing can rehabilitate those people who, by using alcohol to their detriment, has affected them in one way or the other.

Hon. Temporary Speaker, I support this Report but, as a country, we need to re-look at the legal framework. We need to re-look at the architecture of devolving health. The biggest challenge is that we have the devolved county governments. They are raising funds, but are those funds meeting the required needs? Are those funds used properly in terms of even establishing rehabilitation centres at the county level? I support the Report; but majorly, I reiterate that the issue to do with alcoholic drinks and the issue to do with National Campaign Against Drug Abuse Authority should be returned to the national Government. This is so that we have one autonomous body regulating the use of alcoholic drinks in this country.

It is apparently clear on the face of record that county governments have been unable to regulate. That is why you see their fight against alcoholic drinks in this country by the national Government. This is because it is apparently clear on the face of record that the county governments are unable to properly regulate and license alcoholic drinks at the county level. This function, in my opinion, should be taken back to the national Government. Let us have one autonomous authority regulating the issuance of licenses, issuance of registration of bars in this country and other drinking joints. It is clear that the county government has failed on this mandate, particularly on the national campaign against drug abuse. That authority, which was taken to the county government or lapsed because of devolution, should be taken back to the national Government. This is so that the national Government becomes autonomous in regulating alcoholic drinks in this country.

I support this report.

The Temporary Speaker (Hon. Martha Wangari): Very well. Member for Narok North. Hon. Agnes Pareiyo.

Hon. Agnes Mantaine (Narok North, JP): Thank you, Hon. Temporary Speaker, for giving me this opportunity to support the Report on the Special Funds Accounts Committee.

As the other Members have said, it is interesting to see that when you go back to our constituencies, most of our youth are vanquished. They are in between the county government and the national Government. This is because the county governments issue the licenses. As a result, you find that most of our youth are now involved in drinking of the illicit brews and end up dying. We shall not have a generation that will inherit this land if we do not take care of it.

I support the report. I want the involvement to either be in the national Government or totally go to the county governments. When we go fighting those illicit brews, the community says it is the Government that issues the licenses and yet, do not care what happens to the people thereafter. Those special funds must be seen to go back to the people, to have rehabilitation centres. That is where we can take our children or our women. You find that women are also involved in the drinking.

I support the report. Thank you.

The Temporary Speaker (Hon. Martha Wangari): Thank you. Member for Nyamira County, Hon Jerusha.

Hon. Jerusha Momanyi (Nyamira County, JP): Thank you, Hon. Temporary Speaker, for giving me this opportunity to also support this Report.

Indeed, as my fellow colleagues have said, when we go down to our constituencies, most of our young generation has been totally destroyed simply because of the alcoholic drinks which are now rampant. We do not have a central place to identify those people who are giving out the illicit alcohol. There is no central place where the reports are taken to. We have, on one hand, county governments and on the other hand the national Government. If we say health is devolved but some issues are not properly outlined in terms of how they should be dealt with, then we put our communities in a very awkward situation. The way our young generation is indulging in alcoholism signifies that, as a country, we are not able to control and even know how our youths are faring.

I support this Report and urge this Assembly to make sure that we have regulations that cut across to caution county governments on what they are supposed to do, specifically those that licenses people who are not supposed to be licensed. I support and urge the Committee to make sure that the Report is implemented so that we help the new generations. If we are not careful, we shall not have a country.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Thank you. I see there is no more interest in this specific Motion. Hon. Dick Oyugi, you had not put your card. I will give you a few minutes, and then we will go to the Mover.

Hon. Dick Oyugi (Luanda, DAP-K): Thank you, Hon. Temporary Speaker, for granting me an opportunity to also add my voice to this important subject. As the former speakers have rightly noted, alcoholism has been a subject of great concern to us as a country and, more so, to the young generation. We are losing a whole generation. Looking at those reports and the way they are geared towards ensuring that those special funds are protected, there is concern about how county governments issue licences. Of great concern has been the haphazard way in which the licenses are issued in this country. There are illegal businesses that are taking place in this country, which are purported to have been licensed by county governments and yet they are not. I agree with the Report that has been tabled before the House. I agree that we need to bring sanity to how those funds are monitored, and even control the licensing of those businesses. Recently, there was a great calamity in Kirinyaga when licenses were purported to have been issued by the county government. Crazy businessmen and women ended up importing or distributing illicit drinks which were “licensed”, but were poisonous substances.

Luanda, where I come from, is a constituency that is not so far from the border of Kenya and Uganda, and is quite porous. Illicit drinks and substances have always been sneaked into the country through the Uganda border. Those things have found themselves one way or the other in my constituency. As a result, we have lost a large number of young people who end up intoxicated by poisonous substances that are disguised as alcoholic drinks. I support the Report by the Committee that we need to re-look at how licenses are issued.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Member for Makueni, Hon. Suzanne Kiamba.

Hon. Suzanne Kiamba (Makueni, WDM): Thank you, Hon. Temporary Speaker. I also wish to support this Report, but I have some concerns. When you look at the Slum Upgrading Programme, we have put in a lot of resources. We have been trying to change the face of Kenya by upgrading houses, but it is difficult to show the change we are bringing. It is very difficult to understand the lessons we are drawing from the slum upgrade. Now, we have moved to affordable housing when we have issues of slum upgrading, and we cannot tell clearly what changes we have brought to this country. As we move forward, I am of the opinion that we do not become a House that is a conveyor belt that mints reports, but does not deliver meaningful change to citizens.

Although I support this particular Report, we need to be more critical in looking at where our money goes. That is why Kenyans have developed very cold feet when it comes to affordable housing. We give very nice names to what change we are going to see in this country but, the end result is just a report of the Auditor-General that say much about the figures. The change we desire on the ground cannot be seen. I support this particular Report, but I believe that this House should critically look at those reports. When we get reports many years after, you even wonder what we are auditing. If years pass, you get a report that looks more like a historical issue than an intention to change this country. This is an area where we need to change.

With that little contribution, I support. Thank you.

The Temporary Speaker (Hon. Martha Wangari): Hon. Marianne Kitany.

Hon. Marianne Kitany (Aldai, UDA): Thank you, Hon. Temporary Speaker. I stand to support this Report. When we look at alcoholism in our country today, we realise that a lot of the barriers or blocks that had been put in place are all gone. When I was growing up, alcohol was only sold to adults. The only people who could go to a bar or hold a drink were adults. We, as young people, would never touch a bottle of alcohol or take any alcohol at all. Today, the community has changed. We know children who are in primary and secondary schools and are already engaging in alcohol and substance abuse. Those children live in our community and we watch them grow. Our laws having changed, there is no communal care and protection that used to be there when I was growing up. A lot of that alcohol is from illicit brews or it is alcohol that is brewed in homes. In my home village, for example, there are so many illicit brews. If you look inside those containers, they have all sorts of dirt and animals such as snakes and other things. You wonder how adults and young children consume those particular alcohols. County governments are the ones who are licensing bars.

When we were young, there was no bar which was allowed to operate near a school or a homestead. Today, every door you walk past near your house, there is either a bar or a liquor store. When there are such things all over, what do you expect of the population, especially the young children? They will try to consume that particular product that is easily available, either in the next-door bar or liquor store as they get out of their homes. The drive to have licenses controlled is a very good thing. It is timely. County governments need to not only look at their licensing regime, but also realise that alcohol and substance abuse is real. Therefore, they should restrict the number of places that can be licensed, taking into consideration schools and communities nearby. Alcohol sales should be in restricted areas just like it used to be. That could help limit the use of alcohol. Today's generation is slowly deteriorating because they are involved in alcohol and substance abuse. The drugs are easily and readily available to them. This begs the question: If they continue being irresponsible, who will take up the leadership positions in future?

I support this Report from the Special Funds Accounts Committee. Alcohol and substance abuse has to be taken seriously not only by this House, but also by the Executive and

the Judiciary. Many of those cases go to the Judiciary and they are given lenient fines and jail terms which allows the same people to go back and open the same dens. All the arms of Government - Judiciary, Legislature and Executive - should join hands in the war against alcohol and substance abuse.

I thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Member for Moyale, Hon. Guyo Jaldesa.

Hon. Prof. Guyo Jaldesa (Moyale, UPIA): Thank you, Hon. Temporary Speaker. I stand to support the Report on alcoholic drinks. Alcoholism is ruining the lives of potential human beings who would have contributed to the economy of Kenyan in many ways. Those people are going down the drain due to alcoholism.

For some of us who come from the border, we know that some of those drugs come from other countries; very strong alcohol and bhang that is destroying our young people. We need to come up with very strong concerted efforts to ensure that this menace does not continue ruining the population of this country. It is eating up our human power, both the young and old people. They are just lying in the streets setting very bad examples. We need to look for a way to control the consumption of those substances.

Hon. Temporary Speaker, we need to control licensing of who and where alcohol is being sold. We need to regulate and control the consumption of alcohol. The young people should be given alternative ways of passing time. We need to develop sports and other time-consuming activities that are beneficial to them in every constituency.

With that, I support the Report.

The Temporary Speaker (Hon. Martha Wangari): Thank you. Member for Isiolo South, Hon. Bidu Tubi.

Hon. Bidu Mohamed (Isiolo South, JP): Thank you, Hon. Temporary Speaker, for giving me this opportunity. I want to support the Report. The issue of alcohol and drug abuse is a big problem in every part of this country, including the arid lands, which never had that problem before. We do not know how those things come. Packaged drinks are going to every corner of this country, and we do not know exactly where they are coming from. The Government needs to dig deeper and evaluate whether those people are licensed and how they got their licences. It seems like whenever food is supplied to any part of the country, alcohol is also distributed. There are areas that never used to have alcohol and other substances. Those drugs are now finding their way to Kenya from other countries. It seems like this has been enabled by the security system. There is no way the drugs can be transported all the way from the border to my constituency, which is geographically located at the centre of the country. Alcohol is also transported from Nairobi all the way to arid and semi-arid lands. It is becoming a disaster.

The Government must look for ways of saving our young generation. Men and women are all caught up in this menace. We need to do something.

I support the Report. Thank you.

The Temporary Speaker (Hon. Martha Wangari): Thank you. Member for Kangema, Hon. Kihungi.

Hon. Peter Kihungi (Kangema, UDA): Thank you, Temporary Speaker. I stand to support the Report. The alcohol issue in Central Kenya is a menace. It is a big thing. Every family has a story of a person whom they have lost, or one who has become a zombie due to alcohol. As the Committee has reported, the Government should come in seriously.

I want to thank the President and his Deputy on the path they have taken. They have cancelled the licences of those who were manufacturing the second-generation alcohol. Previously, we have been focusing on those who are in the retail sector. If we do not deal with the manufacturers, we will never be able to manage that menace.

I was in the village for three days and I can attest that people are becoming sober. Our young men are working. This problem of substance use should be taken seriously by the Government. If our people remain unproductive, this country will not grow. We will continue spending a huge chunk of our resources on medication.

Additionally, those who are in the alcohol manufacturing sector should be taxed heavily so that we can have resources to manage the effects on those who become addicted to alcohol.

I support the Report. I also thank and call upon the Government to be part of this agenda so that come 2027, we can have alcohol and substance management as one of its achievements.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Hon. Catherine.

Hon. Catherine Omanyo (Busia County, ODM): Thank you, Temporary Speaker. I rise to support this Report. I am a member of the Special Funds Accounts Committee. We came up with a few observations, especially with regard to the young lads; those who are seated on my left and on my right. Alcohol is not a friend to anyone. Temporarily, alcohol can be something that makes you feel high or forget some problems but, in the long run, it interferes with your brain. Your communication pathways in the brain get weaker with time and it makes it harder for it to control anything. You lose balance, judgement, friends and, if you are a husband or wife, you can lose your spouse. If you are employed, you can also lose your job. I am against allowing the county governments to license poison that kills people. If you are given authority to license something, you license products that can grow and sustain your people. But if you license poison...

We read in papers and also witness many people dying after the consumption of alcohol. To me, only safe products should be licensed. I would like the National Authority for the Campaign Against Alcohol and Drug Abuse (NACADA) to take charge at the national level. NACADA used to be active some days back and I do not know how it was reduced to the county level. County governments have enough on their plates and hence, it is my belief that alcohol should be regulated at the national level. Otherwise, we are going to raise children who will never grow up to build this country. The country is going down the drain because of misuse of those licenses. I fully support the Report that the Special Funds Accounts Committee came up with.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Thank you. Before the next speaker, allow me to recognise students from Nyimbei Secondary School, Baringo South Constituency, Baringo County, who are seated in the Speaker's Gallery. On my own behalf and that of the House, we welcome you to the National Assembly to observe the proceedings of the House.

The next chance will go to the Member for Kitui West, Hon. Nyenze.

Hon. Edith Nyenze (Kitui West, WDM): Thank you, Hon. Temporary Speaker for giving me this opportunity to support this Report on Alcohol and Drug Abuse.

Alcohol has really affected many people in our country. Why is there so much influence of alcohol and substance abuse, especially amongst the youth? We even have cases of university students who are not able to complete their education because of peer pressure and availability of cheap liquor which is affordable and easily accessible; influence from their peers; unemployment which has contributed to substance abuse; and a lot of stress due to unemployment; and other social problems which the youth are exposed to. As a country, it is important to be keen on the people we license to sell alcohol. When licensing was devolved to the counties, it became very easy for people to get those licences and sell any kind of cheap liquor which is then accessed by our youth.

It is important for the Government to come up with strict rules on who should be licensed to sell alcohol. I would suggest that alcohol should be banned in all small towns and

only have a few establishments in big towns that are licensed to sell alcohol. That is because if it is available in every village, then that means we are destroying our youth, future and the whole country with the readily available alcohol. If there was to be strict licensing for only a few towns in each county, this would then sort some of the problems.

Hon. Temporary Speaker, it is also important to have other activities which can keep the youth busy. We have been having sporting activities in our National Government Constituencies Development Fund (NG-CDF) kitty, and we have really distracted the youth from alcohol and bad influence by keeping them busy. But now, it has been removed from the kitty and I am sure this will have negative effects. Instead of removing sports from NG-CDF, we should enhance it and have more money put into this kitty to make our youth busy and keep them away from alcohol and bad influence. My suggestion is that we have sports back in the kitty and license fewer establishments to sell alcohol and this will reduce the menace which we are seeing. If this continues, with time, our population will reduce in most of the areas. This will, therefore, kill our future and we might not have leaders for tomorrow.

I support and encourage that we license bars in fewer towns and a few designated areas. Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Member for Keiyo South.

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

I join the rest of my colleagues in supporting the Report of the Committee.

Alcohol has destroyed careers in this country, families and societies. I thank His Excellency the President and his Deputy for what they are trying to do to eradicate this menace. I equally thank the Cabinet Secretary for Internal Security and National Administration for what he is trying to do to eradicate the issue of illicit brews.

Alcoholism is just but an issue of licensing. I remember the days when licensing was being done by NACADA, and it was much better. But when it was left to counties, when you go back to the village, everybody has a licence. And in places where we are not supposed to have bars, they are there. For example, you find licenced bars in the middle of a village. How I wish that before any licence is given out to anyone in the village, public participation is done in that area. This is so that the people and residents who stay in that area can be asked if they want to have a bar in their area. Initially, bars were in towns but nowadays, we have them in the villages. They are located a kilometre or two apart and that is making access to alcohol very easy.

There is also the issue of cheap illicit liquor from our neighbouring countries. Of course, those are not licensed but we still get them through dubious means. Maybe, also, those who are in charge of the border control, the Department of Customs and Kenya Revenue Authority (KRA) should tighten the entry of those cheap liquor that come through our borders. Talking of my local constituency of Keiyo South, I must thank the local administration, the district county commissioner, chiefs and sub-chiefs. They are really doing good work and, as their leader, I will support them. Through public participation, we have been able to close bars in certain areas due to the residents' complaints. I call upon the people of Keiyo South to support the local administration, that is our deputy county commissioners, chiefs, sub-chiefs and village elders as we try to walk together to eradicate alcoholism.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Thank you. There seems to be no more interest in this Motion. I now call upon the Mover to reply.

Hon. Fatuma Mohammed (Migori County, Independent): Hon. Temporary Speaker, I thank all the Hon. Members who have taken their time to debate this issue. Alcoholism is a matter that has been raised severally. I acknowledge my sister who has addressed our young future leaders who are seated in the Public Gallery. We are reminding you that alcohol is bad for you. If adults say it is bad, then it is worse for you. We request that you abstain from alcohol.

All the recommendations that have been made were done by a full committee. I commend my Committee for always being punctual for our meetings. They have always contributed fairly to the matters that arise. I can see an Hon. Member who is part of our Committee acknowledging that. We are one Committee that never misses quorum. It is automatic that when we have a meeting, our Committee members are always seated. I thank them for their positive attitude. I also thank our support staff who have helped us to go through all those audit queries.

Hon. Temporary Speaker, pursuant to Standing Order 53(3), I request you to kindly defer putting of the question to another sitting.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Thank you. Your request is assented to.

(Putting of the Question deferred)

Next Order!

MOTION

ADOPTION OF THE SEVENTH REPORT ON FINANCIAL STATEMENTS FOR THE LAND SETTLEMENTS FUND FOR FINANCIAL YEARS 2020/2021 AND 2021/2022 AND THE RAILWAY DEVELOPMENT FUND FOR FINANCIAL YEARS 2017/2018, 2018/2019, 2019/2020, 2020/2021, AND 2021/2022

The Temporary Speaker (Hon. Martha Wangari): Chairperson, Special Funds Accounts Committee.

Hon. Fatuma Mohammed (Migori County, Independent): Hon. Temporary Speaker, I beg to move:

THAT, this House adopts the Seventh Report of the Special Funds Accounts Committee on its consideration of the Reports of the Auditor-General on the Financial Statements for the Land Settlements Fund for the Financial Years 2020/2021 and 2021/2022 and the Railway Development Fund (Holding Account) for the Financial Years 2017/2018, 2018/2019, 2019/2020, 2020/2021 and 2021/2022, laid on the Table of the House on Thursday, 7th December 2023.

The Committee received oral and written submissions from the following accounting officers:

1. Mr. Nixon Korir, the Principal Secretary, State Department for Lands.
2. Mr. Mohamed Daghar, the Principal Secretary, State Department of Transport.

In considering the Report, the oral and written submissions received formed the basis of observations, findings and the recommendations of the Committee as outlined in this Report under each of the audit queries. Those are also contained in the minutes and the *Hansard* of Committee proceedings.

During the examination of the audited reports, the Committee noted general observations. First, there were the long outstanding receivables from exchange transactions. The Committee observed that the land and development loans issued to settlers by the Land Settlement Fund as far back as the year 1962 have remained outstanding to date. The Fund has outstanding land and development loans amounting to Ksh6,811,916,396 and Ksh68,966,377. The outstanding interest on the loans as of 30th June 2022 was Ksh5,163,007,149.

The Committee recommends that within six months, upon the adoption of this Report, the Accounting Officer provide a progress report on the recovery of the principal loan and the outstanding interest receivable to the Auditor-General for audit verification.

Second is the undistributed land. The Committee observed that land in Kisima Njoro in Nakuru County, which was meant for resettlement of the Internally Displaced Persons (IDPs) in 2012, had not been surveyed or sub-divided and, therefore, the beneficiaries had not been settled 10 years after the purchase of the land due to ongoing court cases which restrained the Land Settlement Fund from interfering with the land parcel. It also observed that the delay in the distribution of land for informal settlers in Mikanjuni Farm in Kilifi County and Kadza Ndani land in Mombasa County was occasioned by the ongoing planning to cater for amenities such as access roads and public utility facilities.

The Committee recommends that the accounting officer fast-tracks the resolution of the dispute with the County Government of Kilifi to bring the matter to a conclusion and settle the IDPs; and within three months of the adoption of this Report, provide a progress report on the resolution of the dispute to the Auditor-General. It further recommended that within six months of the adoption of this Report, the accounting officer provide a status report on the resettlement of the informal settlers on the Kadza Ndani Land to the Auditor General for audit verification.

Further, the Committee observed that a field verification conducted by the Office of the Auditor-General during the month of September 2022 in ten sampled land adjudication and settlement offices revealed that the stations operated a bank account for funds received for the office administration, but did not maintain a cash book. Further, the monthly bank reconciliation statements had not been prepared and submitted to the National Treasury with a copy to the Office of the Auditor-General as stipulated under Regulation 90 (1) of the Public Finance Management (National Government) Regulations, 2015.

Hon. Temporary Speaker, the Committee noted the Accounting Officer's submissions that all the county lands adjudication and settlement officers in charge were instructed by the Office of the Director of Land Adjudication and Settlement to adhere to Regulation 90(1) of the Public Finance Management Act for control, accountability of finances and smooth and efficient running of office operations.

The Committee recommends that the Accounting Officer ensures that proper applicable accounting and financial controls, systems, standards, laws and procedures are followed in the preparation of the financial statements in compliance with the Public Finance Management Act, 2012, and in accordance with the standards prescribed by the Public Sector Accounting Standards Board as per Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2012.

Hon. Temporary Speaker, there were also discrepancies in reported receipts. The Committee observed that Ksh21,613,544,290 in revenue collected by the Railways Development Fund (Holding Account) for the Financial Year 2018/2019 was not supported by an analysis of receipts from the Kenya Revenue Authority (KRA). The actual figure for the performance of Ksh5,815,007,462 as per the summary of the budget was erroneously posted to the statement of receipts and payments. However, the erroneous figure was replaced with the correct figure of Ksh21,613,544,290.

The Committee noted the Accounting Officer's submissions that the receipts as per the summary of budget versus the actual performance figure of Ksh5,815,007,462 were erroneously posted to the statement and the correct amount was Ksh21,613,544,290.

The Committee recommends that within three months of the adoption of this Report, the Accounting Officer submit the analysis of KRA receipts making up the figure of Ksh21,613,544,290 for the total revenue of the Fund.

Further, it recommended that the Accounting Officer should ensure that all applicable accounting and financial systems, standard laws and procedures are followed in the preparation

of the financial statement, in accordance with the standards prescribed by the Public Sector Accounting Standards Board (PSASB), and in compliance with Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2015.

Hon. Temporary Speaker, I commend my Committee again, for always being there when such issues arise. They deliberated well and did all they could to make sure that taxpayers' money is well spent. Wherever there was an issue, we queried in accordance with the laws and regulations.

Hon. Temporary Speaker, I request Hon. Biego to second the Motion.

The Temporary Speaker (Hon. Martha Wangari): Member for Chesumei Constituency.

Hon. Paul Biego (Chesumei, UDA): Thank you, Hon. Temporary Speaker, for having this opportunity that the Chairlady has given me. I stand here to commend her for steering the Committee well. As she has rightfully put it, we do not have quorum hitches. This is because she knows how to chair meetings and take care of her Members. That is why we are always available whenever we have meetings. Hon. Chairlady, continue with that good leadership as you direct the Committee.

I stand to second. Thank you.

(Question proposed)

The Temporary Speaker (Hon. Martha Wangari): There seems to be no interest on this Motion and so, I call upon the Mover to reply.

Hon. Fatuma Mohammed (Migori County, Independent): Thank you, Hon. Temporary Speaker and all Members even though, you have not contributed. Hon. Temporary Speaker, for that reason, since most Members are out in other committee meetings, I request that you kindly give us another opportunity to debate on the matter.

The Temporary Speaker (Hon. Martha Wangari): Hon. Chairlady procedurally, that is not possible. Just reply and we shall put the question at the right time.

Hon. Fatuma Mohammed (Migori County, Independent): Thank you, Hon. Temporary Speaker. I thank you all so much once more. I appreciate all the efforts that have been made by my Committee Members to bring this Report to the House.

I want to report that the Special Funds Accounts Committee has 94 Funds which we inquire and oversee. On behalf of myself and that of my team, I want thank all Hon. Members and our support staff. We look forward to bringing more reports to the House. That will serve Kenyans and show them that taxpayers' money is being utilised in the right manner.

I beg to reply.

(Hon. Kangogo Bowen spoke off the record)

The Temporary Speaker (Hon. Martha Wangari): Hon. Kangogo, you are confusing the Chairlady. She was replying and, under Standing Order 53, we will defer the putting of the question to the next day.

(Putting of the Question deferred)

Next Order.

BILL

Second Reading

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

The Temporary Speaker (Hon. Martha Wangari): The Leader of the Majority Party. If he is not in the House, we will step it down. Hon. Members, we have exhausted the business for Thursday, 21st March 2024, morning Sitting.

(Bill deferred)

ADJOURNMENT

The Temporary Speaker (Hon. Martha Wangari): Order, Hon. Members. The time being 12.15 p.m., the House stands adjourned until today Thursday, 21st March 2024 at 2:30 p.m.

The House rose at 12.15 p.m.

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