



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT**

**NATIONAL ASSEMBLY**

**THE HANSARD**

**VOL. III NO. 38**

## THE HANSARD

Thursday, 2<sup>nd</sup> May 2024

The House met at 2.30 p.m.

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

### PRAYERS

*(Hon. Catherine Omanyo walked along the Aisle)*

**Hon. Speaker:** Hon. Catherine Omanyo, when the Serjeant-at-Arms has placed the mace and is going back to the Bar to bow, there should be no movement whatsoever and howsoever in the House. Please, try and learn these minor etiquettes on how to conduct ourselves on the Floor of the House. Today you have been very hyper.

*(Laughter)*

We have quorum. Clerks-at-the-Table.

*(Several Members walked into the Chamber)*

Members on their feet, take your seats.

Hon. Members, I have a Communication on the formation of the committee. I prefer to bring it at the time when the Motion is ready. So, let us do it a little later. Call the next Order.

I thought I was dealing with the Motion from this morning. There is a Communication on appointment of Members to a Mediation Committee on the Water (Amendment) Bill.

### COMMUNICATION FROM THE CHAIR

#### APPOINTMENT OF MEMBERS TO A MEDIATION COMMITTEE ON THE WATER (AMENDMENT) BILL

**Hon. Speaker:** Hon. Members, you may recall that on Tuesday, 30<sup>th</sup> April 2024, the House rejected the Report of the Committee of the whole House on the Senate amendments to the Water (Amendment) Bill (National Assembly Bill No.33 of 2023).

The import of this is that it essentially remits the Bill to a Mediation Committee in line with Article 112 (2) of the Constitution and Standing Order 149(1).

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

In this regard, Hon. Members, having consulted with the Leaders of the Majority and Minority Parties, I have appointed the following Members to represent the National Assembly in the Mediation Committee to consider the said Bill:

1. Hon. Kangogo Bowen, MP;

2. Hon. Maisori Kitayama, MP;
3. Hon. Muthama Stanley, MP;
4. Hon. Dorothy Ikiara, MP;
5. Hon. Paul Nzengu, MP;
6. Hon. Hussein Weytan, MP; and
7. Hon. Gertrude Mbeyu, MP.

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

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

I, thank you.

*(Several Members walked into the Chamber)*

Take your seats, Hon. Members. The nearest seat, Hon. Sarah. Order, Hon. Members. Hon. G.K., take the nearest seat.

## MESSAGE

Hon. Members, I have a Message from His Excellency the President.

### REFERRAL BY HIS EXCELLENCY THE PRESIDENT OF THE PENAL CODE (AMENDMENT) BILL, 2022

**Hon. Speaker:** Hon. Members, you may recall that on 20<sup>th</sup> March 2023, the National Assembly passed the Penal Code (Amendment) Bill (National Assembly Bill No.56 of 2022) which was sponsored by the Member for Nakuru Town East, Hon. David Gikaria, MP.

The Bill sought to repeal Section 182 of the Penal Code Cap. 63. Following its passage, I presented the Bill for assent to H.E. the President in accordance with the provisions of Article 115 of the Constitution.

Hon. Members, I wish to convey to the House that I have since received a Memorandum from His Excellency the President referring the Bill back to the House for reconsideration in accordance with the provisions of Article 115 of the Constitution. In the Memorandum, H.E. the President has expressed reservations on Clause 2 of the Bill and notes, *inter alia*:

1. That, were the Bill to be assented to in its present form without offering alternative offences or sanctions, the Bill will effectively render certain indecent, immoral or disruptive public conduct to be acceptable;
2. That, the repeal of Section 182 shall encourage the Commission of the Acts covered under Section 182 and allow persons to freely behave in a disorderly or indecent manner in a public place and conduct themselves in a manner likely to cause a breach of the peace; and
3. That, the repeal undermines the credibility of criminal law and may promote public disorder and disobedience. Further, a blanket decriminalisation of conduct that a majority considers delinquent, undermines the reputation of the law as a reliable moral authority that should be obeyed.

Consequently, H.E. the President recommends deletion of the said Clause of the Bill, which as a matter of fact, is the primary content of the Bill.

Hon. Members, Standing Order 154(2) requires the House to consider the President's Reservations within 21 days upon receipt of a Memorandum. In this regard, the Memorandum from the President now stands committed to the Departmental Committee on Justice and Legal Affairs for consideration. The Committee is required to table its report soonest to allow the House to consider the President's reservations within the said timelines.

Hon. Members, may I at this point, remind the House of the Speaker's Communication of 28<sup>th</sup> July 2015 concerning the consideration of the President's reservations to a Bill and amendments, thereto.

I particularly draw your attention to the guidance, that the voting threshold for the passage of amendments proposed by a committee or an individual Member that have the effect of fully accommodating the President's reservations is a simple majority as contemplated under Article 122(1) of the Constitution as read together with Article 115(2)(a).

On the other hand, an amendment that does not fully accommodate the President's reservations, or indeed one that has the effect of a total override of the President's reservations, including negating his proposed text, would require a two-thirds voting threshold to be passed in keeping with the provisions of Article 115(4) of the Constitution.

In conclusion, Hon. Members, I hereby, direct the Clerk to circulate the Memorandum from H.E. the President to all Members so that they familiarise themselves with its contents.

I, thank you.

Next Order.

## PAPERS

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

**Hon. Owen Baya** (Kilifi North, UDA): Thank you, Hon. Speaker. I beg to lay the following Papers on the Table:

1. The following Statutory Instruments from the Ministry of Mining, Blue Economy and Maritime Affairs:
  - (a) Legal Notice No. 40 of 2024 relating to the Mining (Mine Support Services) (Amendment) Regulations and the Explanatory Memorandum;
  - (b) Legal Notice No.41 of 2024 relating to the Mining (Dealings in Minerals) (Amendment) Regulations and the Explanatory Memorandum;
  - (c) Legal Notice No. 42 of 2024 relating to the Mining (Gemstone Identification and Value Addition) (Fees) Regulations and the Explanatory Memorandum;
  - (d) Legal Notice No. 43 of 2024 relating to the Mining (Licence and Permit) (Amendment) Regulations and the Explanatory Memorandum ;
  - (e) Legal Notice No. 43 of 2024 relating to the Mining (Licence and Permit) (Amendment) Regulations and the Explanatory Memorandum.
2. Legal Notice No. 69 of 2024 relating to the Valuers (Forms and Fees) (Amendment) Rules, 2024 and the Explanatory Memorandum from the Ministry of Lands, Public Works, Housing and Urban Development.
3. Legal Notice No. 70 of 2024 relating to the Survey (Electronic Cadastre Transactions) (Amendment) Regulations, 2024 and the Explanatory Memorandum from the Ministry of Lands, Public Works, Housing and Urban Development.

4. Legal Notice No. 71 of 2024 relating to the Survey (Amendment) Regulations, 2024 and the Explanatory Memorandum from the Ministry of Lands, Public Works, Housing and Urban Development.
5. Legal Notice No. 72 of 2024 relating to the Physical and Land Use Planning (Planning Fees (Amendment) Regulations, 2024 and the Explanatory Memorandum from the Ministry of Lands, Public Works, Housing and Urban Development.
6. Legal Notice No. 73 of 2024 relating to the Community Land (Amendment) Regulations, 2024 and the Explanatory Memorandum from the Ministry of Lands, Public Works, Housing and Urban Development.
7. Legal Notice No. 74 of 2024 relating to the Land (Amendment) Regulations, 2024 and the Explanatory Memorandum from the Ministry of Lands, Public Works, Housing and Urban Development.
8. Legal Notice No. 75 of 2024 relating to the Land Registration (Revocation) Regulations, 2024 and the Explanatory Memorandum from the Ministry of Lands, Public Works, Housing and Urban Development.
9. Legal Notice No. 76 of 2024 relating to the Land Adjudication (Amendment) Regulations, 2024 and the Explanatory Memorandum from the Ministry of Lands, Public Works, Housing and Urban Development.
10. Legal Notice No. 77 of 2024 relating to the Land Registration (General) (Amendment) Regulations, 2024 and the Explanatory Memorandum from the Ministry of Lands, Public Works, Housing and Urban Development.
11. Reports of the Auditor-General and Financial Statements for the year ended 30<sup>th</sup> June 2023 and the certificates therein in respect of:
  - (a) Kenya Law Reform Commission;
  - (b) National Crime Research Centre;
  - (c) National Council for Law Reporting;
  - (d) Revenue Accountability Statements – Kenya Revenue Authority; and,
  - (e) Council of Legal Education Staff Car Loan and Mortgage Scheme.

Thank you, Hon. Speaker. I beg to lay.

**Hon. Speaker:** Thank you, Deputy Leader of the Majority Party. Member of the delegation....Which delegation? Hon. Rahab Mukami.

**Hon. Rahab Mukami** (Nyeri County, UDA): Thank you, Hon. Speaker. I beg to lay the following Paper on the Table:

Report of the Kenya Delegation to the Extraordinary Session of the Sixth Parliament of The Pan-African Parliament (PAP) held in Midrand, South Africa from 20<sup>th</sup> to 27<sup>th</sup> March 2024

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you. The Chairperson of the Departmental Committee on Tourism and Wildlife.

**Hon. Kareke Mbiuki** (Maara, UDA): Hon. Speaker, I beg to lay the following Papers on the Table:

The Reports of the Departmental Committee on Tourism and Wildlife on:

1. The budget implementation monitoring for Financial Year 2022/2023 and Half Year 2023/2024 for the following State Departments
  - (a) State Department for Tourism; and
  - (b) State Department for Wildlife.
2. Its participation in the International Tourism Bourse in Berlin, Germany from 5<sup>th</sup> to 7<sup>th</sup> March 2024.

I thank you, Hon. Speaker.

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

### NOTICES OF MOTION

**Hon. Speaker:** Hon. Rahab Mukami.

#### NOTING OF REPORT OF THE SIXTH PAN-AFRICAN PARLIAMENT

**Hon. Rahab Mukami** (Nyeri County, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House notes the Report of the Kenya Delegation to the Extraordinary Session of the Sixth Parliament of the Pan-African Parliament, held in Midrand, South Africa, from 20<sup>th</sup> to 27<sup>th</sup> March 2024, laid on the Table of the House on Thursday, 2<sup>nd</sup> May 2024.

**Hon. Speaker:** Hon. Mbiuki.

#### ADOPTION OF REPORT ON BUDGET IMPLEMENTATION MONITORING FOR FINANCIAL YEAR 2022/2023 AND HALF YEAR 2023/2024

**Hon. Kareke Mbiuki** (Maara, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Tourism and Wildlife on Budget Implementation Monitoring for Financial Year 2022/2023 and Half Year 2023/2024 for the following State Departments, laid on the Table of the House on Thursday, 2<sup>nd</sup> May 2024:

- (a) State Department for Tourism; and
- (b) State Department for Wildlife.

I thank you, Hon. Speaker.

**Hon. Speaker:** Reverse back to Petitions.

**Hon. Robert Mbui** (Kathiani, WDM): Thank you, Hon. Speaker, for the indulgence. I stand to seek your advice. Last year, there was a petition that was brought to this House by the principals of our schools in Kenya. Schools are opening next week if rains allow and the principals are a worried lot. The issue that the principals had raised was a matter of capitation.

Firstly, the principals were concerned that the amount of capitation they are getting to run their schools is not enough.

Secondly, they were complaining that the capitation money always comes in late; they end up incurring expenses that they do not have the money for.

Thirdly, they raised a concern that many of the learners in Kenya are not registered under the system of National Education Management Information System (NEMIS), which is a digital system of registering students because some of them do not have birth certificates. This is not the fault of the principals or the parents because it is a State given document.

Fourthly, the principals alluded to the fact that from 2018, the amount of money they are getting as capitation was reduced by the Ministry of Education. They have been getting less money.

**Hon. Speaker:** Are you presenting the Petition again?

**Hon. Robert Mbui** (Kathiani, WDM): I am concluding on the question so that you can help us. The issue that is of concern is that the principals already have a debt of about Ksh54

billion. This Petition came at a time when it was supposed to be handled within the Budget cycle so that a solution would be given to them.

My question is; the Budget lines are going on and time is running out, what are we going to do? What advice would you give so that we provide an answer to the principals so that they are able to run their schools?

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you. Where is Hon. Nimrod? Hon. Robert, if you are the one who presented the Petition, if you had sought my advice, I would have advised you differently. The Petition is now with the Public Petitions Committee that has a backlog of work. If you had filed a Question in the same terms that you have elucidated to the Committee on Education, Hon. Melly is here and he is quite an efficient Chairman, he could have handled it. But since you chose to make the bed the way you did, you just lie on it.

Where is the Leader of the Majority Party? Yes, Leader of the Minority Party.

**Hon. Opiyo Wandayi** (Ugunja, UDA): Hon. Speaker, I agree with your advice. The matter is clearly an issue of public notoriety and since schools are opening next week on Monday, the able Chairman of the Departmental Committee on Education can comment on it. They should have opened this week on Monday, but due to the raging floods, the opening of school was postponed by a week. Would it be in order for you to direct Hon. Melly to liaise with the Ministry of Education and come up with a definite position on this matter of capitation?

Schools will not run because there is no money and the principals are helpless. How do we expect principals and school managers to run these schools without money? That is a matter that is so urgent that perhaps Hon. Melly could pronounce himself on it as we wait for the Public Petitions Committee to do its work. Even as we wait for the Public Petitions Committee to do its work.

Thank you, Hon. Speaker.

**Hon. Speaker:** It is inappropriate for me to ask Hon. Melly to comment on a matter that is not before his Committee. Hon. Melly, would you like to volunteer and help the House? But remember equity does not assist volunteers.

**Hon. Julius Melly** (Tinderet, UDA): Hon. Speaker, I am not volunteering, but I can just give information especially on issues concerning that amount of money. Hon. Members, I think it was in this Parliament where it was noted in Departmental Committee on Education that there is always a budget gap of Ksh20 billion on capitation. As a Committee, we placed before the Budget and Appropriations Committee that the Government owe schools Ksh9000 per child in every school totalling to what Hon. Mbuyi has said. I tabled it before the Budget and Appropriation Committee. I think the Chair knows that they need to fund up to Ksh54 billion in terms of fees arrears. You know the Government is a parent to the schools. That is where we are. In the last Budget, the Budget and Appropriations Committee factored in Ksh2.5 billion, which is a paltry money. It is good that this issue is brought before this House which appropriates monies.

Thank you, Hon. Speaker.

**Hon. Speaker:** Leader of the Majority Leader, you still have to inform the Chairman of Public Petitions Committee to ensure that they finalise on that Petition. In the event we have any Special Sitting within the recess period, I will direct the Clerk to list that Petition so that it can be dealt with within the context of that sitting.

**Hon. Owen Baya** (Kilifi North, UDA): Thank you, Hon. Speaker, I am guided. I can see Hon. Muriuki is here and he is a Member of the Committee.

**Hon. Speaker:** Who?

**Hon. Owen Baya** (Kilifi North, UDA): Hon. Muriuki. But, I will pass the message.

**Hon. Speaker:** Is there any Member of the Public Petitions Committee?

**Hon. Owen Baya** (Kilifi North, UDA): They are here. Several of them. But it is okay

**Hon. Speaker:** You know your Members.

**Hon. Owen Baya** (Kilifi North, UDA): I will do as guided. Thank you.

**Hon. Speaker:** Try and see what we can do. Next Order.

## QUESTIONS AND STATEMENTS

### REQUEST FOR STATEMENT

**Hon. Speaker:** We have several Statements, including some that I had approved, but are not on the Order Paper. If I give you an opportunity, try and summarise your Statement so that we take as many because this is the last sitting before we proceed for the long recess.

Hon. Amina Dika, Tana River County.

### HARVESTING OF STORMWATER IN TANA RIVER COUNTY

**Hon. Amina Dika** (Tana River County, KANU): Thank you, Hon. Speaker.

Pursuant to Standing Order 44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Blue Economy, Water and Irrigation regarding the harvesting of stormwater in Tana River.

Tana River County is characterised by its arid and semi-arid conditions, which often lead to either flooding during heavy rainfall or droughts during the dry season. Sadly, the residents of Tana River County are currently grappling with the challenge of flooding due to intense rainfall across the country. This has had a devastating impact on farmers whose livelihoods depend on agriculture, as their crops have been completely submerged. In addition, the roads being impassable has forced the residents to use boats in flooded areas leading to the risk of boat incidents such as what occurred in of Bura Constituency recently.

Given the extreme weather cycles in this region, it is imperative to implement initiatives for the harvesting of stormwater. This will help residents utilize the water for agricultural purposes year-round thus bolstering food security and mitigating the issue of flooding in the downstream areas.

It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Blue Economy, Water and Irrigation on the following:

1. What strategies does the Ministry of Water, Sanitation and Irrigation have in place to harness the heavy rains for long-term drought mitigation?
2. What support mechanisms are available to communities within Tana River County during and after the heavy rains considering the adverse effects on their livelihoods?
3. What measures are in place to mitigate the effects of overflowing dams that contribute to flooding within Tana River County?

Thank you, Hon. Speaker

**Hon. Speaker:** The Chairperson of the Departmental Committee on Blue Economy, Water and Irrigation, Hon. Bowen. Is it the first week after recess?

**Hon. Kangogo Bowen** (Marakwet East, UDA): Thank you, Hon. Speaker. Yes.

**Hon. Speaker:** Excellent. Hon. Amina Mnyazi, Member for Malindi.

### STATUS OF ISSUANCE OF SEAFARERS' IDENTITY DOCUMENT

**Hon. Amina Mnyazi** (Malindi, ODM): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Transport and Infrastructure regarding the status of processing and issuance of the Seafarers' Identity Document (SID).

In 2022, Kenya ratified the International Labour Organisation (Seafarers' Identity Document) Convention which requires that all seafarers have the Seafarers' Identity Document (SID). The SID is a document that is carried by all professional seafarers for the purposes of facilitating their mobility, transfer and transit at maritime borders and as a part of the security requirement of port states.

However, there have been grievances reported about the lack of issuance of this crucial document to Kenyan seafarers denying them entry into other countries. The Kenya Maritime Authority was set to roll out the issuance of SID but this has been delayed and no status update issued on the matter. This puts the jobs of thousands of seafarers and crew members working on different shipping lines at risk and is a hurdle to those seeking maritime-related employment opportunities.

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

1. What is the status of the processing and issuance of the Seafarers' Identity Document?
2. How many applications have been received by the Kenya Maritime Authority and the number of SIDs issued from 2022 to date?
3. What challenges have hindered the processing of Seafarers' Identity Document?  
And
4. What plans have been put in place to ensure that the processing of the Seafarers' Identity Document is fast-tracked?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Chairperson of the Departmental Committee on Transport & Infrastructure. Where is Hon. Kariuki?

**Hon. George Kariuki** (Ndia, UDA): Hon. Speaker, I am present and will provide a Statement on the first week after recess. Thank you.

**Hon. Speaker:** Hon. Irene Mayaka, Nominated Member of Parliament.

#### STATE OF INFRASTRUCTURE AT JKIA

**Hon. Irene Mayaka** (ODM, Nominated): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Transport and Infrastructure regarding the state of infrastructure at the Jomo Kenyatta International Airport (JKIA).

Hon. Speaker, Jomo Kenyatta International Airport (JKIA) plays a crucial role as a transit hub for passengers, major airlines and a significant cargo centre for both inbound and outbound goods. Indeed, the airport is among the busiest in Africa with records indicating that as of the financial year 2022/23, the airport handled close to 8 million passengers and over 300,000 tonnes of cargo. However, over the past decade, JKIA has faced persistent challenges such as inadequate infrastructural upgrades, power blackouts and broken facilities including leaking roofs.

Passengers handled at JKIA have also consistently complained of poor customer service at the facility. These issues not only affect the operational efficiency of the airport but also contribute to a deteriorating passenger experience. Despite the Kenya Airports Authority

(KAA) announcing plans to revamp the facilities of the airport, the infrastructural upgrades undertaken so far have often been substandard, leading to the continued dilapidation of JKIA.

Hon. Speaker, given the heavy rainfall experienced in the country, flooding at the airport and water leakages have also become a recurrent problem inside Terminal 1C International Departures and Terminal 1D Domestic Departures. Further, the infrastructural upgrades of the terminals have consistently fallen short, exposing passengers to inclement weather conditions during arrivals and departures.

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

1. Could the Chairperson provide a report on plans to upgrade the infrastructure of the airport?
2. State the measures that the Ministry of Roads and Transport has put in place to ensure that infrastructural upgrades at JKIA are up to standard?
3. Steps that the Kenya Airports Authority is taking to collaborate with relevant stakeholders to address reported challenges at JKIA, such as power blackouts?

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. GK is it the first week after recess?

**Hon. George Kariuki** (Ndia, UDA): Thank you, Hon. Speaker. Yes, the first week.

**Hon. Speaker:** Thank you. Hon. Tindi Mwale.

#### INFRINGEMENT OF THE RIGHT TO PRIVACY BY THE NTSA

**Hon. Nicholas Mwale** (Butere, ODM): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Roads and Transport regarding the potential infringement of the right to privacy by the National Transport and Safety Authority (NTSA).

Hon. Speaker, the National Transport and Safety Authority (NTSA) operates in a highly data-oriented environment necessitating access to and use of personal information to fulfil its mandates. However, concerns have been raised by a significant number of Kenyans, particularly those in the car dealership industry, regarding potential data privacy breaches on the National Transport and Safety Authority (NTSA) online platform.

Regrettably, the NTSA portal does not provide an option for registered organisations to create their own independent accounts. This has compelled employees to open accounts on behalf of their companies, with the companies only able to link their data to an already authorised individual account. It is imperative to note that Article 31 of the Constitution guarantees the right of every person to privacy, including the right not to have information relating to their private affairs unnecessarily required or revealed.

Hon. Speaker, it is against this background that I seek a statement from the Chairperson Departmental Committee on Roads and Transport on the following—

1. What measures are being taken to address the issue of registered organisations being unable to create or activate independent NTSA Accounts to avoid companies only having the option of linking their data to an authorised account?
2. What steps have been taken to protect citizens whose accounts are linked to an organisation's transactions, given that the company's transaction receipts display authorised persons' detail(s) instead of the company details, that is, the name, telephone number, email address and Identification number (ID)? and
3. What measures have been established to ensure that account sub-users with limited rights on transactions of major accounts do not intrude into the privacy of the authorised person's personal data available on the e-Citizen platform?

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. GK.

**Hon. George Kariuki** (Ndia, UDA): Hon. Speaker, I request that you give us up to the second week after recess.

**Hon. Speaker:** *Sawa*. Hon. Namuar, Member for Turkana Central.

#### ALLEGED ABDUCTION OF MR SAMMY EKITELA

**Hon. Joseph Emathe** (Turkana Central, UDA): Hon. Speaker, pursuant to the provisions of Standing Order 43, I wish to make a General Statement with regard to the alleged claims of the abduction of Mr. Sammy Ekitela of ID No. 32872871 in Lodwar Municipality, Turkana Central.

On Tuesday, 30<sup>th</sup> April 2024, the Member for Turkana South, the Hon. (Dr) Ariko Namoit, MP, requested for a Statement from the Chairperson of the Departmental Committee on Administration and Internal Security concerning the alleged abduction of a Mr. Sammy Ekitela, the Constituency Manager for Turkana South Constituency in Lodwar. The Member implied that Mr Sammy was abducted, and those in his company were assaulted and lost valuables during the attack. However, I wish to categorically state that investigations have conclusively proven these allegations to be unfounded. It has been determined that the Mr. Sammy Ekitela was not abducted, and the purported incident was a fabrication.

As you have consistently ruled, it is a matter of common courtesy for the area Member of Parliament to be involved in matters concerning their constituency. Unfortunately, I was neither aware of nor consulted regarding this alleged matter. It is regrettable that my colleague from Turkana South chose to advance political interests by exploiting the privileges accorded by this honourable House and making unsubstantiated claims. To correct the false impression created regarding the security situation in Lodwar, I must underscore that no abduction occurred in Turkana Central. The investigations have conclusively shown that the allegations were baseless.

Hon. Speaker, I hereby request that the Member for Turkana South, Hon. (Dr) John Ariko Namoit be compelled to retract and apologise to the people of Turkana Central for the false allegations, which have the potential to undermine the peace and security of our region. I also appeal to all my colleagues to refrain from making unfounded claims that could jeopardise the peace and security of our constituencies.

Thank you, Hon. Speaker.

**Hon. Speaker:** Is the Member for Turkana South here? He is not. You will square that out of this Chamber.

*(Laughter)*

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

**Hon. Speaker:** Yes, Hon. Wandayi.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, I have keenly listened to the Member for Turkana Central, but I got the gist of what he was trying to say at the tail end. You may need to guide the House on treading carefully on such matters. First and foremost, it amounts to discussing the conduct of the Member of Parliament for Turkana South, Hon. (Dr) Namoit. Second, Hon. Namoit has had serious challenges in the last couple of days. As a matter of fact, his Personal Assistant was abducted.

**Hon. Speaker:** That is what he is saying did not happen.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Therefore, I suggest that the matter concerning Turkana be handled a little bit more cautiously without publicising it in the manner the Member of Parliament is suggesting. More importantly, this House can direct the security agencies to move with speed and restore order in Turkana especially the areas around Turkana South and Central where Lodwar is situated. The issues in Turkana may look isolated, but if left unchecked, could spiral and affect other parts of the country especially, the neighbouring counties.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you. Member for Kigumo.

#### STATUS OF MAU MAU ROAD IN KIGUMO CONSTITUENCY

**Hon. Joseph Munyoro** (Kigumo, UDA): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Transport and Infrastructure regarding the status of the Mau Mau Road.

The residents of Kigumo Constituency in Murang'a County have raised concerns over the delay in the completion of the said road. The 540-kilometre road traverses Murang'a, Nyandarua, Kiambu and Nyeri counties and was commissioned to improve transportation, enhance connectivity, promote economic development and ease access to various areas for residents and businesses. Despite significant investment by the Government, the project appears to have stalled. Notably, the road has since become impassable due to the ongoing heavy rains, posing a serious threat to the safety and well-being of residents in the area.

Hon. Speaker, the impassable road has severely impacted businesses in the area, with farmers facing challenges in transporting their produce to the markets, resulting in substantial losses for families dependent on these businesses for their livelihoods.

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

1. Could the Chairperson provide the reasons for the prolonged delay in completing the Mau Road in Kigumo Constituency;
2. What plans has the Ministry put in place for the resumption and completion of the Mau Road construction in Kigumo Constituency?
3. What mitigation measures is the Ministry undertaking to ensure that the roads within Kigumo Constituency remain passable during this rainy season?
4. When is the contractor expected to resume construction of the Ikumbi-Karinga-Gacharage Road?

I thank you Hon. Speaker.

**Hon. Speaker:** Hon. GK.

**Hon. George Kariuki** (Ndia, UDA): Week two Hon. Speaker.

**Hon. Speaker:** Okay. So ordered.

**Hon. Joseph Munyoro** (Kigumo, UDA): Thank you.

**Hon. Speaker:** Hon. Said Hiribae

**Hon. Said Hiribae** (Galole, ODM): Thank you, Hon. Speaker. Sometime back, to be precise on the 21<sup>st</sup> March 2024, I brought a Statement here which was given to the Departmental Committee on Lands. They were supposed to have come here with a feedback immediately after recess but that has not happened up to today. The Statement concerns a dispute of a piece of land. Hon. Speaker, as you know, Tana River is very volatile and there have been very ugly incidences before. My people are up in arms but I managed to talk to them and they have been waiting for a response from this House but there is no response up to now.

My fear is, we are going for recess and it will take about one month. It is not surprising that before we come back, there will be ugly incidences because of this matter. So, I stand so that you give me direction on this matter.

**Hon. Speaker:** Was it to the Departmental Committee on Lands?

**Hon. Said Hiribae** (Galole, ODM): Yes, it was given to the Departmental Committee on Lands.

**Hon. Speaker:** Hon. Nyamoko, is he here? Yes, Chairman Nyamoko.

**Hon. Joash Nyamoko** (North Mugirango, UDA): Thank you, Hon. Speaker. We did communicate to the State Department of Lands in respect of the Statement which was being sought by Hon. Said, but we are yet to get the response. I want to give an undertaking that we will request for a written statement which we will then send to Hon. Said if that will assist in solving that problem.

**Hon. Speaker:** Hon. Hiribae, is that okay?

**Hon. Said Hiribae** (Galole, ODM): Hon. Speaker, I have been speaking to the Chairperson and he happens to be a good friend of mine, but my fear is land matters are very emotive matters at home in Tana River and you know very well that we will be coming back after one month. My fear is that we might end up having problems before we come back to this House.

**Hon. Speaker:** Where is Hon. Melly? Hon. Injendi Malulu to respond to the Statement sought by Hon. Joshua Kandie, MP Baringo Central. Do you have the response? Give him the microphone.

#### DELAYED SALARIES AND UNDERSTAFFING OF NON-TEACHING PERSONNEL IN SPECIAL NEEDS SCHOOLS

**Hon. Malulu Injendi** (Malava, ANC): Thank you, Hon. Speaker.

I rise to give a response from the Cabinet Secretary, Ministry of Education to a Request for a Statement by Hon. Joshua Kandie, MP for Baringo Central Constituency on delayed salaries and understaffing of non-teaching personnel in special needs' schools.

Hon. Members, Article 53 (1) (b) of the Constitution provides that every child has the right to free and compulsory basic education.

In this regard, the Government runs the free primary and free day secondary education programmes for all learners including those with disabilities and special needs. Under these programmes the Government provides capitation to learners at the various levels of education.

At the primary school level, the approved rates are a capitation grant of Ksh1,420 per learner including those in special needs education primary schools. In addition, the Ministry is to provide top-up grants of Ksh2,300 per learner per year to all special needs education learners in primary schools. This top-up grant is for the provision of specialised learning material and assistive devices and technologies. Special needs education boarding schools are also to be provided with Ksh11,000 per learner as boarding grants to subsidise boarding expenses and pay the salaries of non-teaching staff.

At the secondary school level, the approved capitation rate is Ksh22,244 per learner. Learners in special needs education schools are to be provided with the top-up grants of Ksh35,730 for the acquisition of specialised learning materials and assistive devices and technologies, personal emoluments for non-teaching staff and for food subsidy for learners in boarding schools.

Hon. Members, whereas these are the approved rates, the budget provided to the Ministry has always fallen short leading to an under-funding of the special needs education schools. For instance, the tables below illustrate the funding requirement under both the Free

Primary and Free Secondary Education Programmes and the respective deficits as well as the deficit under the Special Needs Education top-ups in the last two years.

**Table 1: Free Primary Education**

Financial Year	Requirement	Budgetary Provision	Deficit	Amount Utilized
2022/2023	11,815,000,000	11,811,734,102	3,265,898	11,494,023,667
2023/2024	12,328,000,000	12,001,036,900	326,963,100	6,186,816,065

**Table 2: SNE Primary Top-Up**

Financial Year	Requirement	Budgetary Provision	Deficit	Amount Utilized
2022/2023	856,000,000	455,000,000	401,000,000	454,999,052
2023/2024	1,328,000,000	455,000,000	873,000,000	318,500,000

**Table 3: Free Day Secondary Education**

Financial Year	Requirement	Budgetary Provision	Deficit	Amount Utilized
2022/2023	81,110,477,112	63,160,788,241	17,949,688,871	63,160,532,725
2023/2024	87,599,009,152	63,958,212,645	23,640,796,507	44,577,302,721

**Table 4: SNE Secondary Top-Up**

Financial Year	Requirement	Budgetary Provision	Deficit	Amount Utilized
2022/2023	400,000,000	200,000,000	200,000,000	199,982,700
2023/2024	506,000,000	200,000,000	306,000,000	139,990,846

In the FY 2022/2023, the Ministry required Ksh11 billion for Free Primary Education, it required Ksh11,815,000,000. The budgetary provision was Ksh11,811,734,102, the deficit there was Ksh3,265,898. In FY2023/2024, the requirement by the Ministry for Free Primary Education was Ksh12,328,000 whereas the budgetary provision was Ksh12,001,036,900. The deficit here was Ksh326,963,100.

Table II on Special Needs Education Primary Top-up the requirements for the same year, FY2022/2023 Ksh856,000,000 whereas the budgetary provision was Ksh455,000,000, deficit was Ksh401,000,000. For this Financial Year, the requirement was Ksh1,328,000,000 whereas budgetary provision was Ksh455,000,000. There is a deficit up to now of Ksh873,000,000. So, Hon. Speaker when you look at the free day secondary school in the same years you will find that for free day secondary school education there was a deficit of Ksh17 billion for the FY 2022/2023 and for the FY 2023/2024 there was a deficit of Ksh23 billion. When it comes to special needs, secondary school top up, again for the same years FY 2022/2023 there was a deficit of Ksh200 million and in the FY 2023/2024 there was a deficit of Ksh306 million.

So, Hon. Members the funding gap is significant especially given the growing enrolment in our learning institutions. The Ministry has continued to make appeals to the Departmental Committee on Education and the National Assembly in general to enhance the budgetary provisions so that learners can be funded at the approved rates. This under-funding poses a serious threat to the quality of learning in the institutions, especially those with learners who have severe disabilities. The special needs education institutions need to be supported adequately to acquire the relevant assistive devices and learning resources depending on the nature of disabilities and also to pay the non-teaching staff and care givers.

Learners with special needs require more resources including a staffing ratio of 1:1 for those with severe disabilities.

In the Kabarnet School for the deaf and blind, which has been identified by the Hon. Joshua Kandie, for example, there are 81 learners with a teaching staff component of 32 teachers who have been employed by the Teachers Service Commission and support staff of 22, 12 of whom are permanent and ten are casual staff. These ratios are below optimal. The inadequate funding also means that the support staff are underpaid. Indeed, presently, the school has a pending bill of up to Ksh4.7 million in unpaid salaries for support staff. This situation leads to demoralisation of staff and a high staff turnover, thereby undermining smooth operations in the schools. The Ministry is therefore beseeching the Departmental Committee on Education to support it in securing the optimal budgetary allocation required to ensure that our learning institutions, including special needs institutions, operate smoothly and efficiently for the benefit of the learners. With funding at the approved rates, the schools will be able to provide the required resources to the learners and also timely pay support staff.

From an operational perspective, the Ministry disburses capitation to learning institutions in three phases, 50 per cent in term one, 30 per cent in term two and 20 per cent in term three. The Ministry always promptly prepares the disbursement schedules for funds to be released by the National Treasury. However, the Ministry sometimes faces delays in making actual disbursements to the schools because of delays in the release of exchequer from the National Treasury. The Ministry, however, always makes efforts to follow up to ensure a timely release of the Exchequer from the National Treasury. By way of example, the Ministry has provided a copy of its letter dated 13<sup>th</sup> April 2023 under reference No. MOSCCT1/03Vol5 as evident. This year, the capitation for Term 1 has been disbursed to all schools, including special needs institutions. The Kabarnet School for the deaf and blind has received Ksh791,000,662 as capitation for Term 1.

Hon. Speaker, I wish to confirm that we invited the Cabinet Secretary to our Committee and at the same time also invited Hon. Joshua Kandie, the author of the Statement to our Departmental Committee on Education meeting and the Hon. Member was satisfied with this Statement.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you. To the next. This time paraphrase, you have taken too long on that one. This is for Hon. Owen Baya.

#### WITHHOLDING OF ACADEMIC CERTIFICATES BY SCHOOL HEADS IN PRIMARY AND SECONDARY SCHOOLS

**Hon. Malulu Injendi** (Malava, ANC): Thank you. This is a response to a request for a statement by Hon. Owen Baya, the Member of Parliament for Kilifi North, regarding the withholding of academic certificates by school heads in both public and secondary schools.

Hon. Members, all candidates are, by law, entitled to their certificates upon release of their results. Every child in Kenya has a constitutional right to basic education and withholding

of certificates violates this right. As the Hon. Member for Kilifi North rightly notes, Section 10(1)(b) of the Kenya National Examination Council (KNEC) Act, 2012 prohibits institutions or persons from withholding KNEC certificates or diplomas from the candidates. It therefore against the law for any institution to withhold KCSE or KCPE certificates of a student for any reason, including non-clearance of school fees. Schools and school heads are merely agents of KNEC to transmit certificates to candidates. They therefore do not have any basis in law to withhold the certificates. The Ministry has issued to all schools through the County Directors of Education, emphasising the legal position to the effect that no certificate should be withheld on account of non-clearance of school fees. A copy of the circular dated 8<sup>th</sup> November is provided herewith. Despite the position of the law and the various circulars, KNEC and the Ministry through their various field officers often receive reports of certificates being withheld by schools, especially on account of unpaid school fees. This is a clear breach of the law which the Ministry is committed to end. Such cases whenever they occur, are to be reported to the Ministry of Education and the Teachers Service Commission for action. It is important to point out that many cases of withheld certificates are not reported to the Ministry or KNEC, as the affected candidates attempt to resolve the issues between themselves and their respective schools. However, in order to obtain a clear picture of the situation, the Ministry has instructed its field officers to undertake a comprehensive audit of all the schools within their jurisdiction to provide reports to the Ministry covering the period from 2012 as requested by the Hon. Member for Kilifi North. The Ministry will transmit the information to the Committee once it is provided. Once this information is available, the Ministry, working together with other stakeholders such as the Teachers Service Commission, will take specific action against the implicated school heads to ensure that the affected candidates get their certificates.

As a ministry, they have been exploring various solutions to address this problem of withheld certificates. One of the options they have considered is to strengthen the existing legal framework by making it a punishable crime to withhold a candidate's certificate. The current law only prohibits the withholding of a certificate without providing for punishment. The Ministry is also exploring the possibility of direct access by leveraging on the technology as proposed by the Hon. Member of Parliament for Kilifi North. The system for direct access that is being contemplated would enable all institutions and third parties to access and confirm the results of candidates from a single source operated and secured by KNEC. Such a system will also be instrumental in facilitating verification of basic education levels sold by institutions of higher learning as well as potential employers.

I also want to confirm that the Cabinet Secretary appeared before the Committee and also invited the Member concerned and the Member was satisfied with this response.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Injendi. Hon. Umulkher, Nominated Member.

#### STATUS OF STATEMENTS REGARDING FLOODING IN THE COUNTRY

**Hon. Umulkher Harun** (Nominated, ODM): Thank you, Hon. Speaker. I requested for a Statement on Tuesday from the Chairperson of the Departmental Committee on Blue Economy, Water and Irrigation on the situation of floods and Masinga Dam overflow. You had asked him to give us a response on Thursday, today

**Hon. Speaker:** Hon. Bowen, are you ready?

**Hon. Kangogo Bowen** (Marakwet East, UDA): Hon. Speaker, indeed. You directed that I give a report about the floods in the country especially in Garissa County. The Report I have is just an interim because you directed that I should give a progress report this afternoon.

**Hon. Speaker:** Yes.

**Hon. Kangogo Bowen** (Marakwet East, UDA): Hon. Speaker, the Ministry has given me a progress Report though we had asked the Cabinet Secretary to appear before us this morning so that we could invite the Hon. Member but to appear before the Committee but because of your ruling that we should cancel all Committee meetings because of what we had in the in the morning, he was not able to come.

He gave me the following: The Ministry is in the process of putting short-term measures to mitigate the floods across the country and they also have long-term measures. The extent of the damages of the current rains is on water storage facilities. The Ministry is on high alert and is currently assessing the status of water storage facilities, that is, dams and pans. To this end, no major storage facility has been noted or damaged. However, most of the dams across the country are spilling and hence are posing a risk of flooding downstream. As of May 2024, all the Seven Folks dams comprising Masinga, Kamburu, Gitaru, Kindaruma and Kiambere were spilling. Further, the water supply intakes in Tana basins in Thika, Garissa, Athi Basin, Kiama, Kimakia, Mwangu and Kairi and in Victoria South catchment areas like the Dunga, Oyani are submerged. The water supply services areas affecting an estimated 400,000 people. In most cases, utilities such as the basins have adopted water rationing to manage the supply and demand. It is also noted that the following facilities have been affected:

1. Ololung'a Dam
2. Narok Sewer Manholes
3. Nairobi
4. Mara River
5. Garissa Sewer
6. Machakos
7. Mavoko
8. Thika

The Ministry has given short-term solutions to address the current impact on the storage facilities. As earlier stated, the storage facilities have not been damaged but there is a lot of spilling which has caused floods downstream. Understanding the consequences of spilling, the Ministry has installed a real-time monitoring stations at strategic locations on the rivers to provide the status of water levels every day. This data is used to provide periodic advisories to alert downstream communities to remain vigilant for their safety. The real-time water level monitoring stations have been installed in the following areas.

Lake Victoria North Basin

1. Sio, Busia County
2. Malaba, Malaba
3. Isikho, Kakamega
4. Wuoroyia, Ugunja

Lake Victoria South Basin

1. Kuja, Migori
2. Miriu, Nyakach
3. Nyando, Nyando
4. Lake Victoria
5. Kipsonoi
6. Nyando Muhoroni
7. Njongit

Rift Valley Basin

1. Njoro
2. Ewaso Ng'iro
3. Perkerra
4. Molo
5. Lake Naivasha
6. Meroroni
7. Enkare, Narok

#### Athi Basin

1. Nairobi
2. Athi Kibwezi
3. Athi Wamuyu
4. Tsavo

#### Tana Basin

1. Tana Garissa
2. Thiba, Kirinyaga
3. Tana Sagana
4. Nanyuki
5. Ewaso Ng'iro Narok, Rumuruti

The Ministry and its State corporations are constantly monitoring the performance of the dams and water pans in the country, including private water pans. Water pans that show some level of distress are evacuated.

On the long-term measures, the Ministry is mobilising resources through various strategies, which entail public-private partnerships (PPPs), water-sector climate financing, and social dams to construct climate-proof water harvesting and storage infrastructure to harvest water for flood control. The target is about 100 large dams, 3,000 water pans and 200 small dams. The plan is to increase the annual per capita water from 452 cubic metres per person to 620 cubic metres per person by the year 2025 and 700 cubic metres per person by the year 2027. To alleviate the perennial flooding within the Lower Tana Basin areas, that is, Garissa and Tana River counties, the Ministry is proposing to reroute the flood waters from River Tana through the canal to Fafi wetlands. The rechannelling of these flood waters will also be useful for irrigation during the period as well as for recharging the aquifers.

**Hon. Speaker:** Hon. Bowen, can you summarise?

**Hon. Kangongo Bowen** (Marakwet East, UDA): Yes, I am finalising, Hon. Speaker.

**Hon. Speaker:** I understood the questioner. Her concern was the Seven Forks Dams, which had a threat of spilling, and what you are doing to mitigate the situation. Now you are wandering all over the country.

**Hon. Kangongo Bowen** (Marakwet East, UDA): As I have said, Hon. Speaker, the Ministry has given me an interim report, given that yesterday you told me to submit a report today. I have given an interim report and I will give the Member a copy. But I will invite the Cabinet Secretary to the Committee so that the Member can also appear.

Thank you, Hon. Speaker.

**Hon. Speaker:** Excellent. Thank you. Hon. Umulkher, you have got the report. If you have any issues, sort them out with Hon. Bowen. We do not have the time.

Hon. Beatrice Adagala.

#### REQUESTS FOR STATEMENTS

## PREPAREDNESS OF SCHOOLS DURING THE RAINY SEASON

**Hon. Adagala Beatrice** (Vihiga County, ANC): Thank you, Hon. Speaker. Pursuant to the provision of Standing Order 44(2)(c), I rise to request for a statement from the Chairperson of the Departmental Committee on Education regarding the preparedness of schools to deal with the effects of heavy rains and associated challenges.

The rains pounding various parts of the country have resulted in flash floods affecting many citizens, including school-going children. In the recent past, floods have not only caused closure of schools but have also led to loss of lives, destroyed school infrastructure, made roads inaccessible, displaced families and increased disease outbreak. Regrettably, this has had an impact on school attendance and subsequent poor academic performance by school children. In these circumstances, school preparedness is a growing concern as it involves the accessibility and safety of school facilities and other items of importance to learning.

It is against this background that I seek a statement from the Chairperson of the Departmental Committee on Education on the following:

1. What is the state of preparedness by the government ahead of next week's reopening of schools plan under such prevailing rainy conditions?
2. Could the Ministry state the number of learning institutions affected by the ongoing heavy rains in the country?
3. What financial assistance or support is in place for schools affected by floods in the country?

I thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Bowen, is that directed to you or to the Departmental Committee on Education?

**Hon. Speaker:** Hon. Melly, that request is directed at you. Can you bring the response?

**Hon. Julius Melly** (Tinderet, UDA): Yes, I will bring the response immediately we resume from recess, Hon. Speaker.

Excellent. Hon. Daniel Karitho, Member for Igembe Central.

EXPLOITATION OF MIRAA FARMERS AT THE  
JOMO KENYATTA INTERNATIONAL AIRPORT

**Hon. Daniel Karitho** (Igembe Central, JP): Thank you, Hon. Speaker, for this opportunity. Pursuant to the provision of Standing Order 44(2)(c), I wish to request for a statement from the Chairperson of the Departmental Committee on Agriculture and Livestock regarding exploitation of farmers at the Jomo Kenyatta International Airport (JKIA).

Miraa is one of the most profitable cash crops in Kenya that feeds international as well as national markets. Notably, in 2015 Parliament amended the Crops Act to ensure recognition of miraa as a cash crop and to obligate the national government to establish mechanisms for its promotion, production, distribution and marketing. Sadly, it has been reported that miraa farmers are being exploited by cartels who manipulate the prepressing and distribution of the product in the market. For instance, transport of miraa products to Mogadishu, being one of the biggest consumers of miraa, is approximately one and a half times more costly as compared to other products to the same destination. Additionally, those cartels dictate the kind of airline that transports the product, the quantity to be transported, and the specific market destination. This is exploitative, unjust and impoverishes farmers who toil in the farm.

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

1. What measures is the Government taking to ensure that *miraa* farmers are not exploited by business entities, especially with regard to transportation and pricing of the commodity?
2. What steps has the Government taken to ensure that business entities adhere to regulatory framework already in place, including setting the frequency of inspections, to ensure compliance with the regulations and necessary measures against those business entities?
3. What plans are in place to ensure that all approved airlines, including Kenya Airways, transport the commodity to all market destinations that have been approved by the Government of Kenya?
4. What measures is the Government going to take to ensure that the cartels that are hindering the business at the Jomo Kenyatta International Airport are dealt with?

Thank you, Hon. Speaker.

**Hon. Speaker:** Chairman of the Departmental Committee on Agriculture and Livestock? Any Member of the Committee? Leader of the Majority Party, inform the Chairman to bring the statement upon resumption from recess.

Hon. Timothy Toroitich.

#### OPERATIONALISATION OF LAND REGISTRY IN ELGEYO MARAKWET

**Hon. Timothy Kipchumba** (Marakwet West, Independent): Hon. Speaker, pursuant to the provisions of Standing Order No. 44(2)(c), I rise to request for a statement from the Chairperson of the Departmental Committee on Lands regarding the operationalisation of the Elgeyo-Marakwet County Land Registry.

Land registries play a crucial role in maintaining an efficient land registration system and ensuring the orderly conduct of land transactions. Unfortunately, despite Elgeyo-Marakwet County having its own land registry, it remains under-utilised due to the absence of land valuers, whose deployment falls under the purview of the Minister of Lands. Consequently, land valuations of Elgeyo-Marakwet residents are conducted in Uasin Gishu County, causing administrative disparities and inconveniences for local residents who require land registration services and title deed issuance.

The situation also derails important projects that often require valuation reports for land acquisition purposes, such as projects funded by the National Government Constituency Development Fund (NG-CDF). The unavailability of valuation reports impedes the NG-CDF Committees in disbursing funds for community development initiatives.

It is against this background that I request for a statement from the Chairperson of the Departmental Committee on Lands on the following:

1. Could the Chairperson provide timelines for deployment of land valuers to the Elgeyo-Marakwet County Land Registry?
2. What measures is the Government taking to ensure full operationalisation of the Elgeyo-Marakwet Land Registry to enable county residents to access land registration services and issuance of title deeds conveniently?

I thank you, Hon. Speaker.

**Hon. Speaker:** Chairperson of Lands, first week?

**Hon. Joash Nyamoko** (North Mugirango, UDA): First week, yes.

**Hon. Speaker:** Nominated Member from Garissa, Umulkher Harun.

**Hon. Umulkher Harun** (Nominated, ODM): Hon. Speaker, My apologies. I thought I raised the request for statement that I had.

**Hon. Speaker:** You are following up on an earlier statement. You had filed another statement, but we will drop it if you are not ready.

**Hon. Umulkher Harun** (Nominated, ODM): I got a response from the Chairperson.

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

#### REHABILITATION OF KAPENGURIA-LODWAR ROAD

**Hon. Rael Kasiwai** (West Pokot County, KUP): Hon. Speaker, pursuant to the provisions of Standing Order No. 44(2)(c), I rise to request for a statement from the Chairperson of the Departmental Committee on Transport and Infrastructure regarding the state of the Kapenguria-Lodwar Road.

Hon. Speaker, the ongoing heavy rains have caused damage to many roads across the country. The Kapenguria-Lodwar Road, for instance, has been rendered impassable, particularly around the Lous area. This has severely affected residents within the area by disrupting crucial transportation links and hindering the flow of goods and services within the area. Additionally, this disruption has resulted in closure of trade and commerce centres within the area, negatively affecting the economy of the region. With the road being rendered impassable, the residents are unable to access essential services such as health care and education, which are fundamental rights of every citizen as enshrined in the Constitution.

It is against this background that I request for a statement from the Chairperson of the Departmental Committee on Transport and Infrastructure on the following:

1. What immediate measures is the Ministry of Roads and Transport putting in place to rehabilitate the Kapenguria-Lodwar Road?
2. What long-term measures is the Ministry taking to ensure the safety of the residents during the heavy rains?

I thank you, Hon. Speaker.

**Hon. Speaker:** Chairperson of Roads. *Wapi* Kariuki? I thought Kariuki was here. Leader of the Majority Party, inform him to bring the statement on the first week upon completion of recess.

Hon. Clive Gisairo.

#### STATUS OF KENYA DIGITAL ECONOMY ACCELERATION PROJECT

**Hon. Clive Gisairo** (Kitutu Masaba, ODM): I thank you, Hon. Speaker. Pursuant to Standing Order 44(2)(c), I rise to request for a statement from the Chairperson of the Departmental Committee on Communication, Information and Innovation regarding the status of the Kenya Digital Economy Acceleration Project.

Hon. Speaker, to become a middle-income country by 2030, the country needs to incorporate the development of digital technologies within the Government as this plays a catalytic role in enhancing productivity and prompt service delivery by both the public and private sector. The Kenya Digital Economy Acceleration Project was introduced to help make Kenya's growth more equitable by shrinking disparities in digital skills and connectivity and expanding the digital marketplace. The World Bank disbursed a total of US\$390 million in the year 2023 to the Information and Communication Technology (ICT) Authority for the implementation of the project through various components like extending the reach of backbone networks, increasing last-mile connectivity for education, developing the critical enablers for e-Government services and supporting digital literacy, among others. However, there remains a divide in access to broadband, digital public services and the skills needed for individuals and businesses to thrive in a digital society, especially in the rural areas.

It is against this backdrop that I request for a statement from the Chairperson of the Departmental Committee on Communication, Information and Innovation on the following:

1. What is the status of implementation of the Kenya Digital Economy Acceleration Project so far since the disbursement of funds by the World Bank?
2. What regions have benefited from the implementation of the project so far?
3. What are the expected gains from this project?

I thank you, Hon. Speaker.

**Hon. Speaker:** Chairperson of Committee on ICT.

**Hon. John Kiarie** (Dagoreti South, UDA): Thank you very much, Hon. Speaker. Hon. Clive raises a very important point. As we go on recess, we are going to take up this matter and burn the midnight oil even as we attend to the budget issues. In two weeks, we shall be ready with a response. That means as we come back from recess, he shall get a response.

Thank you very much, Hon. Speaker.

**Hon. Speaker:** Well, done. Leader of the Majority Party, your Thursday Statement.

Hon. Ruku, I do not have any of your Statements, unfortunately.

Before you, Leader of the Majority Party, Musa Sirma, you have a communication. I will give you one minute.

**Hon. Musa Sirma** (Eldama Ravine, UDA): Thank you, Hon. Speaker. I take this opportunity to welcome Members.

## STATEMENT

### INVITATION TO THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND 20 YEAR-ANNIVERSARY CELEBRATION

**Hon. Musa Sirma** (Eldama Ravine, UDA): Thank you, Hon. Speaker. I know you have received official Communication. I take this opportunity to welcome and invite all Members to the 20<sup>th</sup> anniversary of the commemoration of the establishment of the National Government Constituencies Development Fund (NG-CDF) tomorrow at Safari Park Hotel starting from 9.00 a.m.

Hon. Speaker, we know the roles played by Members of Parliament with respect to this Fund. They are pivotal to the development of this country, especially in committing funds to the exclusive functions of the national Government. I also want to confirm to Members that the commitment by the Government to deliver the continuous payment of Ksh10 billion every month is on course and there is no default at all. Therefore, the respect accorded to you, having been given that commitment, has been met. Chairpersons and fund account managers have also been invited to that meeting. Welcome all.

Thank you.

*(Applause)*

*(A Member spoke off the record)*

**Hon. Speaker:** Thank you, Hon. Sirma. What is the time of the meeting? Give him the microphone.

**Hon. Musa Sirma** (Eldama Ravine, UDA): Members, we should be at Safari Park Hotel by 8.00 a.m. tomorrow because we shall be starting between 8.30 a.m. and 9.00 a.m. The Head of State will be the guest of honour.

**Hon. Speaker:** Yes, Hon. Jared.

*(Loud consultations)*

Members, you are conversing very loudly. Hon. Musa Sirma is inviting all of you to Safari Park Hotel tomorrow morning, particularly those of you who are in continuous interaction with the NG-CDF, to celebrate the 20<sup>th</sup> anniversary of that important Fund.

Yes, Hon. Okello.

**Hon. Jared Okello** (Nyando, ODM): Thank you very much, Hon. Speaker. I have two issues that I want to quickly run by you.

First, recognising that we are going on recess today, I raised a question as regards the remission of funds for political parties to the Registrar of Political Parties, who should then cascade them to political parties on a pro-rata basis. I remember you gave the Leader of the Majority Party the task of talking to the National Treasury and to give us a report. I hope the report is ready now that we shall be out for a month.

Secondly, and most important thing to me, Hon. Speaker, you are the Chairperson of the Parliamentary Service Commission with the mandate of ensuring the welfare and comfort of Members of this House. I am concerned about the relationship between this House and the Executive, particularly as regards sitting arrangements during State functions. While I do not attend presidential functions for obvious reasons, a fortnight ago, I happened to attend the burial of the Chief of the Defence Forces (CDF), my brother and friend, General Francis Ogolla, who has substantively been replaced this morning.

Hon. Speaker, I know that Cabinet Secretaries depend on this House to get jobs. However, I was disturbed that Members of Parliament were literally scrambling for seats close to where the President was. My brother, Hon. Ruku, who I believe is the tallest man in this House, had to stand for five minutes. I had to cede my seat to Hon. Ruku. It is permissible for me to stand and look for a seat, but it becomes very embarrassing when Hon. Ruku, who has a height of 7.2 feet, is looking for a seat.

One thing that I cannot properly wrap my head around is whether it is Government policy that no one accords seats to Members of Parliament and yet, Cabinet Secretaries have all the latitude and seats marked with their names. Members of Parliament must literally suffer trying to locate seats. Hon. Speaker, I implore you as our Chairperson to find out whether something can be done in this respect because Members of Parliament play a very important role. We literally depend on the charity of our voters to get into this House. A Cabinet Secretary only needs one person to appoint him/her to that office. We are subjected to inordinate embarrassment before the public when we have to beg for seats. Hon. Ruku can bear witness that I had to cede my seat for his sake.

**Hon. Speaker:** You have made your point.

**Hon. Jared Okello** (Nyando, ODM): Hon. Speaker, we need your indulgence and direction on this. If it is a protocol issue stemming from State House, it has to be corrected immediately so that the respect we enjoy with the electorate out there can permeate and continue.

As I conclude, the Leader of the Majority Party, who was sitting three feet away from me, had to be squeezed and sandwiched in a very small seat that did not befit his position. While we have our political differences, his comfort is my comfort, and his welfare is my welfare. We may differ politically but the comfort and welfare of Members of this House sits at the top echelons of my consideration.

Thank you for the opportunity.

**Hon. Speaker:** Leader of the Majority Party, do you have anything to say on that? Hon. Ruku, *ngoja*.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. I know Hon. Okello was seated next to me at that funeral. For the record, let me state that I went to the funeral to mourn with the family of the Chief of Defence Forces (CDF) Ogolla. I was comfortable sitting anywhere because it was a funeral.

However, I noticed that the Deputy Leader of the Azimio la Umoja–One Kenya Coalition, His Excellency Hon. Kalonzo Musyoka, was seated very far from where I would ordinarily expect a leader of his stature to sit. I do not know which position he holds in the Azimio la Umoja–One Kenya Coalition. I do not know if he is the Deputy Leader or if Hon. Martha Karua is the Deputy Leader. However, I know he is a leader within the Azimio la Umoja–One Kenya Coalition. The Leader of the Majority Party in the Senate and I had to cede our seats and move to allow Hon. Kalonzo Musyoka to move to the position we felt he warranted.

There was probably a problem with the protocol that day. The best I can do is offer my very profound apologies to Hon. Okello and Hon. Ruku on behalf of the Ministry of Defence, which was in charge of protocol at that funeral. I know Hon. Okello is from Kanyakwar Village. I have been there and I offer him my very profound apologies. I know he likes to sit in a very prominent position. Hon. Ruku was very comfortable, as was I, because we went there to mourn the fallen hero, General Ogolla.

However, that does not mean that Members of Parliament should not be accorded the respect that they deserve, not just during funerals, which are very solemn occasions, but also during national holiday celebrations. I want to say this to the Ministry of Interior and National Administration, and those in charge of protocol during national functions, that seats of Members of Parliament ought to be reserved ahead of those of Cabinet Secretaries and Principal Secretaries. I have seen on some occasions that they even reserve seats of Governors ahead of those of Members of Parliament. Hon. Keynan will tell you that he sponsored a Bill in this House on the Order of Precedence. Members of Parliament rank very high up ahead of other State officers, some of whom are elevated above Members of Parliament.

Hon. Speaker, I commit to pick that matter up with the Ministry of Interior and National Administration, which is usually in charge of protocol during State functions. They should ensure that starting from 1<sup>st</sup> June 2024, if Hon. Keynan or Hon. Robert Mbui is accompanying Hon. Kalonzo Musyoka, they must be accorded a respectable place to sit. Do not expect Hon. Robert Mbui to sit on the grass. The last time he tried to imitate people in some demonstrations, he fractured his legs.

You can imagine what can happen to Hon. Robert Mbui, if he tries to sit where there are other members of the public. For the record, occasionally, I cede my seat to Members of Parliament. When I attend the President's functions and I find the area Member of Parliament has not been accorded a good place to sit, I cede my seat to him or her which is usually very close to that of the President. Let us not take some of those things too heavily in our hearts. All those positions are transitory. I am Leader of the Majority Party today. I might not be the one tomorrow. Those who are Cabinet Secretaries today might not be in the same positions tomorrow. Therefore, let us also have some humility in service. We are all at the service of the people whom we serve. We must put service at the core of our service to the nation, ahead of our personalities and egos.

I remain strong to serve, Hon. Speaker.

**Hon. Speaker:** Hon. Ruku.

*(Loud consultations)*

Order, Hon. Members. Hon. Ruku, paraphrase your Statement quickly.

**REQUEST FOR STATEMENT****MEASURES TO BOOST MANUFACTURING  
SECTOR IN THE COUNTRY**

**Hon. Ruku GK** (Mbeere North, DP): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a statement from the Chairperson of the Departmental Committee on Trade, Industry and Co-operatives regarding measures being taken to boost the manufacturing sector in the country. It is a critical core in the will that is needed to drive Kenya to its ambitious goal of becoming a rapidly industrialised middle-income nation by the year 2030. Expansion in the manufacturing sector is imperative for the national development because of its ripple effect of spurring economic growth. The far-reaching benefits of the value chain, job creation, raising national revenue, purchasing power and enhancing the balance of trade, among others, cannot be over-emphasised. In order for the country to achieve rapid industrialisation, there is need to boost the manufacturing sector.

It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Trade, Industry and Co-operatives on the following:

1. What specific policies has the Government put in place to promote local manufacturing and industrial growth in Kenya, including the mechanisms that have been put in place for monitoring and evaluating the effectiveness of the named policies?
2. What measures is the Government taking to promote value addition and diversification within the manufacturing sector, with the intention of attracting local and foreign investments in manufacturing?
3. What measures has the Government developed to support and integrate more medium-sized enterprises and cottage industries, so as to enhance their participation in the manufacturing sector?
4. What steps has the Government taken to streamline regulation processes, reduce bureaucracy for manufacturing, as well as ease their cost of doing business?
5. How is the Government addressing challenges such as infrastructural deficiencies and high cost of production that hinder manufacturing productivity?
6. How is the Government mitigating environmental concerns in order to ensure sustainable manufacturing practices?
7. What incentives are available to encourage innovation, technology and adoption of artificial intelligence within the manufacturing industry?
8. Which strategies has the Government implemented to ensure availability of skilled and unskilled labour for the manufacturing sector?

I thank you, Hon. Speaker.

Finally....

**Hon. Speaker:** No, you are breaching our trust. Hon. Gakuya. Who is the Chair of the Departmental Committee on Trade, Industry and Co-operatives? Yes, Hon. Marianne. Will you respond during the first week after recess?

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Speaker, give us the second week.

**Hon. Speaker:** Okay. Leader of the Majority Party, before you make your Thursday Statement, we will go back to Order No. five.

**PAPER**

*(Hon. Jared Okello consulted loudly)*

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, can I get attention from Hon. Okello because the Paper touches on some of the issues he raised on Exchequer releases.

**Hon. Speaker:** Hon. Jared.

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

Supplementary Estimates II for the Financial Year 2023/2024 from the National Treasury and Economic Planning and the following accompanying documents:

- (a) Financial Year 2023/2024 Supplementary Estimates No. II (Programme-Based Budget).
- (b) Financial Year 2023/2024 Supplementary Estimates No. II (Recurrent Estimates).
- (c) Financial Year 2023/2024 Supplementary Estimates No. II (Development Estimates Volumes I, II and III).
- (d) Statement on Financial Year 2023/2024 Supplementary Estimates No. II.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you. You may now proceed to Order No. 7.

## STATEMENT

### BUSINESS FOR THE WEEK OF 3<sup>RD</sup> TO 7<sup>TH</sup> JUNE 2024

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, pursuant to the provisions of Standing Order 44 (2) (a), I rise to give the following Statement on behalf of the House Business Committee (HBC), which met on Tuesday, 30<sup>th</sup> April 2024 to prioritise the business for consideration during the week.

I wish to commend the leadership of the House and all the Members for dedication and co-operation that they have exhibited in the Session so far. We have certainly been able to meet the statutory timelines in respect of matters that were before us. In accordance with the approved Calendar, the House is scheduled to proceed on recess from tomorrow, Friday, 3<sup>rd</sup> May 2024 and, thereafter, resume regular sittings on Tuesday, 4<sup>th</sup> June 2024 at 2.30 p.m.

Members may wish to note that this will be a very busy recess period. It is a working recess, especially for Departmental Committees and Budget and Appropriations Committee as they engage with Ministries, Departments and Agencies (MDAs) on Budget Estimates of the Financial Year 2024/2025, and also the Supplementary Estimates for Financial Year 2023/2024 that have just been tabled this afternoon. Additionally, there are various matters relating to Bills, treaties, inquiries and responses to Statements still pending before committees, including those that Hon. Speaker has committed before committees this afternoon. I, therefore, urge all committees and Members to be present and participate actively in ensuring all those matters are concluded and reports brought to the House upon resumption.

In addition, I wish to remind the House of the Resolution passed on Wednesday, 14<sup>th</sup> February 2024 on consideration of business received during the recess period, relating to conveyance of messages from the Senate, the President or national Executive. This is on publication and procedure upon publication, first readings of Bills and tabling of papers which are determined to be of priority nature during the recess period. In this regard, any Message and Papers received during the recess shall stand committed to the relevant committees for consideration based on the priority nature of the business.

Hon. Speaker, with regards to business scheduled for Tuesday, 4<sup>th</sup> June 2024, the House is expected to consider the following Bills at various stages, should they not be concluded today:

1. Second Reading of the Statute Law (Miscellaneous Amendments) Bill of 2023.
2. The Land Laws (Amendment)(No.2) Bill, 2023.

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

1. Reports of the Auditor-General on the National Government Constituencies Development Fund (NG-CDF) for the nine constituencies in Bungoma County.
2. Reports of the Auditor-General on the financial statements of specified State Corporations.
3. Report of the Public Petitions Committee on its consideration of public Petition on funds spent contrary to the provisions of Article 223 of the Constitution.
4. Report on the Parliamentary Broadcasting and Library on enhancing reporting of parliamentary business on online platforms.
5. Report of the Committee on Regional Integration on its inspection of the semi-autonomous institutions of East African Community in Uganda.
6. Report of the Committee on Implementation on the implementation status of reports of petitions and resolutions passed by the House.
7. Report of the Departmental Committee on Trade, Industry and Co-operatives on its consideration of the alleged unfair trade practices by foreign investors in Kenya.

8. Report of the Departmental Committee on Agriculture and Livestock on its enquiry into the maize flour subsidy programme for the 2022/2023 Financial Year.

I also take this opportunity to inform Members that the House may be recalled for a Special Sitting, pursuant to provisions of Standing Order 29(1), to consider critical business that may arise during the recess period. This is especially so considering this morning's Resolution on the Motion for the proposed removal of the Cabinet Secretary for Agriculture and Livestock Development and the strict timelines that are provided for in Article 152 of the Constitution. In conclusion, the House Business Committee shall reconvene again on Tuesday, 4<sup>th</sup> June 2024, to schedule business for the rest of that week.

I now lay this Statement on the Table of the House. Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you. Let us have Hon. Tongoyo. Hon. Mbeyu, that is your request for statement. Be quick to paraphrase your response.

## STATEMENT

### CLASSIFICATION OF MNAZI AS AN ALCOHOLIC DRINK

**Hon. Gabriel Tongoyo** (Narok West, UDA): Thank you. I stand to respond to a request for statement by the Member of Parliament for Kilifi County concerning Mnazi.

The Member of Parliament for Kilifi County, Hon. Gertrude Mbeyu, requested a statement regarding the erroneous classification of Mnazi as an alcoholic drink. She particularly sought to be informed on a number of things. One is the circumstances under which the Ministry classified Mnazi as an illicit alcoholic drink despite the known fact that it is a natural coastal drink that is tapped from a coconut tree. She wanted to know the measures the Government has put in place, while implementing the crack down on illicit brews, to ensure the preservation of culture that includes the cultural heritage associated with the Mnazi drink and other traditional drinks. Thirdly, Hon. Mbeyu sought a clarification on the initiatives the

Ministry has undertaken to ensure compliance with the law and accurate implementation of directives on illicit brews without favour or discrimination. I state as follows:

The Kilifi County Coconut Act of 2015 conceives the Mnazi drink as “*toddy*”. In the Act, toddy is an alcoholic beverage made from the sap of a coconut tree. Section 32(1) of the Act provides that the processing of toddy shall be undertaken in accordance with the provisions of the Kenya Bureau of Standards’ national coconut standards on toddy specifications. By dint of the provisions of the Alcoholic Drinks Control Act (ADCA) 2010 and the Kilifi County Liquor Control Act, the regulation of toddy is a concurrent function between the national Government and the Kilifi County Government. Section 2 of the Alcoholic Drinks Control Act 2010 (No. 4) provides that alcoholic drinks include alcohol, spirits, wine, beer, traditional alcoholic drinks and so on. The Kilifi County Liquor Control Act 2015 defines liquor to include the above. Mnazi falls within the definition of alcoholic drinks. More importantly, however, Mnazi is sold in commercial volumes in the coastal region that include Kilifi County. I underline “commercial volumes”. Therefore, it is a pillar of the economic mainstay in the region.

Section 7 of the ADCA provides that no person shall manufacture or otherwise produce, sell, dispose of or deal with, import or cause to be imported for, export or cause to be exported, any alcoholic drink except in accordance with a licence issued under this Act. Section 8(1)(b) of the Kilifi County Liquor Control Act 2015 similarly provides that no person shall manufacture or otherwise produce, sell, distribute or dispose of or deal with any alcoholic drink in the county, except in accordance with the licence issued under this Act. Section 2 of the ADCA provides that sell includes batter or exchange without use of money, offer or expose of sell, batter or exchange without use of money, supply or offer to supply in circumstances in which the supplier derives or would derive a direct or an indirect pecuniary benefit, supply or offer to supply gratuitously but with a view of gaining or maintaining custom or otherwise with the view of commercial gain. Section 2 of the Act defines sell in exact terms as the ADCA.

In equal measures, the ADCA defines manufacture to mean the processing of alcoholic drinks. That includes packaging, labelling, distribution or importation of an alcoholic drink for sale in Kenya. The Kilifi County Liquor Control Act 2015 defines manufacture as the brewing, distilling, tapping or any processing or intermediate processing of alcoholic drink. That includes packaging and labelling.

**Hon. Speaker:** How much more to go?

**Hon. Gabriel Tongoyo** (Narok West, UDA): Just two pages.

**Hon. Speaker:** Two pages?

**Hon. Gabriel Tongoyo** (Narok West, UDA): Yes.

**Hon. Speaker:** The issue is very simple. Is Mnazi an alcoholic drink or not?

**Hon. Gabriel Tongoyo** (Narok West, UDA): Let me try to summarise.

**Hon. Speaker:** You have already said there is a law that defines it as an alcoholic drink. You are on a rigmorole.

**Hon. Gabriel Tongoyo** (Narok West, UDA): In summary, Mnazi is an alcoholic drink that should be controlled under the provisions of the Alcoholic Drinks Control Act 2010 and the Kilifi Liquor Control Act.

**Hon. Speaker:** Yes, mama Mbeyu.

**Hon. Gertrude Mwanyanje** (Kilifi County, ODM): Thank you, Hon. Speaker.

I am convinced by the response. As you put, it is an alcoholic drink. What we need is control because men are the ones who are involved in this drink. As at now, even school-going children and students are taking it knowing very well that it is not alcoholic. We need some policy from your department to control the Mnazi drink in the coastal region and wherever it is sold.

**Hon. Speaker:** Hon. Zamzam Mohammed.

**Hon. Zamzam Mohammed** (Mombasa County, ODM) Ahsante sana, Mhe. Spika. Nami pia napiga upondo majibu aliyotoa Mhe. Tongoyo.

Mnazi unatumika vibaya hata kama ni kinywaji cha utamaduni. Wanaume wanatoka kwa Mnazi unaouzwa kuanzia saa kumi na mbili asubuhi. Hakuna mikakati ya kuweka wakati mwafaka. Wanaume wanalewa 24/7 kisha wanaenda kupiga na kuumiza wake wao. Mimi kama Mama kaunti ningepinga aina yoyote ya kilevya kama ingekuwa nguvu zangu. Nimekuwa nikiongea na *Officer Commanding Police Division (OCPD)* wa Jomvu mpaka jana. Anasema mpaka watoto wa shule wanatoka shuleni na kuingia kwenye mangwe yale kunywa Mnazi.

Kwa hivyo, nakubaliana na ripoti aliyotoa Mhe. Tongoyo. Mnazi ni kilevya. Ni lazima kiwekewe mipaka. Kama ingewezekana, mimi pia ningesema kuwa Mnazi mwingi watoka Kilifi ukija Mombasa. Ningeweza ningepinga ili usiingie katika kaunti yangu maanake watoto na watu wazima wanaharibika.

**Hon. Speaker:** Thank you, Mama Mombasa. Before the next Order, Hon. Members, I have approved a Supplementary Order Paper for circulation. We will do First Reading at Order No. 9 and Order No. 10 after putting the question at Order No. 8.

After that, we will go to the Committee of the whole House at Order No. 11. Here, we will only deal with the first item, that is, the Independent Electoral and Boundaries Commission (Amendment) Bill. We will stay the National Disaster Risk Management Bill to a later date. If we will have any Special Sitting during Recess, I will direct the Clerk to slot it as one of the special items. We will then skip Order No. 12 and go to Order No. 13 on Appointment of Members to the Select Committee on the Special Motion. Thereafter, we will go back to Order No. 12.

Order, Hon. Members.

*(Hon. Ruku GK stood up in his place)*

Order, Hon. Ruku. Please take your seat.

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

**Hon. Speaker:** Order, Hon. Millie. Please take a seat first. We have already called out Order No. 8.

*(Question put and agreed to)*

Yes, Hon. Millie, what is out of order? Hold on.

## BILL

### *Third Reading*

#### THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL (Senate Bill No. 9 of 2022)

**Hon. Speaker:** I call upon the Mover to move Third Reading.

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Speaker, I beg to move that the County Licensing (Uniform Procedures) Bill, (Senate Bill No. 9 of 2022) be now read a Third Time. I request Hon. (Dr) Ojiambo Oundo, the Member for Funyula, to second.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Thank you, Hon. Speaker. We have already dispensed with the matter and so, I second.

*(Question proposed)*

**Hon. Speaker:** Can I put the question?

**Hon. Members:** Yes.

*(Question put and agreed to)*

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

**Hon. Speaker:** Hon. Millie, can I hear your point of order?

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Speaker. I wish to raise a concern regarding the National Disaster Risk Management Bill. My proposed amendments do not appear in the Order Paper and yet, I sent them about three weeks ago.

**Hon. Speaker:** That has been brought to my attention after you pointed it out to the Clerks-at-the-Table. That notwithstanding, I had already directed that we will not deal with that Bill today. It will be dealt with at a later date. If there will be a Special Sitting, we might slot it there or when we resume after the Recess. So, your amendments will be taken into account.

Next Order.

## BILLS

### *First Readings*

THE BREASTFEEDING MOTHERS BILL  
(National Assembly Bill No.8 of 2024)

THE UNIVERSITIES (AMENDMENT) BILL  
(National Assembly Bill No.16 of 2024)

*(The Bills were read a First Time and  
referred to the relevant Committees)*

**Hon. Speaker:** Next Order.

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

### IN THE COMMITTEE

*[The Temporary Chairlady (Hon. (Dr) Rachael Nyamai) in the Chair]*

THE INDEPENDENT ELECTORAL AND BOUNDARIES  
COMMISSION (AMENDMENT) BILL

(National Assembly Bill No.10 of 2024)

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Order, Hon. Members. We are in the Committee of the whole House to consider the Independent Electoral and Boundaries Commission (Amendment) Bill, (National Assembly Bill No.10 of 2024).

*Clause 3*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): We have an amendment by Hon. Zachary Thuku. Is he in the House?

*(Several Members stood in their places)*

I request that you settle down.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Temporary Chairlady, for the benefit of Members, allow me to clarify this. The two coalitions engaged in extensive consultations regarding this Bill, and we have agreed, in principle, to only consider the amendments proposed by the Joint Justice and Legal Affairs Committee (JLAC) at this stage. Those amendments will align and clean the Bill while preserving its structure. The Bill had typographical and minor errors. The joint JLAC endeavoured to clean up. In that regard, Hon. Kwenya Thuku has graciously agreed to drop his amendment.

Thank you.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Is Hon. Thuku in the House? I fully understand what the Leader of the Minority Party has said. Can we hear from Hon. Thuku?

**Hon. Kwenya Thuku** (Kinangop, JP): Thank you, Hon. Temporary Chairlady. I concur with the Leader of the Minority Party because we had a meeting today and agreed that I drop all my amendments and go by the Committee's proposed amendments. Therefore, I drop my amendments.

*(Proposed amendment by Hon. Kwenya Thuku to clause 3 withdrawn)*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Thank you very much, Hon. Thuku. That means that there is no amendment to clause 3.

*(Clauses 3 agreed to)*

*(Clause 4 agreed to)*

*Clause 5*

**Hon. Temporary Speaker** (Hon. (Dr) Rachael Nyamai): There is an amendment by the Hon. Chairperson, Hon. Murugara.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move: THAT, Clause 5 of the Bill be amended by deleting the proposed new subsection (4) and substituting therefor the following subsection—  
“(4) The secretary shall hold office for a term of four years and is eligible for re-appointment for one further term of four years.”

The justification is that we propose to revise the term of office of the secretary of the IEBC to a term of four years, renewable.

*(Question of the amendment proposed)*

**Hon. Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Hon. Makali.

**Hon. (Dr) Makali Mulu** (Kitui Central, WDM): Thank you, Hon. Temporary Chairlady.

While I support this amendment, I would want to go on record that the term of eight years is long for a secretary. How I wish that this joint team would have agreed to a term of three years; that is six years, on and off. This can open doors for a secretary to serve two elections which can be very tricky.

**Hon. Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Hon. Anthony Oluoch.

**Hon. Anthony Oluoch** (Mathare, ODM): Hon. Temporary Chairlady, I do not have any objection to the proposed amendments. However, based on Article 95 of the Constitution, it would be in order for the Mover moving the amendments to go a little deeper. This will help the House, which has the law-making function on behalf of the people of Kenya, to understand.

Hon. Murugara is a senior lawyer, and understands why I am asking that. We make laws and we want to understand so that we can explain that to our constituents, the basis upon which we are making those amendments.

*(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)*

**Hon. Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Hon. Members, there is another amendment by Hon. Zachary Thuku. Please give him the microphone.

Yes, proceed.

**Hon. Kwenya Thuku** (Kinangop, JP): Hon. Chairman, as I had said earlier, I have dropped all the amendments that I had proposed in favour of what is being proposed by the Committee.

*(The proposed amendments by Hon. Kwenya Thuku to clause 5 dropped)*

*(Clause 5 as amended agreed to)*

*Clause 6*

**Hon. Temporary Speaker** (Hon. (Dr) Rachael Nyamai): We have an amendment by the Hon. Chairperson for the Departmental Committee on Justice and Legal Affairs.

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

THAT, the Bill be amended by deleting Clause 6 and substituting therefor the following new Clause—

Insertion of a  
new s. 24A in  
Cap. 7C.

**6.** The principal Act is amended by inserting the following new section immediately after section 24—

Review of  
conduct of  
general election.

**24A.(1)** The Commission shall, after every general election, review its operations and make the necessary changes required to make its operations more efficient, effective, transparent and accountable.

(2) The review shall be completed within eighteen months after every general election and the Commission shall publish the report in the Gazette and submit the report to Parliament.

We have provided for a review of the conduct of general elections under a separate and substantive provision. This particular provision was in the schedule and we felt that it should come as a substantive section. It has an increment from what was initially proposed of twelve months to what is now being called an audit after 18 months.

Thank you.

**Hon. Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Chairperson.

*(Question of the amendment proposed)*

**Hon. Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Hon. Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairlady, as we grapple with this amendment, I support. After every action, there must be a review but what next after the report is submitted to Parliament? Is it just for record purposes? If it is discovered that whoever won the election did not win rightly, used violent means or the system failed, what next?

I would have expected the Departmental Committee on Justice and Legal Affairs, under my good friend Sir George, to have gone a little further. Either Parliament will note and make corrections to the next election or whoever was victimised as a result of the wrong process should be allowed to come to this House to continue serving or whatever it is. As it is, what is the purpose of the report? That is the question you could probably answer so that as Hon. Oluoch has said, we understand and can explain to the electorate.

**Hon. Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Would you like to comment on that Hon. Chairperson?

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, we left it at once, and is now submitted to Parliament to have an absolute discretion on how to deal with it. We do not want to say how Parliament should do it in a statute because it has unfettered discretion. It can deal with a report similar to this and make any recommendations, resolutions and whatever it deems appropriate.

**Hon. Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Hon. Beatrice Elachi.

**Hon. Beatrice Elachi** (Dagoretti North, ODM): Thank you Hon. Temporary Chairlady.

This cures the need to always have a review when we finish an election. For instance, we need a review of the National Dialogue Committee (NADCO) Report. I am hoping that this will help but as Parliament, we need to ask ourselves what Hon. Oundo has said: After publishing, there must be an agreement that it is ending there or not. Maybe, we can put it in the regulations, and it may work more properly than it is.

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

(Clause 6 as amended agreed to)

Clause 7

**Hon. Temporary Speaker** (Hon. (Dr) Rachael Nyamai): There is an amendment by the Hon. Chairperson.

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

THAT, the Bill be amended by deleting Clause 7 and substituting therefor the following new Clause—

Insertion of a  
new PART  
III A in Cap.  
7C.

7. The principal Act is amended by inserting the following new Part immediately after section 24—

### PART IIIA—DELIMITATION OF ELECTORAL UNITS

Procedure for  
delimitation  
of electoral  
boundaries.

**24B.** (1) The Commission shall discharge its mandate of the delimitation of boundaries of constituencies and wards in accordance with the Constitution, this Act and any other law.

(2) Subject to the Constitution, matters to be addressed in the delimitation of electoral boundaries are—

- (a) review of the names and boundaries of constituencies;
- (b) review of the number, names and boundaries of wards;
- (c) re-distribution of wards affected by any changes in the boundaries of constituencies; and
- (d) ensuring that the number of inhabitants in each constituency and ward is as nearly as possible, equal to the population quota as provided for by Article 89(5) of the Constitution and that such a process—
  - (i) allows for variation of margin of not more than the limits provided under Article 89(6) of the Constitution in relation to cities, sparsely populated areas and other areas;
  - (ii) takes into account the provisions of Article 89(7)(b) of the Constitution that provides for the progressive realization of the requirement that the number of inhabitants in each

constituency and ward to be as nearly as possible, equal to the population quota for the purposes of the each review;

(iii) is subject to the use of enumerated national census figures.

(3) The Commission shall prepare and publish a preliminary report outlining—

(a) the proposed delimitation of boundaries for constituencies and wards; and

(b) the specific geographical demographical details relating to such delimitation; and

(4) The Commission shall ensure that the preliminary report is made available to the public for a period of thirty days and invite representations from the public on the proposals contained in the report during that period.

(5) Upon the expiry of the period provided in subsection (4), the Commission shall, within fourteen days, review the proposed delimitation of boundaries considering the views received and submit the revised preliminary report to the Parliamentary Committee.

(6) The Parliamentary Committee shall, within fourteen days of receipt of the revised preliminary report, table the report in the National Assembly together with its recommendations.

(7) The National Assembly shall, within fourteen days of the tabling of the revised preliminary report, consider the report and forward its recommendations to the Commission.

(8) Within fourteen days of the expiry of the period provided for in subsection (7), the Commission shall upon receipt and considerations of the National Assembly and representations from the public, prepare the final report for publication in the Gazette.

(9) Where the National Assembly fails to make recommendations within the period specified in subsection (7), the Commission shall publish its report in accordance with subsection (8).

(10) A person who, being responsible for the publication in the Gazette of the final report submitted under this subsection fails to publish the report within the time required by the Commission after the report has been submitted to that person,

commits an offence and is liable to imprisonment for a term of one year.

(11) Notwithstanding any other written law, where the final report is not published in accordance with the provisions of subsection (9) the Commission shall, within seven days of the submission of the said report, cause the report to be published in at least two dailies of national circulation and such publication shall have effect as if it were done in the Gazette.

(12) Subject to this section, the provisions set out in the Fifth Schedule shall apply during the process of delimitation of electoral units.

The purpose of doing this is purely to introduce a new part IIIA which will deal with the delimitation of constituencies and wards.

We are tidying up the Act because the new provision, Section 24 (B) is what is Section 36 in the Old Bill. It falls under part V of the Bill in savings and transitional provisions. We are saying it should be moved from here so that it falls under its own separate part and we are able to move with its implementation under a new section which is properly titled as delimitation of electoral units.

*(Question of the amendment proposed)*

**Hon. Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Hon. Oundo.

**Hon. Oundo:** Hon. Temporary Chairlady, I want my colleague Hon. Murugara and the Chairperson to expound subclause 10 which is as follows:

“A person who, being responsible for the publication in the Gazette of the final report submitted under this subsection fails to publish the report within the time required by the Commission after the report has been submitted to that person, commits an offence and is liable to imprisonment for a term of one year.”

Please expound on the person who is supposed to publish, and in your own contemplation, why would he refuse to publish and yet he is employed and paid by public funds to do so? Explain to Kenyans so that they can see where the mischief lies and they can be prepared. Is a punishment of imprisonment for a term of one year enough, considering that the limitation is timebound? What if he continuously refuses to publish even after being jailed for a year?

Thank you, Hon. Temporary Chairlady.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Thank you. Hon. Chairman.

**Hon. George Murugara** (Tharaka, UDA): Thank you very much, Hon. Temporary Chairlady. The correct position is that subclause 10 exists in the current Act. What we have done is purely aligning the section so that we bring it up under its own part. If you look at Section 36, it has that subsection. We are not amending anything. This is what we have in law.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Thank you. Hon. Adan Haji. Hon. Makali Mulu.

**Hon. (Dr) Makali Mulu** (Kitui Central, WDM): I think what the Chairperson is saying is a bit worrying. In my view, the fact that you had an opportunity to change this into more than one year but did not seize that opportunity, is a bit frustrating. Even as we support, imprisonment for a term of one year makes the thing look just like a joke to me.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Lastly, Hon. Jared Okello.

Thank you.

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

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

*(Clause 7 as amended agreed to)*

#### Clause 8

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Chairperson.

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

THAT, Clause 8 of the Bill be amended in paragraph (a)—

(a) by renumbering subparagraphs (i), (ii) and (iii) as subparagraphs (ii), (iii) and (iv);

(b) by inserting the following new subparagraph immediately before subparagraph (ii)—

(i) by deleting the word “seven” appearing immediately after the words “consisting of” appearing in sub-paragraph (1) and substituting therefor the word “nine”;

(c) by deleting subparagraph (ii) and substituting therefor the following new subparagraph—

(ii) by deleting sub-paragraph (2) and substituting therefor the following new sub-paragraph—

“(2) The selection panel shall consist of—

(a) two persons nominated by the Parliamentary Service Commission, representing the majority party or coalition of parties and the minority party or coalition of parties;

(b) three persons nominated by the Political Parties Liaison Committee of whom—

(i) one shall be from a party other than a parliamentary party or coalition of parties;

(ii) one shall be from the majority party or coalition of parties;

(iii) one shall be from the minority party or coalition of parties;

(c) one person nominated by the Law Society of Kenya;

(d) one person nominated by the Institute of Certified Public Accountants of Kenya; and

(e) two persons nominated by the Inter-religious Council of Kenya.

(d) by inserting the following new subparagraph immediately after subparagraph (iv)—

(v) by inserting the following new subparagraph immediately after subparagraph (6)—

“(7) The Parliamentary Service Commission shall provide for and meet the expenditure of the selection panel.”

Hon. Temporary Chairlady, in sub-clause (i), we are amending the word “seven” to read “nine”, so that there is conformity with subparagraph (c), where various entities are nominating a total of nine persons to sit in the Selection Panel. The purpose is to align the number of members of the Selection Panel in Paragraph 1(i), with the nine proposed under subparagraph 1(2).

The second one is also to anchor the funding of the Panel to the Parliamentary Service Commission. The previous Act simply provides a secretariat to be from the Parliamentary Service Commission, and there have been questions as to where this Panel will draw its money from. We have now made it clear that it will be from the budget of the Parliamentary Service Commission, where it will be anchored.

Thank you.

*(Question of the amendment proposed)*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Suleka Harun, nominated Member. Hon. Makali Mulu.

**Hon. (Dr) Makali Mulu** (Kitui Central, WDM): Thank you, Hon. Temporary Chairlady. The last proposal for the budget of this Committee to come from the Parliamentary Service Commission is quite a good idea. This is because there are situations where those committees are meeting and people are unable to earn any allowances. The fact that we are now coming out clear to say that the Parliamentary Service Commission will meet the cost is very good. I support it.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Timothy Toroitich.

Hon. Members, if you would like to comment on this, please go to the intervention button.

Hon. Beatrice Elachi.

**Hon. Beatrice Elachi** (Dagoretti North, ODM): Hon. Temporary Chairlady, this clause is important and I want to thank the Chairperson for it. You will remember the many times when this Panel would sit, and there were conflicts on where to get the resources. This, therefore, resolves the fear that was there on who takes the responsibility of the Panel. This clause is important and I support it.

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

*(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 8 as amended agreed to)*

*(Clauses 9 and 10 agreed to)*

*Clause 11*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): It has an amendment. Hon. Chairperson.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move: THAT, the Bill be amended by deleting Clause 11 and substituting therefor the following new Clause—

Saving and transition.

**11.** Upon the commencement of this Act—

- (a) the selection panel existing immediately before the commencement of this Act shall stand dissolved but—
  - (i) the members of that panel may be nominated to serve in any subsequent panel; and
  - (ii) nothing done by that panel for purposes of executing its functions shall, if done in good faith, render any member of that panel personally liable for any action, claim or demand
- (b) The respective nominating bodies under paragraph 1(2)(b), (c), (d) and (e) of the First Schedule to the principal Act shall within fourteen days from the date of commencement of this Act submit the names of their nominees to the Parliamentary Service Commission for transmission to the President for appointment to the selection panel under the Act;
- (c) the President shall, within seven days of receipt of the names of the nominees under paragraph 1(2) of the First Schedule to the principal Act from the Parliamentary Service Commission, appoint a selection panel for the purpose of appointment of the chairperson and members of the Commission; and
- (d) a person holding the office of the secretary of the Independent Electoral and Boundaries Commission shall continue in office for the remainder of the unexpired period of their term.

The justification is as follows: First and foremost, we have to indemnify the selection panel existing before the commencement of the Act for any actions done in good faith. There have been court decisions, some of which seem to say that the selection panel in existence now may be in breach of the Constitution. That may expose them to some form of personal liability. But for as long as we know for sure the reasons why they never worked as they should, then that should remain. Each and every one of them should remain individually indemnified.

The second reason we are proposing this is to provide a mechanism that activates the appointment of a selection panel in light of the already existing vacancies in the commission. It is true that there is a selection panel and the commission has vacancies, but we did not have a way of nominating bodies under the Act, being required to submit names of their nominees within given periods of time. This is why we have given them 14 days to do it because it has to be competitive. There may be need for advertisements. We have also given the President seven days within which he should make the appointment.

*(Question of the amendment proposed)*

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

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Temporary Chairlady. I rise to support. As it has been said by Hon. Murugara, under the old Act, we had seven days. We realised, even within the National Dialogue Committee (NADCO), that if you give nominating bodies seven days and also expect them to have some due process in deciding on the nominees that they will present, they will not have enough time. We, therefore, proposed to have 14 days and we agree with the Committee. This will ensure that within the 14 days, at least, each of the nominating bodies, from the Parliamentary Service Commission, the Inter-Religious Council of Kenya, Political Parties Liaison Committee (PPLC) and the Law Society of Kenya (LSK), will have some time to advertise and notify their members to have some due process. This will avoid cases being filed in court against the nominating bodies in the context that they never gave their own membership opportunity to apply and be considered and to have some fair administrative process in the nomination process.

I, therefore, support.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Leader of the Minority Party.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Temporary Chairlady, I would like to clarify further that upon this Bill becoming an Act of Parliament, the old selection panel will stand dissolved. But that does not stop members currently serving in that panel from applying or from being considered as members of the new panel.

Thank you.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Mark Mwenje, Member for Embakasi West Constituency.

**Hon. Mark Mwenje** (Embakasi West, JP): Thank you, Hon. Temporary Chairlady. I echo the comments of the Leader of the Minority Party. It is worth noting that the old Panel will cease to exist. More importantly, we request anybody who would want to proceed to the civil societies to recognise the fact that those panelists have been given an opportunity to reapply for those jobs. They have not been fired and they have an opportunity to apply because there are more positions. Thank you.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Thank you. Hon. Anthony Oluoch.

**Hon. Anthony Oluoch** (Mathare, ODM): Thank you, Hon. Temporary Chairlady. I need clarity on the term of office of the Secretary to the Commission because it states that the Secretary shall continue to hold office for the unexpired period. As I support that provision, could the Chairperson clarify how it balances with the provision which says that they can do four terms and are eligible for another four terms? Does this mean they can do those four terms plus the unexpired three terms? That is one concern.

The second one is that whereas I appreciate what the Leader of the Majority Party and the Leader of the Minority Party have said in relation to the timelines, there is a saving provision that allows for reappointment of those who are there. This circumvents the idea that we are giving 14 days plus seven days considering that we are already way past the time for delimitation and by-elections in constituencies and wards that have no representation.

Otherwise, I support.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): As we finish, please Chairperson make a comment on the matter raised by Hon. Oluoch.

**Hon. George Murugara** (Tharaka, UDA): Thank you very much, Hon. Temporary Chairlady. It is important that I clarify that we have made a saving provision under sub-clause

(d) for the Office of the Secretary, so that he serves for the unexpired period. This is purely to preserve his contract which is lawful and he has a legitimate expectation on it.

This being a transition clause, it will kick in as soon as his contract ends. That is when this section will become applicable. The new person who will be coming in will now serve for four years and be eligible for reappointment. We have not said anything about the Secretary whether he can apply or not because we felt that is over-legislating.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Well, I would like to give the last one to Hon. Nabwera Nabii, Member for Lugari.

**Hon. Nabwera Nabii** (Lugari, ODM): Thank you, Hon. Temporary Chairlady. The reason I am opposing the proposed amendment is on two principles; the principle of eligibility and the principle of adequacy. We have not vacated the principle of eligibility or the principle of adequacy. So, I do not know what the Chairperson wants to achieve through this amendment.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Last is Hon. Beatrice Elachi.

**Hon. Beatrice Elachi** (Dagoretti North, ODM): Thank you, Hon. Temporary Chairlady. I also want the Chairperson to help us understand. Regarding, the term of office for the Secretary, let me give an example of constituency managers and staff. Maybe, you are a procurement officer and almost to leave in two months so that somebody else can come in. Who will take responsibility? Why are we not thinking of how to manage this? This is where we have a huge crisis of so many constituency managers in acting position. How do we solve the problem of having a senior staff who is about to retire?

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

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

*(Clause 11 as amended agreed to)*

*New Clause 7A*

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 7—

Repeal of section  
7C

7A. The principal Act is amended by repealing 36 of Cap,  
section 36.

*(The new clause was read a First Time)*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Mover, please move the Second Reading of the new clause.

**Hon. George Murugara** (Tharaka, UDA): Thank you very much, Hon. Temporary Chairlady. I beg to move that the new clause 7A be now read a Second Time.

The justification is that we are calling upon the House to approve that we delete the old Section 36 from the Act. If you recollect, the old Section 36 is now the new Section 24B. Therefore, it would be improper and unprocedural for us to legislate and leave a Section that has been reproduced elsewhere and is still subsisting in the same Act. So as to tidy up, Section 36 goes because it is the new Section 24B.

*(Question, that the new clause be*

*read a Second Time, proposed)*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): I do not see any interest in this.

*(Question, that the new clause be read a Second Time, put and agreed to)*

*(Question, that the new clause be added to the Bill, put and agreed to)*

*Clause 2*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Chairperson, do you have an amendment?

**Hon. George Murugara** (Tharaka, UDA): Yes. Thank you very much, Hon. Temporary Chairlady, I beg to move:

THAT, Clause 2 of the Bill be amended by inserting the following new paragraph immediately after paragraph (e)—

“(f) by inserting the following new definition in proper alphabetical sequence—  
“parliamentary party” means a party or coalition of parties consisting of not less than five percent of the membership of the National Assembly;

We are purely defining what a parliamentary party is. In the appointment of the selection panel, we have said a party that is not parliamentary will not be making a nomination. So, we have defined a parliamentary party to be exactly what it is in our Standing Orders.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Thank you.

*(Question of the amendment proposed)*

Hon. (Dr) Makali Mulu, do you want to comment on this? You may proceed.

**Hon. (Dr) Makali Mulu** (Kitui Central, WDM): Thank you, Hon. Temporary Chairlady. This definition is very good. Although, we need to be careful because in the past, we have seen people signed to be part of a coalition pretending to be political parties. So, as we define, it is important that we stick to the definition in the Act. I submit.

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

*(Clause 2 as amended agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

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

**Hon. Kimani Ichung’wah** (Kikuyu, UDA): Hon. Temporary Chairlady, I was being distracted by Hon. Marianne Kitany for obvious reasons.

*(Laughter)*

I beg to move that the Committee do report to the House its consideration of the Independent Electoral and Boundaries Commission (Amendment) Bill (National Assembly Bill No.10 of 2024), and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

IN THE HOUSE

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

### MOTION

CONSIDERATION OF THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION  
(AMENDMENT) BILL  
(National Assembly Bill No.10 of 2024)

**Hon. Speaker:** The Temporary Chairlady.

**Hon. (Dr) Rachael Nyamai** (Kitui South, JP): Hon. Speaker, I beg to report that the Committee of the Whole House has considered the Independent Election and Boundaries Commission (Amendment) Bill, (National Assembly Bill No. 10 of 2024), and approved the same with amendments.

**Hon. Speaker:** Mover.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): I beg to move that the House do agree with the Committee in the said report. I request the Deputy Whip of the Minority Party, Hon. Mwenje, to second the Motion.

**Hon. Mark Mwenje** (Embakasi East, JP): Thank you, Hon. Speaker. I beg to second.

**Hon. Speaker:** Thank you.

*(Question proposed)*

Yes. Hon. T.J.

**Hon. T.J. Kajwang'** (Ruaraka, ODM): Hon. Speaker, I want to support that Report. This is how business, if well transacted, should be. This is a bipartisan approach. You could see the maturity with which the Committee of the whole House proceeded and even the collection of mind of the Chair of the Departmental Committee on Justice and Legal Affairs, which is very rare in matters such as this. We want to appreciate that when matters are done in a collective manner and there is a meeting of minds and consensus, we are mature enough to bring to Kenyans what they need. I want to commend the two leaderships for this maturity and for bringing us together. I support.

Thank you.

**Hon. Speaker:** Thank you.

*(Question put and agreed)*

**BILL***Third Reading*THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (AMENDMENT) BILL  
(National Assembly Bill No.10 of 2024)

**Hon. Speaker:** Mover.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, I beg to move the Independent Electoral and Boundaries Commission (Amendment) Bill, (National Assembly Bill No. 10 of 2024), be now read a Third Time. I also request Hon. Marianne Kitany to second.

**Hon. Marianne Kitany** (Aldai, UDA): I second.

**Hon. Speaker:** Thank you.

*(Question proposed)*

I confirm that we have a quorum.

*(Question put and agreed to)*

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

Thank you. We now, as I had advised you earlier, put aside Order No. 12 for now and move to Order No. 13.

**MOTION**APPOINTMENT OF MEMBERS TO THE SELECT  
COMMITTEE ON THE PROPOSED DISMISSAL OF HON.  
MITHIKA LINTURI AS THE CABINET SECRETARY FOR  
AGRICULTURE AND LIVESTOCK DEVELOPMENT

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

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, I beg to move the following Motion:

THAT, in furtherance of the resolution of the House passed today, 2<sup>nd</sup> May 2024 on the Special Motion for the dismissal of Hon. Francis Mithika Linturi as the Cabinet Secretary for Agriculture and Livestock Development, and pursuant to the provisions of Article 152(7) (a) and Standing Order 66(5) (b), this House approves the appointment of the following Members to the Select Committee to investigate the grounds contained in the Resolution of the House—

1. The Hon. Naomi Jillo Waqo, CBS, MP.
2. The Hon. Robert Mbui, CBS, MP.
3. The Hon. Rachael Nyamai, CBS, MP.
4. The Hon. Samuel Kiprono Chepkong'a, MP.
5. The Hon. George Gitonga Murugara, MP.
6. The Hon. T. J. Kajwang', MP.

7. The Hon. Moses Malulu Injendi, MP.
8. The Hon. Jane Njeri Maina, MP.
9. The Hon. Kassim Sawa Tandaza, MP.
10. The Hon. Catherine Omanyoo, MP.
11. The Hon. Yusuf M. Farah, MP.

As you are aware, the 11 Members of the Select Committee have an herculean task with a very limited time of only 10 days, as you had earlier communicated and as provided for in our Standing Orders. Additionally, as the Members of the Committee embark on this crucial task, I wish to emphasize the paramount importance of impartiality in executing the mandate that we are bestowing on them. Let me be quick to point out that all these Members and, indeed, any Member of this House warrants and is capable of sitting in this Committee and executing the mandate. However, it is important that we emphasize the question of impartiality to consider the matters contained in the Motion. Therefore, the integrity of their work and the credibility of their findings will hinge upon their ability to remain as objective as they can and unbiased throughout the investigative process.

I am aware that both the Majority and the Minority side had a very limited time to nominate Members. I must commend the leadership of both sides of the House for the nomination. I know we have endured a lot of lobbying across the aisle from both sides of the coalitions for Members to be included in this Committee. However, with only six positions on the Majority side and five on the Minority side, only those 11 could and can sit on this Committee. I want to implore on them that they now sit as a Select Committee of the House irrespective of how they voted for the Motion. You are not going to sit to consider how you voted but consider the Motion as objectively and fairly as you can be without being biased in any manner. Let not how you voted inform you. I know within this list, some voted for, against and some abstained, including a few who may not have been in the House. I beg that we support the list as it is for us to progress to the next stage considering the very tight timelines that we have of only 10 days, and this being the last day and a Sitting of around four hours. I beg to move and request the Hon. Leader of the Minority Party, Hon. Opiyo Wandayi, to second the Motion for approval.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, this is a difficult moment. I agree with Hon. Ichung’wah that the time was very short for these nominations. There was immense interest from all Members virtually who wanted to be on this Select Committee. As a matter of fact, at one point, I had also considered making amendments to our list but when I approached the Clerk’s Office, I was advised that it was too late to make an amendment. There are very grim concerns that have been raised by my side that the list emanating from the Majority side is comprised of names of Members who are deemed to be extremists and hardliners, so to speak.

*(Applause)*

It would take a lot of effort for them to climb down and become the impartial jury that they should be. I do not know how we shall cure this. You need to guide us. In the event that the House decides to reject these names, what do we do? You need to guide us on that. I can see – if I am not wrong – that the mood of the House is very bad.

**Hon. Members:** Yes.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, you know this is not really far-fetched. There are Members who spoke to this Motion and expressed very extremist views and to imagine that they can be the jury is very difficult. Anyway, that was the wisdom of the framers of the Constitution and the legislations that have brought us to where we are. There is

no way we can get anybody outside this Chamber to be in this Select Committee. However, in choosing Members of the Committee, let us build consensus in the same manner we have done with the Independent Electoral and Boundaries Commission (Amendment) Bill so that we can move forward. The mood outside there is even worse. The mood in this House is perhaps better but outside there, the people are mad because the issue of fertilizer affects almost all households in this country. People are very angry and hungry. So, let us tread carefully. I support.

Thank you.

**Hon. Speaker:** Order, Hon. Members! Hon Wandayi, have you seconded?

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, I was seconding with those submissions.

**Hon. Speaker:** Hon. Members, I will propose the Question. You should be guided as follows: One, the list on the Order Paper was forwarded to the Speaker by letters written by the Leader of the Majority Party and the Leader of the Minority Party. The Speaker then conveyed to the Clerk to prepare the Supplementary Order Paper. So, this list is your list.

Two, for the Members who have been put on this Committee, you should move to the Committee with no blinkers. If you carry the weight of your history of this Morning Sitting to the Committee, then you will not be a good Committee member.

Three, under your Standing Orders, once a list like this comes to the floor, it is accepted as is or rejected as it is. No amendment.

Four, and more importantly, today is your last day to go to recess. You have not gazetted or requested for gazetting of any sitting day within the recess.

*(Hon. Anthony Oluoch spoke off record.)*

Order, Hon. Oluoch. It is out of order to interject when the Speaker is addressing the House. As a lawyer, you know much better than other Members.

If today you reject the list, it could easily be interpreted to amount to - you are resting the matter where it is. That will be your consequence; it will not be mine. It is the Constitution and the Standing Orders that guide what we are doing.

I will now propose the Question. It is up to you.

*(Loud consultations)*

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

*(Hon. Kuria Kimani remained upstanding)*

**Hon. Speaker:** Order, Hon. Kimani. Take your seat.

Order, Hon. Members. I want to advise you that no Member in this House has any entitlement to sit on any committee. Each one of you is eligible to sit on any committee as long as your leaders nominate you. If you are not nominated, it does not mean you are any lesser or any greater. You have no right to think that you can do a better job than those who are on the list.

*(Question proposed)*

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

**Hon. Speaker:** Order! Go ahead, Hon. Jared Okello

**Hon. Jared Okello** (Nyando, ODM): Thank you, Hon. Speaker for the opportunity. As I contribute, I need your protection.

*(Loud consultations)*

**Hon. Speaker:** Order, Hon. Members! Go on.

**Hon. Jared Okello** (Nyando, ODM): Thank you very much, Hon. Speaker for giving me the opportunity. Looking at the list against what informed the passage of the Motion during the Morning Sitting, it looks like a slap on the face of the Members of this House together with the farmers that they represent. It is the position of many in this House that my very good friend, Hon. Mithika Linturi, is likely not going to get justice out of those who will sit in this Select Committee. For that – whereas we depend solely on the discretion of your rulings – I would ask you to indulge us on making a vote on each and every Member who has been proposed to be on the Select Committee.

*(Loud consultations)*

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

*(Hon. Betty Maina shouted across the aisle)*

Order, Hon. Member from Murang'a County! If you persist on your rowdy behaviour, I will show you the door. You have better ways of protesting than the manner in which you are doing. You look a decent lady. I do not see why you are being rowdy in the House.

Order, Hon. Members. If you want to consult – and you have the right to consult with your leadership – there are rooms behind here and the corridor out there. You have no business disrupting the business of the House in the guise of consultation. I know the levels of excitement are high, but that does not give you the license to disrupt the proceedings of the House. So, any one of you who wants to consult with your leadership, the Speaker's rooms behind here are open to you. As the proceedings go on, the corridor out there is open. Rooms nine and seven upstairs are not in use. The House will continue with its business. Hon. Jared Okello was on the floor.

Those who are contributing, there is no Member in this list to be debated because there is no Motion against any Member. These are simply Members that your leadership has proposed to sit on a committee. If you want to discuss the personal conduct of any Member of this 11, bring a Motion. However, you are not going to use this opportunity to cast unhelpful aspersions against your colleagues.

None of you is greater than the other or has any right over and above the other. There is no Motion that has been brought here against any Hon. Member. The only Motion is to select a committee. The names were given by your own leadership. Not by the Clerk nor the Hon. Speaker.

**Hon. Jared Okello** (Nyando, ODM): Hon. Speaker, I thank you for the protection. The agitation coming from the Floor of this House is a testament that, perhaps, the list is not reflective of the wishes and aspirations of Members of this House.

Hon. Speaker, whereas you have made a pronouncement as regards what will follow, I think again, it is not in order for us to throw this baby with the bathwater. What was conveyed here in the morning was a Motion regarding an impeachment of a particular Cabinet Secretary. What was passed in the morning was not a list, it was a motion. We equally believe that this list is not cast on stone. Just like you have ably said, any member in this House is capable of

sitting in that Committee. Hon. Members are dissatisfied with certain Hon. members who did express very difficult positions in the morning.

**Hon. Speaker:** Speak for yourself, Hon Jared.

**Hon. Jared Okello** (Nyando, ODM): My plea to you Hon. Speaker is that we all understand that we are going on recess this evening and, therefore, there are certain things that may be overtaken by time. If Members of this House; 149 versus 36 in the morning, expressed dissatisfaction in one way or another and there is the maxim that majority will have their way as minority have their say, we would only implore upon you that the Leader of the Majority Party and the Leader of the Minority Party present here, can still sit down now and come with a list that is reflective of the wishes here. The resultant consequences are those that will be owned by this House as a whole, and not apportioning blame on the few individuals.

Hon. Speaker, the Leader of the Majority Party, in his wisdom, has come with a list of those who had very strong positions this morning, and that is the apprehension that is being registered on the faces of Hon. Members here.

*(Applause)*

How do you then practice impartiality amidst this kind of injustice? Therefore, Hon. Speaker...

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): On a point of order, Hon. Speaker.

**Hon. Speaker:** What is your point of order, Leader of the Majority Party?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, although Hon. Jared Okello is my good friend, he is now treading on what you actually asked him not to; discuss either the conduct or character of any particular Hon. Member, especially Hon. Members of the Majority side. He has no right to advice either the Leader of the Majority Party or the Leader of the Minority as to which Member will be appointed to which committee. That preserve, in the wisdom of the drafters of our Standing Orders and our Constitution, was left for the Leader of the Majority Party and the leadership of the Majority and the Minority side to nominate Members. Therefore, Hon. Jared Okello is completely out of order for casting aspersions on the membership of the Majority side without a substantive motion. I beg that you direct Hon. Jared Okello, that if he has nothing more to say, he should stop casting aspersions on any Member of the Majority side.

**Hon. Speaker:** Hon. Jared, be guided.

**Hon. Jared Okello** (Nyando, ODM): I thank you, Hon. Speaker. It is good to underscore that I have not mentioned anybody by name. Therefore...

**Hon. Speaker:** Order, Hon. Jared. Let me also give you direction, Hon. Members. Order Leader of the Majority Party.

Hon. Members, in the morning you had a Motion. There are those who spoke in favour of impeachment and those who spoke against impeachment and we all listened to everybody. You do not have the right to say that because somebody did not support your views, therefore, he held very strong views. How do you measure strong views? There is no barometer to determine the strength of views. I sat here the whole morning and some of these Hon. Members did not even speak to that Motion. Avoid sensationalising issues and raising unhelpful passions in the House.

Hon. Jared, wind up so that I can also give somebody else the chance to contribute.

**Hon. Jared Okello** (Nyando, ODM): I thank you, Hon. Speaker. I think it is also important to let the House know that I sit in the overarching Committee that oversees the Ministry of Agriculture and Livestock Development. I, therefore, have a relationship with the

Cabinet Secretary. However, I also have to express my fears that my friend may not get justice at the end of the day if there is great apprehension already originating from this House.

My submission, therefore, is that, whereas you have said that the death of the list marks the death of the entire process, without paying much credence to the views of the people that we represent in this House, it will be an injustice to them. When I saw the mood of this House in the morning, Hon. Speaker, you would have thought that the farmers themselves had tramped into this House to express their wishes. But here we are, out of a list of 11 members, we are going to torpedo the wishes of 149 Members of this House. Hon. Speaker, this is something that we cannot quickly wish away. If a problem emanates from the list, I implore upon you to invoke Standing Order 1.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): On a point of order, Hon. Speaker.

**Hon. Speaker:** What is your point of order, Leader of the Majority Party. Order Hon Jared. Hon. Ichung'wah has a point of order.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. Our Standing Orders are very clear. You have indulged Hon. Jared Okello, but he continues to say things that he should not be saying as he prosecutes his points. I do not know whether it is pre-empting debate, but he has now asserted that the Committee of 11 Members is going to torpedo the wishes of about 149 Members. I do not know at what point Hon. Jared Okello has now been able to sit in that Committee that has not even been constituted and decided what decisions it will come up with.

Hon. Speaker, I know there are rules about anticipating debate and Hon. Jared Okello is not anticipating debate, he is anticipating the outcome of a process that is yet to start. The other thing is that we are the ones who have crafted these Standing Orders. Some of us here are part of the drafters of our Constitution. Article 152 of our Constitution was not drafted this morning. Our Standing Orders were not drafted this morning, neither were they drafted by the Leader of the Minority Party or the Leader of the Majority Party. They were drafted and approved by this House. We have numerously pleaded with Hon. Members to read, understand and interpret, not just the laws that we are passing, but also our Standing Orders. Hon. Jared Okello is now questioning the Standing Orders that govern this House. If we are truly a House of rules and procedures, Hon. Speaker, then you should not allow Hon. Jared Okello to stand in his place and question our own Standing Orders that govern even his conduct.

**Hon. Speaker:** Hon. Jared Okello, can you wind up in half a minute.

**Hon. Jared Okello** (Nyando, ODM): Hon. Speaker, the Leader of the Majority Party purports to be reading between my statements, but he has really failed. I was saying that in line with your ruling, if we do not pass the list, then the entire thing dies in its entirety. I did not say that is the kind of decision that the 11-Member Committee will be coming up with.

Hon. Speaker, I therefore implore upon you to allow for reconstitution by invoking Standing Order, 1 to come up with a list that is....

**Hon. Speaker:** Mama Zamzam.

**Hon. Zamzam Mohammed** (Mombasa County, ODM): Ahsante sana Mhe Spika.

Kwa vile sheria iko wazi kuwa hatuna mwanya wakati huu kuweza kugeuza ile orodha ambayo imetolewa, mimi kama mama ninasema kuwa moto unaowaka humu ndani wakati huu ni zaidi ya yale tunayoyaona humu ndani. Kwa hivyo, wale ambao wamechaguliwa humu ndani, nawaomba, wakulima wameweka macho kwenu wanataka haki zao.

Kwa vile hatuna nguvu za kupindua hii orodha wakati huu, tunawaridhia nyinyi mkafanye kazi, mtuletee majibu ambayo ni mwafaka kwa wakulima, wapate haki yao.

Ahsante sana, Mhe. Spika.

**Hon. Speaker:** Hon. Kangogo.

**Hon. Kangogo Bowen** (Marakwet East, UDA): Thank you, Hon. Speaker. I heard you when you guided Members of this House about the 11 Members. A Committee of Parliament is Parliament by extension. You have given us a direction, and this issue is very important to farmers out there. I plead with my colleagues: The 11-member Committee that has been constituted is going out there for further investigations and its report will be tabled in this House. It is their report. It is not going to be final. If we do not approve the list, the entire process is going to die. I would ask my colleagues to approve the names and wait for the report. If the report is not for the farmer, we are going to do what we did this morning.

I support, Hon. Speaker.

**Hon. Speaker:** Order, Hon. Members. For the avoidance of doubt, this list is from your leadership. Secondly, a Motion is before the House. It has been moved, seconded and I have proposed the question. You are very right to defeat the Motion. Every choice has a consequence. I have told you that if you reject this list, it will be the final nail on what you passed this morning. If you do not understand and appreciate that as seasoned debaters and legislators, then we are living a lie. The law is the law. It does not have to be reasonable. It is the law. And we are applying the law as it is. You have every right to reject the list. It is not the Speaker's list. The Speaker has no dog in this fight. It is up to you. It is your leaders who have brought the list and I want you to proceed on the presumption of good faith in your colleagues.

Hon. Makali Mulu.

**Hon. (Dr) Makali Mulu** (Kitui Central, WDM): Thank you, Hon. Speaker, for your direction. We have keenly listened to you, but even before we approve the list, we need to go on record on one or two issues. The first issue is the time you gave us between the Motion and the selection of names. It is obvious there might not have been adequate consultations between the leadership and membership.

**Hon. Speaker:** Order, Hon. Makali Mulu. I did not give you any time. I gave time to your leaders and they did not complain.

**Hon. (Dr) Makali Mulu** (Kitui Central, WDM): That is what we are saying. Because of that short timeframe, which was about 40 minutes, we must agree we might not have had enough time to consult and agree. I have no problem with the list.

The other thing I want to note – and that is the truth of the matter - is that there is always the mood of the House. The worst thing you can do is to start with a statement of mistrust. That is what you are seeing some Members trying to say. You know, from where you sit, there could be a way out. It would have been better if we started from a position of 100 per cent trust in this team. From the look of things, we are not at 100 per cent.

As I conclude, on your last statement on the last nail, I do not know if you are telling us that, as a House, that this Motion was coming here for us to approve it without any statement.

Thank you.

**Hon. Speaker:** Order, Hon. Makali Mulu. You are a seasoned Member. There is a ruling by former Speaker Kenneth Marende, in the 10<sup>th</sup> Parliament when he was our Speaker. That ruling was reiterated by Speaker Justin Muturi, not once, not twice. That ruling has also been reiterated in the Senate. When a list like this comes to the House, accept as it is or reject it as it is. In an ordinary Motion, if you reject, there are better ways of going about it. This is a special Motion. You must read your Standing Orders on what a special Motion means and the constitutional provisions guiding the manner in which you handle impeachments. It is highly technical. It is judicious and we must follow the law to the letter. I repeat, your Speaker has no dog in this fight.

I will give Hon. Pukose a chance and then I will put the question.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): Thank you, Hon. Speaker. If we refuse the list as it is, then the matter dies. The best thing for us as a House is to give the Committee the benefit of the doubt and hold them accountable. I do not think it will be right for us to oppose this Motion. Let us support this Motion, we give our colleagues an opportunity to prove themselves as per the wishes of Members.

With those few remarks, I support.

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

**Hon. Speaker:** Nothing is out of order, Hon. Millie.

*(Loud consultations)*

Order! The moment I hear you, Hon. Members, I will have no choice but to request you to step out. And I regret ever sending any Members out because it is not the duty of the Speaker to send Members out. It is the duty of the Speaker to facilitate you to sit in this House and debate.

*(Question put and agreed to)*

#### COMMUNICATION FROM THE CHAIR

**Hon. Speaker:** Order, Hon. Members. Take your seats. I have a Communication to make in pursuance to what you have just voted on. Take your seat, Hon. Mathenge. You are too tall to be upstanding for too long.

Hon. Members, following the Resolution of the House to establish a Select Committee to investigate the allegations contained in the Special Motion for the dismissal of the Hon. Franklin Mithika Linturi as the Cabinet Secretary for Agriculture and Livestock Development, I wish to guide the House on the process that will follow now that the Select Committee has just been appointed.

As you are aware, the Committee will be involved in *Quasi-Judicial* proceedings. In this regard, it must operate within the requirements of the Constitution, relevant statutes and the provisions of our Standing Orders. For avoidance of doubt, I wish to guide the Select Committee that the Committee should hold its first meeting today at 6.00 p.m.

During this meeting, the Committee is expected, among others, to elect a Chairperson and Vice-Chairperson from amongst its Members, agree on its calendar of events given the strict timeline applicable to the process, and adopt rules on the conduct of its investigation. The Clerk of the National Assembly has made arrangements for the meeting to be held in Committee Room 9.

In its investigation, the Committee is expected to hear the Cabinet Secretary either in person, through a representative or both in person and through a representative. My predecessor, Hon. Justin Muturi, has previously guided this House that proceedings relating to the removal of persons from office are *quasi-judicial* in nature and require judicious attention and sobriety.

I have instructed the Clerk of the National Assembly to formulate draft rules on the conduct of its investigation which accord with existing constitutional and statutory provisions on the principles of natural justice, fair hearing and fair administrative action. I urge the Committee to consider and adopt these rules to guide its operations. The Committee should prioritize affording a fair and adequate hearing to the Cabinet Secretary and any relevant

witnesses. Additionally, the Committee must always remain decorous and civil towards the parties that appear before it.

In line with the requirements of Article 152(7)(b) of the Constitution, I wish to reiterate that the Committee should submit its report to the House within ten days of its formation. Computation of the timeline in accordance with the provisions of Article 259(5) and 259(7) of the Constitution requires the Committee to submit its report on or before Monday, 13<sup>th</sup> May 2024. Thereafter, I shall invoke the provisions of Standing Order 66(3) and summon the House for a Special Sitting for the tabling of the Report and disposal of the matter in accordance with the provisions of Article 152(9) of the Constitution.

The Select Committee and the House stand guided. Thank you.

Next Order.

## MOTION

### ADOPTION OF REPORT ON RATIFICATION OF THE MULTILATERAL CONVENTION TO IMPLEMENT TAX TREATY RELATED MEASURES TO PREVENT BASE EROSION AND PROFIT SHIFTING

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

THAT, this House adopts the Report of the Departmental Committee on Finance and National Planning on its consideration of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting, laid on the Table of the House on Tuesday, 30<sup>th</sup> April 2024 and, pursuant to the provisions of Section 8(4) of the Treaty Making and Ratification Act, 2012, approves the Ratification of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting, subject to reservations on Article 5 (Application of Methods for Elimination of Double Taxation) and Article 16 (Mutual Agreement Procedure).

Hon. Speaker, first, I wish to extend my gratitude to you, and the Clerk of the National Assembly, for the support you accorded to us during the consideration of this convention. In the same light, I applaud the Members of the Committee for efficiently and, as always, canvassing the Multi-Lateral Instruments (MLI). I also thank the secretariat for always being diligent in their support of the Committee.

The Committee further wishes to commend the following institutions for submitting their views on the convention:

1. The National Treasury and Economic Planning;
2. The Law Society of Kenya;
3. PricewaterhouseCoopers (PWC);
4. Bowmans LLP;
5. Anjarwala and Khanna Advocates;
6. PKF;
7. RSM (Eastern Africa);
8. Ernst & Young;
9. Okoa Uchumi;
10. KEPSA;
11. ICPAK; and many other institutions that have always endeavoured to provide their views to our Committee every time we have had a matter under our consideration.

Over the last ten years, there has been a growing concern about the use of tax avoidance strategies by multinational enterprises that exploit gaps and mismatches in national tax laws to shift profits to low or no-tax jurisdictions where there is little or no economic activity. This is referred to as Base Erosion and Profit Shifting (BEPS).

In response to these concerns, the G20 and the OECD, together with many advanced and developing countries and regional tax bodies, have been working to develop new rules and processes to strengthen the international tax system and tackle tax avoidance. The result is a multinational instruments treaty that is being born today. This group of companies is referred to as the Inclusive Framework on BEPS, of which Kenya became a member in January 2017. It consists of 140 countries and jurisdictions. The inclusive framework has allowed Kenya to work on an equal footing with other countries to tackle tax avoidance by developing recommendations that are aimed at realigning taxation with the location where economic activity takes place and value is created.

What is the rationale of MLI? The approval of this ratification on the multilateral instruments will put in place measures to curb double tax agreements, enhance clarity on taxation of partnerships to ensure that there is no evasion of taxes, make dispute resolution mechanism more effective, and broaden the tax base by ensuring that multilateral enterprises do not avoid taxation on the basis of their activities in the country. This has been done through avoidance of permanent establishment status.

In addition, the ratification of MLI will improve Kenya's efforts to improve resource mobilisation for enhanced financing of the public sector and other development needs. In particular, MLI measures will ensure the protection of Kenya's tax base. This has especially given Kenya a high reliance on corporate income tax revenues in comparison with more developed countries. The MLI is by far a more prudent option than pursuing bilateral negotiations of Kenya's existing domestic DTAs, which would be lengthy, expensive and protracted processes. Negotiation of DTAs typically takes around 24 months.

Kenya signed the MLI on the 26<sup>th</sup> of November 2019 and, thereafter, the Cabinet on 21<sup>st</sup> of March 2023 approved the ratification of the multilateral instruments. The difference between when Kenya signed the MLI and when the Cabinet ratified the same is a record four years. This shows the commitment of the Kenya Kwanza Administration in pursuing the recognition of Kenya in the global space as an economic leader.

It is, therefore, no surprise that we have seen the United States Congress inviting His Excellency President William Samoei Ruto to address them because he has been at the forefront of marketing Kenya as an economic leader. This shows that when this administration came into office, it only took a few months before the ratification of this MLI which had otherwise taken a whole four years for its ratification.

As of February 2024, 102 jurisdictions had signed the MLI while 85 had ratified it. If this House agrees with our Committee on the adoption of this Report, Kenya will be the 86<sup>th</sup> country to ratify this treaty.

Kenya currently has bilateral tax agreements in force with Canada, Denmark, France, Germany, India, Iran, Norway, Korea, Qatar, the United Kingdom (UK), South Africa, Sweden, the United Arab Emirates (UAE), Seychelles and Zambia. This Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) allows Kenya to re-look at existing double taxation agreements (DTAs) that are interpreted to eliminate double taxation without creating opportunities for non-taxation or reduced taxation. Many of those DTAs with our partner States are either outdated or were signed many years ago, and are, therefore, unrealistic to even implement.

Under the Convention, jurisdictions are allowed to make reservations and notifications in line with their policy preferences. Notifications indicate the provisions of the MLI that a

jurisdiction intends to adopt. Reservations indicate the provisions which it does not intend to adopt. The MLI has a total of 39 Articles on various subject matters. Kenya has agreed to 37 of those Articles. Therefore, we will submit a notification in this regard. However, Kenya has reservations on two Articles in this MLI, namely, Articles 5 and 16.

Over and above the costs of the legislative proposals, no costs for this particular Convention on this Treaty are anticipated on the Government of Kenya as a result of this MLI. Therefore, upon ratification, the MLI will form part of Kenya's domestic law.

Kenya has expressed its intention to place a reservation for the entirety of Article 5 of the MLI not to apply with respect to all its covered tax agreements (CTAs) since Kenya's domestic law as well as DTAs apply the credit method for elimination of double taxation instead of what is proposed in the MLI, which is the exemption method.

Kenya places a reservation against the provisions to file a Mutual Agreement Procedure (MAP) in either of the contracting States. Instead, the taxpayer will be allowed to file a case where he is resident, and that State will notify the other State. This is also because the resident State can give unilateral relief. Kenya chooses not to apply Part VI of the MLI, which contains provisions on mandatory binding arbitration. This is mainly due to the constraints that this particular Part will place on our country in terms of costs and capacity.

The Convention is aligned to the Constitution. Further, the reservation of Articles 5 and 16 of the Convention does not negate any Article of our Constitution.

With those few remarks, I beg to move and request Hon. (Dr) CPA CS Ariko to second the adoption of this Convention.

**Hon. John Namoit** (Turkana South, ODM): Thank you, Hon. Temporary Speaker. I rise to second.

**The Temporary Speaker** (Hon. Omboko Milemba): Very well.

*(Question proposed)*

Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Temporary Speaker. I rise to support this Report. I also take this opportunity to thank the Chairperson and Members of the Departmental Committee on Finance and National Planning for the consideration of this Report.

I know many Members may not know what base erosion is. Hon. Zamzam is telling me *niwaambie*. Base erosion and profit shifting (BEPS) refers to tax planning strategies mostly utilised by multinationals that operate in different countries in the world. They take advantage of or exploit gaps and mismatches in tax regimes or rules from one jurisdiction to another in order to shift their profits to low or no tax locations where there is little or no economic activity for those companies. For instance, if I am operating in Kenya, Ireland, Seychelles or the United States of America (USA), but I discover that I can shift or transfer profits to Ireland where I have an office to enjoy tax reliefs, I can utilise such provisions to avoid paying tax. It is a form of tax avoidance. The Convention that we are ratifying today is a multilateral treaty or agreement that relates to the implementation of tax treaty related measures to prevent base erosion and profit shifting, commonly referred to as MLI, that the Chairperson was speaking to.

The Group of Twenty (G20) countries and countries that are part of the Organisation for Economic Co-operation and Development (OECD), together with many advanced and developing countries and regional tax bodies, worked together to develop new rules and processes to strengthen the international tax system and, therefore, tackle this problem of tax avoidance. That group of countries is known as the Inclusive Framework on BEPS. Kenya

became a member of the Inclusive Framework on BEPS in January 2017 and made a commitment to implement the BEPS package that contains the action plans.

We are now urging the House to agree with the Report of the Committee to ratify this Convention because it will not only help other countries to deal with tax avoidance, but it will also help us as a country because we have many multinational enterprises that operate in our country and have bases or enterprises operating in other countries. Therefore, to ensure that they are not shifting their profits and there is no base erosion between our country and the other countries that those multinationals operate in, we should agree with the Committee and ratify this Convention.

I support the Convention and urge Members to support it as well.

**The Temporary Speaker** (Hon. Omboko Milemba): Very well. Is Hon. Andrew Okuome in the House? I propose that if you want to speak on this particular Motion, put your card in the intervention slot because the list that I have here could be... I can see Hon. Catherine Wambilianga of Bungoma is not here. Let us have Nominated Member, Hon. Irene Mayaka.

**Hon. Irene Mayaka** (Nominated, ODM): Thank you, Hon. Temporary Speaker. I also rise to support the Report by the Chairperson, who is a colleague in the accounting world. The Leader of the Majority Party alluded to BEPS that are currently being used in the world. I would like to invite us to have a look...

*(Hon. Kuria Kimani consulted loudly with other Members)*

I wish the Chairperson of the Departmental Committee on Finance and National Planning would listen because I can see he is being interrupted and yet, this is very important.

**The Temporary Speaker** (Hon. Omboko Milemba): Order, Chairperson of the Departmental Committee on Finance and National Planning. The Member wishes that you listen to her. Proceed.

**Hon. Irene Mayaka** (Nominated, ODM): Thank you, Hon. Temporary Speaker. I was drawing the attention of the Chairperson of the Departmental Committee on Finance and National Planning to this because the Leader of the Majority Party talked about base erosion. I just wanted to point him in the direction of the model that the European Union (EU) uses. They have a Digital Service Act (DSA) that ensures that countries within the EU are subjected to those specific rules, so that they avoid the dual taxation that happens for multinational companies. That is very important for our example as well because we could have similar situations within the African sphere for multinational companies that have a base either in East, Central or Western Africa.

I agree with the submission by the Kenya Private Sector Alliance (KEPSA) because they have spoken very well to this matter. They have given us a view. I like the fact that the Report of the Committee speaks to that. It states that Kenya should reserve the right to apply domestic laws to resolve cases of dual resident entities. This is very important for us. KEPSA speaks to this matter because majority of the multinational companies that operate within Kenya, and the other countries in East Africa, are their members. This is very important to them as it seeks to ensure that once this Report is passed, those multinationals that operate within our space are protected.

I also agree with the reservations on Articles 5 and 16 of the Convention on Application of Methods for Elimination of Double Taxation and Mutual Agreement Procedure respectively. This is because some of the issues that have been allayed in Article 5 do not reflect on the current nature of the economy and market that we operate in as Kenya. It does not favour us. It favours markets that are more advanced than ours. Therefore, we must always remember that

in as much as we want to ratify and apply ourselves to what is happening in the rest of the world, we must also always seek to first of all protect the people who operate within our system.

Hon. Temporary Speaker, with those very few remarks, I support the Report, but with the reservations that I have indicated. I thank you.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Bernard Kitur, Member for Nandi Hills.

## QUORUM

**Hon. Fatuma Mohammed** (Migori County, Independent): On a point of order, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Omboko Milemba): What is your point of order, Hon. Fatuma Mohammed?

**Hon. Fatuma Mohammed** (Migori County, Independent): Hon. Temporary Speaker, looking at the numbers in the House, you will agree with me that we do not have a quorum. This is bad, especially now that we are live on television. When a Member like Hon. Irene is speaking and all the seats are empty, it is bad for us. We do not have quorum.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Fatuma, you have risen on a point of order regarding quorum. I can confirm that there is no quorum in the House. Therefore, I ask the Serjeant-at-Arms to ring the Quorum Bell for 10 minutes.

*(The Quorum Bell was rung)*

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

**The Temporary Speaker** (Hon. Omboko Milemba): That is correct. All Members who are in the House cannot leave. Take your seats or consult your colleagues. However, you cannot get out of the House now. Thank you, Hon. Millie, for that reminder.

**The Temporary Speaker** (Hon. Omboko Milemba): Order, Hon. Members. The Member walking out, order! Serjeants-at-Arms, you need to do your work. This is a House of rules and order. A Member rose in his place under Standing Order 35 on the issue of quorum. I have confirmed that there was no quorum in the House and went ahead to ask the Serjeant-at-Arms to ring the Division Bell for 10 minutes. I confirm that we still do not have quorum in the House. Therefore, we may rise.

## ADJOURNMENT

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Members, the time being 6.18 p.m., this House stands adjourned until Tuesday, 4<sup>th</sup> June 2024, at 2.30 p.m. I wish you the best during the recess.

The House rose at 6.18 p.m.

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