



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT**

**NATIONAL ASSEMBLY**

**THE HANSARD**

**VOL. III NO. 21**

## THE HANSARD

Tuesday, 19<sup>th</sup> March 2024

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

**Hon. Deputy Speaker:** Hon. Members, we have a quorum to transact business.

PETITION

ILLEGAL ACQUISITION OF KAPKAKARON  
FARM IN NANDI HILLS SUB-COUNTY

**Hon. Speaker:** Hon. Bernard Kitur, Member for Nandi Hills.

**Hon. Bernard Kitur** (Nandi Hills, UDA): Hon. Speaker, I rise to present a public petition on the illegal acquisition of land parcels registered as Kapkakaran Farm in Nandi Hills Sub-County.

I, the undersigned, on behalf of the Kapkakaran Community in Nandi Hills Sub-County, draw the attention of the House to the following:

THAT, Kapkakaran Farm LR. No 5423/2 and LR. 6053 located in Nandi County was part of parcels of land expropriated by the white colonial settlers in the early 1940s;

THAT, following negotiations with the community and the local leadership, Kakuzi Limited, who were the last owners of the farms, willingly gave back parts of blocks of the lands to the community for the establishment of public institutions and settlement of squatters;

THAT, among the Blocks of land donated by Kakuzi Limited to the community was Septon, Title No. 5423/2 measuring 433.02 hectares. In particular, 242 acres (96.44 hectares) were to be used for the establishment of Kapkakaran Technical (Secondary) School and Block (Septon Syndicate) of Title No. 6053 measuring 440 acres earmarked for the settlement of squatters;

THAT, between April to August 1985, Hime & Zimmerline licensed surveyors began the initial discussion on expunging the land Title No. 5423/2 from the bigger block. On 26<sup>th</sup> January 1993, Kaplan and Stratton Law Firm did a letter that enclosed the schedule of shareholders of both Siret Tea Company Limited and Kakuzi Limited as the transfer was first to move both lands (LR. 5423/2 and LR. 6053) from Siret Tea Company Limited to the parent holding company, Kakuzi Limited, then from the latter to the squatters' legally registered firm;

THAT, on 24<sup>th</sup> March 1993, Kakuzi Limited did a letter to the community through the Chairman of Kapkakaran Farmers' Co-operative Society Limited, in response to a letter the community had done on 5<sup>th</sup> March 1993, confirming that the company was still committed to donating LR No. 6053 in addition to LR No. 5423/2 to the community for construction of the said technical secondary school;

THAT on 2<sup>nd</sup> June 1993, Mr P.N. Mogire, on behalf of the Commissioner of Lands, gave a final sub-divisional approval of LR No. 5423/2 (433.02 hectares) and excised 96.88 hectares, placing the new title number of the block for the community as LR No.5423/4;

THAT, on 2<sup>nd</sup> July 1993, *Gazette* Legal Notice No.173 was published, where Siret Tea Company Limited transferred LR No.5423/2 of 1,070 acres and LR No.6053 of 440 acres among others;

THAT, on 24<sup>th</sup> June 1994, Block LR No.5423/2 was transferred from Siret Tea Company Limited to Kakuzi Limited and the same day the same parcel of land was allegedly transferred illegally from Kakuzi Limited to a private developer by the name Tinderet Development Trust Company;

THAT, the said Tinderet Development Trust Company Limited is a non-existent company as per the response letter from the Registrar of Companies dated 6<sup>th</sup> August 2015, which then makes the transfer of the community land to a phantom company null and void;

THAT, Kakuzi Limited is yet to declare the status of LR No. 6053 which they had expressly intended as a company to unequivocally transfer to the community vide a letter dated 24<sup>th</sup> March 1993.

THAT, the matter presented in this petition is not pending before any court of law or any constitutional or legal body.

Therefore, your humble petitioners pray that the National Assembly through the Public Petitions Committee—

1. Engage the Ministry of Lands, Public Works, Housing and Urban Development and other relevant authorities with a view to investigating the alleged irregular and illegal acquisition of Kapkakaran Farm LR. No 5423/2 and LR. 6053 by Tinderet Development Trust Company.
2. Recommend that squatters who have settled for more than 50 years in Kapkakaran Farm LR. No 5423/2 and LR. 6053 be given priority during the settlement of residents in the area.
3. Recommend investigations into the conduct of land settlement officers for failing to adhere to the provisions of the Land Act, 2012 and the Leadership and Integrity Act in the course of their duties while settling residents, and that appropriate disciplinary action be taken.
4. Make any other recommendation or action it deems fit in addressing the plight of the petitioners.

And your petitioners will ever pray.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Kitur. Ordinarily, those who are interested can make comments. If there is none...

*(Hon. Robert Mbui spoke off the record)*

Yes, Hon. Mbui Is it on the petition?

**Hon. Robert Mbui** (Kathiani, WDM): Thank you, Hon. Speaker. I rise to support the petition. There are too many historical issues on land ownership. One of the problems we face is that previously the Commissioner of Lands had the power to give out public land however he wanted. By promulgating the Constitution of Kenya, 2010, Kenyans came up with the National Lands Commission (NLC). Unfortunately, 14 years after the NLC was conceptualised and initiated, there are still too many issues. Many of the petitions that come to this House have to do with land issues. I do not know what we will do as a House to make sure that land issues

are sorted out. Just recently, over 10,000 houses that were put up affordably by individuals in Mavoko Constituency were brought down. We need to figure out how we can sort this issue out. Even the Affordable Housing Programme is facing challenges to do with land. We need to figure out a solution to that problem in this country.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Kesses Constituency.

**Hon. Julius Rutto** (Kesses, UDA): Thank you, Hon. Speaker. I also rise to support the petition. There is need to actualise the Constitution of Kenya, 2010, as much as public and community land are concerned. Most of the challenges arise from communities that stay around large parcels of land occupied by multinationals whose leases have lapsed but there has been silence as to what happens next. You only see changes in activities and names in terms of ownership or companies that run those multinationals. This depicts that there are people somewhere who, once they know that a certain lease has come to an end, quietly engage in the process of changing ownership and the lease period without involving the community.

Hon. Speaker, this matter needs to be raised by this honourable House that those multinational land leases be effected and even call for re-surveying of the same. We all understand that anything to do with public land comes with the interests of the natives, and the community at large. Questions will arise: of the natives who were pushed away, where is the 10 per cent required by law? Right now, there are no spaces for public utilities. There are no spaces to build utilities such as hospitals and schools yet those particular leases have lapsed and as we know, when a lease lapses, the rights of that particular property reverts back to the original owner which in this case are the communities that were pushed away by the colonial farmers who ended up being the multinational owners of those particular pieces of land. It is time for the Republic of Kenya acted on this. We have to be serious, candid and implement the Constitution to the letter.

Thank you.

**Hon. Speaker:** Hon. Dawood.

Leader of the Minority Party, I will come to you thereafter.

**Hon. Rahim Dawood** (North Imenti, Independent): Thank you, Hon. Speaker.

I want to support this petition by Hon. Kibor. Land is a very emotive issue and if somebody's land has been taken away, it is very wrong. We have some Land Adjudication Officers who change the records in the books. It is first written with a pencil and the next time you go and check, it has been rubbed and another name put. We need to uncover these faceless people. The Cabinet Secretary in charge together with the Principal Secretary (PS) need to get to the bottom of those books which are recorded with pencils which can be erased any time.

I support, Hon. Speaker.

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

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, just to speak briefly to this Petition which I find very important, the Member must be commended for being bold and for presenting it.

The issue we have, and which needs to be addressed, and I will be addressing you on this much later, is that under the Constitution, National Land Commission was established under Article 67 with wide ranging powers and functions. One of those functions was to initiate investigations on its own initiative or on a complaint into present or historical land injustices and recommend appropriate redress.

I know that the initial Commission under Mr Swazuri did not do much but in fact, failed Kenyans. However, I am happy that the present Commission has tried to address some of these issues even though it still needs to be given time.

We must be very careful, even as I call upon the relevant Committee to expedite the processing of that petition. As a House, we must be very careful not to fall into a trap of clawing

back on the gains we have made, as a country, over the years and especially on matters land reforms.

I will be addressing you on this matter later and especially, on the matter of attempting to reduce the powers of the Commission by having them usurped by the Cabinet Secretary. That is an issue that this House must deal with frontally. We cannot allow any other authority, office or person, to usurp the powers that have been given by the Constitution to the National Land Commission, and especially the power to determine the value of land and act on behalf of the Republic of Kenya in so far as land management is concerned.

Hon. Speaker, I lend my support to that petition.

Thank you.

**Hon. Speaker:** Hon. Member for Mosop.

**Hon. Abraham Kirwa** (Mosop, UDA): Thank you, Hon. Speaker, for this opportunity to support this petition from the Member of Parliament for Nandi Hills, Hon. Kitur.

Land is a very sensitive issue that directly affects the socio-economic stability of any society. The issue of land in Nandi dates back to the colonial era. The issue of Kapkakaran land is one of the many land injustices that we have really experienced in Nandi. Of the 400 claims that came forward to the NLC, 10 per cent came from Nandi. We have many people who were displaced when the colonialists came in to cultivate tea, sugarcane and many other crops. The original landowners who lived in those lands were, therefore, displaced. Some of the said displacements did not only happen during the colonial era but also between 1970's, 1980's up to the late 2000's. This is a very serious matter and I applaud Hon. Kitur for bringing it so that we can discuss it in full and also encourage NLC to look into it so that those people who were displaced can be given back their land. The multinationals need to sit down and figure out a way to compensate the original landowners.

I, therefore, stand to support this petition by the Member.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Maungu, Member for Luanda.

**Hon. Dick Oyugi** (Luanda, DAP-K): Thank you, Hon. Speaker.

I rise to support the petition by my good friend and brother. As we all know, land is a factor of production and we have had a lot of land injustices in this country because of leases that expire. We have witnessed situations whereby people have been chased and at times their properties demolished because of the purported expired leases. Therefore, the idea by my brother to have this petition before the Public Petitions Committee is a great relief.

I hope and pray that the Committee would be able to work fast on it. However, as you may have known, too many petitions that have been given to the Public Petitions Committee have not been processed. My fear would be that such a great petition, would again delay before the same Committee. My prayer is that as important as the petition may be, the Committee might be forced to work harder and look into this petition because land is a very emotive issue as well as a factor of production. Delaying on this petition would be delaying justice for the many people affected by this issue.

I stand to support.

Thank you.

**Hon. Speaker:** Hon. Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Thank you, Hon. Speaker.

I must take this opportunity to sincerely thank the petitioner for bringing up the issue of historical land injustices to the Floor of the House.

Under Article 67 of the Constitution of Kenya, the National Land Commission is mandated to initiate investigations on its own initiative or on complaints into present and historical land injustices and recommend appropriate redress.

I also want to join my colleague from Luanda that in as much as this brings the matter to the purview of the House of Parliament, and to a debate of national magnitude, the best and easiest place to have sent this petition would have been the National Land Commission. They have the wherewithal and the technical know-how to expeditiously address this matter. Whichever way we look at it and the recommendations that the House would make would have to be referred back to the National Land Commission to address this matter.

This brings into question the issue of land information management system in this country. This process began with the Njonjo Commission Report. It was then continued in the Ndung'u Report and was re-started a few years ago in the Ministry of Lands by trying to digitise the land information management system to an extent that nobody will ever claim land that do not belong to them and proceed to falsely, register it to their name.

Again, the provision of the Land Registration Act is explicitly clear on the process to be followed. I, sincerely, believe that in as much as Parliament is obligated to listen to any petitions, if the Member would have consulted me, I would have advised him on the easier and expeditious way of handling such a matter. But the fact that he has brought it for public debate, I agree it is a good petition, and we hope and pray that the Public Petitions Committee will do justice so that within the shortest time possible, the matter is determined, and referred to the relevant constitutional commission to resolve it.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Melly.

**Hon. Julius Melly** (Tinderet, UDA): Thank you, Hon. Speaker.

I want to thank the petitioner, the Member for Nandi Hills. This petition is a tip of the iceberg on the land issues of this country.

Land issues in this country date back to the colonial period when the European settlers displaced thousands of Kenyans from the white highlands. Nandi County was one of the seriously affected areas. We also have Kericho and other parts of this country. To delve into the issue before this Committee is to really look at the issues bedeviling Kenyans every time a petition is raised.

If you look at the issue of the Ngerek - Chepkumia Petition that was brought before this House, the Government took land and converted it into a forest, and up to date the people have not been compensated. We have former highland areas which were European Settler areas like Chemelil and other parts of Nandi County. Right now, the locals are settling there without title deeds.

Hon. Speaker, this petition needs to be looked at expeditiously so that the issues affecting the landless people which is very common in Nandi Hills, Tinderet and other parts of the country can be looked at.

Sometimes back, there have been petitions from the Coast Region and many other counties. I want you to direct that the Public Petitions Committee looks into these matters and expeditiously bring a report to the House. The House would, therefore, have to find a resolution on how to handle land issues facing Kenyans across the country.

I, thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Cynthia Muge.

**Hon. Cynthia Muge** (Nandi CWR, UDA): Thank you, Hon. Speaker, for giving me an opportunity to add my voice and support this petition that has been brought to this House by Hon. Bernard Kitur, the Member of Parliament for Nandi Hills Constituency.

This land issue in Nandi County is a very emotional, emotive and thorny issue. As it has been said by other Members, this is just but the tip of the iceberg. The particular land in question has a whole community living there with no facilities. They neither have schools, health facilities or any other facility that a human would have in any given settlement. The way

it has been put in the petition under bullet 8, that in 1994, the land was transferred from one entity to another in a day.

Hon. Speaker, you and I being residents know the bureaucracy that surrounds land. The fact that the land was transferred from one entity to another in one day is fishy enough, and a red flag.

We also want to speak to the matters that have been here. We want to ask that you accord the seriousness that this matter deserves so that it can get a committee that can look into these issues so that we can, once and for all, start sorting out the injustices that were meted on our people especially on the issues of land. This is so that we avoid pieces of land repossessed by the legitimate people being given to pseudo entities that are calling themselves trustees of the people whereas they are fraudsters and lack the interest of the people. As a resident and representative of the people of Nandi who have suffered for a long time, I support this petition.

Just like the Petitioner, I pray that this House, which has resources and the capacity, helps these people resolve this issue so that the people of Nandi can get their land back and proceed with development.

Hon. Speaker, I appreciate the opportunity to add my voice.

**Hon. Speaker:** I want us to end here. Let us have Prof. Bartoo and then Hon. Farah will close. Hon. Milemba too? Prof. Bartoo, take two minutes.

**Hon. Phyllis Bartoo** (Moiben, UDA): Thank you, Hon. Speaker, for giving me the chance to add my voice to this Petition. I want to thank Hon. Kitur from Nandi Hills for coming up with this Petition. Land issues in Kenya is a time bomb. It seems that the NLC of Kenya is a toothless institution because it seems it is not able to deal with land issues in Kenya. I am sure this is not just happening in Nandi Hills, but in the entire country.

I want to bring a case of Moiben Constituency which has several cases of land disputes. For instance, we have Kapnyasore and Ground Lane Settlement Schemes. We have different people ploughing the land; different farmers planting; and even a different group of people harvesting. This create disputes throughout the year. I wish that this matter is taken up seriously. The Committee in charge should bring a report. This will go a long way of setting the record straight for all the other land issues in the entire country.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Farah, you will close. Let me finish with these two Members first. Hon. Milemba, Hon. Raso and the Hon. Farah. *Mheshimiwa*, you have two minutes.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Speaker. Let me support this petition. We have what we call the *pedis possessio* in legal language. It has also been highlighted by Arnold Toynbee in his theory of land ownership, the First Occupancy Theory. Therefore, land ownership in Kenya is based on the First Occupancy Theory. Those who worked first on the land, occupied, measured and bounded it become the owners. With the coming of Europeans, which reminds me of the Maasai Agreements of 1904 and 1911, and other agreements that were done in Central and Rift Valley, especially Nandi areas, land ownership moved to Europeans through companies.

The leases of 99 years and 100 years were thought to be unimaginable. They thought that those leases would never end, but they have now ended. This Parliament must now stand through the NLC to bring back this land to the original owners; the first occupiers of the land.

It is never a time bomb because we have to deal with it now. I call upon the Public Petitions Committee to give this matter precedence and start handing over land to the original owners.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Dida. Give the microphone to Hon. Raso. There you are.

**Hon. Ali Raso** (Saku, UDA): Thank you very much, Hon. Speaker. I support this petition. By the time a Member stands on the Floor of this House to present a petition, it means

something is not working or an institution is sleeping on the job. Our Constitution is very clear; land is either private, public or communal. Land does not exist in perpetuity. It must belong somewhere. It is only in Kenya where people are squatters in their entire lifetime. How can Kenyans live as squatters in all parts of this country without legislators or the Government of the day noticing? Through such a Petition, this House has been provided the right opportunity to address this issue.

Hon. Speaker, you are a lawyer of repute and you must have represented individuals having land issues in court. The Constitution provides the right to property ownership. We must accept that land belongs somewhere; it does not just exist in perpetuity.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Farah.

**Hon. Farah Maalim** (Dadaab, WDM): Hon. Speaker, land is a very emotive issue in this country. We fought for our Independence because of the dispossession of Kenyans from their rightful ancestral lands. It is a pity. In my language, we say that if you steal a camel and the camel gives birth to a calf, that calf is still a stolen property. You cannot say that since you only stole one camel and it gave birth, the calf is yours. It still belongs to the original owner.

This land was stolen from Kenyans by the colonialists. For those who studied law, you know that when they were stealing it, they called it “by the will of the Crown”. The native did not have a right to land. Today, 63 years after Independence, I do not know where the Talai clan of Koitalel arap Samoei is. I do not know where they are. They do not have land or a livelihood. They are poor and staying as squatters somewhere. The ancestors of the colonialists, whether they converted the land into big companies of tea and coffee farms, are the ones enjoying this.

We must have a land policy that addresses the historical injustices of the expropriation of the African land. Where does Dedan Kimathi's family live today? How many acres of land do they have? Hardly anything. Where are the Mau Mau fighters? We cannot claim that we are an independent country with a National Assembly that make our own laws, and pretend to be serving Kenyans, but cannot correct the historical injustices.

This petition is a good one. If I was asked, I would say that land be given back to the original owners. I do not care whether you are Kakuzi or Sasini. The land belongs to the Nandi and Kikuyu of those days; they need their land back. You are transferring a problem to Lamu by moving people from Central Province to go and stay there. They are taking over land from other people, and this in turn is causing insecurity. The bigwigs in our political structure took over those lands and everybody is now looking for a weaker person to take land from.

If we do not address the land issue, it is going to escalate into something bigger in this country. There is going to be a serious civil war in this country if we do not address the issue of the coastal land that has been taken over by other people. Do you think the sons and the grandsons of those people are going to just sit back and wait for the exploitation done to their fathers and grandfathers? What was done to Koitalel Arap Samoei....

**Hon. Speaker:** Your time is up.

**Hon. Yussuf Farah** (Wajir West, ODM): Hon. Speaker, thank you very much. I support this Petition.

**Hon. Speaker:** Clerk-at-the-Table, when I say two minutes, I mean two minutes. You unlawfully favoured Hon. Farah with five minutes. Thank you for your contribution. This petition stands committed to the Public Petitions Committee. They should report back in the stipulated time under our Standing Orders. Members who bring petitions have a duty to follow up on their progress with this Committee. I have even given them time to work out of the sitting schedules to reduce the backlog. Hon. Kandie, I see you here. You are a member of the Public Petitions Committee.

*(Hon. Joshua Kandie stood up in his place)*

Your Committee must continuously pull up.

*(Hon. Joshua Kandie spoke off the record)*

I gave you authority to sit out of the normal times. Please continue doing so. After the recess, I want to see some results from your Committee.

Hon. Members, allow me to go back to Order No.2 for some two short communications.

### COMMUNICATIONS FROM THE CHAIR

#### RECOGNITION OF A DELEGATION FROM THE COUNTY ASSEMBLY OF MAKUENI

**Hon. Speaker:** I wish to introduce to you a delegation from the County Assembly of Makeni, who are seated in the Speaker's Gallery. The delegation comprises six members of the County Assembly led by their Speaker, Hon. Douglas Mbilu. They are accompanied by five members of staff led by the Deputy Clerk of the County Assembly. The delegation is in the National Assembly to learn on the scheduling of business in the Assembly, and other aspects of the conduct of the business of the Assembly.

On my behalf and that of the National Assembly, I welcome the Delegation to Parliament and wish them fruitful deliberations. This afternoon, the House Business Committee welcomed the Speaker and his team into our meeting, and we had good exchanges.

*(Applause)*

#### INVITATION TO ISLAMIC MEMBERS OF PARLIAMENT TO AN IFTAR BY THE SPEAKER

**Hon. Speaker:** The second Communication is to invite members who profess the Islamic faith to an Iftar by the Speaker. As you are aware, our brothers and sisters of the Islamic faith are observing the Holy month of Ramadan, which commenced last week. The (Rt.) Hon. Speaker of the Senate and I hereby extend an invitation to all Members of the Islamic faith in both Houses of Parliament for an Iftar dinner to be held on Thursday, 21<sup>st</sup> March 2024 at Serena Hotel in Nairobi from 6 p.m. We have also invited the Leadership of the House to the Dinner.

I take this opportunity to wish the Muslim community Ramadan Mubarak. I thank you.

*(Loud consultations)*

Order. Hon. Irene Mayaka, you are not invited.

*(Laughter)*

Hon. Members, allow me to acknowledge the following institutions in the Speaker and Public Galleries:

1. Kenyatta High School Othaya, Nyeri County.
2. Terige Boys School from Emgwen, Nandi County.
3. Learning and Discovery Africa, Westlands, Nairobi County. I do not know if that is a school or a college.

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4. Chania Girls High School from Thika town, Kiambu County.

5. Kenyatta University, Kasarani, Nairobi County.

On my behalf and that of the House, I welcome them to the House of Parliament.

*(Applause)*

Thank you. Next Order.

## PAPERS

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

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

As I lay these papers, I would like to take this opportunity to send a message of condolence to students of my alma mater, Kenyatta University, for the loss of their colleagues. I wish a quick recovery to those who were injured. To those that the Lord took, may their souls rest in eternal peace.

Hon. Speaker, I beg to lay the following papers on the Table:

1. The following Statutory Instruments, with accompanying Regulatory Impact Statement and Report on stakeholders' consultations from the Ministry of Mining, Blue Economy and Maritime Affairs:
  - (a) Legal Notice No.49 of 2024 relating to the Fisheries Management and Development (Beach Management Units) Regulations, 2024 and explanatory memorandum;
  - (b) Legal Notice No.50 of 2024 relating to the Fisheries Management and Development (Inland Fisheries) Regulations, 2024 and explanatory memorandum;
  - (c) Legal Notice No.51 of 2024 relating to the Fisheries Management and Development (Recreational Fisheries) Regulations, 2024 and explanatory memorandum;
  - (d) Legal Notice No.52 of 2024 relating to the Fisheries Management and Development (Fish Levy Trust Fund) Order, 2024 and explanatory memorandum;
  - (e) Legal Notice No.53 of 2024 relating to the Fisheries Management and Development (Marine Fisheries) Regulations, 2024 and explanatory memorandum;
  - (f) Legal Notice No.54 of 2024 relating to the Fisheries Management and Development (General) Regulations, 2024 and explanatory memorandum;
  - (g) Legal Notice No.55 of 2024 relating to the Fisheries Management and Development (Safety and Quality) Regulations, 2024 and explanatory memorandum; and
  - (h) Legal Notice No.56 of 2024 relating to the Fisheries Management and Development (Aquaculture) Regulations, 2024 and explanatory memorandum.
2. Legal Notice No.51 of 2024 relating to the Public Finance Management (Kenya Millennium Development Fund) Regulations, 2024 from the National Treasury.
3. Annual Status Report on Water, Sanitation and Irrigation 2023 from the Ministry of Water, Sanitation and Irrigation.

Hon. Speaker I beg to lay.

**Hon. Speaker:** Thank you, Hon. Leader of Majority Party.

Let us have the Chairperson Budget and Appropriations Committee. Hon. Ndindi Nyoro.

Any Member of the Budget and Appropriations Committee? Who is the Vice-Chairperson? Hon. Mary Emaase, are you the Vice-Chairperson, Budget and Appropriations Committee? Do you not have a Report to Table?

**Hon. Mary Emaase** (Teso South, UDA): Yes

**Hon. Speaker:** You have it?

**Hon. Mary Emaase** (Teso South, UDA): Yes

**Hon. Speaker:** Go ahead.

**Hon. Mary Emaase** (Teso South, UDA): Hon. Speaker, I beg to lay the following Paper on Table.

Report of the Budget and Appropriations Committee on its consideration of The Division of Revenue Bill (National Assembly Bill No.14 of 2024).

Thank you Hon. Speaker.

**Hon. Speaker:** Thank you. We do not have any Notice of Motion. Next Order.

Member for Githunguri. Hon. Wamuchomba. Did I see Hon. Wamuchomba in the House? Hon. Owen Baya, where is your Member?

**Hon. Owen Baya** (Kilifi South, UDA): I thought I also saw Hon. Wamuchomba in the House a few minutes ago.

**Hon. Speaker:** I saw her walking in and greeting everybody.

**Hon. Owen Baya** (Kilifi South, UDA): I think her paraphernalia is here but she has evaporated.

*(Laughter)*

**Hon. Speaker:** Okay let us move to the next. We will come back to that when she comes.

## QUESTIONS AND STATEMENTS

**Hon. Speaker:** Hon. Ali Wario, MP Garsen. Give Hon. Wario the microphone.

### REQUEST FOR STATEMENTS

#### DISAPPEARANCE OF MR JOHN KOPESHA ABDIROBVA OF TARDA

**Hon. Ali Wario** (Garsen, ODM): Thank you, Hon. Speaker. I request for a Statement regarding the disappearance of Mr John. Kopesha Abdirobva who is an employee at Tana and Athi River Development Authority (TARDA).

Hon. Speaker, Pursuant to Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and Internal Security regarding the disappearance of Mr John Kopesha Abdirobva of ID number 9769707 from Garsen Constituency.

Hon. Speaker, on Thursday 8<sup>th</sup> February 2024, Mr John Kopesha Abdirobva of ID number 9769707 disappeared under mysterious circumstances after he was last seen having dinner in Gamba, Tana Resort Guest House at around 10.00 p.m. The disappearance which was reported at Gamba Police Station under OB. No.06/12/2/2024 has caused distress to his family on his whereabouts and safety.

Further, that incidence raises serious concerns regarding the protection of fundamental rights of individuals pursuant to Article 29 of the Constitution. It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Administration and Internal Security on the following:

1. Could the Chairperson provide a report on the whereabouts of Mr John Kopesha Abdirobva and the status of investigation by the police on his disappearance under OB. No.06/12/2/2024.
2. What measures has the Government taken to ensure that the said person is expeditiously traced and reunited with his family.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you Hon. Wario. Hon. Tongoyo. Yes, Hon. Dido Raso, can you bring a Statement in two weeks?

**Hon. Ali Raso (Saku, UDA):** Much obliged Hon. Speaker.

**Hon. Speaker:** Thank you. Next is Hon. Geoffrey Ruku, Member for Mbeere North.

#### TAX INCENTIVE CLAIMS

**Hon. Ruku GK (Mbeere North, DP):** Hon. Speaker, I rise to request for a Statement regarding tax incentives claimed by Special Economic Zones (SEZs) developers, operators and enterprises.

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 Finance and National Planning regarding the tax incentives claimed by Special Economic Zones developers, operators and enterprises by way of waiver and exemptions.

Hon Speaker, the Special Economic Zones Act of 2015 was enacted to inter-alia provide a framework for establishment of Special Economic Zones, the promotion and facilitation of global and local investors. The development and management of an enabling environment for trade and investments. Since the enactment of the Act, over 35 Special Economic Zones have been gazetted. Despite the large number of gazetted zones and massive tax incentives that they claim annually, the number of SEZs in the country seem to be incommensurate and the SEZs are characterised with low productivity which has made their impact indemonstrable. Further, the Special Economic Zones Authority website shows that only three of the gazetted SEZs are public while the rest are private.

The foregoing state of affairs could be a pointer to a likelihood of a compromised integrity of SEZs. Unscrupulous land dealers purportedly selling land within SEZs without paying taxes and duties could exploit and woo unsuspecting Kenyans and investors into economic exploitation without any economic benefits.

It is against this background that I request a Statement from the Chairperson of the Departmental Committee on Finance and National Planning on the following:

1. Could the Chairman provide a status report on the economic feasibility of each of the Special Economic Zone gazetted since 2015, including the identities of the promoters and beneficial owners?
2. Could the Chairperson provide a status report on the amount of land leased out or sold in each Special Economic Zone, the identities of the purchasers or leasers and whether the said purchasers or leasers have invested in the respective Special Economic Zones?
3. What are the number and types of jobs created for Kenyans by each of the zones, including the quantum of PAYE taxes paid each year?
4. What quantum of exemptions and waivers have been extended to each Special Economic Zone developer, operator, and enterprise in respect of corporation tax,

withholding taxes, and Value Added Tax (VAT), including VAT on imports and import duties for each year since 2015?

5. What measures have the National Treasury, the Kenya Revenue Authority, and the Special Economic Zone Authority put in place to forestall abuse of the Special Economic Zone scheme, including the reporting mechanisms?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Chair of the Departmental Committee on Finance and National Planning, Hon. Kimani.

**Hon. Kimani Kuria** (Molo, UDA): Thank you, Hon. Speaker. I thank Hon. Ruku for being seized of this matter. We created several incentives for SEZs and EPZs in this country in the Finance Act of 2023. However, we have seen a lot of gazettment of new and many SEZs and EPZs since that enactment. Some of them are even private people's properties.

On the questions asked by Hon. Ruku, we would like to handle this matter comprehensively. Even if we approve, I request that we make it an inquiry instead of submitting and approving it as a Statement in this House. It is so that we make sure that we sort out the loopholes these unscrupulous businesses are using in our SEZs and EPZs, denying us the required revenues and making it uncompetitive to other businesses and manufacturers that do not necessarily operate within these SEZs and EPZs.

As I have said, most of them have been gazetted irregularly. If we have to answer the five questions sought by the Hon. Ruku comprehensively, our request as a Committee is to make it an inquiry. We should visit those SEZs and EPZs to see the actual impact and the losses made to our revenue as PAYE, VAT, excise duty and all those other taxes. We should even inquire into the impact of that on export and the competitiveness of the products made in these EPZs and SEZs vis-à-vis those made by other manufacturers that do not necessarily operate in this privileged space.

**Hon. Speaker:** Thank you, Hon. Chairman. I will exercise my discretion under Standing Order 218 and I accede to your request. You may proceed under Standing Order 218(2). The Committee can proceed as you have proposed. I will give a time limit of a month.

Yes, Hon. Jared Okello. Is your point of order on something related to this or is it totally different?

**Hon. Jared Okello** (Nyando, ODM): First, I thank you for the opportunity. I have two quick twin issues to run by you. I thought we were done with Statements.

**Hon. Speaker:** There is one more Statement. I will give you an opportunity after that. Hon. Oundo, is it something to do with this matter?

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): On a point of Order Hon. Speaker. I was just wondering loudly under the Standing Orders of this House. The Committee of Trade, Industry and Cooperative oversees SEZs. Probably, the inquiry thought of by the Chair of the Departmental Committee on Finance and National Planning would be appropriate if there could be some kind of collaboration or a joint Committee. Occasionally, we grapple with the same issues in our Committee. We wonder about the economic impact of the incentives. Do they simply amount to tax expenditures that are adding no value to the economy of this country? Therefore, I seek your indulgence if you could make it a joint Committee.

**Hon. Speaker:** I actually thought in that direction when the Statement came to me. When I read it carefully, I realised that it deals with matters of taxes and finance much more than trade. Should it be necessary for the two Committees to act jointly, I will direct the Clerk to speak to both Chairmen and advise accordingly. However, I think the pertinent issues raised relate more to taxation and finance than trade. You have a point. It crossed my mind severally when I looked at the matter.

Next is the Member for Mwala Constituency, Vincent Musyoka. Yes, Hon. Kawayu.

MYSTERIOUS DEATH AND CREMATION  
OF MR WILLIAM MULWA MUTILANGI

**Hon. Vincent Musau** (Mwala, UDA): Hon. Speaker, pursuant to the provisions of Standing Order No.44(2)(c), I rise to request a Statement from the Chairperson of the Departmental Committee on Administration and Internal Security regarding the mysterious death and cremation of Mr William Alfred Mulwa Mutilangi, a Kenyan citizen of Passport No. CK32227.

Until his death, Mr Mutilangi was a renowned innovator working for Pepsi International in the State of New York, USA. Following his death, people not related to him cremated his remains in the USA. It was under a Power of Attorney prepared by Kahuthu & Co. Advocates, a Kenyan law firm. One Mr Bakari, an alleged Tanzanian national who claims to be the deceased's son, obtained a Power of Attorney. Of note, the deceased's relatives were neither aware nor informed of the cremation. This raises concerns on the motive and the hurried cremation. The family of the deceased has not been able to establish the cause of death because the funeral home where the remains of Mr Mutilangi had been preserved declined to provide information, citing that it was receiving many inquiries from multiple interested parties.

It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Administration and Internal Security on the following:

1. What is the status of investigations into the suspicious hospitalisation, mysterious death and hurried cremation of Mr Mutilangi in the USA under a Power of Attorney by Kahuthu & Co. Advocates under unclear circumstances without involvement of the family of the deceased?
2. What steps has the Government taken to ensure that all perpetrators of the death and the issuance of the suspicious Power of Attorney for the cremation of Mr Mutilangi are brought to book and prosecuted?
3. What action has the Government taken to ensure that Mr Mutilangi's family is protected from threats by persons likely to be associated with his death, including securing them from being disinherited from the estate of their deceased kin?
4. What measures has the Government put in place to ensure that all Kenyans who die in the diaspora are well preserved and their remains efficiently transported back to their families, if they so wish?

I thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Vincent, are you sure you directed this Statement to the correct Committee? If your man died in the US, do you not think it is more a foreign affairs matter than internal affairs? Let me hear Hon. Dido Raso. Give him the microphone.

**Hon. Ali Raso** (Saku, UDA): Hon. Speaker, you are right. That is a matter of foreign affairs and not for the Ministry of Interior and National Administration because the death happened in a foreign land.

**Hon. Speaker:** This is a matter in foreign jurisdiction, Hon. Kawaya. We will route your request to the Departmental Committee on Defence, Intelligence and Foreign Relations chaired by Hon. Koech. They will do more justice to your response than the Departmental Committee on Administration and Internal Security.

**Hon. Vincent Musau** (Mwala, UDA): Hon. Speaker, the thinking around this is that there is a criminal element to the Statement. I am wondering how the Ministry of Foreign and Diaspora Affairs is going to handle the criminal element.

**Hon. Speaker:** Okay. Have your day with the Departmental Committee on Administration and Internal Security. Do not come back complaining.

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

Hon. Kayawa, I am advised by the Clerks-at-the-Table, and I believe it to be true, that your matter will best be handled by Departmental Committee on Defence, Intelligence and Foreign Relations.

**Hon. Vincent Musau** (Mwala, UDA): Thank you.

**Hon. Speaker:** If you want to make any progress on your inquiry, go to Departmental Committee on Defence, Intelligence and Foreign Affairs. Hon. Dida Raso and his team have very little to do with foreign jurisdiction.

**Hon. Vincent Musau** (Mwala, UDA): Thank you Hon. Speaker. I am well guided.

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

**Hon. Jared Okello** (Nyando, ODM): Thank you Hon. Speaker for giving me an opportunity. I have two quick issues to run by you and by the House.

First, I thank you and your Office for the material and emotional support you offered the Okello family when we lost our brother, Rev Shem Okello.

**Hon. Speaker:** Our collective condolences to you.

**Hon. Jared Okello** (Nyando, ODM): Thank you very much. I also thank my colleagues who contributed quite generously and lessened the Okello family's burden to pass a dignified send off to the late brother. We hope that God will keep him in His glory.

The second limb of my concern relates to a communication that came from the National Government-Constituency Development Fund (NG-CDF) Board yesterday to our respective fund managers. In that communication, all fund managers are required to recall the proposals and remove anything touching on toilets to Junior Secondary Schools. Besides the fact that we only have two months into a new financial cycle....

**Hon. Speaker:** Toilet construction or toilets?

**Hon. Jared Okello** (Nyando, ODM): Toilet construction. We only have two months into a new financial year. They have put emphasis on building classrooms and not toilets. We cannot build a classroom without sanitation at the end of the day. Even in our very simple homes that we erect in the villages or even here in the city, we start with a latrine or a toilet before we come up a substantive structure. This is a concern that has been raised.

Just the other year, I had to thwart efforts of the same NG-CDF Board when they applied a retroactive law on NG-CDF Act as amended. This is another way of delaying projects in our constituencies. We only have next month, that is, April and May to get to the new financial year. We have received communication from our fund managers asking us what they should do in light of this.

Hon. Speaker, you have always come to the rescue of this House when such a confusion arises. I believe with your indulgence and intervention on this matter, you will let us retain what we have because we have two months into a new financial year. When we shall come up with new proposals for the Financial Year 2024/2025, we can put all the concerns they have into perspective and infuse them in the proposals as and when they will require them.

I thank you.

**Hon. Speaker:** Where is Hon. Musa Sirma? Is there any Member of the NG-CDF Committee in the House? Who is the Vice chairperson? Deputy Leader of the Majority Party, have you heard what Hon. Jared Okello has said?

**Hon. Owen Baya** (Kilifi North, UDA): Hon. Speaker, I have heard what my friend, Hon. Jared Okello has said. It is true that NG-CDF Board has been asking fund managers and Members of Parliament to revise some of the proposals that have been sent. I for one was asked to revise mine and I diligently did that so that I can fast-track the process. However, more importantly, we need to have a conversation with the Board because projects are specific to constituencies. Members of Parliament and fund managers understand projects they require in

their constituencies. They should not be blocked from implementing them. Many of these proposals come from public participation. Because of that, I do not think the Board should have a mandate to overturn something that came from public participation. Constituencies should be allowed to implement their projects as mandated by constituents. We will also engage the Board so that we understand why it is bringing new things.

**Hon. Speaker:** Is it a Hon. Jared Okello concern or is it widespread?

**Hon. Owen Baya** (Kilifi North, UDA): I think many of the changes that have been brought have a lot of effect. I was asked to make amendments to my proposals. I thought some of them were ridiculous because what I was asked to amend is what my people want. Why do they want me to do something else? I know there has been the issue of walls. They said we cannot build walls using NG-CDF funds. There are several things that have come out. We need to sit down with them so that we align the demands of constituents and what the constituency requires.

**Hon. Speaker:** Hon. Makali Mulu. You have one minute.

**Hon. (Dr) Makali Mulu** (Kitui Central, WDM): Thank you Hon. Speaker. The matter raised by Hon. Jared Okello is very important. This year, our Select Committee on NG-CDF has let us down. This is the second time things have been done unprocedurally. The Board needs to be told that there is a NG-CDF Act and Regulations which clearly state what should be done. It is not their work to micromanage constituencies. Their work is to look at policy issues and based on that guide constituencies. They are micromanaging constituencies and that is not fair.

**Hon. Speaker:** Hon. Mathenge.

**Hon. Duncan Mathenge** (Nyeri Town, UDA): Thank you, Hon. Speaker. As a first time Member of Parliament, the only resource that I have to serve the people who elected me is the NG-CDF. The Board guided me to go to the people and come up with proposals that were supposed to be implemented over a two-year period. The proposals were documented, discussed, and verified by the people in confirmation meetings. For the Board to come midway and try to change the process that is already understood by members of the public is not only unfair, but it also makes us appear in bad light before the people who elected us. The fact that we are two months to the end of the Financial Year and the Board is still playing back and forth...

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

Hon. (Dr) Nyikal.

**Hon. (Dr) James Nyikal** (Seme, ODM): Thank you, Hon. Speaker. The NG-CDF Board should disburse the money. The excuses and back-and-forth are just delaying tactics. The year is far gone and we need the money. We cannot build classrooms, increase the number of students in schools, and not increase the number of toilets. We need to get the money now.

**Hon. Speaker:** Hon. Mbui.

**Hon. Robert Mbui** (Kathiani, WDM): Hon. Speaker, the NG-CDF has gone overboard. Its mandate is to implement what Members get from the public. The NG-CDF Act does not prohibit any constituency from building a perimeter wall for a school. The students could be sneaking out at night. So, schools need to have walls. There is no law that prohibits a school from building toilets in schools. The Board should stop breaking the law. We must stand firm and say no to this. We should be allowed to do public works in our schools as per the law.

**Hon. Speaker:** Hon. Mutunga.

**Hon. John Mutunga** (Tigani West, UDA): Thank you, Hon. Speaker. I join my colleagues in asking the NG-CDF Board to release the money. The amount they have released cannot support the 40 per cent required for bursaries. As Members of Parliament, we are at a

loss deciding who we are going to award bursaries. Is it the primary schools, secondary schools, or tertiary students? We need this money. The Board is taking a little bit too long.

**Hon. Speaker:** I think we will end there. Is Hon. Musa Sirma here? If not, Hon. Owen Baya, kindly ask Hon. Musa Sirma to bring a Statement concerning this matter tomorrow at 2.30. p.m.

Hon. Members, it is not true that the Board's duty is only to disburse money. However, if your complaints are true, the Board is over-reaching.

**Hon. Owen Baya** (Kilifi North, UDA): Hon. Speaker, I am unreliably informed that Hon. Musa Sirma is out of the country.

**Hon. Speaker:** Who is the Vice-Chairperson of that Committee?

**Hon. Owen Baya** (Kilifi North, UDA): Hon. Tandaza Sawa is the Vice-Chairperson.

**Hon. Speaker:** Hon. Tandaza has been here. Tell him to bring a Statement tomorrow at 2.30 p.m.

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

**Hon. Speaker:** Hon. Members, before we move on to the next Order, allow me to acknowledge students from the following institutions seated in the Speaker's Gallery and the Public Gallery. In the Speaker's Gallery, we have:

1. Mama Ngina University College from Gatundu South Constituency, Kiambu County.
2. Ikutha Boys Secondary School from Kitui South Constituency, Kitui County.
3. Kiongwani Secondary School from Kilome Constituency, Makueni County.

In the Public Gallery, we have:

1. Karai Day Secondary School from Kikuyu Constituency, Kiambu County.
2. Tengecha Boys Secondary School from Bureti Constituency, Kericho County.
3. Kihate Girls Secondary School from Mukurweini Constituency, Nyeri County.
4. Wamutitu Secondary School from Mukurweini Constituency, Nyeri County.

On behalf of the Speaker and the whole House, I welcome the students and their teachers to the House of Parliament.

Hon. Members, the Chairperson of the Special Funds Accounts Committee has requested me to reorganise the Order Paper and I have acceded to the request. By the time we possibly reach Order No.15, she will have left to go and observe her religious rights and duties. I direct that that Order be moved to Thursday Morning.

Hon. Members, the House Business Committee directed that we will have a Sitting on Thursday morning, from 9.30 a.m. Be notified and be in the House on Thursday morning at 9.30 a.m.

## MOTION

### ADOPTION OF REPORT ON FINANCIAL STATEMENTS OF SELECTED STATE CORPORATIONS

THAT, this House adopts the Report of the Public Investments Committee on Commercial Affairs and Energy on its examination of the reports of the Auditor-General on the financial statements of selected State corporations, laid on the Table of the House on Wednesday, 6<sup>th</sup> December 2023.

*(Moved by Hon. David Pkosing on 13.3.2024 – Afternoon Sitting)*

*(Resumption of debate interrupted on 14.3.2024)*

I now call upon the Chairperson of the Public Investments Committee on Commercial Affairs and Energy, Hon. Pkosing to reply.

**Hon. David Pkosing** (Pokot South, KUP): Thank you, Hon. Speaker for giving me the opportunity to reply.

I thank Hon. Members of this House for supporting us and supporting our Report. I also thank my Committee and the Office of the Clerk for the good job.

With those few remarks, I beg to reply.

*(Hon. David Kiplagat, Hon. Irene Kasalu and  
Hon. Fatuma Masito walked into the Chamber)*

**Hon. Speaker:** Order Members. Hon. D.K, Hon. Kasalu and the Member for Kwale, please, take your seats.

*(Question put and agreed)*

Next Order.

## BILLS

### *First Reading*

#### THE CARE AND PROTECTION OF CHILD PARENTS BILL (SENATE BILL NO.23 OF 2023)

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

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

**Hon. Speaker:** Hon. Opiyo Wandayi, what is your point of order?

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, I rise again under Standing Order No. 47(3)(b) to seek your indulgence.

**Hon. Speaker:** What do you mean by “I rise again”? Had you risen before?

**Hon. Opiyo Wandayi** (Ugunja, ODM): I had risen sometime back on the same Standing Order, but today I seek your indulgence for me to raise certain issues.

**Hon. Speaker:** What Standing Order are you referring to?

**Hon. Opiyo Wandayi** (Ugunja, ODM): Standing Order No.47(3)(b) read together with the celebrated ruling by the former Speaker, Hon. J.B Muturi.

**Hon. Speaker:** Let me get you right. Did you rise on the same issue within the same debate?

**Hon. Opiyo Wandayi** (Ugunja, ODM): No.

**Hon. Speaker:** What do you mean by “rising again”?

**Hon. Opiyo Wandayi** (Ugunja, ODM): I withdraw the term “again”. I rise under Standing Order No. 47(3)(b) which is self-explanatory. I do not want to belabour it.

*(Hon. Ndindi Nyoro, Hon. Jared Okello and  
Hon. John Mutunga stood along the aisle)*

Hon. Speaker, the Chairperson of the Budget and Appropriation Committee, the Chairperson of the Departmental Committee on Agriculture and Livestock and the Member for Nyando are having a *baraza* here. They are actually hugging across the aisle.

**Hon. Speaker:** Order Hon. Ndindi Nyoro and Hon. Jared Okello.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Standing Order 47(3)(b) is clear. It says—

If the Speaker is of the opinion that any proposed Motion (referring to both Motions and Bills) ...

**Hon. Speaker:** I know so.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Standing Order 47(3)(b) says—

If the Speaker is of the opinion that any proposed Motion—

(b) is contrary to the Constitution or an Act of Parliament, without expressly proposing appropriate amendment to the Constitution or the Act of Parliament; the Speaker may direct either that, the Motion is inadmissible, or that notice of it cannot be given without such alteration as the Speaker may approve or that the Motion be referred to the relevant committee of the Assembly, pursuant to Article 114 (2) of the Constitution.

*(Hon. Speaker consulted the Clerk-at-the-Table)*

Hon. Speaker, I want to take you back to the celebrated ruling by your predecessor, the Rt. Hon. J.B. Muturi. On 21<sup>st</sup> December 2021, in a ruling on the constitutionality of the proceeds of Crime and Anti-Money Laundering (Amendment Bill), he had this to say... I will be very brief because I can see the Clerk-at-the-Table is consulting with you. His ruling on this particular day simply said:

“Before I guide the House on the pertinent questions for determination, it is worth noting that Articles 3 and 10 of the Constitution oblige the Chair to respect, uphold and defend the Constitution. As you are aware, all business that comes before the House is approved by the Speaker and among other considerations, the Speaker applies his mind as to the constitutionality or otherwise of such business, as contemplated under Standing Order 47(3). Let me hasten to add that, notwithstanding the approval of any business by the Chair (implying the Speaker under the Standing Orders), it has now become an established parliamentary practice of this House, that a question of the constitutionality or otherwise of any matter under consideration by the House may be raised at any stage of its consideration. Indeed, my predecessors and I have been invited on several occasions to guide the House on issues of constitutionality of various matters before the House.”

Hon. Speaker, that ruling read together with the Standing Order 47(3)(b) is what I am relying on to plead with you to allow me to raise these constitutional issues concerning the Bill under consideration, which is the National Government Administration Laws (Amendment) Bill, 2023.

Hon. Speaker, I will proceed to briefly say that Articles 3 and 10 of the Constitution are clear. I do not want to read them because Members are now conversant with these two Articles. I have two issues with this Bill and I am aware that the relevant Committee, that is, the Departmental Committee on Justice and Legal Affairs, has dealt with some of them. But there are two issues which I do not want this House to proceed and vote on while we know we will be acting in vain. This House cannot afford to do so.

The two issues are to do with, first, the establishment of the office of the Head of Public Service. Second, the establishment of the office of Chief Administrative Secretary (CAS) These two offices, as contemplated in the Bill, are outrightly unconstitutional. Therefore, this House cannot and should not proceed to process this Bill in the manner it is currently crafted.

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Hon. Speaker, I am inviting you to make a ruling before we proceed with this Bill. First, on the issue of the Head of Public Service, the Bill is attempting to establish this office outside the Constitution. When you read Article 154 of the Constitution, it establishes the office of the Secretary to the Cabinet with very clear functions and powers. I will not read it because it is clear and Members can read for themselves. As a matter of fact, if you allow me because I want to be mindful of time, Article 154 establishes the Office of the Secretary to the Cabinet, which is an office in the public service. It goes on to enumerate the functions of this office as:

1. have charge of the Cabinet Office;
2. be responsible for arranging the business, and keeping the minutes, of the Cabinet;
3. convey the decisions of the Cabinet to the appropriate persons or authorities; and,
4. have other functions as directed by the Cabinet.

What this Bill is assigning this office is laughable and I will ask Hon. Mbui to assist me, for the time being.

**Hon. Speaker:** Let me listen to you first.

**Hon. Opiyo Wandayi** (Ugunja, ODM): This Bill is attempting to assign the proposed Office of Head Public Service to be the Chief of Staff of the President, the administrative Head of the Executive Office of the President and, previously, the custodian of the seal. I think the Committee has removed that one. He or she is to perform any such other functions as may be assigned by the President.

As proposed in the Bill, none of these functions are not being performed by the Secretary to the Cabinet, which is a constitutional office established under Article 154 of the Constitution. So, in other words, this House is being invited to create some kind of mongrel or office that will superintend over a constitutional office. We are being invited in broad daylight to establish an office through an Act of Parliament to load over a constitutional office under Article 154 of the Constitution. To me, that is outrightly unconstitutional.

There is no other way you can cure this. If you really want to establish such an office with distinct functions, there is no shortcut but to amend the Constitution. Remove these powers from the Secretary to the Cabinet and assign them to the Office of Head of the Public Service. More importantly, the Head of Public Service will attempt to perform functions that are only meant for the Public Service Commission (PSC), under Article 233 of the Constitution.

I am not even aware, because the Bill is silent, whether this is a State office or public office? It is not clear because if it was a State office, it would be different. There is no way you can establish a State office through an ordinary statute. I stand to be corrected. You cannot! You cannot establish a public office, which can only be done by the PSC and make it superior to a constitutional office under Article 154 of the Constitution. That is my issue with this particular office.

I want to go to the second office of the Chief Administrative Secretary (CAS). Article 152 of the Constitution is very clear. It establishes the Cabinet, which is composed of the President, the Deputy President, the Attorney-General, and a specific number of Cabinet Secretaries. The Constitution goes ahead to establish the Office of the Principal Secretary in Article 155. If you logically read the architecture of the Constitution, you will see that after the Cabinet Secretary, the second line is the Principal Secretary, who has distinct functions. I want to read for you one of the functions of the Principal Secretary under Article 155(1) of the Constitution. It states:

“(1) There is established the office of the Principal Secretary, which is an office in the public service.”

Article 155(2) of the Constitution states:

“(2) Each State department shall be under the administration of a Principal Secretary.”

The Constitution did not contemplate that at some point in time, a House of Parliament would sit and purport to establish another office outside the Constitution that would fall somewhere between the Office of the Cabinet Secretary and the Office of the Principal Secretary. The drafters of the Constitution could not have imagined that at some point in time, Parliament would create an office outside the Constitution through an ordinary statute.

**Hon. Caroli Omondi** (Suba South, ODM): On a point of order, Hon. Speaker.

**Hon. Speaker:** Order. There is a point of order from...

**Hon. Opiyo Wandayi** (Ugunja, ODM): But I am also on a point of order.

*(Hon. Caroli Omondi spoke off the record)*

**Hon. Speaker:** Use the microphone.

**Hon. Caroli Omondi** (Suba South, ODM): Thank you very much, Hon. Speaker. May I draw the attention of my Leader of the Minority Party to Article 132(4)(a) of the Constitution of Kenya, which states:

“132(4) The President may—

(a) perform any other executive function provided for in this Constitution or in national legislation and, except as otherwise provided for in this Constitution, may establish an office in the public service in accordance with the recommendation of the Public Service Commission.”

Can he address that particular point as per the Constitution of Kenya while he is at it?

**Hon. Opiyo Wandayi** (Ugunja, ODM): Let me educate my good friend, Hon. Caroli. The same Constitution under Article 234(3)(a) states:

“234(3) Clauses (1) and (2) shall not apply to any of the following offices in the public service—

(a) State offices;”

In other words, the Public Service Commission cannot establish a State office. The Chief Administrative Secretary is characterised as a State officer in this Bill. Hon. Caroli is now properly educated.

Hon. Speaker, there is no way an office...

**Hon. Speaker:** Wind up.

**Hon. Opiyo Wandayi** (Ugunja, ODM): I am winding up. I am very happy that you have given me this opportunity to address this issue.

**Hon. Speaker:** I have overindulged you.

**Hon. Opiyo Wandayi** (Ugunja, ODM): You have overindulged me. Hon. Speaker, if you look at the functions of the Chief Administrative Secretary in the Bill – Hon. Mbui, again, please, help me find them. A Chief Administrative Secretary shall be responsible for responding to issues relating to the portfolio assigned to the office; liaising with Parliament; representing the Cabinet Secretary at any meeting as directed by the Cabinet Secretary; and performing any other duties assigned by the office of the Attorney-General or the relevant Cabinet Secretary.

In other words, a plain reading of this Bill tells you that the Chief Administrative Secretary shall be responsible to the Cabinet Secretary. That means that he or she shall not be responsible to the Principal Secretary. In short, you are creating this office above that of the Principal Secretary. He or she is essentially a Deputy Cabinet Secretary. You are creating this office outside the Constitution.

Hon. Speaker, we should be careful not to venture into this arena. If we do so, we shall be setting ourselves up, as a House, to very needless litigation. You already know what the

verdict will be without me pre-empting it. If this Bill goes to any court, it will be declared unconstitutional. Why should we waste our time and that of taxpayers deliberating on issues which are clearly unconstitutional?

Hon. Speaker, I plead with you and urge you to discontinue this debate and retreat to make a considered ruling on the issues I have raised before consideration of this Bill can proceed in one way or another.

With those many remarks, I rest my case.

**Hon. Caroli Omondi** (Suba South, ODM): On a point of order, Hon. Speaker.

**Hon. Speaker:** Yes, Hon. Caroli.

**Hon. Caroli Omondi** (Suba South, ODM): Thank you very much, Hon. Speaker. Again, there is a misconception here. It took me a bit of time to get it, but Article 234 of the Constitution clearly shows that the public service is restricted in terms of how it exercises its powers to hire, fire and discipline State officers. This is because there are special procedures for State offices and how the public service exercises its powers with respect to State officers.

I can give him an example. I was the first Chief of Staff in the Republic of Kenya. When we created that office, it had no powers but the President had the executive power to organise his executive office, and so did the Prime Minister. There are offices in a presidential system of government that are not necessarily created by law. If you check the history of the Office of the Chief of Staff in the United States of America (USA), the first holder was a presidential appointee through an Executive Order. Over time, it has gained currency simply because in a presidential system such as the one we have, there are officers who cannot exercise both bureaucratic and political power. A Principal Secretary cannot interface with Parliament in a presidential system.

In a presidential system such as the one in the USA, presidents have their chiefs of staff who can exercise both bureaucratic and executive power in a political interface with Congress. That power rests with the President. Article 234 of the Constitution limits the authority of the public service in terms of hiring, disciplining, and directing State officers. However, it does not limit the power of the President under Article 132 of the Constitution to establish offices in the Executive, as he so wishes.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Murugara, please, hold on. Hon. Jared Okello, do you want to contribute to the same issue?

**Hon. Jared Okello** (Nyando, ODM): Yes.

**Hon. Speaker:** Hon. Murugara, you are the Chairperson of the Committee. Hold on. I will come back to you.

**Hon. Jared Okello** (Nyando, ODM): Hon. Speaker...

**Hon. Speaker:** Hold your horses, Hon. Murugara.

**Hon. Jared Okello** (Nyando, ODM): Hon. Speaker, even as I align myself with the sentiments expressed by my brother, Hon. Wandayi, I read the ruling by the High Court on this same matter with a fine tooth comb. I needed to understand the gist of this entire issue. One thing that caught my attention, Hon. Speaker, is what the court said: that we are being governed by a constitutional dispensation of the year 2010. This Constitution went into details as highlighting these offices, some of which are now under question. And one fundamental issue that these judges raised is that the CAS was going to be a person just between the Cabinet Secretary and the Principal Secretary. So, by inference, the CAS is a boss to a Principal Secretary.

Hon. Speaker, what the court said, and what we are still not addressing holistically, is that if Kenyans thought that that office was going to be as important as this House would want to make it, Kenyans would have put it in the Constitution. The court went on to say that if

indeed this position will be as important, Kenyans will have to have a say on it by way of a referendum.

Why straddle a very important consideration in enactment of this office, Hon. Speaker? So even as you retreat to come up with an in-depth ruling, as you have always done before, let us try to look at the participation of Kenyans in infusing this office into law. Otherwise, we were very embarrassed, as a House, by the decision of our courts, and I do not want this House to be always subjected to embarrassment each time we create laws here.

Hon. Speaker, we do not make laws in vain and, therefore, let us go deep and look into this. I know there are people who campaigned for UDA or Kenya Kwanza by extension, and are angling for jobs. They are very desperate to have something in their name. But let us do things according to the dictates of our laws, so as not to overreach and hence face embarrassment in our courts of law.

I thank you for the opportunity.

**Hon. Speaker:** Hon. Nyikal. Avoid tedious repetition.

**Hon. James Nyikal** (Seme, ODM): Thank you. Hon. Speaker. I remember I was in Government when the Constitution of Kenya 2010 was in process. Historically, this came from the office of the then Assistant Minister. That is where all this comes from and the argument at that time was that often the assistant ministers did not have specific jobs they were doing. As permanent secretaries, we were always asked without much guidance to ensure our assistant ministers had something to do. We were to assign them jobs to do.

Therefore, the argument that came up during the drafting of the Constitution was basically that the office was not necessary and, therefore, that position of the assistant minister was removed. That is how, later on, after the Constitution had been promulgated, the new Government felt that we needed a chief administrator.

**Hon. Speaker:** Hon. Nyikal, what you are saying is incorrect. I served as an Assistant Minister for five years and my letter of appointment from the President specifically listed out what my duties and responsibilities were as an Assistant Minister. The Assistant Minister never operated at the whim of the Minister.

**Hon. James Nyikal** (Seme, ODM): Those duties, Hon. Speaker, with all due respect, were basically to assist the Minister. All of them, but let us not go into that argument. Now, when it comes to these positions of CASs, it is stated that they are going to liaise with Parliament, but every time we interacted with them in the last Parliament, it was always very clear that we needed to liaise with the Cabinet Secretary. This position is also creating another level. If you are saying they are going to liaise with the county government on matters of concurrent mandate, we have the Intergovernmental Relations Technical Committee (IGRTC) whose job is to do that.

It is also stated that the CAS will provide inter-ministerial and sectoral coordination. We have the office, like in this case the Cabinet Secretary, who is actually dealing with that matter. So, once again, why are we creating this position?

Another role is representing the Cabinet Secretary in any meeting. That actually is where the issue started and so, we are going backwards.

So, Hon. Speaker, I just wanted to add that we are actually going backwards in terms of our constitutionalism. We are clawing back what we changed in 2010 and bringing them through the Statutes. I am not a lawyer, but I do not think that is proper.

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

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): Thank you very much, Hon. Speaker. To locate this matter properly, I expected the Leader of the Minority Party to quote extensively from the case law. This matter has been litigated upon. He knows the decision of the court in Kenyatta II when this position was declared unconstitutional. It was declared unconstitutional

because there was no law that established it. In fact, the advice from court at that time was to pass the law in Parliament. They decided not to pass the law.

Article 94(5) of the Constitution, which I would like to happily read to my very good friend, Hon. Wandayi, the Leader of the Minority Party says:

“No person or body, other than Parliament, has the power to make provision having the force of law in Kenya except under authority conferred by this Constitution or by legislation.”

Hon. Speaker, it is the very reason this Bill is in this House this afternoon so that we can debate, agree or disagree.

Hon. Speaker, the second issue that I expected the Leader of the Minority Party to have addressed is the Report of the Committee. Had he read it, he would have seen very clearly that only Hon. Otiende Amollo dissented with regard to the matters that were raised in this Bill. We are being held hostage by the Leader of the Minority Party on account of Hon. Otiende Amollo’s advice. I want to believe he has taken legal advice from a minority Report of the Committee.

Hon. Speaker, Article 132, which my very good friend, the former Chief of Staff, has clearly stated, addresses the issue. The only thing that the Leader of the Minority Party did was to skirt around the issue, not wanting to address it because he had been advised by Hon. Otiende Amollo, so that he could not depart from it.

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

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): No! No! How can you rise on a point of order? You received advice from a dissenting Member!

*(Laughter)*

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

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, I do not think Hon. Chepkonga is in order to continually imply that I got legal advice from Hon. Otiende Amollo. He is in essence casting aspersions on my ability and capacity to decipher legal and constitutional issues and to articulate them in the manner I have always done here. Is he in order? Could you rule him out of order, Hon. Speaker?

**Hon. Speaker:** I do not know if Hon. Otiende Amollo advised you, but it is not wrong to be advised, especially when you are the leader the way you are. Why is Robert Mbui next to you? He is your assistant and he advises you and even when you started your argument, you said, “Mbui will help me as I go along.”

*(Laughter)*

Wind up, Hon. Chepkonga.

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): Thank you very much, Hon. Speaker. I do not know why anyone would have a problem with my Co-Chairperson, whom you appointed to the caucus of lawyers to represent this House. Hon. Wandayi knows he receives ample advice from Hon. Otiende Amollo. I have no problem. Hon. Amollo is a Senior Counsel. In fact, to receive counsel from the Senior Counsel is very good. In fact, he should be very happy with it.

Hon. Speaker, Article 234 of the Constitution gives power to the Public Service Commission to create and abolish offices. The Public Service Commission, indeed, created the offices. As a consequence of that, it was said that there was no law. Hon. Speaker, this is the very reason this Bill is pending before this House this afternoon, so that we can anchor this into the law.

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

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

**Hon. Speaker:** Hon. Murugara.

**Hon George Murugara** (Tharaka, UDA): Thank you very much, Hon. Speaker. Let me thank you for allowing this debate to go on. I commend you for that. Unfortunately, what has been raised as a point of order by Leader of the Minority Party is actually the dissent of Hon. Otiende Amollo to the committee reports which we tabled in this House. Unfortunately, the Leader of the Minority Party did not take time to read the two reports. We have the substantive Report and an addendum which would have settled his issues.

I confirm that these reports belong to the House. Therefore, whatever is in there are acts of this House which cannot be wished away. First and foremost, I will speak about the Head of Public Service. That office substantially differs with what we have in this Bill because we, as a Committee, had issues in the way it was formed. Therefore, we had to align its formation.

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

**Hon. Speaker:** There is a point of order from the Member for Funyula. What is your point of order?

**Hon (Dr) Ojiambo Oundo** (Funyula, ODM): I had to interrupt my good friend, Sir George, who used to be a good man last term. Hon. Speaker, the Leader of the Minority Party has referred to the Bill. What is indicated in the Order Paper is the Bill. The Committee's Report is not in the Order Paper. I need your guidance on Hon. George's reference to the Committee's Report that is not in the Order Paper. We have been making this mistake continuously. Whether it is a mistake or not, we must draw this line clearly.

A committee's report that is supposed to be debated must be in the Order Paper. The Bill is in the Order Paper. It has not been amended or withdrawn to be amended, so that it is presented in an organised form that complies with the Constitution. Probably in the fullness of time, you might be required to guide the House on how to proceed. Do we proceed to debate the Committee's Report or Bill?

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Oundo, the reason I keep on urging committee chairpersons to bring and table their committee reports is because they are part of the legislation process. We always insist that a committee's report should be tabled in the House at least before the Bill goes to the Committee of the whole House stage. It is part of the information available to Members in carrying out their debates. Hon. Murugara is not out of order. He has a right to refer to the Committee's Report. You also have a right to do so. In fact, you have a right to extract material from it to amend the Bill at the Committee of the whole House stage, if you wish. That is why we have the committee reports.

**Hon. George Murugara** (Tharaka, UDA): Thank you very much, Hon. Speaker. That is 100 per cent correct. I wish to inform Hon. Oundo, my friend, that when the Leader of the Majority Party moved this Bill, he, *in extenso*, relied on the Report to say how the Bill will be amended clause by clause. That is the process of legislation. The Bill is committed to a committee so that it can look at its constitutionality and how else it can be aligned to policy and any other statute, as it may be necessary.

I wish to state to the House that the Office of the Head of Public Service which is proposed to be created has several amendments under that provision, so as to align it with the Constitution. Therefore, it implores upon the Leader of the Minority Party to read the proposed amendments and then he will possibly change his mind. If he does not read them and he reads the Bill only, then he will possibly be entitled to make the arguments he has made here. However, that has to be in his contribution to this debate. It cannot be a preliminary point to be decided on. That is where he has actually gone wrong and digressed from the debate we have. We have made it elaborate that the Office of the Head of Public Service will be in the executive office of the President. It is not as we have it here.

Secondly, it is an office in the public service. That now falls under Articles 132 and 134 of the Constitution. Therefore, that cures the defect. We have analysed what the functions are in the rest of it which are not in conflict at all with the office of the Chief Cabinet Secretary because we know this exists.

In the draft Bill, there may have been a conflict but it has been removed. Therefore, I urge the Leader of the Minority Party to look at the Report and then form a second opinion. What he has elaborately told the House is the dissenting opinion of Hon. Otiende Amollo. That will be the debate for those who are opposing the Bill. Hon. Otiende Amollo opposed the Bill, after we made all these recommendations which are within his knowledge.

As regards the Chief Administrative Secretary, again, kindly read the Report and the addendum which are very important. We were alive to the fact that this position had been annulled twice by the courts. Therefore, we had to seal the loopholes which are likely to be there, when it comes to the position *vis-à-vis* what is provided for in the Constitution. So, what have we done?

Firstly, we have not mentioned it whatsoever. If it is mentioned in the Bill, we have recommended that these are not State officers who are created or provided for by the Constitution. They are offices that are established and provided for under the Public Service Commission (PSC). In that manner, we have complied with the Constitution.

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

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

**Hon. Jared Okello** (Nyando, ODM): Hon. Speaker, I thank you for giving me the opportunity. Article 260 of our Constitution describes who a State officer is. One fundamental issue around it is that it is anyone who gets a pay from the Consolidated Fund. How will you remove these people who will be earning their perks from the Exchequer from being called State officers? Why are we shooting ourselves in the feet, just to appease 22 people who are idling out there? Let us follow the law and do what it prescribes.

**Hon. George Murugara** (Tharaka, UDA): Unfortunately, they may be 10, five but not 22. We do not know the number because it is now reserved for the PSC to work on the element of complement of that particular office.

Let me make it clear. State officers are set out in the Constitution. Now that Chief Administrative Secretaries are not there, they are excluded. They are not State officers. As such, we cannot say they fall under that provision of the Constitution.

Secondly, we have also re-defined their functions. Principally, they are Cabinet Secretary Assistants. They will work under the direction of cabinet secretaries to assist them in meetings, government portfolios and whatever other assignments they are assigned. We have not provided whatsoever that they are in between cabinet secretaries and principal secretaries. There is no mention of the Principal Secretary in the provisions we are talking about. In essence, what we are saying is that these CASs will be assisting cabinet secretaries while principal secretaries are technocrats, people who are supposed to be accounting officers and administer various State departments under them. There is no provision whatsoever that a CAS is going to administer a State department, whether assigned by the Cabinet Secretary or otherwise. That is not one of the functions we have proposed.

Therefore, looking at this Bill in totality, I believe what is being raised by the Leader of the Minority Party and those who have supported him are debates that are supposed to be in opposition to the Bill and this can only be sustained if they have read the Report and the addendum. They must also know that there will be Committee of the whole House on the Bill, where all the amendments that are proposed will be executed. The arguments being advanced now will change once this Bill goes through the Committee of the whole House. Unless those amendments are within their knowledge, they cannot be heard to say what we are saying is unconstitutional. In my view, the debate by the Leader of the Minority Party is pre-emptive,

premature and just a debate. It is not a point of law that would amount to a point of order on constitutionality. Therefore, kindly overrule him.

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

**Hon. Owen Baya** (Kilifi North, UDA): Thank you very much, Hon. Speaker. You are being invited here by the Leader of the Minority Party to give a ruling on the constitutionality of the two items contained in the Bill. The issue of CASs has been canvassed in almost four courts in this country, with rulings that have been delivered. The dissenting ruling of Lady Justice Hedwig Ong'udi was very clear. She had no issue with the constitutionality of these positions. She had issues with the numbers. On the same issue, Justice Aleem Visram was also very clear on the numbers. The issue that came in the first case was about the process. The issue was cured. The court said since there was no public participation and no interviews, the recruitment process had not been done properly. It was, therefore, ruled as unconstitutional on the basis that it did not follow the process as established in the Constitution.

What the current administration did was to ensure they did the things the court had requested be done. Public participation was done to cure the issue raised. Secondly, the process of advertising, interviewing and recruitment was also followed. The issues raised in the first case were set aside on the basis that the Government followed the process as prescribed by the court. Issues of constitutionality as raised by Hon. Wandayi do not hold water, especially on a Bill which has gone through the Committee. The Committee has looked at it and seen the issues in it as raised. I have read the dissenting opinion of the Senior Counsel Otiende Amollo. His dissenting opinion is very shaky. Based on the rulings that have been made, Parliament is in the process of curing issues the court talked about. Hon. Speaker, reject and refuse to be invited by Hon. Wandayi to get into the debate of the Bill. That is what he is inviting you to do.

On constitutionality, this Parliament and these honourable Members can sit and look at the issues raised, make amendments in the Committee of the whole House stage and ensure the Bills we pass are constitutional, lawful and can take us forward, and not the back and forth which Hon. Wandayi is inviting you to entertain. Hon. Speaker, refuse that entertainment.

Again, the Office of the Head of Public Service is initially constituted within the law as the Office of the Secretary to the Cabinet. We are trying to draw a line and have, within the Executive Office of the President, a Head of Public Service who can do the work without necessarily having the Secretary to the Cabinet do the same job. We have seen inefficiencies. We want to cure the inefficiencies, but Hon. Wandayi is inviting you to look at a constitutional issue that is non-existent, especially on the Office of the Head of Public Service. I would request you to reject that invitation, allow Parliament to debate these laws and make a position, and pass a good law that can stand the test of time and any litigation in any court in this country.

I thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, thank you.

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

Hon. Wandayi, I have heard you. It is not a Motion for you to reply to. No. There is no right of reply here. You raised your protestations and Members have contributed. You will reply and Hon. Okello will want to reply. Everybody else who spoke will want to reply. There is no provision for that.

I direct as follows: Debate at Order No.10 will proceed. Once it is done, no question will be put until I give a ruling tomorrow afternoon before we move to the next level.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Most obliged.

*(Second readings)*

THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL  
(National Assembly Bill No.73 of 2023)

*(Moved by Hon. Kimani Ichung'wah on 14.3.2024)*

*(Resumption of debate interrupted on 14.3.2024)*

**Hon. Speaker:** Who was on the Floor? Hon. Gertrude Mbeyu, Kilifi Woman Representative was on the Floor with eight minutes to go. She is not here. Now the screen is full. I do not know if it is full for this Bill. Hon. Rindikiri Mugambi? He is not here. Hon. Robert Mbui.

**Hon. Robert Mbui** (Kathiani, WDM): Thank you, Hon. Speaker. I stand to reject this Bill. What this Bill seeks to do is what the Kenya Kwanza Alliance opposed vehemently during the 2022 campaigns. We were told that this regime would not create offices. We were told that the debate during the last campaigns was between those looking for positions and those responsible and responsive to the needs of the *mama mboga*, the bodaboda operator and the so-called hustler. What is the reality? When we came into this House, the first order of business was creation of the Office of Prime Cabinet Secretary. Immediately after that was the creation of the Office of the Leader of the Official Opposition. Now, this Bill confirms what we have always said – that the intention was always to create offices.

The first office being created, which we have said is unconstitutional, is that of the Head of Public Service. The Committee, in its wisdom, rejected some of the proposals. One of them was that the Head of Public Service would become the custodian of the public seal. In essence, you are going to take away the responsibility of the Attorney-General and take it to State House and give it to a person who sits there as a personal assistant to the Head of State.

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

*[The Temporary Speaker  
(Hon. Farah Maalim) took the Chair]*

This was ridiculous. I thank the Committee for having rejected that proposal. The Committee says the proposal does not make sense. More important is the creation of the offices of the CAS. This is an office we have all seen. The purpose of these offices is to reward political losers. Look at what happened in the last Jubilee regime. All people that lost elections and aligned with the regime of the day were given these positions.

Hon. Speaker, when we had Assistant Ministers, the late Hon. Kalembe Ndile stood on the Floor of this House and told Kenyans that Assistant Ministers did not have enough work and that their work was just to come here, have tea and read newspapers in their offices. I wonder what has created more work. Is there more work under the current system than before?

**Hon. Julius Melly** (Tinderet, UDA): On a point of order, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Farah Maalim): Order, Hon. Mbui. Hon. Melly is on a point of order.

**Hon. Julius Melly** (Tinderet, UDA): Is it in order for Hon. Mbui to misinform the House with issues raised in local bars? He claims that the late Hon. Kalembe Ndile alluded to Assistant Ministers having come here to have cups of tea as per the norm of the office. As it stands, many substantive offices have been created.

**The Temporary Speaker** (Hon. Farah Maalim): Continue, Hon. Member.

**Hon. Robert Mbui** (Kathiani, WDM): Thank you, Hon. Temporary Speaker for asking me to continue. That means you agree that we ignore the point of order.

As a country, we need to be careful of the promises we make, and when we make them, we should honour them. There are very many good ideas that come out of the leaders' mouths. Unfortunately, implementation is the problem.

If the Kenya Government was to follow the promises made by leaders, today all our children would be having laptop computers from Grade One all the way to the university level. That was a promise given during campaigns. If promises were to be followed through, our children would be having free primary, secondary and university education. We would also be having free healthcare. Unfortunately, we say one thing when we mean another thing. I feel that this regime's intention is to reward the UDA politicians who lost in the last election, as well as those who defected from other political parties to the UDA.

I oppose this Bill.

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Raso.

**Hon. Ali Raso** (Saku, UDA): Thank you very much, Hon. Speaker. I rise to support this Bill. We have had such offices in this country. During the previous administration, we had Chief Administrative Secretaries. It was confirmed, and many of us agreed; that it was not anchored in law. Some Chief Administrative Secretaries appeared before the Select and Departmental Committees of this House and left a lot to be desired. How can an individual who is not known in law appear before a Committee and transact business on behalf of a Ministry or a State Department? For that reason, anchoring these offices in law is important.

Article 234 (2)(a) says 'subject to this Constitution and legislation.' It does not isolate the Constitution from a legislation. It clarifies that the Constitution itself is not holistic unless it is improved through continuous legislation.

Article 94(5) is clear that Parliament will make laws or create offices and challenge anything that comes up in law that can stand the test of time. Article 234 further says that establishment and abolishment of offices in the public service, and appointment of persons to hold office or act in those offices as well as confirmation of appointments, is the responsibility of the Public Service Commission.

Article 132(4)(a) provides that the President, as otherwise provided for in the Constitution, may establish an office in the public service in accordance with the recommendations of the Public Service Commission. Those of us who sat in the said Committee realised that the President, on his own, cannot run this great country. He would be able to run Kenya with the help of other people who will come on his wings and support his administration. The Constitution does not say that the President will appoint those officers by himself alone. He will do so by consulting with the Public Service Commission.

For generations, we have heard of the Public Service Commission associated with a very important office in this country – an office which is at times referred to as 'Chief of Staff.' This Office has never been anchored in law yet four previous successive administrations have had it. For the first time, the Kenya Kwanza Administration realised that we cannot have offices that exists outside the Constitution and legislation. That office is now being anchored in the laws of the land so that persons appointed to hold it can legitimately and constitutionally transact business on behalf of the Republic of Kenya.

With those remarks, I support.

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Ndindi Nyoro.

**Hon. Ndindi Nyoro** (Kiharu, UDA): Thank you very much, Hon. Temporary Speaker. I am on queue for the next Motion.

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Speaker, other than the first part concerning the Assumption of the Office of the President Act, I totally oppose this Bill.

I oppose the National Government Administration Laws (Amendment) Bill 2023 on matters principles, Constitution and the spirit of the Constitution of Kenya. The essence of the Constitution of Kenya 2010 is to make the Executive lean, accountable and less intimidating.

Many of us who have been around for some time will remember the overbearing nature of the former holders of the so-called ‘Office of Permanent Secretary in the Office of the President, Secretary to the Cabinet and Head of the Public Service.’ Many of us will remember Hon. Nyachae, Hon. Ezekiah Oyugi and the rest. Those who drafted the Constitution of Kenya 2010 saw it necessary to cure the excesses imposed by the various offices. Let us start by looking at the amendments proposed on each statute one by one. For example, in the Amendments to the National Security Council, Article 240 is explicitly clear about what constitutes the National Security Council.

Hon. Temporary Speaker, as the presiding officer of this Assembly right now, and as the representative of the substantive Speaker, you will appreciate that this is a debate that should continue until we resolve this matter conclusively. There is no guarantee that the Committee’s Report, bearing the various proposed amendments, will be carried during the Committee of the whole House. Essentially, the substantive document we are dealing with, which could pass with or without amendments, is the published Bill. Trying to hoodwink Kenyans that we have removed the offensive unconstitutional provision in the Bill, and that we can now debate and pass the Bill, is what we used to call... I would not like to say it here as it will be termed unparliamentary.

On the provision dealing with the Office of the National Security Adviser, in modern democracies the world over, an advisor to a president ordinarily works at the pleasure of the president. Therefore, that cannot be legislated. We should let the adviser work as it has been.

The most damaging amendment to this Bill is the creation of Office of the Head of the Public Service. If you look at the duties that he has been assigned in the Bill, you will see that one of them is to be the administrative head of the Executive Office of the President. That office is not provided for in the Constitution.

The decisions of the President, as contemplated in Article 135 of the Constitution, are supposed to be in writing and shall bear the seal and signature of the President. That is so instructive and the people of Kenya should not lose sight of it. At no time was it contemplated that somebody else will write and sign any document with a decision of the President in the performance of any of his functions on behalf of the President. Article 135 is very clear on the signature on the decisions of the President. All along, it has been an anomaly whenever pronouncements that touch on the core mandate of the office of the President have been signed by other persons other than the President.

If, indeed, the Head of the Public Service shall serve at the pleasure of the President as indicated in the Bill, then it cannot be a state office as defined in Article 260 of the Constitution. The Head of the Public Service will become an errand boy of the President. He will serve at the President’s pleasure. Any incoming administration ought to have a different style of executing its mandate and running its government. Saddling it with an office created by an Act of Parliament that is unconstitutional is essentially tying its hands. A new administration would want to do things in a completely different manner.

How can a sponsor of a Bill of this magnitude indicate that the Head of the Public Service will be the custodian of the Public Seal and any other instruments of the state that are not in the custody of any other person? That is where the mischief lies. What mischief do they want to do? The Office of the President may auction this country if it has the Public Seal and the President’s signature. It will enter into any business without referring to any other party.

The Bill before us seeks to create the non-existent Office of Chief Administrative Secretary. If you go through the duties assigned to the Chief Administrative Secretary, you will appreciate that they do not exist in the Constitution of Kenya 2010. The Constitution describes the Executive as consisting of the President, the Deputy President, the Attorney-General, and the cabinet secretaries. The accounting officer is the Principal Secretary. The question that all of us beg to ask is: Where does the Chief Administrative Secretary fall in the architecture of the Executive? He is not listed under Article 260 of the Constitution as a state officer. What is it? Any office created in the Public Service is for a specific function. Whenever we enact laws, we state that there will be 'X' officers and they will become officers in the public service. The Constitution of Kenya is clear on what constitutes the Public Service. One of the functions assigned to this office is liaising with Parliament. The Chief Administrative Secretary will liaise with Parliament as who? The duty to report to Parliament is vested in the constitutional offices. The President, cabinet secretaries, principal secretaries and holders of constitutional offices are the ones who are supposed to do that. So, how does 'liaising with Parliament' come in when this is not a constitutional office?

Another function being assigned to the new proposed office is liaising with the county governments on matters of concurrent mandate. There are organs created in the Constitution and in the County Government Act to deal with those functions. What are we doing here?

Another function is representing the Cabinet Secretary at any meeting directed by the Cabinet Secretary. As Dr Nyikal indicated previously, we are creating an office of an assistant minister yet in the Constitution there is no office that has been assigned to act as an assistant office to the Office of Cabinet Secretary. That is not provided for in the Constitution. Why are we trying to amend the Constitution through this legislation, which is obviously a wrong process?

Article 259 of the Constitution calls for the Constitution to be interpreted in a manner that advances good governance. This Bill falls flat on account of that provision of the Constitution. I urge the Speaker to apply himself on this fact and ask the promoter of this Bill to drop it and draft it afresh to meet the constitutional requirements, and then bring it back for debate. Living it the way it is, considering the way we operate in a guillotine manner, all the amendments will be defeated and the Bill will pass as it is, and it will be an unconstitutional law. Its cure cannot be found.

Thank you, Hon. Temporary Speaker.

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

**The Temporary Speaker** (Hon. Farah Maalim): What is your point of order, Member for Busia County? You cannot have a point of order when a Member has finished to debate.

Please, contribute to the debate.

**Hon. Catherine Omany** (Busia County, ODM): Thank you, Hon. Temporary Speaker. I oppose this Bill with all my might. My mind is spinning with very many questions. On one side, this Government says it is cutting down the ballooning budget and on the other side it is ballooning the budget itself with things that Kenyans do not need. They are not a priority to Kenyans. Adding these Chief Administrative Secretary positions is duplicating roles. What does the Permanent Secretary do? What does the Cabinet Secretary do? We used to have assistant ministers who never used to sit in their offices. We were just seeing them having fun. We need to stop having this plethora of additional offices that are wasting Kenyan's taxes. I now know why the government is overtaxing hardworking poor Kenyans to give gifts to its friends. Its priorities are misguided. We are not going to just sit here and watch this go on. One minute, it is the Finance Bill. Another minute, it is the Housing Bill. Everybody is wondering what exactly the government's priorities are. We should not save Kenyan's

promises like someone saving snow on his hand. After five years, there will be nothing to show from this Government because everything that has been opposed has been forced on Kenyans, whether they like it or not. My mum used to force kids to take porridge by putting them between her laps. That is what we are seeing with this Government. It is killing us instead of giving us hope and something to wake up to every day.

I have questions for His Excellency the President. Hon. Ichung'wah is here. He can try to answer them. What exactly is the President trying to achieve by ballooning the same budget that he wants to cut down? You cannot cut something from Paul to add to Peter yet you borrowed Paul to pay Peter. You will just be going through the same problems and wallowing in the same miasma of confusion. I do not understand the Kenya Kwanza Government. What do the learned and Honourable Members sit and do in State House? In their budget, they have added Ksh4 billion for tea. Is it Jesus who is cooking that tea? Cut the budget and mean it. We should see funding for teachers and doctors, and hospitals should have medicines instead of adding your friends' tokens to enjoy themselves. There is nothing that the Chief Administrative Secretary is going to do in a ministry. We already have the Principal Secretary and the Cabinet Secretary.

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

**The Temporary Speaker** (Hon. Farah Maalim): What is your point of order, Hon. Ichung'wah?

**Hon. Catherine Omany** (Busia County, ODM): Hon. Temporary Speaker, I know that Hon. Ichung'wah is going to abuse me.

**The Temporary Speaker** (Hon. Farah Maalim): Order, Hon. Omany. Hon. Ichung'wah is on a point of order.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Speaker, there is a rule in our Standing Orders on relevance. The Member for Busia County is contributing to the budget-making process ahead of time. It is yet to begin. She must confine herself to the debate on this particular Bill. I know that she has not read the Bill and the Report. Therefore, she is lost on what to say. She should try to restrict herself to the content.

**Hon. Catherine Omany** (Busia County, ODM): Leader of the Majority Party, you are out of order. I am just giving references.

**The Temporary Speaker** (Hon. Farah Maalim): Order, Hon. Omany. Order! Are you done?

*(An Hon. Member spoke off record)*

Proceed, Hon. Omany. You have not exhausted your time.

**Hon. Catherine Omany** (Busia County, ODM): Thank you, Hon. Temporary Speaker. I was correcting the Government before Hon. Ichung'wah interrupted me. When you are corrected, please, listen. You are not right. You always get it wrong. With all the smart heads here, you have got it wrong again. I am simply asking what the chief administrative secretaries are going to do. I am sending you to ask the President because it will be a case of duplication of roles.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Farah Maalim): Next is Hon. Rindikiri Mugambi, who will be followed by Hon. Mary.

*(Loud consultations)*

Order. Order!

**Hon. Mugambi Rindikiri** (Buuri, UDA): Thank you, Hon. Temporary Speaker. I rise to support this Bill with amendments.

The Bill touches on four key areas that are of importance in the administration of law in this country. It touches on the assumption of office of a president-elect. It addresses the inclusion of the Secretary to the National Security Council and the Principal Secretary responsible for Defence as additional members of the committee. I support this because it is important to have the Secretary to National Security Council in the Assumption of Office of President-Elect Committee during such transition period. When the Government is shifting, the incoming President, who is the Commander-In-Chief, needs a well-managed transition. I support that.

According to the current law, when the president-elect is coming into office, he is only represented by three members of his team. The Bill proposes that the number is increased to six. This is important because during such transition period, some of the people who are going to be involved are members of the president-elect team. I agree with that because after the assumption of office, there should be a knowledgeable team.

This Bill proposes that the National Security Advisor to the president sits in the Security Council. I oppose this because the team in the security docket are all very senior civil servants who are responsible for very sensitive security arrangements in the country. Bringing in a security advisor who is not necessarily within the security organisations does not augur well in terms of putting forward security issues in the country.

Hon. Temporary Speaker, the Public Seal needs to be given to an office where Government documents are kept. I am opposing the clause in the Bill that seeks to remove the Public Seal from the Office of the Attorney-General. The Public Seal cannot be placed in the Public Service Office. I oppose that amendment. The Public Seal must be kept in the Office of the Attorney-General.

This Bill also proposes to establish Office of Head of the Public Service. The Secretary to the Cabinet should not necessarily manage the President's Office. I support the establishment of Office of Head of the Public Service because he will be in the Executive Office to purely handle matters of the Presidency. This is a very important proposal. There is nothing in the Constitution that is against the establishment of that office. As argued by other speakers, there is nothing unconstitutional that has been established.

I support that we have the chief administrative secretaries. They have responsibilities. It is a good office that will support the running of the Government.

With those few remarks, I support the Bill.

**The Temporary Speaker** (Hon. Farah Maalim): This is just one Bill. You cannot support a part of it and oppose the other part. It is an omnibus Bill. You either support or oppose it.

*(Hon. Mugambi Rindikiri spoke off the record)*

Without amendments? It is then okay if you intend to bring the right amendments.

Proceed, Hon. Melly. I do not know if the Chairman has anything to say.

**Hon. Julius Melly** (Tinderet, UDA): Thank you, Hon. Temporary Speaker. I rise to support this Bill.

Before I proceed, I want to urge Members from the other side of the aisle to read the Report of the Departmental Committee on Justice and Legal Affairs led by Hon. Murugara. The Committee has made a raft of proposals that inform the discussion that we are having today. It is the practice of this House that after a Bill is read the First Reading, the relevant Committee gets seized of the matter and conducts public participation. The Committee, under the Chairmanship of Hon. Murugara, has given us good proposals on this Bill.

There are certain issues that the substantive Speaker mentioned, which I would like to speak to. The Committee's Report and its attachment are part of legislative processes of the House. The Members of this House are supposed to be seized of the matter so that we do not go into issues that are not in the debate.

Hon. Temporary Speaker, the Bill speaks to the issues that Kenyans have spoken to. The courts have challenged the establishment of offices to be within the Constitution. If you look at the Office of the Assumption of the Office of the President, the position of the officers seconded from the Office the President-Elect were very few. They are now being increased. This is to give the person of the Office of the President-Elect a lot of say in the process. This is to make sure that they have a say in the processes of assumption of office, with the support of the existing Government offices.

On the issue of chief administrative secretaries, the courts spoke to this matter with several rulings. That is why the Office of Chief Administrative Secretary is not deputising or taking away the functions of the Cabinet Secretary or Principal Secretary. In fact, the court spoke on processes like how the Office of Chief Administrative Secretary was established. It did not follow the law. This Bill is responding to such issues. It advertised the position, interviewed the proposed office holders and went ahead to put the demands of experience of five or 15 years, so on and so forth. This Bill is properly before the House. We are currently trying to address some of the issues that were raised by judges in the courts. That is what the Committee looked into.

On the issue of creating Office of the Head of Public Service, this is quite clear. In the Constitution, it has been merged with the Office of the Secretary to the Cabinet. In this case, in the wisdom of the President, the Office of the Head of Public Service is to be separate for efficiency and functionality, so that he can attend to issues as a Principal Assistant to the President and also address issues that the Head of Public Service is supposed to deal with. Previously, this office was not well designated. That is why this Bill seeks to ensure that it is well designated. Hon. Murugara's Report has come out clearly on the functions and duties of the Secretary to the Cabinet and how that office is supposed to operate. In essence, this Bill is trying to realign and put into perspective even the role of the National Security Advisor to the President sitting in the National Security Council. All these issues are very important for proper running and management of these offices.

Hon. Temporary Speaker, I support this Bill. I urge Members to read the Report by the Justice and Legal Affairs Committee, who went ahead to make several progressive amendments to the proposals contained in this Bill.

With those remarks, I support.

**The Temporary Speaker** (Hon. Farah Maalim): Next is Hon. Samwel Chepkonga, who will be followed by the Member for Kwanza.

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): Thank you, Hon. Temporary Speaker. It is important to locate the matters that have been raised in this Bill.

A Bill is a proposal. It is supposed to be debated on by the House. If we find the clauses contained therein to be okay, we will pass them. If they are not, we will amend them. I rise to support the Committee's Report, which has provided a raft of proposals in terms of amendments.

**Hon. Njuguna Kwanjiku** (Kiambaa, UDA): On a point of order, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Farah Maalim): Yes, Hon. Kwanjiku. What is your point of order?

**Hon. Njuguna Kwanjiku** (Kiambaa, UDA): Hon. Temporary Speaker, reading the mood of the House, I rise under Standing Order 95 to move that once my good friend concludes his debate, we request the Mover to reply.

*(Applause)*

**The Temporary Speaker** (Hon. Farah Maalim): That is overruled. Proceed, Hon. Chepkonga.

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

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

**The Temporary Speaker** (Hon. Farah Maalim): Order! What is your point of order?

**Hon. Raphael Wanjala** (Budalangi, ODM): Hon. Temporary Speaker, this is a House of debate and Members must exhaust...

**The Temporary Speaker** (Hon. Farah Maalim): Order!

**Hon. Raphael Wanjala** (Budalangi, ODM): Hon. Temporary Speaker, I have an issue.

*(Hon. Raphael Wanjala stood in his place)*

**The Temporary Speaker** (Hon. Farah Maalim): Order! You are out of order because that issue has already been overruled by the Chair. What is the point of order all about? Take your seat.

Hon. Chepkonga, proceed.

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): Thank you, Hon. Temporary Speaker. I want to contribute on two matters.

With regard to...

*(Loud consultations)*

**The Temporary Speaker** (Hon. Farah Maalim): Order! For the benefit of the House, I will repeat what I had said before. If the Hon. Temporary Speaker is convinced that the rights of even the minority are being emasculated by calling on the Mover to reply, he has the authority to overrule that. Go and read the whole of Standing Order 95 and you will understand it.

Proceed.

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): Thank you, Hon. Temporary Speaker. I want to contribute on two issues. I do not want to repeat what my colleagues have just said.

With regards to Article 132 (4) on the establishment of offices in the Public Service by the President, it is very clear that the President, in his performance of his functions, may establish an office in the Public Service in accordance with the recommendations of the Public Service Commission. If the Public Service Commission has made recommendations, then that office will be established in accordance with the Constitution.

As to whether a matter is constitutional or not, that is something that is supposed to be decided by a different arm of Government. It is not incumbent upon this House to tell if a matter is unconstitutional. We will be allocating ourselves the powers of the High Court to make a determination as to whether a matter is constitutional or not. Our mandate is contained in Articles 94 and 95 of the Constitution, one of which is to enact laws. As the National Assembly, our mandate is fourfold: Legislating, overseeing, budget making, and representation. There is nowhere in law we are given the mandate to arbitrate over disputes. In regard to the issue of making laws, we are the House that does so.

On establishment of offices, if people took time to read the Report of the Justice and Legal Affairs Committee, they would have seen that these offices are established for a good reason. One of the reasons why offices are established by the Executive, with the concurrence

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of the Public Service Commission, is to enable the Executive to recruit and deploy the appropriate number of officers – in this case the chief administrative secretaries, who are required to deliver the programmes of the Government. You do not just walk into government and you find that you are unable to work effectively because you do not have people to help you. You will look for the people. The Constitution gives you the power to do so.

Hon. Temporary Speaker, in our oversight role, it is incumbent upon us to determine as to whether we have allocated sufficient money under the budget, or if the money is being used for the right purposes. That is our role. Our role is not to curtail the functions of the Executive. There are very many things that have been talked about the purported people, who should be appointed as CASs. It has been said that failures and people who lost elections will be appointed. I do not know when losing elections became a crime in this country. People lose elections. People lost elections in 2022, 2017 and 2013. People have been losing elections from time immemorial.

Article 27(4) of the Constitution says that no person shall be discriminated against on account of anything, including marital status, pregnancy, colour and even losing an election. If you cannot discriminate against someone based on pregnancy, you cannot discriminate against a person on account of losing an election.

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

**The Temporary Speaker** (Hon. Farah Maalim): What is your point of order, Hon. Raphael Wanjala?

**Hon. Raphael Wanjala** (Budalangi, ODM): Hon. Temporary Speaker, you have clearly heard the Hon. Member insinuating that this Government does not discriminate against pregnant women. Just recently, the Kenya Revenue Authority (KRA) discriminated against pregnant women and those with Human Immunodeficiency Virus (HIV) in that department. That is his *Kenya Kwisha* Government.

**The Temporary Speaker** (Hon. Farah Maalim): Proceed, Hon. Chepkonga.

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): Thank you, Hon. Temporary Speaker. My very good friend, Hon. Wanjala, should have taken my legal advice. If there was such discrimination, he should activate Article 27(4) and take the matter to court. That is where those disputes will be arbitrated. We will do nothing if you just talk about them here. Please, take the matter to court if there has been any discrimination.

*(Laughter)*

I was saying that there is no Kenyan who will be discriminated against. Article 232 of the Constitution clearly sets out how a Kenyan will be given employment in this country. Firstly, it must be through competition. Therefore, there must be an advertisement. Secondly, there must be merit. You are entitled to be appointed to that office if you are qualified. In fact, people should have been saying that the people who were appointed previously were quacks and not qualified under Article 232 of the Constitution. Nobody has said so. The only quarrel is people saying that their competitors, those who lost to them, and those who may take over from them, have been nominated. That is not a good reason. They feel that the former Nairobi City County Governor, Hon. Evans Kidero, should not be given a job.

*(Loud consultation)*

**The Temporary Speaker** (Hon. Farah Maalim): Order, Members. Order, Hon. Chepkonga.

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Let us have the Member for Kwanza Constituency, followed by Hon. Irene Mayaka.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Thank you very much for this opportunity. At the onset, I support this Bill.

First and foremost, all Members of this House have seen a number of things. Firstly, we have had the position of chief administrative secretaries since Independence. We have had assistant ministers assigned duties by cabinet ministers because a cabinet minister could not be available all through. Apart from permanent secretaries, assistant ministers used to perform duties on behalf of cabinet ministers. Therefore, this is not new. Maybe, the only mistake is that His Excellency the President appointed more chief administrative secretaries than the existing cabinet secretaries. Otherwise, chief administrative secretaries are equivalent to assistant ministers in the previous dispensation. We have had this before. Whatever we are doing here is to have efficiency in running Government. They are there because we want efficiency in running Government institutions.

Secondly, there is no way you can say that people have been appointed because they did not go through the elections. Some did not go through the elections, which is still okay. However, I am sure that the method that His Excellency the President will use to appoint the chief administrative secretaries will result in people who know the work and can work on behalf of Kenyans. It is wrong for us to start making noise. These are positions which have existed before. An example is the Head of the Public Service. You and I know that these positions have been there. Only a person who does not know what happens in Government can say that this is a political appointment. For example, the Office of Head of Public Service has been there. We want an efficiently run Government in this country.

The only amendment we may do is to create a position of the Custodian of the Public Seal. Much as I support it, we will amend the Bill during the Committee of the whole House to introduce that office because some people are saying that only a lawyer can be the custodian of the Public Seal. The Head of Public Service may not necessarily be a lawyer. Therefore, the Attorney-General may still have to hold the Public Seal. We will do some of these things during the Committee of the whole House.

Without wasting time and making noise, we are making the running of this country efficient. We are not creating this just for the sake of it. We may have some amendments during the Committee of the whole House, which is acceptable, and we move on.

Thank you very much. I support this Bill.

**The Temporary Speaker** (Hon. Farah Maalim): Next is Hon. Basil, who will be followed by Hon. Irene Mayaka. Order, Hon. Members. It is a privilege to catch the Speaker's eye. It is not a right. It is a privilege. Relax. Not everybody catches the Speaker's eye. The Speaker has to do much balancing. The Speaker has to balance between both sides of the aisle in the House as he considers other interests like gender and regions. They have to be considered. That is not for debate.

Proceed, Hon. Basil.

**Hon. Robert Basil** (Yatta, WDM): Hon. Temporary Speaker, please protect me from the Leader of the Majority Party. My name is Hon. Basil. He is joking about my third name, Nguu. It does not mean what he thinks.

**The Temporary Speaker** (Hon. Farah Maalim): Leader of the Majority Party, do not call Hon. Basil that name again. The little I know about that language is that that it is not a very good word.

Proceed.

*(Laughter)*

**Hon. Robert Basil** (Yatta, WDM): He is joking around a lot. I need to teach him. Yes. That name means something different in Kikamba. It means something else in his tribe.

I thank the Leader of the Majority Party for bringing this Bill. I partially support it. One of the reasons I support the Bill partially is that I have no problem with the introduction of Secretary to the National Security Council. I have no problem with the Secretary being the advisor of the National Security Council as well. I also have no problem with the establishment of a National Security Council Committee. However, I have a problem with taking the Public Seal from the Attorney-General to the Head of Public Service. I say that because Article 156(4) of the Constitution says that the Attorney-General is the Principal Legal Advisor to the President and the Government.

Article 156(6) of the Constitution also says that the Attorney-General shall promote, protect and uphold the rule of law, and defend the public interest. By this, I mean the interest of Kenyans. These functions explain very well why the National Seal must stay with the Attorney-General. Therefore, I do not agree with that particular proposal. I request the Leader of the Majority Party to reconsider it.

Secondly, I do not have a problem with the establishment of CAS positions. I request that we have a capping because Kenyans are currently shouldering a huge burden of an increased wage bill. If we do not have a cap, we are going to continue burdening many Kenyans who are struggling with the increased cost of living. That is why it is important, as much as we want to create positions which are very essential as most of the members have said, we need to understand that Kenyans are suffering, and try to cap the number.

Additionally, some of the amendments I am going to make are in terms of the numbers. I have seen the number proposed for the Assumption of Office of the President Committee is about 20 members. That is a huge number. We could reduce it to 10 to reduce the wage bill. I understand that in any meeting, allowances are included. We also need to understand that as much as we need to move forward, as a country, let us try to mitigate and manage the increased wage bill.

Otherwise, I support the Bill with the reservations I have already raised. I look forward to bringing my amendments.

Thank you.

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Irene Mayaka.

**Hon. Irene Mayaka** (Nominated, ODM): Thank you, Hon. Temporary Speaker. I also stand to partially oppose the National Government Administration Laws (Amendment) Bill. I will confine my statements specifically to Clause 12(A). Before I give the House my sentiments, I would like to tell the Member for Kwanza Constituency, who spoke just before Hon. Basil, that we need to be very careful when we make assumptions that relate to the Constitution. The moment we say that a CAS is like an assistant minister, we introduce an aspect to the Constitution that is tantamount to a popular initiative that requires a referendum to amend. We need to be very careful when we are making such assumptions.

Hon. Temporary Speaker, in reference to Clause 12, what we are trying to do is tantamount to haemorrhaging of taxation. This is similar to having a bucket that you keep pouring water into, but has holes. Therefore, the water will be filling the bucket, but spilling out at the same time. I am saying this because we all know very well that the wages of public servants and State officers are paid from taxing Kenyans. In essence, we are increasing the wage bill. This Bill does not even cap the number of CASs. I am worried for my brother, the Chairman of the Budget and Appropriations Committee and the Cabinet Secretary for Finance and Planning. If we do not cap the number of CASs, how are they going to budget for the ones they want to bring on board? That is not stated in this Bill.

The Bill tells us about the appointment, qualification and non-qualification, but it does not speak to the ‘dismissment’ of the CAS. Chapter Nine of the Constitution speaks very well about dismissal from office of the Executive.

*(Hon. Kimani Ichung’wah and  
Hon. Owen Baya, spoke off record)*

Hon. Temporary Speaker, please protect me from the Leader of the Majority Party and his Deputy because they are trying to interrupt me.

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Ichung’wah and Hon. Owen Baya, do not interrupt Hon. Mayaka.

*(Laughter)*

**Hon. Irene Mayaka** (Nominated, ODM): Do not teach me English. I got an A (Plain) in English.. So, you cannot teach me.

*(Applause)*

Hon. Temporary Speaker, I just want to state this. We cannot...

**Hon. Moses Kirima** (Central Imenti, UDA): On a point of order, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Farah Maalim): What is your point of order?

**Hon. Moses Kirima** (Central Imenti, UDA): I do not know what “dismissment” means because I have never heard of it.

*(Laughter)*

**The Temporary Speaker** (Hon. Farah Maalim): Proceed, Hon. Irene.

**Hon. Irene Mayaka** (Nominated, ODM): Hon. Temporary Speaker, if they engaged in playing scrabble, they would know some of these words.

*(Laughter)*

**The Temporary Speaker** (Hon. Farah Maalim): Proceed.

**Hon. Irene Mayaka** (Nominated, ODM): Hon. Temporary Speaker, in law, we have the Articles that provide for the removal from office of public and State officers. However, this Bill does not speak to that. For example, removal of a CAS from office is not mentioned anywhere. I hope the Chairman of the Departmental Committee on Justice and Legal Affairs Committee is listening to this and together with his committee they will take that into consideration.

The other thing I want to speak to is the duplication of responsibilities that are outlined for the CAS position. On liaising with Parliament, every ministry in this country has a liaison person to Parliament. Why are we duplicating this role? We have even mentioned that there will be a liaison person to the county government. Part of the memorandum of objects and reasons clearly states that this Bill does not affect the functions and powers of county governments yet it says that one of the roles of a CAS is to liaise with county governments. So, what is going to inform this role in that sense if this Bill already says that they work with them? In essence, what we are trying to create is an additional personal assistant to the cabinet

secretary or someone who is an assistant to the principal secretary because there is no role that is very unique and specific for a CAS.

I heard a Member say that the CASs are some of the people who will help the President to run the Government. My assumption has always been that the President is running the Government and his responsibilities are clearly outlined in the Constitution. Why do we want another person to help him in running the Government? Has it stopped running? Is that why we want to put in another person whose role is not unique in any way? There is nothing absolutely unique about the role of the CAS that has been introduced to convince us to support the Bill. Right now, we are grappling with salary delays for different State and public officers and yet we want to introduce another log on the wage bill. Is the Government really sure that this is something it wants to take on?

I have also looked at the qualifications and I feel really sad and sorry for the hustlers of this country. I am waiting for the day when a bill that will enable hustlers to apply for some of these jobs will be brought here. These things are very specific to a specific type of people in this country. We are not looking at the masses. What do we have for them? What are we telling them? The Kenya Kwanza Administration campaigned vigorously on the agenda of the hustlers and that they would defend and protect them and create employment for them. What employment are they creating for them? What are we telling them if we are only creating jobs for specific people?

Hon. Temporary Speaker, we have outlined the qualifications and the responsibilities of the CASs that we want to give these appointments. In all honesty, I think the Departmental Committee on Justice and Legal Affairs hurried on this. They need to reconsider some of these things before we pass it. I really hope that my senior, whom I respect very much, the Chairman of the Departmental Committee on Justice and Legal Affairs, is listening to me and will take into consideration the amendments we are proposing. When we come here and contribute, we are not just doing it for the sake of it, but we are doing it because we want to enrich the laws that are coming through this Parliament.

Hon. Temporary Speaker, as I finish, I just want to salute and applaud you for overruling the Member who tried to stifle debate. We have had many experiences of debates being stifled in this House and yet the essence of us being here is to debate and ventilate over issues. As we always say, even if the majority will have their way, let the minority, at least, have their say.

I thank you.

**Hon. Julius Rutto** (Kesses, UDA): On a point of order, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Farah Maalim): What is your point of order, Hon. Rutto?

**Hon. Julius Rutto** (Kesses, UDA): Thank you very much, Hon. Temporary Speaker.

I rise pursuant to Standing Order 95. We have dwelled on this debate for some time. The Mover should now be called upon to reply.

**The Temporary Speaker** (Hon. Farah Maalim): Fair enough.

*(Question, that the Mover be now called upon to reply, put and agreed to)*

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Temporary Speaker. First, allow me to thank all Hon. Members who have contributed to this debate, right from when it began on Thursday last week, to this late hour in the day. They include Nominated Member Hon. Irene Mayaka, who was the last to contribute, although she said 'dismissment'.

*(Laughter)*

Hon. Temporary Speaker, may I confirm that we were not interrupting her, but reminding her there is no word like ‘dismissment’. It is dismissal. I have begun with her because she was the last to contribute. Just like any other public service position created, there is a system or process of dismissal of public officers established in law. So, we need not repeat the same for this particular position.

For those who cared to read the Committee’s Report and its addendum, they took note that this position is being created in the public service. This afternoon, as I drove back from burying a good friend and elder in my constituency, I listened to the Leader of the Minority Party as he raised issues of concern to him. If you listened to everybody who raised these issues including Hon. (Dr) Otiende Amollo who had a dissenting or Minority Report, they largely dealt on the constitutionality of the Office of CAS.

If you go to Article 132(4)(a) of the Constitution on functions of the President, it states:

“(4) The President may—

- (a) perform any other executive function provided for in this Constitution or in national legislation and, except as otherwise provided for in this Constitution, may establish an office in the public service in accordance with the recommendation of the Public Service Commission.”

Hon. Temporary Speaker, the plain reading of this provision of the Constitution says that, except as otherwise provided for within the Constitution, the President may establish an office in the public service in accordance with the recommendation of the PSC.

As I said, for those who cared to read through the Committee’s Report, PSC in their submission to the Committee, on the question of the establishment of the position of CAS, stated that they were in support of the proposed Section 12(a)(i). This is because it is in line with the recommendation to the President, on the establishment of the office of CAS, in accordance with Article 132(4)(a) of the Constitution as I have read. They went ahead to add certain provisions in terms of years of experience required for this position.

I have seen many media practitioner’s narrative that this position is unconstitutional which is very far from the truth. There is absolutely nothing unconstitutional, with the President pursuant to Article 132(4)(a) of the Constitution, establishing an office within public service to help him deliver to the people of Kenya. If it is pursuant to the advice of PSC, as the case under this circumstance, then so be it. This office can be established legally and within the confines of our Constitution.

There was a lot of confusion on cases. If you read the Minority Report by Hon. (Dr) Otiende Amollo, you will see the Matindi and three others versus the National Assembly of Kenya and four others; the Controller of Budget and 50 others. All those cases quoted in the Minority Report were determined by the courts. Some of the issues the courts raised are being addressed in this Bill as proposed amendments in the Committee’s Report.

Hon. Temporary Speaker, having listened to many of the Members who speak this afternoon, I can bet 99.9 per cent of them did not read both the Bill and the Report except for Hon. Mayaka and Hon. Basil Ngui. Ngui is his name and he is the Member for Yatta. You can tell the two Hon. Members to read the Bill and the Reports. The others including the Leader of the Minority Party are informed by what they think is speaking to the gallery.

More so, I noticed a trend where people are afraid of particular appointees appointed to the position of CAS. Some from one corner of this country, are afraid of the former Nairobi City County Governor, Hon. Evans Kidero, who was nominated as a CAS. They are afraid because of the politics going on around the lakeside. That, if Governor Hon. Evans Kidero assumes such a position, he might take over *Baba’s* position by the lakeside. I know many of

them are informed by that fear. That is why they are opposing this Bill not based on law, but on other political considerations.

I want to tell my dear brother, the Leader of the Minority Party and others like my good friend and Senior Counsel Hon. (Dr) Otiende Amollo, that I know they are all gunning to inherit *Baba* down by the lakeside. They should not be afraid of Hon. Evans Kidero and the others who have been nominated like my good friend whom I have forgotten his name. He was appointed as an Ambassador to Egypt.

Many other issues have been spoken to and if Hon. Members bothered to read the Committee's Report and the addendum, the issues have been addressed. For example, the question of who keeps the Public Seal, is very well addressed in the Report. The Committee has proposed amendments and when we get to the Committee of the whole House, they will be prosecuted by Hon. Murugara on their behalf. I agree with many of the contributions I have heard including Hon. Basil's contribution that, the Public Seal should remain in the Office of the Attorney-General since it is more or less seen as a political and not a transitory office, as the case would be with that of the Head of Public Service.

If you read the Report, there is a point the PSC raised on the need to have the Office of the Chief of Staff and Head of Public Service being separated from Secretary to the Cabinet. Those who have served in public service know that these two offices are very busy. So, the need for each office to have its own distinct functions so as to assist the President in running the Government and management of cabinet affairs.

With those many remarks, I beg to reply and thank all Hon. Members especially those who read the Bill and were well informed by the Committee's Report and its addendum for their contributions. They enriched the debate and amendments will be proposed during the Third Reading or Committee of the whole House. A few amendments were not captured by the Committee, but having sat and listened to Members, they will be incorporated during the Committee of the whole House stage.

For those who are running away from political ghosts and shadows, I am sorry I do not have a cure for that kind of fear. I ask them to indulge prospective appointees as CAS from Luo-Nyanza and the lakeside because they deserve it and they are just like other Kenyans from other parts of the country. Nobody including Hon. (Dr) Otiende Amollo and Hon. Opiyo Wandayi should be afraid that those from their backyard who get these positions, may be advantaged in any way to inherit the position the former Prime Minister has held over the years in the Orange Democratic Movement (ODM), the Azimio Coalition and as the Leader of the Opposition Party.

Thank you, Hon. Temporary Speaker.

With those many remarks, I beg to reply.

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Member, the substantive Speaker of the House had indicated that he will make a determination on the constitutionality of certain provisions of the Bill tomorrow. Consequently, the Question on the Bill cannot be put now.

*(Putting of the Question deferred)*

We will move to the next Order. I direct that we go to Order No.12 because it is time-bound. We will consider Order No.11 after Order No.12 is exhausted. Next Order.

THE DIVISION OF REVENUE BILL  
(National Assembly Bill No.14 of 2024)

**The Temporary Speaker** (Hon. Farah Maalim): We will now dispose of Order No.12 because it is time-bound. Proceed, Chairperson of the Budget and Appropriations Committee.

**Hon. Ndindi Nyoro** (Kiharu, UDA): Hon. Temporary Speaker, I beg to move that the Division of Revenue Bill (National Assembly Bill No.14 of 2024) be now read a Second Time.

I will take very few minutes to move this Bill. I want to thank the Members of the Budget and Appropriations Committee for sitting long hours to come up with this Bill. Before I delve into the Bill, this is part of what we do as the Budget and Appropriations Committee. We also check on the projects that we appropriate money. I bring greetings from the Tom Mboya University where I was honoured to give a public lecture this afternoon, as I also supervised the ongoing work in that institution through the money appropriated by Parliament.

*[The Temporary Speaker (Hon. Farah Maalim) left the Chair]*

*[The Temporary Speaker (Hon. Peter Kaluma) took the Chair]*

The Report of the Budget and Appropriations Committee and the Budget Policy Statement (BPS) that we recently passed suggested that we set aside Ksh391 billion as the shareable revenue for the Financial Year (FY) 2024/2025. That proposal was adopted by the House. It was based on several parameters, the major one being that we need to reach a threshold of 15 per cent of the last audited financial report, especially on the revenue side.

As Members are aware, the last audited financial report is for FY 2020/2021. We were dealing with a revenue of around Ksh1.57 trillion. If we calculate it in terms of percentage, we are appropriating 25.9 per cent of the last audited revenue. Therefore, this goes to show that this House, and the Executive led by His Excellency President (Dr) William Samoei Ruto, support devolution and that is why we keep increasing the shareable revenue that goes to efficiently discharging services in our counties.

We also got a chance to meet our governors in the process of consideration of the BPS. They raised several legitimate concerns, one of which was that they are currently undertaking many functions alongside the national Government. Even as we give them conditional grants, they also need to raise money to match those conditional grants, especially with regard to the County Aggregation and Industrial Parks (CAIP) where they need to expend money.

There is a budget for the health sector in our counties, which county governments will also need to support, especially when it comes to the hiring of people who will be assisting in terms of primary healthcare in our villages. Part of it is paid by the national Government while another part is paid by the county governments. Our county governments are being “squeezed” over time in regard to the amount of money available for them to allocate towards the development budget. I beseech this House that going forward, we may need to support our counties by allocating additional resources.

As the Budget and Appropriations Committee, we added Ksh4 billion to a conditional grant to buy equipment for our Level 1, Level 2 and Level 3 health facilities to improve their infrastructure. As the House is aware, the National Treasury suggested that our counties get some money from the Roads Maintenance Levy Fund (RMLF), which this House declined. In anticipation of that, and in support of devolution, we added Ksh4 billion that will go into the health sector to improve infrastructure and equipment in our primary healthcare facilities.

Hon. Temporary Speaker, I want to thank you and all the Members of this House, including the Parliamentary Budget Office, for being very forthright in supporting this process. In that regard, I request the Vice-Chairperson of the Budget and Appropriations Committee, Hon. Mary Emaase, to second.

**The Temporary Speaker** (Hon. Peter Kaluma): Thank you very much, Hon. Ndindi Nyoro, Chairperson of the Budget and Appropriations Committee. Who is seconding?

**Hon. Mary Emaase** (Teso South, UDA): I am.

**The Temporary Speaker** (Hon. Peter Kaluma): Proceed, Hon. Mary Emaase.

**Hon. Mary Emaase** (Teso South, UDA): Thank you, Hon. Temporary Speaker. This Bill simply provides for the vertical sharing of revenue between the two levels of Government. I want to talk about two issues. The first one is on the Equalisation Fund.

Article 204 of the Constitution provides for the allocation of one half per cent to the Equalisation Fund, which is supposed to be distributed across all marginalised areas. This formula needs to be reviewed. I am aware that the Third Policy for identification of marginalised areas provided for visiting of counties to identify areas that should benefit from the Equalisation Fund. I believe that the CRA visited counties.

However, if you look at the distribution of funds to the marginalised areas, some areas are getting a lot of money while others do not, yet we agreed that there are pockets of marginalisation in every county. For example, there are only two areas which are benefiting in Busia, that is, Budalangi and Teso North, yet if you come to my constituency, Teso South, or Funyula or Nambale, there are pockets of marginalisation in all those sub-counties. That is also reflected in all other counties.

I also want to talk about Paragraph 17(v). One of the main mandates of the CRA is to give recommendations on the basis for equitable sharing. However, over the years, the Division of Revenue Bill has not concurred with the recommendations of the CRA, yet this is a constitutional institution mandated with that responsibility. As a Committee, we also felt that there is need for the National Treasury to agree with the CRA before they submit the Division of Revenue Bill to us. I believe that by the time the CRA is recommending the figures for sharing, a lot of research has gone into it, they have considered the costing of functions, and all other factors. They should concur so that we avoid going into mediation, as has been the tradition since the establishment of this institution.

I support the Bill. I beg to second.

*(Question proposed)*

**The Temporary Speaker** (Hon. Peter Kaluma): Next is Hon. (Dr) Wilberforce Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Thank you, Hon. Temporary Speaker, for this opportunity to comment on the Division of Revenue Bill, which will eventually become the Division of Revenue Act (DoRA). From the outset, I support the Bill on the vertical sharing of revenue between the two levels of government. This is on the account of surpassing the threshold set in the Constitution of Kenya and on understanding that the purpose of devolution was development and empowerment of the grassroots and the promotion of equitable share of development in this country.

We need to be extremely careful with how we deal with devolution. We started with District Forecast for Rural Development and have come through various forms. The NG-CDF is a form of devolved function, same as the Equalisation Fund and others. The question which policy researchers or bold persons have not asked is the impact of the billions we have pumped into devolved units since their inception after the 2013 general election. In the 2024/2025 Financial Year, Parliament approved 24.9 per cent of revenue after adopting the Report of the Public Accounts Committee of the 2020/2021 Financial Year. I have gone through policy prescriptions by the Budget and Appropriations Committee and some of them are a sad read while some are an admission of the factors we have been talking about on the Floor of the House and in public arenas. It is something the Government of the day has strenuously...

**The Temporary Speaker** (Hon. Peter Kaluma): Order, Hon. Oundo. Could the Chairperson and the Deputy Leader of the Majority Party approach the Chair?

Proceed, Hon. Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): As we have said, the economy is in trouble. But we have continuously been told that that is Azimio propaganda. We have been told that the economy is on a rebound and not a recession. Policy Prescription No.9 on Page 397 says, “to increase national Government expenditure for the purpose of debt servicing coupled with the weakening shilling against the dollar.”

The Budget and Appropriations Committee, in its considered wisdom and having benefited from consultation from the National Treasury, the Parliamentary Budget Office and other stakeholders, have acknowledged that our shilling will remain weak for the intervening period during the implementation of this budget. They have clearly depicted the weakening shilling against the dollar. With a typical escapist mentality, they blame Ukraine, the Federal Reserve and all possible excuses. They are also indicating financing constraints due to limited access to finance in the domestic and international financial market. Are they admitting that our sovereign risk is negative to an extent that we are unable to attract revenue from international financiers? We must address what happened to Ksh4.6 billion of the AMISOM grant. Where is it factored? Do they intend to factor it in conditional grants?

We need to revisit the issue of county governments which were supposed to be revenue generating centres and not cost centres. As much as they are seeking for enhanced allocation from the National Treasury, the overriding and overarching question Kenyans need to ask is what county governments are doing to collect and boost their revenue. If you read today's newspaper, almost 60 per cent of counties spend on foreign and local travel exceeding their local revenue collection. Essentially, the purpose and spirit of devolution is being devoured and obliterated by members of county assemblies and executive officials for personal benefit, and not that of the people.

Every year we pump billions into county governments. This year, Ksh391 billion has been allocated to county governments. Since devolution, to what extent have these billions changed the welfare of the local mwananchi per capita income? To what extent has it improved the health index of the people in the counties? Is it time for the KRA, the Kenya Institute for Public Policy Research and Analysis (KIPRA), and other think tanks to start charging for services in counties and submit funds based on charged services?

Of 100 per cent of the funds allocated to counties, what percentage is allocated to development? If you sampled a few of the counties, you will be lucky to find more than 20 per cent allocated to the development vote. Most of it goes to personal emolument, recurrent expenditure, and of course, money to play around with. We must protect devolution. This cannot be done by sweeping the ills that were caused by devolution under the carpet in the guise of being politically correct. The Ethics and Anti-Corruption Commission and the Office of Controller of Budget, continuously highlight these issues. But since we are completely toothless, we have been unable to address these challenges.

Finally, on the Road Maintenance Levy Fund Act, the classification of roads in this country is very clear. The county governments receive their own money. What do they do with that money? In most rural areas, you will only find motorable roads that have been constructed by the Kenya Rural Roads Authority (KeRRA). Very few kilometres of tarmac roads have been undertaken by county governments. We support county governments and devolution, but as we embark on the second phase of devolution, it is time we started asking hard and important questions. We can no longer bury our heads in the sand hoping things will remain as they are. I am waiting to see what the Senators who go around making noise will say. I want to see who will defend devolution and who will continue to suppress it.

With those few remarks, I support.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Gitonga Murugara.

**Hon. George Murugara** (Tharaka, UDA): Thank you very much, Hon. Temporary Speaker. I rise to support the Division of Revenue Bill which will be an Act of Parliament as

soon as it is assented to by the President. We have received a comprehensive Report from the Budget and Appropriations Committee. I thank the Chairman of the Committee, Hon. Ndindi Nyoro. It is a task to prepare a report that, in essence, divides revenue between the two levels of government. This is the gross revenue of the country. The first appropriation goes to the counties. The remainder belongs to the national Government.

I implore the national Government to ensure that once it gets its allocation of money, it is utilised well, especially in development of the country. It has to be equitable. They should prioritise the rural constituencies like Tharaka Constituency which lag behind in development matters simply because they are arid, semi-arid and marginalised. We also require services from the national Government, including water, electricity and good roads.

The county governments are also very important. They must use these resources for the benefit of the citizens of various counties. Today, many counties are a haven of corruption. Money is used in the worst methods that can be applied. There are complaints all over not only on recurrent expenses which are overflowing, but also revenues being lost and misused. As a result, citizens do not get the services they deserve. Counties must wake up and ensure that provision of healthcare is given the priority it deserves. Citizens in the villages access healthcare in the dispensaries and health centres which are under the county governments. They also have to construct their portions of the roads. They were craving for the KeRRA money. Fortunately, it was protected by the Budget and Appropriations Committee. In spite of that, they now have an extra Ksh4 billion which they can use for roads. They are pathetic in the rural areas. The county governments must use these funds prudently.

These resources come from taxpayers. They are the ones who have mostly contributed to the money we are dividing. In addition to these funds, there are grants and some borrowed money to patch up the gaps. All these call for prudence in the use of public resources. We will approve this Bill today, so that the revenue is divided. However, we call upon the two levels of government to exercise optimum responsibility to ensure that the money is used properly.

Hon. Temporary Speaker, with those remarks, I beg to support the Bill.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Andrew Okuome Adipo, Member for Karachuonyo.

**Hon. Adipo Okuome** (Karachuonyo, ODM): Thank you, Hon. Temporary Speaker, for giving me the opportunity to contribute. I support this Bill. Revenue is divided between the national Government and county governments. Are we comfortable that the money sent to these two levels of government give us results? Does it do exactly what we want? I have my reservations.

In the national Government, the money is released to the various entities a little too late. Sometimes, they do not get funds at all within the financial year. For example, the money meant for the National Government Constituencies Development Fund. We all know in this House that we are about three months to the end of the financial year, yet we have not received even 50 per cent of that money. When will we get it? Will it meet the purpose it was meant for within the required time? We should be talking of different funds allotment in the next financial year. If things were being done the right way by using the money allocated, pending bills should not find their ugly heads in our financial operations. We need to know why all these things are happening.

I will now comment on the county governments. The purpose of devolution was to bring development to various areas within the country. However, this money is released to the counties very late. Sometimes, part of it may not reach the destination. Because of this, some government sectors suffer, for example, the health sector. Doctors are on strike. The Ministry of Health cannot afford to pay intern doctors their stipend. Why should this happen? Why has the money not been released to the Ministry, so that it can do its work?

Both county governments and national Government projects are not well-funded. A project has an allocation, but no performance. In my constituency, there is a road that is always allocated funds in the budget. I draw the attention of the Chairman of the Budget and Appropriations Committee to this matter. I had consulted him earlier, but I have not followed up. The truth is that I have a project which is allocated funds very well, but no action is taken. This is the second or third year it is allocated funds in the budget. However, it has never been done. I have made as much noise on this matter as I could. Even His Excellency, the President, has given several promises to my constituents. He told them that the road will be constructed. Money is allocated in the Budget. However, in action, we do not know where it goes, and the project is not actualised.

Budgeting is for a purpose. You budget to enable you do what you want to do. If you provide a budget to do something, but you do not do it, something is definitely wrong. I long for the day when we will budget and act on it to the letter, so that we can give Kenyans the benefits they need from this House. This is because budgeting, allocating and approving ways of sourcing for funds is the responsibility of this House.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Andrew Okuome, it is always great to listen to you on financial matters. Thank you very much. Next is Hon. Beatrice Elachi.

**Hon. Beatrice Elachi** (Dagoretti North, ODM): Thank you, Hon. Temporary Speaker. I also rise to support the Division of Revenue Bill. We have just concluded the BPS. The memorandum of this Bill is very clear: based on Article 218 of the Constitution, we should divide resources vertically, both at the national and county levels.

This year, the chairperson took us through a well itemised BPS. Then, we agreed to come and look at the Division of Revenue Bill. We should ask ourselves as a country... As we look at this bill, I know it will go to the Senate. Then, we will find ourselves in the crisis we normally do in terms of resources. This is based on what the CRA has given us and what we propose as a House. This Bill is important because it ensures money is efficiently utilised.

In the BPS, we indicated very well what the Auditor-General will do. She is now going around various sectors to ensure they prudently spend the money given to them. We are having crises, for example, in the education sector, where capitation has decreased. As we debate this Bill, I want counties to tell us what they have been doing for the last ten years. Each county should give us a blueprint that shows... So, as a country, we can align ourselves based on Vision 2030. They should show us what they have done with the resources given to them. Therefore, I plead and ask the Senate that, as they push for more resources, it is time we see growth in our counties. This is not just about the accountability aspect, where sectors appear before committees. We have to know how counties utilise money given to them.

Hon. Temporary Speaker, if we do not push for this, our country will have a lot of wealth, but the poverty levels will be high, and so the youth, women, and hustlers will continue to struggle. As we debate the Division of Revenue Bill 2024, it is important for us, as a country, to look in the mirror and ask ourselves, even as we put measures in place to ensure we are paying debt, how is the revenue given to our constituencies utilised? Even as we divide resources among ourselves, can we account for them? The same resources are so overstretched that Kenyans are left wondering.

Something else we must be clear about as we appropriate this money is the new funds being created. The word 'fund' worries me because we are creating a fund for everything. We are a capitalist country, and we have to be very wary of this. If we continue with these funds, we shall find ourselves slowly slipping into a socialist country and in a confused situation. This is because we are creating a fund for everything we come up with. Yes, as we create them in Parliament, our intentions are good, but questions about their implementation will come back to bite this House. We shall be asked about a certain fund, and our answer shall be, 'We do not

know.' Then we will ask the EACC to find out. This has to stop because Kenyans want to see change. So, how will we bring about change?

I have seen that counties have been allocated Ksh391.1 billion for the financial year 2024-2025 from revenue that is raised nationally. After ten years of devolution, we need to know the revenue raised locally in one day. So, as we share our national revenue, at the end of the year, we know county X... Let me give an example of Nairobi County, where at one time, Kidero collected Ksh13 billion, and Sonko also tried. This county can collect between Ksh30 billion and Ksh80 billion if revenue streams are put to proper use. At one point, we had more than 2,000 revenue streams, and some individuals had passwords for these accounts. So, a governor had no idea how much revenue was collected locally.

I want to plead with my governor for the first time to call Members of Parliament from Nairobi County and sit down with them after passing the Division of Revenue Bill. This is so that he can tell us how much is going to each constituency and for what activities. This is because the more we work together, the more I appreciate it when I see how members of Parliament from Murang'a and Homabay counties work closely with their governors. They put their budgets together and know how much will go to each constituency. My prayer to my governor is that in 2024, we will work as a team, not because we like each other but for the sake of Nairobians so that they can see change.

As I finalise, I know that in the Supplementary Budget, this House appropriated money for building classrooms in Nairobi schools. How I wish that the NG-CDF Committee and the National Treasury could finalise the guidelines. This is because I have attached the certificates of the schools and have been wondering why that money is not coming.

I thank the Budget and Appropriations Committee for its good work. The Government is focusing on paying debts and should prudently ensure that resources... We know the shilling is very weak, but it is getting stronger. We hope we will see a difference by the time we get to June. This is trickling down to our people, and they are feeling the pain.

Finally, let me talk about the many road accidents we see nowadays outside this Bill to the Cabinet Secretary for Transport and Infrastructure. For example, the accident that occurred in Maungu, where students from Kenyatta University lost their lives, I urge that we install cameras on our roads, like in Tanzania. We also heard about an incident where a woman slept while travelling in a matatu, and her baby was stolen. That is why we need to install cameras. I am talking to my friend and brother, Cabinet Secretary Murkomen, to crack the whip and ensure speed governors are installed in trucks, buses, and school buses.

With those few remarks, I condole with the families. May God rest the souls of these children in eternal peace. Oh, how I feel the pain of the parents. May God give grace to these families.

Hon. Temporary Speaker, I beg for support.

**The Temporary Speaker** (Hon. Peter Kaluma): There being no further interest in this Bill, I now call upon the Mover to reply.

**Hon. Ndindi Nyoro** (Kiharu, UDA): Thank you for that chance, Hon. Speaker. I thank all Members who have contributed to this Motion. We have taken note of all concerns. Thank you very much for your invaluable contribution to the entire budget-making process.

With those many words, I beg to reply.

**The Temporary Speaker** (Hon. Peter Kaluma): What is out of order, Hon. Owen Baya?

**Hon. Owen Baya** (Kilifi North, UDA): On a point of order, Hon. Temporary Speaker. I rise under Standing Order 53(3) that we defer putting the question to another Day so that we allow as many Members as possible to participate.

**The Temporary Speaker** (Hon. Peter Kaluma): Your request is acceded to. The question shall be put on the Day the House Business Committee will schedule. Next Order.

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

**The Temporary Speaker** (Hon. Peter Kaluma): Mover, Hon. Samwel Chepkonga, Chair of the Committee on Delegated Legislation.

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): I beg to move that the Houses of Parliament (Bicameral Relations) Bill (National Assembly Bill No.44 of 2023) be now read a Second Time.

This is an important piece of legislation. It deals with the interrelationship between the two Houses: the National Assembly and the Senate. Primarily, the Bill seeks to give effect to Articles 109, 110, 113, 114, and 118 of the Constitution to foster bicameral relations by prescribing procedures for ensuring seamless consideration of the legislative business of both Houses of Parliament. It also seeks to provide a framework to guide the legislative procedures of a cohesive and effective Parliament. The Bill provides very important objectives. They are contained in Clause 3.

I will briefly point out the very salient features of these objectives. First, it seeks to provide a seamless framework for conducting bicameral matters between the two Houses. Two, it outlines the Bills on which question of joint resolution by the Speakers under Article 110 of the Constitution.

*(Several Members consulted)*

**The Temporary Speaker** (Hon. Peter Kaluma): Why are the three Members of Parliament walking as if they are inspecting a guard of honour somewhere? Proceed, Hon. Chepkonga.

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): Looking at their faces, I suppose that they have been reading the book called *The Three Musketeers*. That is why they appeared late in the evening.

*(Laughter)*

As I have just mentioned, the Bill will define a process upon which the two Speakers will deal with a Bill as to whether it concerns county governments... You know this has been a very contentious issue. We have had too many matters ending up in court and the Supreme Court. We have let our relationship between the Members of Parliament of the National Assembly and the Senate get out of hand. When we appeared in the NG-CDF case, you know there was even a purported representation from the Senate opposing a Bill originating from the National Assembly.

*(Several Members consulted)*

**The Temporary Speaker** (Hon. Peter Kaluma): Order Members.

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): The Members of Parliament are congregating to discuss the National Government Affirmative Action Fund (NGAAF). They just heard me discuss the NG-CDF. However, we are discussing the Houses of Parliament (Bicameral Relations) Bill.

Third, the Bill seeks to define what constitutes consideration of a Bill for purposes of Article 110(3) of the Constitution. This has been very problematic. The Speakers have never known what actually constitutes a Bill under Article 110(3) of the Constitution. People have gone all the way to court to litigate this matter. In this piece of legislation, we seek to provide

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a framework where there is a disagreement between the two Speakers; we constitute a mediation committee or conciliation committee to take advantage of Article 159(2)(c) of the Constitution. This is part of the implementation of Article 159(2)(c) of the Constitution, which provides various mechanisms for resolving disputes between persons and institutions, including reconciliation, mediation, and arbitration. We want a friendly mechanism to resolve disputes that arise between the Houses. Some of us have visited the Congress in the United States of America (USA). There is never a day the two Houses have litigated in court. In fact, when a matter is filed in court, the courts restrain themselves. They advise them to go and deal with their issues. That is what we are seeking to do, Hon. Temporary Speaker. We seek to resolve issues that are of concern to us. We are all Members of Parliament but of different Houses. We represent the people and the same interests.

The Bill also seeks to outline what constitutes a Bill that does not concern county governments as contemplated in Article 103 of the Constitution.

Another very important one is that it provides a framework for the conduct of joint processes of the two Houses. We have been sitting here, but there has not been a process. We do not know how to address the issues that arise from disputes. So, we seek to provide a framework within this Bill to resolve those questions so that when the two Houses sit, we know what constitutes a quorum. Assuming that the 290 Members of the National Assembly come here and the Senate has ten Members, will the House quorate? Those are some of the issues that this Bill seeks to resolve.

The other very important cornerstone of this Bill is that it deals with the issue of public participation as contained in Articles 10 and 118 of the Constitution. As we know, this is a very important procedure. I reiterate that this matter has been seriously litigated in court. The courts found out that there is a *lacuna* in the legislation. Let me read what Justice Muriithi clearly stated in the case between the Commission for Implementation of the Constitution and Parliament. The National Assembly has a broad measure of discretion in how it achieves the object of public participation. How this is effected will vary from case to case, but it must be clear that a reasonable level of participation has been afforded to the public.

This Bill seeks to ensure that we encapsulate what is contained in Standing Order 127 to provide very clear guidelines on how to conduct public participation. The Constitution in Article 118 provides a general framework, and Standing Order 127 provides the details of the conduct of Business within the House that has nothing to do with the public. We now seek to bring that very elaborate process that is contained in our Standing Orders into a piece of legislation that can be relied on by members of the public and by the courts in arbitrating issues that are of concern to the people when they think that adequate and sufficient public participation has not been conducted.

The Bill also seeks to provide a framework for the amicable resolution of disputes between the two Houses. In brief, this Bill is set out in five parts. Part II deals with the publication and the enacting formula. Part III deals with the joint resolution of a question under Article 110 (3) of the Constitution. Part IV deals with the conduct of the joint proceedings and committees. Part V deals with miscellaneous issues, including public participation.

Hon. Temporary Speaker, with those many remarks, I beg to move and request Hon. Murugara, the Chairperson of the Justice and Legal Affairs Committee (JLAC), to second. I thank the JLAC for conducting public participation and tabling a good Report with respect to this Bill.

**The Temporary Speaker** (Hon. Peter Kaluma): The Chairperson of the JLAC, Hon. Murugara.

**Hon. George Murugara** (Tharaka, UDA): Thank you, Hon. Temporary Speaker. I rise to second the Houses of Parliament (Bicameral Relations) Bill (National Assembly Bill No.44 of 2023). We have proposed an amendment to put the brackets after the word "bicameral" so

that it reads as – The Houses of Parliament Bicameral (Relations) Act or The Houses of Parliament (Relations) Act when accented to.

It behooves Hon. Members to go through the Report by JLAC on the Bill to acquaint themselves with what the public said about the two Houses. Hon. Chepkonga has moved and stated that the two Houses have been involved in minute and mundane disputes. This should never be the case. We have become a laughing stock of the Executive and the Judiciary because we air our dirty linen in public. We must pass this vital Bill into law so that there are guiding principles when the two Houses are in conflict.

It is crucial to acknowledge that there is ongoing litigation in court, and the outcome of the case will confirm whether both Houses of Parliament have passed the Bill into law. Members are advised to read the Report to understand the Bill better. Hon. Chepkonga has elaborately enunciated the difficulties and what the Bill entails, from Part I to V.

We have proposed amendments to the Bill that align it with existing legislation to avoid any problems in interpretation. We have also proposed amendments to clauses 1, 3, and 5, which I will not go into detail about. Additionally, we have an amendment to Clause 11, which addresses what happens when the two Speakers cannot jointly resolve a question under Article 110 (3) of the Constitution.

We propose to refer the Bill back to the sponsor for further consideration. Alternatively, the Speakers of the two Houses can jointly appoint a person or a body to make recommendations within 14 days to determine the way forward. The rationale is to prevent undue delays when there is a disagreement after a matter has been brought before the House.

Hon. Temporary Speaker, we have also proposed Clause 13, and its amendment on what happens when a Bill comes from the Senate or one House to the other. There was a proposal that the Bill should be co-sponsored. We said it could not be co-sponsored because the two Members are from separate Houses and do not sit together. We have now used the terminology "adoption." When a Bill is brought from one House to another, it will be adopted in the second House.

There is a whole raft of these proposals in our proposed amendments. I urge Members to look at them. This is a very important Bill that we must pass so that we can start cleaning ourselves. We need to remove this egg on our faces where the other two arms of government laugh at us. They say we cannot solve our problems amicably. We have to go to the third arm of the government to try and have third parties sitting in to listen to our problems.

With those remarks, I beg to second the Bill.

*(Question proposed)*

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Wilberforce Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): I have 10 minutes. Hon. Temporary Speaker, thank you for giving me this opportunity to contribute. I support the Bill. Since I came to Parliament in 2017, I always felt very uncomfortable when any form of dispute between the two Houses escalates beyond Parliament Square and the confines of the offices of the two Speakers. I hope and pray that the spirit and words of this Bill will cure the discomfiting situation that we normally find ourselves in.

The Senate was established with a very clear mandate under the law and the Constitution. The National Assembly was likewise established with a very clear mandate under the Constitution. We should not have sibling rivalry. It is an indication that one House has very little to do, so that in the moment of idleness, you pick anything you want to do. It can also be a symptom that the other House charged with doing so much is either too busy or inadequately resourced to the point that it does not have enough time to address all pertinent issues.

Consequently, the other House takes advantage of the lacuna and generally takes over matters that are not theirs.

I attended a mediation committee in an area where I am an expert. I withdrew tactfully because it was becoming difficult to discuss with Members of Parliament who did not understand the subject matter, but they purported to be experts in the matter. I withdrew from the committee. As someone who has gone to school and practised, I did not want to be embarrassed by people who did not understand the area of study we were dealing with.

I have gone through the Bill. I hope and pray that the spirit will allow us to cure this matter. It is embarrassing for the two Houses to go to court. Articles 95 and 96 of the Constitution are very clear. At one time, I was sitting with a Senator. He said the Senate represents counties that are populated by people. They have the right to originate and conclude the law-making process in their chamber because they legislate for the people. I reminded him politely, and he was my senior, that the Senate participates in the law-making process, but it does not make law, save for only the County Revenue Allocation Bill. To an extent, they also pass the Division of Revenue Bill by virtue of the Constitution.

About the Bill, let me commend the Chairperson. I hardly ever commend my friend, but I am obliged to commend him today because he and the Committee have done a good job. There are some thought processes involved in the development of the Bill.

Hon. Temporary Speaker, allow me to comment on the Bill briefly. I will start with Clause 11. It states:

"11(1) Where the Speakers are unable to jointly resolve a question arising under Article 110 of the Constitution, the Speakers may—

(b) jointly appoint any person or body of persons to make such recommendations within seven days on the way forward as may be appropriate."

I admit I have not read the Report. We might have to consider restricting or limiting the types of bodies that can be called upon to resolve such a matter. I would even propose the Kenya Law Reform Commission, if it is a legal entity, or the Office of the Attorney-General because he has to give a legal opinion on the way forward. If we leave it open, the term "any person or body of persons" is so ambiguous that the Speakers can choose anybody within their ranks to purportedly review the matter.

Secondly, I also do not see the essence of Clause 12(2) because it is already provided for in the Constitution. It is not a good drafting procedure to copy and paste from the Constitution and put it in a Bill. Perhaps those are some of the areas that we need to provide for.

Clause 12(3) is a bit draconian. I disagree with the part that states that the relevant Committee of the Assembly may recommend that a Bill or Motion not be proceeded with by the Assembly for want of compliance with the procedure set out in Article 109(5) of the Constitution. I find this too draconian and limiting. We do not fix a working system. Let the Bill go through the normal Second Reading Stage. Let it meet its fate at the end of the Second Reading with recommendations from the Committee.

Clause 14 is very critical. We are facing a similar situation. It has been several days since this House selected its Members to the Mediation Committee on the Employment (Amendment) Bill (Senate Bill No.10 of 2022). The Senate has not yet recommended its Members leaving everything in limbo. Clause 14(2) states:

"14(2) The Speakers of both Houses shall appoint a mediation committee consisting of equal numbers of Members of each House, to attempt to develop a version of the Bill that both Houses will pass."

I want to suggest to Hon. Chepkonga and Hon. Murugara that we put timelines in place, be it a number of sittings – and I propose four sitting days – or, if either House is on recess, probably 14 calendar days.

Again, the issue of the chairmanship of a meditation committee has been a problem. The Bill states that the Committee shall have equal numbers of Members of each House. An equal number of Members will never elect a chairperson. If each delegation goes in with a fixed mindset, none will ever elect any chairperson. There will always be a stalemate because they have equal numbers and will vote in equal numbers. To resolve the stalemate, I will propose an amendment that the House that rejected the Bill should take up the chairmanship of the Committee, and the House that originated the Bill should take up the vice-chairperson position. How will they resolve disputes? They will do so by consensus, or each House will vote separately. That is another recipe for a stalemate, and we will never move forward. This is a progressive Bill. I request that we get a lot of input on it before it is finalised.

Hon. Temporary Speaker, please allow me to finish as I have a several minutes to go. I just wanted to conclude so that I do not encumber the system. I need your guidance.

### ADJOURNMENT

**The Temporary Speaker** (Hon. Peter Kaluma): Order, Hon. Members. The time being 7.01 p.m., this House stands adjourned until tomorrow, Wednesday, 20<sup>th</sup> March 2024, at 9.30 a.m.

The House rose at 7.01 p.m.

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