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The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: Hon. Members, we have a quorum.

Hon. Members, the Communication I am about to give relates to our fallen soldiers.

(Hon. (Dr) James Nyikal and Hon. Charles Nguna remained upstanding)

Order, Hon. Members. Take your seats and stop interfering with the proceedings.

When I finish the Communication, I will give the House about 30 minutes to eulogise. Over and above the Chief of the Defense Forces (CDF), we have nine other soldiers who come from various constituencies. Members representing those constituencies who would want a special opportunity to eulogise their constituents to give their names to the Clerks-at-the-Table so that I can give them priority in the limited time that we shall have and, thereafter, go on with the rest of the business

COMMUNICATION FROM THE CHAIR

DEMISE OF CHIEF OF DEFENCE FORCES,
GENERAL FRANCIS OMONDI OGOLLA, EGH

Hon. Speaker: Hon. Members, as you will recall, last week ended on a very sad note following the untimely demise of General Francis Omondi Ogolla, Chief of the Defence Forces.

Pursuant to the provisions of Standing Order 259D (1), I wish to formally report to the House the demise of the Late General, together with Brigadier Swale Saidi, Col. Duncan Keittany, Lt. Col. David Sawe, Maj. George Benson Magondu, Capt. Sora Mohamed, Capt. Hillary Litali, Senior Sgt. John Kinyua Mureithi, Sgt. Cliphonce Omondi and Sgt. Rose Nyawira. They met their deaths on Thursday, 18th April 2024, following a tragic helicopter crash in Elgeyo Marakwet County.

Hon. Members, the late General Francis Omondi Ogolla was born on 12th February 1962 in Siaya County. Following his O-Level education, he enlisted into the Kenya Defence Forces and graduated as an Officer Cadet on 2nd May 1984. Following this, he proceeded to Moi Air Base and trained as a pilot. He was a graduate of Egerton University, the University of Nairobi, *Ecole Militaire de Paris*, France, as well as the National Defence College of Kenya.

Throughout his career, he held various positions in the Forces, including Deputy Commander at Kenya Air Force, Commanding Officer at Tactical Fighter Wing, Base Commander at Laikipia Air Base, Chief Flying Instructor at Kenya Air Force Flying Training School, and Operations Desk Officer at the Kenya Air Force Headquarters. On 15th July 2018, he was appointed Commander of the Kenya Air Force where he served for three years. On 23rd July 2021, he was promoted to Lieutenant General and appointed the Vice Chief of the Kenya Defence Forces (VCDF).

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On 28th April 2023, His Excellency the President and Commander-in-Chief of the Defence Forces promoted him to the rank of General and appointed him the Chief of the Defence Forces, a position he diligently served until his untimely demise. He exuded rare dedication to duty, and even at the helm of his career, he died serving this country.

During 2023's Jamhuri Day celebrations, the President conferred on him the Order of the Elder of the Golden Heart Presidential Award in recognition of his dedication to duty and country, underscoring his exceptional contribution to this country.

Hon. Members, General Ogolla's legacy is marked by his pivotal role in developing and implementing various training programmes and operational strategies that enhanced the effectiveness of the Kenya Air Force and the entire Kenya Defence Forces. Indeed, in Gen. Ogolla's death, the country has lost one of its most valiant and decorated soldiers. The Late General Ogolla remains the epitome of patriotism and true leadership.

On my behalf, the National Assembly and the Parliamentary Service Commission, I pay tribute to this great fallen servant of the people of Kenya in conveying our sincere condolences to his family, the families of the other nine valiant soldiers who perished alongside the General, Kenya Defence Forces fraternity and the nation at large for this great loss. I also wish the officer who survived the crash a quick recovery.

Additionally, Hon. Members, the House Business Committee resolved to prioritise the Motion by Hon. (Capt.) Ruweida Obo, M.P., on the establishment of a priority boarding protocol for the Kenya Defence Forces and Kenya Special Forces personnel on local airlines for debate tomorrow, Wednesday, 24th April 2024, in the Morning Sitting. This will not only give an opportunity to the Member to move her Motion but also accord other Members an opportunity to honour the legacy of the Late General Francis Omondi Ogolla, EGH, and recognise the contribution of the Kenya Defence Forces in defending Kenya's sovereignty.

Hon. Members, in honour of the selfless service rendered to the nation by the Chief of Defence Forces, General Francis Ogolla, EGH, and the other nine fallen soldiers, I request that we all stand and observe a moment of silence in their honour.

(Hon. Members observed a moment of silence)

May their souls rest in eternal peace. Amen.

Hon. (Dr) Otiende Amollo. Every Member will have two minutes.

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

Allow me to pay a special tribute to the fallen CDF, General Francis Omondi Ogolla, and the nine other gallant soldiers who we lost last week.

Hon. Speaker, I will have you and the House know that at about 5.30 a.m. this morning, I led the Bunge Football Club (F.C.) to Ulinzi Stadium to pay a special tribute to General Ogolla. We lit 40 candles representing his 40 years of service, said special prayers together with some of the soldiers who were there, and accorded him what we could in the circumstances.

To his tribute, General Ogolla has done many things. One of the latest things that he did was to accord us a place to train as the Bunge FC team. We had been unable to train in Nyayo Stadium and Kasarani due to the ongoing repairs because we did not have a place to call home. It is not usual to allow people who are not in the disciplined forces to access such facilities. He, however, allowed us.

Not only did he allow us to do that, he often came to train at the same time and interact with us. The last such interaction was last week on Tuesday when they had a special programme. General Ogolla goes down as a gallant soldier. It has been promised that there will be a thorough probe, but I want us to consider the two known ways of probing: a commission of inquiry, which is at the hand of the President, or an inquiry by this House. Although an

internal inquiry is good, it may not do the full length of justice to what we need to know. We pray that the Lord may put their souls in eternal peace.

Hon. Speaker: Thank you. Member for Garissa.

Hon. Dekow Mohamed (Garissa Township, UDA): Thank you, Hon. Speaker, for allowing me to grieve with the family and friends of General Ogolla. I want to confirm that I have been a very close and personal friend to him, having worked together at an early age as an officer of the Kenya Air Force. I first met him in 1992 while I was training as a pilot at the Kenya Air Force Flying Training School, and he was training there as an instructor pilot at the same time in the same school. I want to confirm that he was a very decent and honourable general of the Kenya Air Force. As we have all been told by his family and friends, he was a very religious general. At the same time, he was a commander par excellence and a decorated fighter pilot during our time in the Air Force. May the souls of General Ogolla and his colleagues, including a fellow by the name of Col. Duncan Keittany, whom we trained as a cadet officer and a pilot in the Kenya Air Force at the same time, rest in peace.

After the unfortunate incident of 15th August 2022, I had a cup of tea with General Ogolla. I asked him what had happened. He told me this: "Barrow, you have known me since our time at the Kenya Airforce, and you know very well that I cannot do anything that would jeopardise the peace and the security of our country."

May General Ogolla and the rest of the officers who perished in the same aircraft rest in peace.

Thank you very much.

Hon. Speaker: Leader of the Minority Party.

Hon. Opiyo Wandayi (Ugunja, ODM): Let me join my colleagues in extending my condolences and those of the entire Azimio la Umoja-One Kenya Coalition Parliamentary Group to the immediate family, friends and relatives of the late General Francis Omondi Ogolla. It was unfortunate that I was unable to attend the funeral of the fallen general due to unavoidable circumstances. All the same, General Ogolla was someone I personally knew. In the time that I interacted with him, he came out clearly as a person who was down to earth. That is the only thing I can say about him. It is a virtue that we may want to emulate and inculcate in our leaders, especially Members of Parliament. That positions, power, influence, and prestige do not matter. What matters is how you relate with fellow human beings and, more importantly, how you relate with your creator, the Almighty God.

Let me also say this; as we mourn General Ogolla, we must also not forget his nine other fallen colleagues. One of his fallen colleagues, Maj. George Benson Magondu was married to one of my constituents, Capt. Brenda Okello. Therefore, as a constituency of Ugunja, we have incurred a terrible loss. We only pray to Almighty God to rest their souls in eternal peace. However, we must also insist on unearthing the root cause of that accident. We owe it not only to the fallen soldiers but also to their families and Kenyans in general. We must do whatever it takes to establish what caused their deaths. I am told it is not a normal occurrence for generals to die just like that. My friend, Bashir, can tell you. Generals do not just die like that. Therefore this country needs to be told what or who killed General Ogolla and his colleagues.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Omboko Milemba.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Speaker, for this chance to also condole with the family of CDF General Ogolla Francis, who passed on in a helicopter crash. I attended the funeral of General Ogolla, and from the eulogy we heard, this was a very simple and religious person who lived a very humble life. He even helped society without necessarily wanting it to be known that he was the one who was doing the things. Therefore, it is worth emulating his life, both his relationship with God and the people and the humility that

he showed. He resisted carrying the flamboyance of the Luo nation in everything he did. That is something I admire.

I want to pass my condolences to the families of the nine veteran Army officers who passed on. I also proceed to indicate that the death of such a senior person in this country through a crash, although we know accidents are force *majeure*, sends a very bad signal to the top leadership. If that can happen to a general at that particular level, how safe are we with other senior officers in this country who travel using the same and similar choppers? I want to indicate that as we speed up the inquiry, let us also go down to the investigation of the matters that happened in Bomas. I saw the community was so keen on knowing the truth about that. That inquiry should be double-loaded; we need to know whether General Ogolla was misused or what exactly happened.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Bedzimba.

Hon. Rashid Bedzimba (Kisauni, ODM): Ahsante sana, Mhe. Spika kwa kunipa fursa na mimi nipenyeze sauti yangu kusema pole kwa ndugu, jamaa, marafiki na familia za wanajeshi waliopoteza maisha yao siku ya Alhamisi. Sisi, kama Eneo Bunge la Kisauni, tumempoteza Brigadier Swale Saidi. Alikuwa kijana shupavu mwenye mategemeo yake makubwa kwamba huko mbeleni, angechukua nafasi kubwa katika familia ya jeshi. Lakini kila kitu ni mpango wa Mungu. Kikubwa tunasema tunawaomba Mwenyezi Mungu azilaze roho zao mahali pema peponi, na awasamehe dhambi zao.

Ni vyema sana pia sisi, kama taifa, tufanye uchunguzi wa kina ili kujua sababu ya kuanguka kwa ndege hiyo. Hii ni kwa sababu ikiwa ndege ambayo imebeba Mkuu wa Majeshi inaweza kuanguka kiholela, basi ni hatari kubwa sana kwa hizi ndege zetu ambazo zimebaki. Niko na imani kwamba ndege anayotumia Mkuu wa Majeshi na wale anaofuatana nao lazima iwe imechunguzwa kwamba inaweza kupita hata hali ya anga ikibadilika. Lakini kama inaweza kuanguka, basi inamaanisha kwamba ndege zetu zote ziko katika hatari na wasiwasi. Nchi nyingi zimetushangaa kwamba sisi tunapoteza Jenerali kwa ajali ya ndege, na hakukuwa hata na ndege ya kumsaidia. Hakukuwa na *reinforcement* ya kumfuata kwa karibu ili itoe msaada kwa hali kama hiyo. Ndege hiyo ilipoanguka, basi ikawa hivyo.

Kwa hivyo, ninasema pole ndugu na familia. Tunawaomba Mungu awalaze mahali pema na awasamehe dhambi zao.

Ahsante sana.

Hon. Speaker: Hon. Owen Baya.

Hon. Owen Baya (Kilifi North, UDA): Thank you very much, Hon. Speaker. I want to join other Kenyans in mourning the fallen heroes of General Ogolla and his colleagues. I met him when he was a Commander of the Air Force in an *ad hoc* committee looking at the lands that belong to the armed forces. While we were at the Army Garrison, General Ogolla was the first person to come into that hall and we had tea with him. He was an easy and nice fellow. He was a good person. He gave us very good information.

I also had a second opportunity to be with him when I travelled with the President outside. He came across as a man who was down to earth. He was a person who loved this country and one who was ready to serve. This country has lost a valiant soldier, and a man who was patriotic and loved this country very much. But again, the people of Kilifi also mourned the death of Brigadier Swale Saidi. Although he came from Kisauni, he also lived in Kilifi. He was actually buried in Kikambala in Kilifi. So, the people of Kilifi want to recognise this great soldier and a man who brought honour to the people of Kilifi. He was revered as a soldier who had a future, but God saw it fit that he took them on that day.

May their souls rest in peace.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Keynan.

Hon. Adan Keynan (Eldas, JP): Thank you, Hon. Speaker. As Muslims, we say that death is a must. In fact, in the Qur'an, it says: "*Kullu nafsin tha-iqatu almawti...*" - every soul shall taste death. Therefore, we believe in predestination. In the 10th Parliament, as the Chairperson of the Departmental Committee on Defence and Foreign Relations, I had an opportunity to, at a very difficult time of the Grand Coalition, work with General Ogolla. In fact, he midwived in the current Kenyan Defence Act. Since death is a must, there are three things that we must learn from this: that our defence forces are the granters of our sovereignty and territorial integrity.

Every country prides itself in having modern and effective armed forces. Because of these many accidents, in particular involving the choppers of the Kenya Defence Forces, I want to urge this House - and I am glad that the Chairperson of the Departmental Committee on Defence, Intelligence and Foreign Relations is here - to give adequate funding to our Defence so that they can buy new choppers, and not these refurbished and donated choppers from elsewhere. The Chairman, Hon. Koech, is here. Next time, please ask for more funding so that you can complete modernisation of the armed forces' facilities. That is what is required. That is the only thing we can do to remember the fallen heroes.

I pay my tribute and express empathy for the fallen heroes. Since death is a must and we have eulogised and remembered the fallen heroes, let us also remember that all of us here as individuals are fallible. In everything that we do, we must remember God.

Hon. Speaker: Thank you. Hon. Mary Maingi.

Hon. Mary Maingi (Mwea, UDA): Thank you, Hon. Speaker, for allowing me to send my condolences to the families of the fallen soldiers. General Ogolla was a fine man. I had a chance to play golf with him a week before he got his appointment as the CDF. The country will miss a very dedicated general. I want to associate myself with the sentiments already echoed by various leaders across the nation over the need to upgrade all our air assets. We need to relook at and review the policy on maintenance of all our air assets. Maintenance means the safety of not only our soldiers, but also all our other senior Government officials who might be called upon to use the air assets from time to time. I am talking about the police air wing, KDF, KWS, Kenya Forest Services, and any other government agency that may operate our air assets.

Sgt. Rose Nyawira hailed from my constituency, and she was the only lady in the ill-fated helicopter. She stands in a special place in my heart and the hearts of all the people.

I appeal to the Cabinet Secretary for Defence to follow the Constitution and ensure that the female gender is properly represented in that particular ministry. Nyawira will hold...

Hon. Speaker: Your time is up. Let us have Hon. Malulu Injendi.

Hon. Malulu Injendi (Malava, ANC): Thank you, Hon. Speaker. I also rise to mourn CDF Ogolla and nine other soldiers, including my friend Captain Hillary Litali, who comes from Kakamega County.

It is with much sadness, especially for us in Kakamega County, because we have few persons in such senior positions. I knew Captain Hillary at a very personal level. He, along with other people from my constituency, have been having meetings. When I learned of his death, it was so saddening. I also want to encourage our soldiers, particularly persons who are handling weapons of destruction, who sometimes may not believe that God is there, CDF Ogolla is a demonstration at the highest level that you can still serve and believe in Jesus Christ as your personal savior. It is also a wonder that they were on a mission to the banditry area. I would urge our leaders to look into the matter because banditry has been affecting this country for a very long time. I believe that some of our senior officers are much concerned as to why it continues affecting Kenyans. This is both in the affected areas and it affects those who are out to serve the country.

Otherwise, I mourn these Kenyans who are our heroes. Thank you, Hon. Speaker.

Hon. Speaker: Hon. Naomi Waqo.

Hon. Naomi Waqo (Marsabit County, UDA): Thank you, Hon. Speaker. I join the Hon. Members in mourning the heroes we lost through the plane crash, General Ogolla, and nine others. We remember the family of General Ogolla himself, the family of Brigadier Swaleh, Col. Duncan, Captain Sora Mohamed from Marsabit County, Rose Nyawira, the only lady, and others. We remember the families and mourn with them as I send my condolences. This should serve as a wake-up call to Kenyans because this is not the first time that a plane belonging to KDF has crashed. Many families have lost their loved ones. It is my prayer that special attention will be given to technical and mechanical matters. Special attention should also be given to families. This is because, sometimes, we remember the fallen heroes, but we do not remember the orphans and widows left behind. It is high time for Kenyans to see how we can also give our best to the bereaved. Thank you, Hon. Speaker and may their souls rest in peace.

Hon. Speaker: Let us have Hon. Julius Sunkuli

Hon. Julius Sunkuli (Kilgoris, KANU): Hon. Speaker, I also take this opportunity to send my condolences to the families of the bereaved soldiers led by the Chief of the Defence Forces, General Ogolla. Hon. Speaker, as a former Minister responsible for Defence, I served as the Chairman of the Defence Council. I was at one point responsible for the promotion of Gen. Francis Ogolla from one rank to the other. By the time I was Minister, he was a One Star General and a very diligent servant in this country. It is unfortunate that we have lost him together with a cadre of our soldiers who would have risen to higher ranks. I join the rest of the Kenyans in asking that a thorough investigation be done.

The first thing that this investigation should focus on should be the equipment that our soldiers use, and the Committee responsible for Defence, Intelligence, and Foreign Relations should actually look into the budget to ensure that these helicopters that are used by Very Very Important Persons (VVIPs) are well maintained. The second thing is, of course, the way in which the CDF travels and the way in which our people travel to the insecurity-prone areas. It is unfortunate that this happened, and we hope that this investigation will be wide and deep enough. I wish to send my condolences.

Hon. Speaker: Yes. Hon. Mukunji.

Hon. Gitonga Mukunji (Manyatta, UDA): Thank you, Hon. Speaker. I also want to join my colleagues in mourning our gallant soldiers. Last year, I happened to host Madaraka Day in my constituency. We had a very good interaction with soldiers together with General Ogolla. One of the interesting things is that I requested Gen. Ogolla to ask his soldiers to help us in planting trees. By the time the soldiers left our county, we were almost 10,000 trees richer than we had been before. It was a simple request, and he made a command directly to the commanding soldier on the ground to facilitate my office and plant trees with other leaders from Embu. That was something that left an impact on our place. It changed our areas on top of the enjoyment of Madaraka Day.

I also want to take this opportunity to say that while we are mourning our soldiers, we need to look into the insecurity situation that General Ogolla was going to check on the ground. We need to stop banditry, and there is no other better time than this time that we have lost our soldiers. I also want to join my colleagues in saying that we need to look at the equipment that our forces are using. It is not only the soldiers...

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

Hon. Joseph Makilap (Baringo North, UDA): Hon. Speaker, on behalf of the people of Baringo North and the North Rift who have been victims of banditry, I wish to take this opportunity to condole with the families of the late General Ogolla and the entire team from the military that perished including one from our county, Col. Keittany who comes from Eldama Ravine. We want to say that it was a tragic accident for a general who was trying to help people in Baringo, West Pokot, Elgeyo Marakwet, and Samburu, the people who have

always suffered at the hands of bandits. This gives me an opportunity to say that I actually interacted with Gen. Ogolla when we were trying to see how we could sort out the schools that were closed because of bandits. We had a meeting in the Department of Defence (DOD) with the Cabinet Secretary for Defence, and we even took photographs. I saw a brilliant, intelligent man by the name of General Ogolla.

So, Hon. Speaker, because time is not much, this is an opportunity for the Commander in Chief of all the Defence Forces of our country, His Excellency the President, to get annoyed and apply Article 241(3) of our Constitution so that we allow the military to wipe our bandits in the North Rift once and for all, the same way they wiped them out in Mt. Elgon and Somalia.

I thank you, Hon. Speaker.

Hon. Speaker: Let us have Hon. Atandi.

Hon. Samuel Atandi (Alego Usonga, ODM): Thank you, Hon. Speaker, for recognising and giving me an opportunity to pass my condolences on the Floor of the House. First, let me thank you for coming to Siaya on Sunday during the funeral service of the General, plus many other colleagues who joined us including the leadership of the Majority and the Minority parties. We had the opportunity to say many things at the funeral. For now, when a person of this stature dies in the manner that General Ogolla died, some heads also need to roll.

We are calling for a thorough investigation so that we can understand what happened. In the military, the Commander of the Air Force is somebody I believe is a culprit. If General Ogolla was a captain and a former Commander of the Air Force, how come he was allowed to fly a chopper that was faulty? This is something that we need to ask. Also, this House appropriates a lot of military resources, but the military ends up buying faulty choppers. This House and its Departmental Committees should investigate the Department of Defence. This department is corrupt but we never question them. The House must take this issue very seriously because the Chief of Defence Forces cannot be killed.

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

Hon. Beatrice Elachi (Dagoretti North, ODM): Thank you, Hon. Speaker. I also rise to eulogise our fallen soldiers and, more importantly, send my condolences and prayers to Aileen Ogolla and her family and all the women whose husbands have fallen. I knew CDF Ogolla when I became the Whip of the Majority Party in the Senate. At that time, he would come many times when we had guests from foreign countries who would meet where our first father lies, and we lay wreaths together. He was one simple man who would send you an SMS and tell you something. If there were anything, he would even caution and tell you not to do it.

As I pray for his soul, I want to plead with the people of the North Rift. Two days before the accident, we had a Motion of Adjournment to discuss banditry. After that, we lose our best of the best. He goes down. It is time the bandits looked at themselves in the mirror, went home, and made peace. Make that area work. We cannot say it is money or anything. They have the National Government Constituencies Development Fund (NG-CDF) and money from counties. It cannot be cattle rustling that can bring them riches. It cannot be. We cannot just sit here and laugh. There is a need for many things to happen in that area. One of them is to *fyeka* that area until they wonder what just hit them. That is the best you can have from all that we have seen.

Hon. Speaker: Hon. Gitari, Member for Kirinyaga Central. Give him the microphone.

Hon. Joseph Gitari (Kirinyaga Central, UDA): Thank you, Hon. Speaker, for giving me this chance. I condole with the families of the fallen soldiers. Kirinyaga Central was affected because Senior Sergeant John Kinyua Mureithi hailed from there, from a ward called Kanyekiini. Sergeant Rose Nyawira is a lady that I knew very well. Before they relocated to Mwea, her parents lived in Kirinyaga Central. She is a lady who even worked in my office when I served in the 11th Parliament.

I have a plea for the warring people – whether in the civil society, bandits, cattle rustlers, or every other group in conflict in the North Rift – to honour the fallen soldiers, they should

stop the conflicts and live in harmony. I believe if this had not happened, maybe we would not have lost the 10 soldiers who were going to supervise the construction of primary schools.

I thank you, Hon. Speaker.

Hon. Speaker: Hon. Jaldesa Waqo.

Hon. (Prof) Guyo Jaldesa (Moyale, UPIA): Thank you, Hon. Speaker, for allowing me to condole with the nation and families of the fallen soldiers. On behalf of the people of Moyale that I represent, we lost a very young and brilliant pilot called Brigadier Swale Saidi. We mourn our young son and the rest of the Kenyan soldiers who fell. It is very painful to suspect or imagine that the chopper was brought down by the ragtag bandits roaming the northern part of this country. I am sure if the Government of Kenya pays attention, these people will be brought to book and the menace eradicated quickly. Some of these soldiers had very young families that needed support. The Government should take some affirmative action not just to compensate but also take positive action to make sure the families are not ruined because of these activities.

With those few remarks, I say thank you, and still condole with the entire nation and the fallen soldiers, especially our people of Moyale who are mourning.

Hon. Speaker: Hon. Musa Sirma.

Hon. Musa Sirma (Eldama Ravine, UDA): Thank you, Hon. Speaker, for giving me this opportunity to condole with the families of our late soldiers who passed on. General Ogolla was a great man and soldier in this country, as well as the others. I want to include Colonel Duncan Keittany, who hails from my constituency. These are young people who were doing a good service to Kenyans.

Accidents involving Government aircraft have a very bad history. I remember former Vice President Moody Awori landed on Mombasa Road using a Government chopper because it was faulty. I was with the Departmental Committee on Administration and Internal Affairs at one time and we boarded a police chopper that landed us in Ahero from Kisumu. That was the end of the story. Many people have gotten into this problem because of poor maintenance of Government choppers. Hon. Naomi Waqo is a widow courtesy of a military aircraft. Chelanga died in Marsabit because of a faulty aircraft.

I urge the Government to wipe out bandits. Were it not because of banditry, which we have been crying about as the people of Baringo for a long time, Gen. Ogolla would still be alive. He went because of banditry.

(Hon. Musa Sirma spoke off the record)

Hon. Speaker: Your time is up. You have made your point. Hon. Gikaria.

Hon. David Gikaria (Nakuru Town East, UDA): Asante sana, Mhe. Spika, kwa kunipatia nafasi hii. Natoa rambirambi zangu kwa familia za wanajeshi wetu ambao walipata ajali na kufariki walipokuwa kwenye kazi zao. Nichukue nafasi hii kutoa rambirambi kwa familia ya kijana mmoja kutoka Nakuru County, mahali baba yake anaishi, na amekuwa akitumikia kwa muda mrefu. Kijana huyu ni Captain Hillary Litali na alikuwa anaishi mtaa wa Shabab ulio sehemu ya Nakuru West.

Mhe. Spika, alikuwa kijana mdogo sana wa miaka 29 na alikuwa karibu kupatiwa cheo cha *Major* kwa kazi nzuri aliyokuwa akifanya. Alikuwa kijana wa kwanza katika familia changa. Cha muhimu ni kuweka tahadhari kwa watu wa *social media*. Hii ni kwa sababu wanatangaza vifo vya watu kabla familia ifikiwe kupitia njia rasmi. Wanafaa wakomeshwe kupitia sheria zetu ambazo tulipitisha.

La mwisho, ni makadirio ya bajeti ya *operations*. Mimi ni mwanakamati wa Kamati ya *Environment, Forestry and Mining*. Wakati mwingi *National Treasury* hupunguza pesa za *operations* zinazotumiwa kugharamia marekebisho ya ndege kama *helicopter* za Kenya Forest

Service (KFA). Ni muhimu *National Treasury* wawache kupunguza pesa za *operations* na *maintenance* katika...

Hon. Speaker: Hon. Ruweida.

Hon. Ruweida Mohamed (Lamu East, JP): Asante sana, Mhe. Spika, kwa kunipatia nafasi nitoe rambirambi zangu na familia yangu, pamoja na watu wangu wa Lamu Mashariki kwa familia ya Generali Ogolla na familia ya wanaanga ambaye Generali Ogolla mwenyewe alikuwa rubani. Kwa familia yote ya *aviation fraternity* natoa rambirambi.

Mhe. Spika, pia nachukua nafasi hii kutoa rambirambi kwa familia za maafisa wote wa KDF waliofariki wakifanya kazi ya kuchunga nchi yetu. Sisi wana Lamu Mashariki tunatumia KDF tunapopatwa na jambo. Hili ndilo eneo Bunge pekee ambalo walimu hupelekwa shule kama wamebebwa na KDF. Shule zote ambazo ziko Boni Forest lazima watu wabebwe na KDF.

Nilibahatika kuwa na Generali Ogolla katika ofisi yake tarehe 11 mwezi huu, kabla ya mauti yake. Kwa hakika, alikuwa na ari ya kuhakikisha nchi imepata amani. Mimi sikushtuka nilipoambiwa yeye mwenyewe alikuwa ameenda kutembelea zile shule. Hii ni kwa sababu aliniambia atakuja Lamu Mashariki kutembelea sehemu ya Boni na zingine. Mwenyezi Mungu apatie familia yake subra na awasaidie pale kwenye pengo. Asante.

Hon. Speaker: Hon. Osoro.

Hon. Silvanus Osoro (South Mugirango, UDA): Thank you very much, Hon. Speaker. I also join my colleagues in condoling the families of the departed soldiers and in particular, General Ogolla's family. I want to point out two things I learnt from this occasion that befell our country. First, the best way we can mourn the death of our departed heroes is by restoring security especially, in the bandit-prone areas.

Second, I was involved in the whole process of seeing General Ogolla off and I learnt that family is an integral part of our lives and growth. So, for those with young families, it is very important that they raise their children in the right manner.

Finally, it is also important for us politicians to learn not to mourn more than the bereaved. It is unfortunate that sometimes we allow politics to take centre stage even when families are mourning and crying. We invoke antagonistic politics and try to gain political capital even when it is unnecessary. We now have an opportunity to mourn on this Floor, but it is unfortunate that very few leaders from the place where General Ogolla hailed from, that is Luo nation, attended his burial yet, they are here mourning and complaining more than everybody else. We should appreciate when our sons from our areas grow. When our sons are...

Hon. Speaker: Chairperson of the Departmental Committee on Administration and Internal Affairs.

Hon. Nelson Koech (Belgut, UDA): Hon. Speaker, I am the Chairperson of the Departmental Committee on Defence, Intelligence and Foreign Relations.

Hon. Speaker: Sorry. Hon. Koech, the Chairperson of the Departmental Committee on Defence, Intelligence and Foreign Relations.

Hon. Nelson Koech (Belgut, UDA): Thank you, Hon. Speaker. Let me take this opportunity to condole with the family of the deceased General Ogolla and the other nine officers who perished that fateful day, in pursuit of peace in the northern part of our country - North Rift.

I interacted severally with General Ogolla and he was a consummate professional. I interacted with him when I was a Member of the Departmental Committee on Defence, Intelligence and Foreign Relations and even more as the Chairperson. This puts focus on what our soldiers go through.

General Ogolla laid down his life in pursuit of peace within and without our borders. It is important for us to start scrutinising to see what we can do about the welfare of our soldiers.

Unfortunately, we lost a General who is the core of our security infrastructure. This is of concern and as a Committee we will endeavour as much as possible, to find out what caused this accident.

Nonetheless, I have heard the plea from my colleagues that we should look into the funding of infrastructure for our military. I am sure Members have interacted with the budget for defence and looked at the modernisation programme. It is important that our military are well equipped and fully kitted when doing their duties within and outside our borders.

I pass my sincere condolences and urge Hon. Members that they give...

Hon. Speaker: Member for Migori.

Hon. Fatuma Mohammed (Migori County, Independent): Nakushukuru Mhe. Spika, kwa kunipatia nafasi hii. Sisi kama Waislamu kawaida tumejitayarisha kufa. Tunajua kufa ni haki ambayo mtu hawezi kuchelewesha wala kubadilisha. Lakini tunahuzuni kama watu wa Nyanza. Huyu alikuwa kijana wetu ambaye tulipeana kwa nchi na tumekubali amekufa. Ila nashangaa, maanake kila mtu ambaye ameongea hapa, analaumu kwamba ndege ilikuwa na hitilafu. Mumejuaje ndege ilikuwa na hitilafu? Mimi kama Mkenya nawaomba muwe na utulivu kwa sababu tunachangia kifo cha mtu aliyekuwa wa maana sana na tunahuzunika. Naomba muwapatie wanaofanya uchunguzi nafasi nzuri yakutuambia nini iliua Generali. Kama wanajua ndege ilikuwa na hitilafu basi wachukue lawama kwa sababu inaonekana tayari nini kilitendeka.

Zaidi, naomba Serikali ipeane pole kwa familia ya Generali Ogolla ambaye amelaumiwa kisiasa. Tutakuwa tunafanya utani tukisema tunahurumia familia yake na huku tunamlaumu kisiasa ila hakuwa anafanya siasa. Tafadhali tupatie familia na Wakenya waliokuwa wanampenda nafasi ya kuomboleza. Tuwachie Serikali na wale ambao wanafanya uchunguzi nafasi ili tujue kile kilichomuua. Kama ni ajali tujue ni ya aina gani na ilifanyikaje na kwa sababu gani. Tujue hitilafu ilikuwa wapi. Lakini tusipeane jibu kabla hatujajua nini kilifanyika. Naomba Mwenyezi Mungu...

Hon. Speaker: Hon. Dido Raso and after him the Leader of the Majority Party then we close.

Hon. Ali Raso (Saku, UDA): Thank you very much, Hon. Speaker. I rise to pay tribute to General Ogolla and nine other gallant officers, men and women, who fell in that terrible aircraft crash. I know General Ogolla because we joined KDF around the same time. Our paths crossed as he grew up in the Kenya Air Force while I was in the Kenya Army. He was a Fast Jet Officer because he flew jets which fly faster than the speed of sound. This time around, he did not die in a jet but in a helicopter that flew low and slow. That is the fate that can befall one. But he leaves a legacy as a professional, humble and diligent man who had a focused approach to making Kenya's defence better. We also lost a young man from Marsabit called Mohamed Sora, who just got promoted on Tuesday last week. He happened to be the only pilot from the Borana Community who flew in the Kenya Air Force. That is what could happen in such a tragic situation.

Finally, there is the issue of banditry, lawlessness and impunity. People who have taken over vast parts of this country...

Hon. Speaker: Thank you. Hon Members, I still see a lot of interest. I now reduce the time to one minute. Next is the Member for Kajiado South.

Hon. Parashina Sakimba (Kajiado South, ODM): Thank you, Hon. Speaker. I join my colleagues in mourning and consoling the families of the Chief of Defence Forces, Gen. Ogolla and the other KDF soldiers who lost their lives in the line of duty. I will remember Gen. Ogolla in the line of professionalism and leadership where he became a role model and led as expected in KDF.

In a special way, I wish the survivor of the crash, Colonel ole Kuruta Kasaine, who hails from my region, a quick recovery. My constituency is proud of him and we thank God for saving his life and giving him a second chance to serve the Republic of Kenya in KDF.

Thank you.

Hon. Speaker: Next is Hon. Wanjala.

Hon. Raphael Wanjala (Budalangi, ODM): Thank you, Hon. Speaker. Budalangi is a neighbouring constituency to Alego Usonga. The constituents of Budalangi, Alego Usonga and Siaya celebrated having a senior person in Government. Unfortunately, God loved him more than we did. He is gone but we want it to be on record that many of our gallant sons from those areas have died in mysterious circumstances. We lost Ouko and we have now lost Ogolla and many others who have died in such circumstances.

Hon. Speaker: Hon. Ruku, you have a minute, so you better deliver your message quickly.

Hon. Ruku GK (Mbeere North, UDA): Thank you, Hon. Speaker. I condole with the families of the victims of the military air crash. I happened to share a platform with Gen. Ogolla in Burundi during the East Africa Special Summit where he was a dedicated security expert in matters Eastern Congo. At the same time, I condemn Oburu Oginga's remarks during the burial of the late Gen. Ogolla castigating the young man when he is mourning his dad. That was bad and uncalled for.

Thank you, Hon. Speaker.

Hon. Speaker: Next is the Member for Gichugu.

Hon. Gichimu Githinji (Gichugu, UDA): Thank you, Hon. Speaker. Among the soldiers who perished alongside Gen. Ogolla are Senior Sergeant John Kinyua Muriithi from Kirinyaga Central and Sergeant Rose Nyawira from Mwea. I echo my colleagues in condoling the families of the deceased and wish a quick recovery to the survivors. I urge the leaders of those areas where the soldiers were on duty to sit down and put their minds together to come up with solutions to end banditry and restore security in those areas.

Thank you.

Hon. Speaker: Next is Hon. John Waluke.

Hon. John Koyi (Sirisia, JP): Thank you, Hon. Speaker. I also take this chance to condole with the family of Gen. Ogolla and the nine others who departed with him. I worked with Gen. Ogolla together with Hon. Raso. He was a good officer who truly took care of the military during his time in office before his demise. I used to see him on social media going for a morning run with junior soldiers. That is to show that he took care of his soldiers. So, this...

Hon. Speaker: Hon. Bensuda.

Hon. Atieno Bensuda (Homa Bay County, ODM): Thank you, Hon. Speaker, for this opportunity. I join my colleagues in eulogising the late CDF. There are many lessons learnt but there is no time. In eulogising the late Gen. Ogolla, cultural practices for diversity are upheld in the Constitution. We have not fully concluded mourning Gen. Ogolla. When you see the region carrying on mourning him, know that it is upheld in the Constitution.

Secondly, talking from the perspective of the President's remarks, when an *ad hoc* committee or any committee of inquiry is formed to provide a report, he will make sure that the truth and nothing but the truth is...

(Hon. Atieno Bensuda spoke off the record)

Hon. Speaker: Order, Hon. Bensuda. Your time is up. Next is Hon. KJ.

Hon. John Kiarie (Dagoretti South, UDA): Thank you, Hon. Speaker. I had the honour and privilege to meet Gen. Ogolla and his family. What a fine gentleman and a big loss for this

country. The Book tells us we shall know them by their fruits. Through the family, we got a sneak preview of the kind of gentleman, person, and demeanour Gen. Ogolla had. Most importantly, he was a teacher who is teaching us even after his death. He is telling us that we need to rethink our final rights as a country. We cannot have villages that spend more on funerals than they do on the education of their children. The leadership of Gen. Ogolla is something to be emulated even in his death.

Finally, I just pray that God teaches me to number my days so that...

Hon. Speaker: Hon. Robert Mbui.

Hon. Robert Mbui (Kathiani, WDM): Thank you, Hon. Speaker. As grandson of the first Four-Star General in Kenya, the late Gen. Jackson Kimeu Mulinge, I rise to condole with the families of the bereaved. Gen. Ogolla is the first officer, or rather, general, to die in office. Therefore, there will be many questions. You heard what the son said during the General's funeral. He said his father was physically fit, but he somehow also prepared them for his demise. Those are the kinds of questions that we need answered. We should hasten the investigations. If possible, this House should also play a role in ensuring that we put this issue behind us so that Kenyans can have proper and full closure.

Hon. Speaker: Hon. Donya.

Hon. Dorice Donya (Kisii County, WDM): Thank you, Hon. Speaker. As we continue mourning our hero, we have attended many funerals and learnt many things. I did not witness women fighting or children coming on board during Gen. Ogolla's funeral and burial ceremony. He led and taught us, and we give him *heko* because he was well behaved. Now everybody has an appetite for his family's morals.

Hon. Speaker: Member for Endebess.

Hon. (Dr) Robert Pukose (Endebess, UDA): First and foremost, thank you, Hon. Speaker, for letting this House honour our fallen heroes, the Chief of the Kenya Defence Forces, Gen. Ogolla, and the other nine officers who died in an aircraft in West Pokot.

It was a sad day for our country. We say *pole* to the family and to all those people in whose lives Gen. Ogolla made a difference, especially our disciplined forces, the Kenya Defence Forces, who have excelled in many peace missions within the region and far away.

The issues of cattle rustling, which he was following up on are very emotive. We hope that the Government will deal with them, once and for all.

Hon. Speaker: Hon. Members, we have offered tributes for a full hour. Allow me to truncate the debate here and call the Leader of the Majority Party as the last speaker on this. Bear with us.

There will be a Motion tomorrow by Hon. Ruweida to do with the army. Please be available to make...

(Hon. Rozaah Buyu spoke off the record)

Hon. Rozaah, you have just come in. Some people have been here all this time and they did not get a chance to contribute.

Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. Allow me to join the House in condoling with the family of the late Gen. Ogolla and the other nine gallant officers, including the pilot, Major Magondu, who lost their lives in the tragic crash last week on Thursday.

Hon. Speaker, you remember that it was Hon. Millie Odhiambo who drew the attention of the House to the crash and the tragic losses on Thursday evening. It was not yet clear at that time exactly what had happened, just as it is not yet clear exactly what led to that crash.

During Gen. Ogolla's funeral last Sunday, the President committed that the Government of Kenya and the KDF have already set up a team to investigate the circumstances that led to that very unfortunate accident. I join the President in reassuring the House and the country that the KDF will embark on investigations to ascertain exactly what led to that unfortunate accident, as they have always done in a very professional way.

Hon. Speaker, it is good that you gave us this opportunity to not only mourn our departed colleagues and great countrymen, but to also reconsider our stand when the military comes before the House looking for resources to modernise their equipment. I hope the Chairperson of the Departmental Committee on Defence, Intelligence and Foreign Relations is listening. I have heard many Members criticise, without knowledge, the modernisation of military equipment during the budget-making process. This tragedy probably offers us an opportunity to seriously consider modernising all our military equipment, including our military and police aircraft, as well as the presidential jet in this coming financial year and the next few financial years. The current presidential jet was purchased in the early or late 1980s by former President Daniel arap Moi. This tragedy offers us an opportunity to reconsider modernising all this equipment, be it aircraft or other military equipment, so that it is safe and good for use, not just by the military, but also other Government officers.

As we remember Gen. Ogolla and the other nine gallant officers, let us also remember to pray for their families. We should also remember that all military officers give their lives to protect us so that we live in a peaceful and secure country. As we mourn them, we must remember the families they have left behind. I must commend the KDF because we have seen the support they have extended, not just to Gen. Ogolla's family, but to the families of the other officers who lost their lives, and those that lost their lives in earlier accidents, like the one in Ngong. The military and the KDF continue to offer very good support to those families. I ask the House to also consider larger budgetary allocations to the military to be able to offer better...

Hon. Speaker: Thank you, Hon. Members. We will end there. I want to echo what one of you said. Members of this House and leaders from the counties and constituencies in the North Rift, namely, Elgeyo Marakwet, West Pokot, Baringo, Laikipia, Samburu, Turkana and others, please, sit and make peace.

(Applause)

If we did not have peace challenges in those regions, the General would not have gone there to help construct special schools under special circumstances. Get together, talk and embrace peace. You lead the people who are fighting, raiding and killing each other. Take a moment of your time. Those young people wielding Kalashnikovs and G3s are our boys. Get down there and talk to them. Take them to school, reform them and give them alternative activities to engage in other than cattle rustling and killing each other. We would still have Gen. Ogolla and the nine other officers.

Leadership must start from this House. If you want to amend the law to give you an opportunity to spend part of your National Government Constituencies Development Fund (NG-CDF) on security issues, so be it. That will allow you to change the situation.

Let us go back to the normal order of business. Before we call out the next Order, allow me to recognise the Syokimau East SDA Church Pathfinder Club from Mavoko, Machakos County, and the Aga Khan School Kisumu, Kisumu Central Constituency, Kisumu County in the Public Gallery.

Next Order.

MESSAGE

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ESTABLISHMENT OF MEDIATION COMMITTEES ON THE EMPLOYMENT (AMENDMENT) BILL
AND THE NATURAL RESOURCES (BENEFIT SHARING) BILL

Hon. Speaker: Order, Hon. Members.

(Hon. Jane Kagiri stood along the gangway)

Member for Laikipia County, take your seat.

Hon. Members, pursuant to the provisions of Standing Order 41(1) of the National Assembly Standing Orders, I wish to report to the House that I have received a Message from the Senate regarding the appointment of Senators to two Mediation Committees.

The Message conveys that, pursuant to Article 113 of the Constitution, the Speaker of the Senate has appointed Senators to Mediation Committees to consider the Employment (Amendment) Bill (Senate Bill No. 11 of 2022) and the Natural Resources (Benefit Sharing) Bill (Senate Bill No. 6 of 2022).

With respect to the Employment (Amendment) Bill (Senate Bill No. 11 of 2022), the Senate has appointed the following Senators –

1. Sen. Julius Murgor Recha
2. Sen. Samson Cherargei
3. Sen. George Mungai Mbugua
4. Sen. Miraj Abdilahi Abdulrahman
5. Sen. Mohammed Faki, CBS
6. Sen. Erick Okong'o Omogeni, Senior Counsel
7. Sen. Crystal Asige

With regard to the Natural Resources (Benefit Sharing) Bill (Senate Bill No. 6 of 2022), the Senate has appointed the following Senators –

1. Sen. John Methu Muhia.
2. Sen. Danson Mungatana, MGH
3. Sen. (Dr) Steve Ltumbesi Lelegwe, CBS.
4. Sen. Wahome Wamatinga
5. Sen. Johnes Mwaruma
6. Sen. Agnes Kavindu Muthama
7. Sen. Beatrice Akinyi Ogolla

Hon. Members, you will recall that in the month of March 2024, the House rejected the Employment (Amendment) Bill (Senate Bill No. 11 of 2022) and the Natural Resources (Benefit Sharing) Bill (Senate Bill No. 6 of 2022). This effectively committed the two Bills to Mediation Committees, pursuant to Article 112(1)(a) of the Constitution. Subsequently, I appointed seven Members to each Committee to represent the National Assembly, vide Communications issued on 7th March 2024 and 13th March 2024.

Following the appointment of Senators, the Mediation Committees are now fully constituted as contemplated under Article 113 of the Constitution. I, therefore, call upon the Committees to expeditiously consider the respective Bills and submit their versions for consideration by the Houses of Parliament.

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

I thank you, Hon. Members.

Next Order.

PAPERS

Hon. Speaker: Leader of the Majority Party.

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

1. Legal Notice No. 64 of 2024 relating to the Tax Procedures (Electronic Tax Invoice) Regulations, 2024 and the Explanatory Memorandum from the National Treasury and Economic Planning.
2. First Half National Government Budget Implementation Review Report for Financial Year 2023/2024 from the Office of the Controller of Budget.
3. First Half County Governments Budget Implementation Review Report for Financial Year 2023/2024 from the Office of the Controller of Budget.
4. Report of the Auditor-General and Financial Statements of National Heroes Council for the 13 Months Period ended 30th June 2023 and the certificate therein.
5. Reports of the Auditor-General and Financial Statements for the year ended 30th June 2023 and the certificates therein in respect of:
 - (a) Multimedia University of Kenya.
 - (b) National Environment Management Authority.
 - (c) Kenya Export Promotion and Branding Agency.
 - (d) National Environmental Complaints Committee.
 - (e) Konza Technopolis Development Authority.
 - (f) Centre for Mathematics, Science and Technology Education in Africa.

I thank you, Hon. Speaker.

Hon. Speaker: Thank you. Chairperson, Departmental Committee on Trade, Industry and Cooperatives. Hon. Kitany.

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

Report of the Departmental Committee on Trade, Industry and Cooperatives on its consideration of the Economic Partnership Agreement between the European Union and the Republic of Kenya.

Thank you, Hon. Speaker.

Hon. Speaker: Chairperson, Departmental Committee on Justice and Legal Affairs, Hon. Murugara.

Hon. George Murugara (Tharaka, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Justice and Legal Affairs on its consideration of the Independent Electoral and Boundaries Commission (Amendment) Bill (National Assembly Bill No. 10 of 2024).

Thank you, Hon. Speaker.

Hon. Speaker: Thank you. Chairperson, Committee on Delegated Legislation, Hon. Chepkonga.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Committee on Delegated Legislation on its consideration of the Public Finance Management (Kenya Millennium Development Fund) Regulations, 2024 (Legal Notice No. 51 of 2024).

I thank you, Hon. Speaker.

Hon. Speaker: Next Order.

NOTICES OF MOTIONS

Hon. Speaker: Member for Aldai has two Notices of Motions. Go ahead.

FORMULATION OF REGULATORY FRAMEWORK ON ARTIFICIAL INTELLIGENCE IN THE COUNTRY

Hon. Marianne Kitany (Aldai, UDA): Hon. Speaker, I beg to give notices of the following Motions:

THAT, aware that the world is rapidly embracing Artificial Intelligence (AI), which is the use of a digital computer or computer-controlled robots to perform tasks commonly associated with intelligent beings; acknowledging that the 2022 Government Artificial Intelligence Readiness Index Report ranked Kenya fifth in Africa and 90th globally in readiness to adapt AI; further acknowledging that the Oxford Insights Survey Report 2022, pegged Kenya's readiness to adopt AI at 40.3 per cent; appreciating that AI has brought forth positive benefits that have increased efficiency in different sectors such as healthcare, manufacturing and robotics; concerned that the exponential rate at which the AI is being embraced in society without proper regulatory mechanisms has caused various negative consequences such as rising cases of disinformation and fake news; noting that there is need to protect Kenyans from potential AI-instigated harms such as privacy breaches, AI-powered fake technology algorithms, algorithmic discrimination, autonomous weapons, job displacement and economic inequality, social manipulation and misinformation, financial market manipulation, and privacy invasion; now therefore, this House urges the Government, through the Ministry of Information, Communication and Digital Economy to:

- (a) formulate a regulatory framework and ethical guidelines for implementation of AI in the country to control potential misuse; and
- (b) develop and execute public awareness programme on AI to raise understanding of AI, foster transparency and promote responsible use of AI for the benefit of all.

DEVELOPMENT OF MEASURES TO MITIGATE DIGITAL EXCLUSION

THAT, aware that the Government of Kenya has prioritized digitization and automation of government processes and services as part of the Kenya Digital Master Plan (2022-2030), the blueprint for leveraging and deepening the contribution of Information and Communications Technology (ICT) to accelerate the country's economic growth, further aware that the Government is committed to consolidating industrial academic institutions and other innovators to co-invest in emerging technologies to create high quality jobs that leverage on Artificial Intelligence (AI), robotics and other technologies; cognisant of the fact that the Kenya Government intends to increase internet broadband connectivity across the country through construction of 100,000 kilometres of national fibre optic connectivity network; concerned that as the country rapidly digitises services and processes, the high costs of data internet services as well as purchase of internet enabled digital devices may lead to digital exclusion of a majority of Kenyans; recognising that there is need to bridge the existing gap in ICT to ensure inclusivity in access to internet and make Kenya a regional ICT hub while keeping

pace with the shifting technological changes; noting that the Government's plan for a digital superhighway may not be realised without deliberate interventions to lower the data costs; now, therefore, this House resolves that the Kenya Government, through the Ministry of Information, Communications and the Digital Economy, formulates a policy to:

1. regulate internet billing by Internet Service Providers (ISPs) by providing metered billing of internet use based on consumption in order to mitigate exploitation and secure economic interests of internet users in line with Article 46 of the Constitution; and,
2. require the ISPs to develop and deploy quality metered billing systems capable of monitoring customer usage, convert to readable details and creating invoices based on consumption and align their metrics with the value the customers get from various internet services.

Hon. Speaker: Thank you. Vice-Chairlady, go ahead and give notice of the next Motion.

RATIFICATION OF THE ECONOMIC PARTNERSHIP AGREEMENT
BETWEEN THE EU AND THE REPUBLIC OF KENYA

Hon. Marianne Kitany (Aldai, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Trade, Industry and Cooperatives on its consideration of the Economic Partnership Agreement between the European Union and the Republic of Kenya, laid on the Table of the House on Tuesday, 23rd April 2024 and pursuant to the provisions of Section 8(4) of the Treaty Making and Ratification Act of 2012, approves the ratification of the Economic Partnership Agreement between the European Union and the Republic of Kenya.

Hon. Speaker: Hon. Chepkonga, Chairperson of the Committee of Delegated Legislation.

APPROVAL OF PUBLIC FINANCE MANAGEMENT
(KENYA MILLENNIUM DEVELOPMENT FUND) REGULATIONS, 2024

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of Committee on Delegated Legislation on its consideration of the Public Finance Management (Kenya Millennium Development Fund) Regulations, 2024, laid on the Table of the House on Tuesday, 23rd April 2024 and pursuant to the provisions of Section 24(4) of the Public Finance Management Act, 2012, approves the Public Finance Management (Kenya Millennium Development Fund) Regulations, 2024 (Legal Notice No. 51 of 2024) subject to publishing a corrigenda to correct the minor errors appearing in Regulations 11 and 16.

Hon. Speaker: Thank you. Next Order by the Member for Emuhaya Constituency.

QUESTIONS AND STATEMENTS

REQUESTS FOR STATEMENT

INSECURITY IN EMUHAYA CONSTITUENCY

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, 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 Administration and Internal Affairs regarding the rise of insecurity in Emuhaya Constituency.

Article 29 of the Constitution of Kenya provides for the right of every person to freedom and security. This includes the right not to be subjected to any form of violence from either public or private sources, or subjected to torture in any manner. Unfortunately, there have been rampant cases of insecurity in the country, especially in Emuhaya Constituency. For instance, on the night of 13th April 2024 at Emakakha Shopping Centre in Emuhaya North, East Bunyore Ward, armed assailants attacked and killed two people: Mr Edward Atsibilwa of ID No. 7350679 and Mr Luka Ongaya Khasele of ID No. 1971558, who are a businessman and watchman respectively.

On the same night, assailants raided three shops in the area and stole an undetermined amount of goods and money. Additionally, Mr Samson Masiele of ID No. 31814108 was killed on 23rd March 2024 in Esasaba Sub-location in Emuhaya Constituency, Central Ward, while three other people namely Mr Benson Maina, Mr Joseph Achinga and Mr Kennedy Ochingwa from Luanda were murdered on 24th February 2024 and their bodies dumped at Mulukhoro near Luanda in Emuhaya Constituency. Similarly, Mr Alfred Esikuli was killed and his head chopped off in September 2023 under unclear circumstances.

The rise of insecurity within the constituency places area residents in grave danger. Despite several efforts, the insecurity seems unlikely to reduce seeing that police stations are understaffed and without equipment like patrol cars. Further, there seems to be a form of laxity among law enforcers, which poses great risk to the security of both residents and business owners within the constituency given that all officers are mopped up at night and taken to the border post at Embali Police Station.

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

1. What plans are underway to equip police stations in Emuhaya Constituency with patrol vehicles in order to enhance mobility of enforcing security officers?
2. What measures has the Government put in place to ensure deployment of additional officers to police stations in Emuhaya Constituency?
3. When does the Ministry intend to gazette the police posts at Ebukhaya, Ipali and Emurembe for use and operationalisation to enhance security in the area?
4. What plans are underway to bring to book those who killed Mr Edward Atsibilwa and Mr Luka Ongaya Khasele so that the families may rest knowing the truth?

The Vihiga County police boss took away the only patrol vehicle this area had for his personal use and at the expense of the people. Thank you.

Hon. Speaker: The Chairman of the Departmental Committee on Administration and Internal Affairs, Hon. Tongoyo. Hon. Raso, that is your Committee. You have two weeks.

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

Hon. Speaker: Hon. Dorice Donya.

HARVESTING AND STORAGE OF WATER IN NYANZA REGION

Hon. Dorice Donya (Kisii County, WDM): Hon. Speaker, pursuant to Standing Order 44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Blue Economy and Irrigation regarding the status of harvesting and storage of rain water in

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the Nyanza Region, specifically Kisii County which experiences heavy and reliable rainfall throughout the year. The county is also known as the food basket of the country owing to its fertile soils and consistent rainfall all year round. It is regrettable that immediately after the rains our people flock to the springs and rivers to fetch water. With the absence of proper drainage, the area residents and animals are swept away by the resultant floods causing deaths. Various attempts to approach different organisations to help in harvesting rainwater have been unsuccessful.

Hon. Speaker, it is against this background that I request the Chairperson of the Departmental Committee on Blue Economy, Water and Irrigation to apprise the House on the following:

1. What strategies does the Ministry intend to implement to harness the excess rainfall for long-term drought mitigation?
2. What action plans has the Ministry put in place to ensure proper drainage of rainwater to protect our citizens from being swept away by heavy rains and from being infected by water-borne diseases?
3. What support mechanism is the Ministry introducing to aid communities in risky areas during and after the heavy rains, including emergency relief?

Hon. Speaker: Who is the Chairperson of the Departmental Committee on Blue Economy, Water and Irrigation? Is Hon. Bowen here? Who is the Vice-Chairperson of that Committee? Yes, Hon. Siyoi. Are two weeks sufficient?

Hon. Lillian Siyoi (Trans Nzoia County, UDA): Thank you, Hon. Speaker. I rise on a point of information to inform my colleague from Kisii County. I would like to inform her that water is a devolved function of the counties. I wish she could liaise with the county government for what she has raised here to be addressed there.

(Hon. Dorice Donya spoke off the record)

Hon. Speaker: It is not an argument between neighbours, Hon. Dorice. Order! I approved your request for the Statement. So, it is legitimately here.

(Hon. Raphael Wanjala crossed the Floor without bowing)

Order, Hon. Wanjala. You know that is out of order. Go to the Bar, bow, and cross the Floor. You are the most senior Member here. The Departmental Committee on Blue Economy, Water and Irrigation will bring a Statement in two weeks.

Next is Hon. John Mukunji, Member for Manyatta.

OPERATIONALISATION OF THE REHABILITATION FUND

Hon. Gitonga Mukunji (Manyatta, UDA): Thank you, Hon. Speaker. Pursuant to the provisions of Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Department Committee on Health regarding the operationalisation of the Rehabilitation Fund.

Over the years, the country has witnessed a growing problem of drug and substance abuse. Communities across the country have grappled with the issue of drug and substance abuse with the devastating consequences of addiction adversely affecting individuals, families, and the society at large. In the recent past, there has been an upsurge in the prevalence of illicit brew consumption and narcotic drugs in regions across the country. The unregulated sale and distribution of these harmful substances has become widespread leading to increased instances

of drug addiction and a myriad of social and health issues. This alarming trend underscores the urgent need for holistic strategies to combat substance abuse effectively and holistically.

While the Government has taken commendable steps through the enactment of punitive regulations and directives, it is essential to complement these actions with practices and policies that focus on prevention, treatment, and recovery services for individuals. Section 53 of the Narcotic Drugs and Psychotropic Substance (Control) Act of 1994 provides for the establishment of a Rehabilitation Fund to meet the expenditure relating to the running of rehabilitation centres, including the care and treatment of rehabilitated people and persons struggling with drug and substance abuse. However, despite the provision, there exists a gap in the operationalisation and implementation of the Rehabilitation Fund, which hampers efforts to combat substance abuse effectively as it will provide a necessary alternative to individuals struggling with substance addiction issues.

It is against this background that I request for a Statement from the Chairperson of the Departmental Committee on Health addressing the following:

1. why the Rehabilitation Fund is currently not operational;
2. provide a report on the number of rehabilitation centres operated by the Government in the country; and,
3. state the specific measures the Government has put in place to help individuals struggling with drug and substance abuse.

Hon. Speaker: Chairperson of the Departmental Committee on Health, Hon (Dr) Pukose, are two weeks enough for you? That is a request for a Statement directed at your Committee.

Hon. (Dr) Robert Pukose (Endebess, UDA): Yes, Hon. Speaker. Two weeks will be okay. Thank you.

Hon. Speaker: Hon. Paul Nzengu.

STATUS OF ALLOCATIONS FOR ROAD MAINTENANCE UNDER KERRA DEVELOPMENT FUND

Hon. (Eng) Paul Nzengu (Mwingi North, WDM): Hon. Speaker, pursuant to Standing Order 44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Transport and Infrastructure regarding the current state of county allocations for roads maintenance under the Kenya Rural Roads Authority (KeRRA) Development Fund for April 2024 to June 2024.

As Members are aware, the implementation of KeRRA Procurement Plan on various roads maintenance projects commenced on 15th of April 2024. According to the procurement plan and the distribution of the allocations, four counties namely; Garissa, Lamu, Samburu and Vihiga are left out without any allocation. Five other counties being Busia, Kilifi, Laikipia, Tana River and Kwale were allocated less than Ksh8 million each. Eleven counties are allocated a sum of between Ksh21 million and Ksh50 million, and a further 13 counties are allocated between Ksh90 million and Ksh170 million. Out of the total of 47 counties, only three counties are allocated a sum of Ksh240 million. These allocations are skewed, and neither do they represent the face of the country. This is an urgent matter that requires the intervention of this House. If left unaddressed, it will unfairly disadvantage many Kenyans. Guided by the provisions of the Kenya Roads Act 2007, the law requires equitable or equal allocation to all concerned counties where KeRRA exercises its mandate.

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

1. Could the Chairperson explain the criteria used to allocate funds leading to the huge discrepancies noted and leaving other counties without any allocation?

2. What measures is the Government taking to alleviate the unnecessary discrepancies in funding and ensuring that there is equitable development of the entire country?

Hon. Speaker: Thank you, Hon. (Eng) Nzengu. Chairperson of the Departmental Committee on Transport and Infrastructure. Where is Hon. GK? Who is the Vice-Chairperson? Leader of the Majority Party, communicate to them to bring the Statement in two weeks.

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

Hon. Speaker: Who is the Chairperson of the Departmental Committee on Social Protection? Are you the one delivering a Statement in respect of Hon. Liza Chelule's request?

Hon. Joseph Makilap (Baringo North, UDA): Yes, Hon. Speaker.

Hon. Speaker: Go ahead.

DELAYED PAYMENT OF PENSION TO EMPLOYEES OF DEFUNCT PYRETHRUM BOARD OF KENYA

Hon. Joseph Makilap (Baringo North, UDA): Hon. Speaker, upon the request by Hon. Lisa Chelule, Member of Parliament for Nakuru County, we sought a response from the Cabinet Secretary for Finance and National Planning as a Committee. Their response is as follows:

The Pyrethrum Processing Company of Kenya (PPCK) was incorporated on 8th November 1963 as a limited company. It is a subsidiary company of the Pyrethrum Board of Kenya with Pyrethrum Board of Kenya having almost 100 per cent shareholding. According to the State Corporations Act, CAP 446, the PPCK, being a subsidiary of a State Corporation, is by law a State Corporation.

Upon the commencement of the Agriculture and Food Authority Act of 2013, PPCK assumed the commercial functions of the Pyrethrum Board of Kenya. The Agriculture and Food Authority (AFA) became a regulator of the pyrethrum industry by creating a directorate. These reforms in the pyrethrum industry resulted in liberalisation, attracting new players at various levels of the value chain. This resulted in AFA licensing four pyrethrum processors, including PPCK and other pyrethrum processing companies which are privately owned.

The Pyrethrum Board of Kenya Staff Superannuation Scheme was established on 1st January 1991. It was constituted as defined benefit scheme. Under the scheme, employees contributed five per cent and the employer, 15 per cent. The Pyrethrum Board of Kenya, the employer, started failing to remit pension contributions around 2003 to the Scheme Administrator, Barclays Bank. The PPCK business performance resulted in losses persistently since 1997. The company, for a long time, failed to remit staff statutory and other employee voluntary contributions to relevant authorities and institutions.

Following several reminders by the Retirement Benefits Authority for Pyrethrum Board of Kenya to surrender non-core assets to the scheme to avoid members missing their monthly pension, RBA lodged Petition No.24/2012 at Milimani Commercial Court to wind up the scheme. On 1st December 2016, the court directed the scheme to be wound up, and sponsors' assets be liquidated to generate funds to pay the pensioners.

Subsequently, in adherence to an Order of the High Court, the scheme was liquidated on 26th May 2017 and the official receiver was appointed. The official receiver, as a liquidator, had explored various avenues to secure funding of the pension scheme in order to settle the debt owing to PPCK pensioners and other beneficiaries. One of the avenues available to the receiver was the disposal of non-core assets of PPCK. To date, more than 70 out of 444 pensioners have passed on without receiving their dues.

A Cabinet Memorandum on the transfer of the non-core assets of the Pyrethrum PPCK to the scheme was submitted to the NDITC in May 2021. However, a decision is yet to be

made. The PPCK's Board of Directors, at a meeting on 6th May 2022, passed a resolution that approved a transfer of 13 non-core assets valued at Ksh1,151,792,000 to the official receiver to settle long outstanding dues to pensioners and beneficiaries of the Pyrethrum Board of Kenya Staff Superannuation Scheme. The Attorney-General *vide* letter WC24/2012 dated 23rd May 2022 supported the transfer of non-core assets of PBK to pay pensioners. Subsequently, the National Treasury *vide* letter TNT/PENS/12/5 dated 19th August 2022 advised that the transfer of 13 earmarked parcels of land to the official receiver to offset their pension deficits awaits a decision of the Cabinet. The National Treasury *vide* a letter TNT/PENS/12/5 dated 15th February 2024 requested the Cabinet Secretary, Ministry of Agriculture and Livestock Development, to initiate a Cabinet Memorandum to facilitate the transfer of identified non-core assets of PPCK formally PPK to offset pension deficits.

The National Treasury is concerned about the suffering of this group of beneficiaries who have visited us to follow up on the status of pension dues. The last visit was on 31st January 2024. Towards addressing this kind of situation, now and in the future, the National Treasury, as a matter of principle and policy, requires all Government entities to manage their liabilities without recourse to the national Exchequer. It is on this basis that all pension schemes sponsored by State Corporations were converted, at the beginning of the 2010/2011 Financial Year, from defined benefits to defined contribution schemes. This is in order to minimise liabilities of State Corporations and, by extension, contingent liabilities to the national Exchequer.

In conclusion, the National Treasury and Economic Planning remains available to support the Committee when called upon to respond in respect to the settlement of pension dues to the PPCK pensioners.

Hon. Speaker: Hon. Lisa Chelule. You have heard the Statement. Are you satisfied?

Hon. Liza Chelule (Nakuru County, UDA): Thank you, Hon. Speaker for this opportunity to respond to the answers that have been given by the Chairperson of the Departmental Committee on Social Protection.

Hon. Speaker: You do not respond; you seek clarification!

Hon. Liza Chelule (Nakuru County, UDA): Sorry, Hon. Speaker. I thank the Hon. Chairperson for being committed to this question and transferring it to the National Treasury. The Cabinet Secretary for Treasury and Economic Planning has been able to explain the chronology of events as they happened in the time of PBK and PPCK. I am happy to report that I am satisfied with the response. The National Treasury has undertaken to instruct the relevant Committee to do a memorandum in relation to the payment of the pensioners. I will follow-up on the matter and even have a discussion with the relevant State officers. I confirm that I am satisfied with the response.

Hon. Speaker: Yes, Hon. Makilap. Any comment?

Hon. Joseph Makilap (Baringo North, UDA): Hon. Speaker, Hon. Chelule is satisfied with the response that we have given.

Hon. Speaker: Thank you. Next Order!

BILLS

Second Reading

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

(Moved by Hon. Marianne Kitany on 18.4.2024)

(Debate concluded on 18.4.2024)

(Question put and agreed to)

*(The Bill was read a Second Time and
Committed to Committee of the whole House)*

First Reading

THE UNCLAIMED FINANCIAL ASSETS (AMENDMENT) BILL
(National Assembly Bill No. 15 of 2024)

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

Second Reading

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

(Moved by Hon. Owen Baya on 16.4.2024)

(Resumption of debate interrupted on 18.4.2024)

Hon. Speaker: Is Hon. Peter Kihungi in the House? He had seven minutes to go. It is forfeited.

Hon. Mishi Mboko.

Hon. Mishi Mboko (Likoni, ODM): Ahsante sana, Mhe. Spika. Nimesimama kuunga mkono Mswada huu wa Tume ya Ardhi tukizingatia ya kwamba Wakenya walipiga kura ya kubadilisha Katiba. Mojawapo ya mabadiliko ilikuwa kuunda Tume ya Ardhi. Sababu ya kuunda Tume ya Ardhi ni kuwa kulikuwa na malalamiko mengi sana kuhusu dhuluma za kihistoria za ardhi.

Kifungu 62 cha Katiba kinasema kuwa ardhi ya umma itakuwa chini ya usimamizi wa Rais kupitia Tume ya Ardhi. Hivyo basi, Tume hii ni muhimu sana. Kifungu 67 kimezungumzia kuanzishwa kwa Tume ya Ardhi na majukumu yake, ikiwemo usimamizi wa ardhi za umma. Kati ya majukumu hayo, kuna kusimamia ruzuku. Kwa wale ambao hawataelewa, ruzuku ni *grants*. Kwa hivyo kuna suala la kuzisimamia na kutathmini kama ugavi wake ulikuwa sawa ama ulikuwa na shida.

Muda ambao ulipatiwa Tume ya Ardhi kuangalia masuala haya ulikuwa miaka mitano. Sasa hivi, tunachelea ya kwamba Tume itakosa mamlaka hayo. Lakini bado tuko na matatizo nyeti sana haswa mambo ya dhuluma inayotokana na ardhi. Machafuko mengi sana katika taifa letu la Kenya yalikuwa kwa sababu ya shida zilizotokana na umilikaji wa ardhi. Hii ndiyo sababu tulisema tuwe na Tume itakayosaidiana na Wizara ya Ardhi katika kutathmini suala hili la matatizo ya ardhi na kuangalia ruzuku.

Katika sehemu nyingi za taifa la Kenya, kuna watu ambao walipatiwa ruzuku kwa njia za kisiasa na ambazo hazikuwa mwafaka wala sawa. Katika ardhi zile, watu hawapatikani, hawaonekani na hawajulikani wako wapi. Wakati Serikali inajaribu kutatua matatizo ya maskwota kwa kutumia ardhi kama hizi, inakuwa ni shida kwa sababu wale waliopatiwa hawapatikani. Lazima Tume ya Ardhi iendelee na kazi yake ili tuweze kuangalia ruzuku hizi zilipeanwa kwa njia gani. Je, wale waliopatiwa ruzuku hizi bado wako ama hawako? Na kweli

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walikuwa ni walengwa ama ni wale wale ambao walipata kupitia njia za kisiasa zisizo sawa? Hii itatusaidia kutathmini hali.

Vile vile, Mhe. Owen amekizungumzia Kifungu 15(3) na kusema lazima kifutwe. Hii ni kwa sababu kikiwa hapo, kitakuwa pingamizi katika kutekeleza shabaha za Tume ya Ardhi. Wakenya walizungumzia kuwepo kwa Tume ya Ardhi kwa sababu Wizara ilikuwa hapo kwa miaka mingi sana na haikuweza kutathmini, haswa kuangalia zile dhuluma za kihistoria za mambo ya ardhi. Kwa mfano, Serikali ilianguka ile ardhi ya Mazrui iliyoko sehemu za Kilifi na ikasema kuwa itapeana pesa kwa wahusika ili kusaidia maskwota walio pale wapewe ardhi. Iwapo Tume ya Ardhi itasitishwa kufanya kazi yake, mambo kama haya ambayo yamefanyika yatakuwa ni shida. Itabidi tena turudi mwanzo ili tuone jinsi ya kutatua tatizo hili nyeti.

Ukiangalia sehemu ya Bonde la Ufa, kuna matatizo mengi ya ardhi kupitia dhuluma za kihistoria. Pia Pwani, matatizo kama hayo ni mengi. Katika sehemu za kati nchini, vile vile tumeona matatizo hayo. Kwa jumla, Kenya nzima inayo haya matatizo.

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

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

Nilikuwa katika Kamati ya Ardhi katika Bunge lililopita. Najua, hadi sasa, kesi ambazo bado hazijaamuliwa ili kuwasaidia Wakenya ni nyingi mno. Hata tukitathmini hali hivi sasa tuchunguze Tume imetufanyia kazi ngapi katika kutatua dhuluma za kihistoria za ardhi na kutatua mambo ya ruzuku, tutapata kwamba bado shida ni nyingi na bado hatujapata uamuzi wowote. Tusianze kuvunja nguvu ama zile Tume ambazo sisi wenyewe tuliunda kupitia Katiba ya mwananchi. Tulisema kwamba Wanjiku aliongea, Kadzo ameongea, na Achieng' ameongea. Kwa hivyo, waliongea kwa sababu za kimsingi, haswa kuhusu suala la ardhi.

Mhe. Naibu Spika, suala la ardhi limeleta maafa katika taifa letu la Kenya. Limeleta sintofahamu katika jamii, haswa ardhi za umma. Hizo siku za nyuma, watu hawakuwa na uwezo wa kutengeneza stakabadhi ama kuziweka katika njia ya kisheria. Watu walikuwa wanajua ardhi ya jamii fulani, ni ardhi yao. Hivyo basi, wale wezi wa mashamba waliweza kufanya mambo ambayo si halali na kupata umiliki wa mashamba ya umma ambayo si mashamba yao. Ni lazima tupatie Tume ya Ardhi nafasi mwafaka na ya kutosha ili Wakenya na jamii zote katika ardhi zetu za umma wapate haki. Iwapo hawatapata haki itakuwa kwamba fedha iliyotumika kubadilisha Katiba ama kuunda Tume imetumika kufanya kazi bure. Zile fedha za ushuru za mwananchi wa Kenya zitakuwa zimeenda pasi na kuwa na faida.

Hili ni suala nyeti na lazima tulipatie kipaumbele kwa sababu Katiba yenyewe ishalizungumzia. Kama viongozi wa Bunge, hakuna ambaye hajaletewa matatizo ya ardhi ya dhuluma za kihistoria katika eneo Bunge lake. Tuna matatizo haya kila mahali. Kuna yale maeneo tunajua yalikuwa na matatizo sana, kwa mfano, Bonde la Ufa na ukanda wa Pwani. Jumla, Kenya nzima imekuwa na shida kuhusu ardhi. Tukisema kwamba hili suala tunaliacha, itabidi tuanze tena kutafuta sheria nyingine, kwa mfano, kurudisha jambo hili katika Wizara ya Ardhi ama tutengeneze taratibu nyingine za kusimamia suala hili. Kwa nini turudi nyuma wakati tulikuwa tushaenda hatua fulani ya kuweza kutathmini swala kama hili la dhulma ya kihistoria na kuweza kuzungumzia mambo ya ruzuku?

Vile vile, tunajua kufikia sasa, kuna mambo ya kulipa fidia ambayo yanasimamiwa na Tume ya Ardhi na bado tuna matatizo nyeti. Tuna kesi ambazo hazijapata uamuzi, zimesimama na Wakenya wanatungalia sana kuona ya kwamba Serikali ilioko mamlakani itaweza kuwapatia afueni Wakenya katika swala hili nyeti la ardhi.

Mhe. Naibu wa Spika, ninamuunga mkono Mhe. Owen Baya kwa kufikiria swala kama hili. Maanake nikiangalia Kilifi kwake, kuna kule sehemu ya Vipingo ambayo kuna ardhi zilitolewa kiholeha ambazo nyingine zilikuwa ni ardhi za umma na hadi sasa watu

hawajarejeshewa. Tuna wale ambao wanasema ardhi ni zetu lakini hawaonekani. Kwa Kiingereza tunasema *absentee landlords*. Yote hayo ni katika zile dhulma za ardhi za kihistoria ambazo bado hazijatathminiwa na hatujapata suluhu katika matatizo haya.

Kwa hivyo, ni mwafaka kuweza kuwa na Mswada kama huu, tuupitishie sote kwa jumla pale tulipo kama viongozi wa Bunge hili la Kitaifa. Wakenya wanatuangalia na wamehangaika sana. Ardhi za umma za karibu jamii zote za taifa la Kenya wamepata shida.

Asante sana Mhe. Naibu Spika na Mhe. Owen.

Hon. Deputy Speaker: Member for Kisauni, Hon. Bedzimba Rashid.

Hon. Rashid Bedzimba (Kisauni, ODM): Asante sana Mhe. Naibu Spika kwa kunipa fursa hii kuzungumzia swala la *National Land Commission*.

Ni vizuri sana kwa kitengo hiki. Katika taifa la Kenya, tatizo kubwa linalolikumba ni swala la ardhi. Na wao haswa walikuwa wamekuja kwa sababu ya kutatua uzito au matatizo ya ardhi yaliyotokea kwa kipindi cha nyuma. Kikubwa ni kwamba ningeomba wapewe nguvu zaidi ili kusudi wawe wanaweza kutatua matatizo. Sio kusikiza halafu wanawacha. Kuna ardhi nyingi ambazo wenyewe hawako, wako Oman, sehemu za bara la Waarabu, wengine wako Ulaya, lakini ardhi zile ziko hapa na watu bado wanaambiwa ni maskwota. Mtu anakuja tu na kusema nimepewa kibali na korti kusimamia mtu lakini yule mtu mwenye ardhi halipi kodi ya kaunti wala chochote.

Hii tume ya ardhi ipewe nguvu ili ikigundua kwamba hii ardhi mwenyewe hayuko, wale wanaoishi pale waweze kugawanyiwa. Wengi wamelia kwa matatizo ya ardhi. Wamejenga nyumba, wamekaa kwa kipindi kirefu, halafu inatokea ghafla wanakuja na kuwavunjia majumba yao. Hii Tume ya Ardhi ya Kitaifa izidi kupewa nguvu kisheria ili wakati wanapogundua kwamba hili jambo kweli limefanyiwa katika dhulma ya kihistoria, waweze kuwagawanyia wale walioko pale.

Pwani nzima kulitokea historia ambazo ni za kidhulma. Hata kule juu upande wa bara wana shida kama hiyo. Kwa hivyo, nimesimama pia kupongeza na kuunga mkono tume hii izidi kupewa nguvu na uwezo wa kuweza kutatua matatizo. Naunga mkono.

Asante sana Mhe. Naibu Spika.

Hon. Deputy Speaker: The Hon. Member for Buuri, Hon. Mugambi. The Hon. Member for Kaloleni, Hon. Kahindi Katana.

Hon. Paul Katana (Kaloleni, ODM): Asante Mhe. Naibu Spika kwa kunipa nafasi niweze kuunga mkono marekebisho ya sheria ya Tume ya Ardhi.

Swala la ardhi ni nyeti ambalo limetoa tumbo joto katika nchi yetu. Pwani imeathirika sana na mambo ya mashamba. Watu wengi wameitwa maskwota katika ardhi ambayo wamezaliwa na kukaa kwa miaka zaidi ya hamsini. Eneo langu la Bunge la Kaloleni halijasazwa. Katika sehemu za Shangia na Barracks, watu walikuja wakatolewa na kupelekwa mahali kwingine. Kufika kule, ile ardhi walioahidiwa wakaambiwa hakuna, wakarudi pale. Tume ya Ardhi ndio ilikuwa tegemeo la Wakenya ambao wamepoteza mashamba yao. Tunataka kuipatia nguvu, kuwe na muda wa wao kufanya uchunguzi wa dhulma za mashamba. Iweze kupatiwa muda wa kuchunguza. Inapobainika kwamba watu walidhulumiwa, waweze kurejeshewa ardhi yao.

Mhe. Naibu Spika, ni jambo la kutamausha kwamba siku hizi mabwenyenye ambao wamekuwa wakichukua ardhi za watu wachochole ambao hawawezi kuenda mahakamani kujitetea, wametumia mahakama kama njia moja ya wao kujipatia ardhi kinyume cha sheria. Kumekuwa na uvunjaji wa manyumba. Inawezekanaje mtu ameketi kwa ardhi, amejenga nyumba yake, ameishi na familia yake kwa muda wa miaka ishirini, thelathini au hamsini na hakuna mtu anayesema hii ardhi ni yangu, halafu mtu anatokea mahali akisema ana stakabadhi? Kumekuwa na utepetevu katika idara ya ardhi. Tunataka hii Tume ya Ardhi iweze kuhakikisha kwamba inafanya haki.

Tukiwa pia tunataka kuipa nguvu ili iweze kuchunguza, kuna taabu pia ndani. Niko katika Kamati ya Ardhi ya Bunge. Kume kuwa na tuhuma nyingi sana kwamba tume huwa saa nyingine haiangalii yule mtu mdogo. Inaangalia wale watu wana uwezo. Kufikia sasa, tangu *Standard Gauge Railway (SGR)* awamu ya kwanza ianze, kuna watu hadi leo hawajalipwa fidia. Ukiangalia pesa zao ni kidogo. Wale matajiri ambao walikuwa katika ardhi hizo wote walilipwa. Kuna utepetevu ndani ya Tume ya Ardhi. Tunataka kuwapa nguvu lakini pia watendee wale Wakenya wanyonge haki.

Wakiwa watafanya uchunguzi, tunataka tume ya ardhi iweze kusajili zile kesi zote ambazo watakuwa wamepatiwa na wananchi katika gazeti rasmi la serikali ili tujue ni ardhi gani na sehemu gani ambao wanafanya uchunguzi. Uchunguzi ukiisha, tunataka wakitoa maoni yao, yazingatiwe na yapelekwe kwenye mahakama. Ndio ipitishwe na mahakama kwamba ardhi ile iweze kurejeshwa wenyewe.

Tume ya Ardhi ikishirikiana na wizara wanaweza kutatua taabu za ardhi hapa nchini. Lakini shida ni maafisa ambao wako ndani ya Tume ya Ardhi na wengine wako katika wizara. Wanagandamiza na kuwadhulumu wananchi wadogo ambao kule mashinani hawawezi kutoa pesa ya hatimiliki zao. Ninaunga mkono urekebishaji wa sheria hii kusema kwamba tume ya ardhi ipewe muda wa kuweza kuchunguza dhulma za kihistoria za ardhi. Lakini pia nao wawe wazi kuhakikisha wanatendea haki nchi hii kwa kuhakikisha kwamba wale wanyonge ambao ardhi zao zimechukuliwa kimakosa ziweze kurejeshwa.

Asante Mhe. Naibu Spika kwa kunipa wakati huu. Asante Mhe. Owen kwa kuhakikisha kwamba umeleta Mswada huu wa kufanya marekebisho kwa Tume ya Ardhi.

Hon. Deputy Speaker: Member for Seme, Hon. (Dr) James Nyikal.

Hon (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Deputy Speaker for giving me the opportunity to contribute to this Bill. I start by supporting this Bill.

The Bill seeks to restore the authority of the National Land Commission through the National Land Act of reviewing the grant where there is concern or where they petition that these grants were not granted in line with the law or they were injustices that were involved. Therefore, it seeks to remove the five-year time limit that was previously imposed on the Commission by the Act. Additionally, the amendment to Section 14(9) aims to remove the requirement for the Commission to seek permission from Parliament after the five years have lapsed. The amendment to Section 15(3) seeks to remove the criteria or the conditions that had to be met for these petitions. Lastly, the amendment to Section 15(11) aims to remove the limitation that automatically repealed the entire section after 11 years.

To this extent, I support this Bill as it aims to address historical land injustices that have persisted for a long time. However, I am concerned that the removal of the five-year limitation may lead to an overkill. This is because the Commission will have the power to review land grants indefinitely, even after a review has already been conducted. Additionally, another person may come forward many years later and request a review of the same land grant. When the five-year restriction was put in place, subsection (9) gave Parliament the power to allow the Commission to review those grants, even after the five years. Therefore, the expiry of the five years is not a complete loss, as the Commission can still take action if required.

In my view, if we pass all three amendments, the review of grants based on historical injustices will continue indefinitely. This is not necessarily a bad thing, but it means that the restrictions provided by Section 15(3) will be removed. Therefore, anyone can petition for any land, at any time, without any restrictions. This fails to address the issue we are trying to correct because someone could request a review even after it has been completed. I have discussed this with Hon. Baya, and the best solution is to extend the time limit from five years to 15 years and preserve the authority of Parliament to allow petitions from the Commission. This will provide some protection.

Furthermore, I advise that Section 15(3)(e) should not be removed. This section ensures that anyone seeking a review of grants must have valid and substantiated reasons. Otherwise, it can be a free-for-all and can open up a Pandora's Box. However, I support the removal of Section 15(11), which limits the review process to only 11 years. This amendment would ensure that the review process is ongoing, even after 15 years. If necessary, we can still rely on Section 14(9), which allows the NLC to petition Parliament in case of any issues. By removing the time limit, we can ensure that the review process continues indefinitely, even after 15 years. This would be a much safer option than removing everything entirely, as the land issue is a sensitive and emotional topic. Now that there are no restrictions, one does not need to petition anybody or give reasons but just ask the NLC to review the grants.

Hon. Deputy Speaker, I support the Bill but with concerns. I will probably bring amendments to the Floor to actualise the position I am proposing.

Thank you.

Hon. Deputy Speaker: The Member for Marakwet West.

Hon. Timothy Kipchumba (Marakwet West, Independent): Thank you, Hon. Deputy Speaker, for giving me the opportunity to contribute to this very important piece of legislation. From the outset, I wish to thank Hon. Owen Baya for proposing such a progressive piece of legislation.

The National Land Commission Act is one of the most crucial laws that Parliament has passed. It tackles the issue of historical land injustices that our country has been facing since time immemorial. We hope that this Commission will finally resolve this issue once and for all. However, the drafters of this Act included some sunset clauses that created significant drawbacks in terms of implementation.

This Commission was established under Article 67 of the Constitution. Article 67(1)(e) provides that one could initiate a complaint about present or historical land injustice and recommend appropriate redress. The unfortunate thing is that the sunset clause meant that a claim could not be processed if it was more than five years old. The proposed amendment to remove that clause provides that an individual can now raise an issue without a time limit.

In my constituency, we have had issues with the Chebororwa ADC Farm. As a community, we strongly believe that this land belongs to Marakwet West Constituency, in Elgeyo Marakwet County but it was transferred to Uasin Gishu County. This is a historical land injustice. If the five-year term limit is removed, this issue can be addressed as a historical land injustice. I understand that there is also a piece of land in Kapsowar Town that was taken and reallocated for administrative purposes, and to this day, the issue has not been addressed. The people who were moved from that land have not been compensated. I firmly believe that allowing more time to investigate historical land injustices will enable us to address such issues.

Hon. Deputy Speaker, I would like to propose an amendment during the Committee of the whole House. Hon. Owen Baya should have set a timeline for addressing historical land injustices. I suggest that it should not take more than a year to address these matters. If it takes more than five years, it will be an injustice in itself. Therefore, during the Committee of the whole House, I will propose an amendment to put a time limit on addressing these issues.

I also support the amendment of deleting Section 15(11) which provides that the timeline is capped at 11 years. It was unfortunate that when this law was put in place, that section would lapse after 11 years. The section addresses the issue of historical land injustices. If we repeal that section, it would mean that historical land injustices would not be time bound. They can be reviewed at any time without the capping of time to 11 years. It is also important that we review other statutes apart from this particular piece of legislation that caps time to five years, so that historical land injustices are addressed. Time limit should not affect historical land injustices.

Hon. Deputy Speaker, I wish to rest my case there. I support these proposed amendments. I pray that Members in this House support the same. Thank you.

Hon. Deputy Speaker: Thank you. The Member for Tharaka.

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Deputy Speaker. I rise to support the Bill. On the face of it, the Bill appears to be effecting minor amendments while in essence these amendments have far-reaching effects on the NLC and what it is supposed to do. It is vitally important to note that through this particular amendment we have to extend the power of the Commission to continue reviewing all grants and disposition of public land to establish their propriety or legality since Section 14 of the Act has lapsed.

Many Kenyans do not know what the NLC does. It is supposed to deal with public land. We have made it appear like it deals with all the land in the country while that is not the case. The mandate of the Commission is on public land, especially protecting the rights pertinent thereto. Historically, Kenyans have found it extremely befitting to grab public land. To grab means to take land that belongs to the public illegally and without following the due process. What we have in the country today is that if you want to put up any public institution, it may become extremely difficult because the public land is gone. This is why we came up with the NLC to protect those rights. Where public land is taken away, this is the Commission that can confirm whether what was done was proper or improper. Once it makes a declaration that the acquisition was improper, it immediately starts the repossession process. With the lapse of Section 14 of the Act, NLC cannot perform this function. The Commission is left toothless. It will just be there to watch as greedy and hungry Kenyans take public land to the disadvantage of the common citizen. That is why it is extremely important that this amendment has been proposed. We should support it.

Another function of the NLC is to address the issue of historical injustices. We know very well that since the advent of colonialism, we have been crying because of land unjustly taken away from us. First were the colonialists themselves who thought that Africans had no land rights. So they went about grabbing our land, with no compensation whatsoever. Eventually, we were herded into settlement areas and our right to land was never recognised until in the mid-1950s. Even where they recognised the right, it was extremely unfair especially to the residents of Central Kenya. Instead of recognising land rights to benefit Africans, it was a tool to punish those the colonialists thought had been involved in the *Mau Mau* freedom fight. Through various mechanisms, including establishment of the Registered Land Act, it was made mandatory that the owner of land who held a title had an indefeasible title. It could not be challenged under whatever circumstances. Therefore, the freedom fighters who were up in the mountain fighting for Independence found themselves landless. So, the law was used to dispossess them. That was a historical injustice.

Soon after that, there were attempts to gain more land through the settlements that were being created through enactment of other laws which, although were trying to reduce the sanctity of titles, the sanctity remained paramount and unchallengeable. It is important to note today that if you obtain a title deed in an improper manner, the court has the power to declare that acquisition a nullity. Historical injustices came in when we set into politics. There were political clashes from time to time and people were displaced. There may have been arguments that the way so and so acquired land was improper because it belongs to this community and not the other, but a lot of people were dispossessed. The net effect is that these were historical injustices. I can give an example of my own constituency of Tharaka. We had made settlements in the larger Meru. That time we were one district, as they were called, and we had settled all over. Clashes were engineered by politicians on the basis that people from Tharaka Constituency had settled in areas that were not theirs, the net effect of which was to drive them out of that land. Eventually, because the politicians had the powers, they went ahead to

subdivide the land and acquire titles. When the people of Tharaka complained about those injustices, they were told the land was already demarcated and titles had been issued to third parties and those titles were indefeasible. It is for this reason that those people had to go to the NLC to seek redress on the basis that a historical injustice had been committed upon them.

There are other injustices which we can also name, including double allocation of pieces of land where you find two titles on one piece of land. Through the courts or NLC, one of the titles has to go. If they are proper titles, then somebody somewhere has to be compensated because an injustice has occurred. Another common type of injustice is where absentee landlords own large tracts of land under one title.

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

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

Hon. Temporary Speaker, they do not cultivate that land. So, trespassers have moved in and some of them have lived there for 12 to 20 years. They have acquired propriety rights to this land under the doctrine of adverse possession. Therefore, they are likely to claim that land as theirs. When you go to court with a title deed, there is another claim under adverse possession. Whichever way the court decides the case, one party is likely to suffer injustice and possibly has to go to the NLC for redress.

This is why the proposal to amend Section 15 of the principal Act is very important. So, as to ensure that the NLC retains its original powers, in spite of the fact that Sections 14 and 15 have lapsed.

Thank you, Hon. Temporary Speaker. With those few remarks, I support the Bill and urge the House to pass it.

The Temporary Speaker (Hon. Farah Maalim): Hon. Rashid Bedzimba did you want to catch the Speaker's eye? Give him the microphone, I can see his name here. Proceed.

Hon. Rashid Bedzimba (Kisauni, ODM): Asante sana, Mhe. Spika wa Muda, kwa kunipatia fursa hii niweze kuzungumzia swala la Tume ya Ardhi. Hii tume ni kitengo muhimu sana katika taifa letu kwa sababu shida kubwa ni mambo ya ardhi. Na katika dhulma za kihistoria...

The Temporary Speaker (Hon. Farah Maalim): He contributed? Order, Hon. Bedzimba. Did you contribute on this Motion?

Hon. Rashid Bedzimba (Kisauni, ODM): Hon. Temporary Speaker, I contributed.

The Temporary Speaker (Hon. Farah Maalim): Why is your name appearing again? The rules are very clear, you cannot contribute twice on the same Motion. I give this opportunity to Hon. Amina Mnyazi.

Hon. Amina Mnyazi (Malindi, ODM): Asante sana, Mhe. Spika wa Muda. Leo hii nasimama hapa kumshukuru ndugu na jirani yangu Mhe. Owen Baya, kwa kuleta Mswada huu hapa Bunge ambao ninaunga mkono. Hii ni kwa sababu watu ambao wameathirika sana ni sisi Wapwani, hususan upande wa Kaunti ya Kilifi. Maswala ya ardhi yamekuwa donda sugu sana kule kwetu.

Mimi naunga mkono ili hii tume iweze kuongezewa muda wa utendakazi. Leo hii ninavyozungumza niko na furaha na nataka kuwatangazia Wabunge wenzangu, kwamba sasa hivi nimetoka katika ofisi za hii tume kufuatilia maswala ya uwanja wa ndege kule Malindi. Mpaka dakika hii, kuna watu hawajaweza kulipwa ili ule uwanja upanuliwe.

Tume hii ni mahali tunaenda kupeleka vilio vyetu na tunapokelewa vizuri. Kama Mbunge wa Malindi nataka kusema ya kwamba dhulma za kihistoria ni nyingi sana, hususan upande wa *title deeds* ndani ya Malindi. Inashangaza ya kwamba wenye Malindi waliozaliwa

tangu mababu wetu mpaka dakika hii hawana *title deeds*. Hawawezi kujivunia mahali ambapo wamezaliwa na wanapoita nyumbani.

Ardhi nyingi kule Malindi zimezuiliwa na mabwenyenye - watu ambao hatuwatambui na hatujui walipata ardhi Malindi vipi. Mara nyingi, tumeona watu wangu wa Malindi wakivunjiwa manyumba yao na kudhulumiwa kwa njia moja ama nyingine.

Kwa hivyo, leo nasimama hapa kuunga mkono Mswada huu. Hii ni kwa sababu najua jambo la kwanza, tume hii imekua mahali ambapo tunakimbilia na wanatupatia sikio. Niko na uhakika katika upande wa ardhi za kule Pwani kuna suluhisho ambazo zimeweza kutufikia kupitia tume hii. Tukiikata mikono niko na hofu na wasiwasi ya kwamba tayari zile kesi ambazo ziko pale mpaka dakika hii hazitaweza kukamilika.

Tunapofunga hii tume mikono, wale watu ambao tayari kesi zao zilishaanza wataenda wapi na watasikizwa na nani? Mapendekezo yangu kama vile Mhe. Baya na Wabunge wengine walivyosema, ni kwamba tuunge mkono Mswada huu ili tuzidi kupatia tume hii nguvu. Tuweze kuwaongezea muda ili waweze kutatua zile shida zote za ardhi tumekua nazo.

Asante sana, Mhe. Naibu wa Spika.

The Temporary Speaker (Hon. Farah Maalim): Hon. Millie Odhiambo, did you contribute on this Motion?

Hon. Millie Odhiambo-Mabona (Suba North, ODM): No.

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

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity. I wish to congratulate Hon. Owen for bringing this Bill which I support but with a few amendments.

The principal object of this Bill is to amend the NLC Act (No.5 of 2012) to confer back to the NLC the power to continue reviewing all grants or disposition of public land, to establish their propriety and legality since Section 14 of the Principal Act has since elapsed.

I want to agree with Hon. Members that it is important we ensure that the NLC is enabled to do the work it did not complete. At the same time, we must go back to the legislative history and find out why there was a limitation. I was involved in the making of the Constitution of this country. I can tell you if you look at the Schedule, virtually for every law we provided a timeline.

I sat in the select committee that was developing that law and the insistence was that we know land is a very emotive issue, especially, the issue of historical land injustices that created conflict. We have seen women, old men, children and communities being displaced because of emotive land issues. That is why the thorny land injustice issues especially in the coastal region cannot be left open forever. If we give the NLC the opportunity to let this matter go on and on without a timeframe, then it will become another cash cow.

I have said before on the Floor of this House that in this country, when you see a task never getting completed, it is because people want to eat from it. I want to encourage my brother, Hon. Owen Baya, to not just consider leaving it open because it will not be sorted. Every time you ask whether the issue of historical land injustices has been sorted, you will be told, "We are working on it". This is because other people have their own interests. Some people will be interested in acquiring land they have discovered while others will be interested in selling land yet they have no title deed. You know how land in this country is, that is why we provided a timeline.

My suggestion is that we go by what is provided for in the original Act. We give a timeline not for five years but maybe 10 or 15 years with a mandate to report back to Parliament. They should indicate what has been done, what steps they have covered and how far they have gone. Otherwise, this will go on and on.

Another suggestion is to remove the criteria used for historical land injustices. In so doing, we will make it discretionary and, in this country, we do not love discretion. This is

because anybody who is given discretion tends to abuse it. If you even look at earlier legislation in this House, we tend to tie hands. That is why sometimes I disagree with the courts. For instance, in the Sexual Offences Act, we included minimum sentences. The reason behind this was the expectation that a reasonable person, when presented with a case where a 60-year-old man has raped a three-year-old, would jail the offender for life. But there are people who then use the discretion to let that person go off on probation.

That is why we said as Parliament that on certain issues, you need to guide even the commission that is doing that. It is not taking away their independence; it is basically empowering them with a tool so that they are not considered as misusing that discretion. Perhaps that is one of the things that you need to reconsider. Even if it means providing other standards that will guide them not to misuse or abuse. Unfortunately, I do not know why as human beings, God gives us the opportunity to learn and we do not learn. Sometimes Parliament is the most amazing. I am just about to release my book and I always tell people that the change of guard is one event away.

In the last Parliament, you were here and we were the ones making faces at you. Now you are the one sitting there as the Deputy Majority Leader, yet while sitting there you forget that circumstances change. It is just one event away and sometimes that event is as sad as General Ogolla dying in a crash. The family's tears have hardly dried but somebody else has been sworn in and is already doing his work. So, in the same manner when you are making laws, make laws for your good times and your bad times. Make a law that will work for you in season and out of season.

I understand there has been a lot of concern about the proposed amendments; there are fears that they will create... I do not want to call them historical because they are no longer historical; they are current injustices. Some people are seeking to punish others whom they deem to have taken land, claiming that it is now their turn to grab it, and attempting to extend the timeframe so that they can grab land. Grab it knowing that people will come for your own children. The same way I am saying you are sitting there, just a few months ago, you were not sitting there. Why can God not just give us a grace and mercy to learn that circumstances change? Learn to be fair and to play by the rules so that you do not put our children in a fix, but above all, so that we can also bring stability in this country.

There are things that we have heard a lot and have become like broken telephones. It is like the way nowadays I hear people talking all the time about colonialism —that we cannot do certain things because we are colonised. By the time the colonialists left, I had not been born. So why am I blaming colonialists all my life? Yes, we were colonised, but what are we doing about it? Get up and change your lifestyles. We cannot blame people all our lives.

I think as a country we should be tired of hearing the issue of historical land injustices. That is why we need a timeframe, sort out those issues and let us hear the concerns about the Gen Zs who are giving us, parents lectures. How do we deal with those ones? How do you deal with Artificial Intelligence? How do we deal with other issues that are emerging that are faster than us instead of dealing with things like the historical land injustices? There are things that I hear in this House... My left ear is blocked. I do not know if it is because of things like those. It has been blocked for the last three days; perhaps it is because we are not moving forward.

We had just started so wonderfully when we came up with a constitution in 2010. We passed a plethora of laws that were forging the country forward and my worry is that we seem to be having a claw back. It reminds me of recently when we went for a Women's Forum in Rwanda and we met this Caucasian woman who is in her mid-30s. When she was introduced to Senator Catherine Mumma and I she burst out crying. We did not know what to do with her and then we asked her what her problem was and she said she was so frustrated. According to her, we make 10 steps forward and 15 steps backwards with regard to the women's agenda. I told her not to be worried. We may appear to be doing so, but there are small gains that we are

making. Can we, as a country, lead by example? Let us be the example in Africa by showing that we can make strides where other countries are stagnated or are going back. Please.

Hon. Baya, this is a good Bill but reconsider the issues that will keep us in a rut where others want to now grab because it is their time to eat.

I support with amendments.

The Temporary Speaker (Hon. Farah Maalim): Mwashako Dan.

Hon. Danson Mwashako (Wundanyi, WDM): Asante Mhe. Naibu Spika.

Masuala ya ardhi ni masuala nyeti ambayo Bunge la Taifa likipata nafasi ya kuyajadili, ni muhimu sana tuwe na watu wengi ambao wanazungumzia masuala haya. Kwanza nampongeza Mhe. Owen Baya ambaye ameleta Mswada huu kubadilisha kipengele cha 14 cha Sheria ya Tume ya Kitaifa ya Ardhi, kinachosema kwamba tume ilikuwa na miaka mitano pekee kuangazia dhulma za kihistoria kuhusiana na mashamba.

Mhe. Naibu Spika wa Muda, masuala ya mashamba ni mazito. Wenzangu, ikiwemo Mbunge wa Malindi, wamechangia Mswada huu na ni vizuri sana umeletwa na Mbunge wa Pwani. Hii ni kwa sababu sisi tumepata shida zaidi kuliko wenzetu wa sehemu zingine za Kenya. Dhulma za mashamba za kihistoria zimekuwa donda sugu kwetu.

Nikikupatia tu mfano mdogo, kando na mashamba ambayo yalichukuliwa na wazungu ama mabwenyenye, kuna mashamba ambayo yalichukuliwa hata na idara za Serikali. Kama mfano, Shirika la Wanyama Pori (KWS). Kule Taita Taveta, KWS ilichukua asilimia 62 ya shamba la Taita Taveta. Idara ya Magereza pia ilichukua mashamba mengi sana. Si Taita Taveta peke yake lakini ninajua ndani ya nchi yetu imechukua mashamba makubwa. Ukiangalia sana, mashamba yale yaliyochukuliwa na KWS na Idara ya Magereza na mashirika mengine, yamebaki hata bila kutumika ilhali wananchi wanakosa sehemu za kufanyia maendeleo. Tunavyojua ni kwamba shamba ndio kiungo muhimu sana katika uzalishaji wa mapato nchini. Kwa hivyo, kuendelea kupatia fursa Tume ya Mashamba nchini ili kuangazia changamoto zilizoletwa na mashamba yaliyochukuliwa kinyume cha sheria na dhulma ambazo zimekuja kupitia mambo haya ya mashamba, ni jambo la kuungwa mkono.

Kwa hivyo, mimi naunga mkono sheria hii. Kuna mabwenyenye ambao walichukua mashamba lakini hata leo, hawayafanyii chochote na nchi yetu tumekuwa tukitafuta sana jinsi ya kuongeza mapato ya nchi. Kando na kuongeza muda wa kuchunguza mambo haya, Bunge hili liweze kuangazia sana jambo la ushuru wa mashamba unaojulikana kwa Kizungu kama *Idle Land Tax*. Wale walio na mashamba makubwa na hawayafanyi chochote, hawazalishi chakula, hawapati watu wafanye biashara, waweze kutozwa ushuru mwingi ili waweze kutumia mashamba yale. Maanake wengi wameyashikilia tu na baadaye wanauza na kupata pesa nyingi na pia wanakosa kuchangia katika kikapu cha Serikali cha mapato.

Mhe. Naibu Spika, kuna mashamba matatu ambayo yanatusumbua sana pale kwetu Taita Taveta. Kando na kusumbua, wananchi wanalalamika sana maanake mpaka leo hatuna uhakika mashamba yale yalichukuliwa vipi na kama wale ambao wanayamiliki wanayatumia vipi. Kuna shamba pale kwangu Wundanyi linaloitwa Kedai Estate ambalo lilikua shamba la makonge miaka iliyopita na limekaa bila kutumika kwa muda mrefu. Shamba lile linasemekana kwamba liliuzwa. Ni shamba la ekari 10,000 na shambani mle tayari shule zimejengwa. Kuna shule mbili ndani. Kuna watu karibu 6,000 lakini kila mara wananchi wakiwa pale wana wasiwasi kwamba watafurushwa.

Shamba lingine ambalo leo limeleta tumbo joto kule Taita Taveta ni shamba la makonge linaloitwa Taita Estate. Mhe. Spika wa Muda, wenye shamba lile wako na hatimiliki za kuonyesha kuwa walinunua shamba hilo lakini bado wananchi wanalalamika sana kwa sababu makonge yamepandwa kwenye ekari 33 kule Mwatate. Imefika kipindi sasa wenyewe wamekata ekari 3,000 ambazo wanataka kuwauzia wananchi. Lakini wananchi hawaelewi kwa nini shamba lile lilichukuliwa kutoka kwa wananchi wa Taita Taveta. Ni vipi leo litauziwa watu wale wale wa Taita Taveta?

Hata tunapoiongezea muda Tume ya Ardhi ni lazima pia wao wawajibike kwa sababu kuchanganyikiwa kwingi kwenye mambo ya mashamba nchini kumesababishwa na hii tume ya NLC. Mara nyinyi tukiwaita waje wawafafanulie wananchi mambo ya mashamba yaliyochukuliwa kutoka kwao ilhali wanasema kuwa wako na hati miliki, watu wa NLC huwa wanachelewa. Hawataki kuja kukutana na wananchi ili wawaelezee kinaga ubaga kuhusu msimamo wa sheria kuhusu shamba lile. Kwa hivyo, tunapowaiongezea muda wa kuchunguza mambo haya, ni lazima pia wawajibike katika utendakazi wao.

Nimeandika barua kutoka kwa ofisi yangu na ninawatarajia waje kuwaona wananchi kule Taita Taveta ili wawaeleze haswa msimamo wa serikali na tume ile kuhusu shamba la Taita Estate. Ikiwa wananchi watalazimika kuwekeza fedha ili wanunue shamba lile, wawe na uhakika kuwa wanafanya jambo ambalo liko sawa kisheria. Kama kuna tatizo la umiliki wa shamba lile, basi NLC ije na iseme wazi kuwa kuna shida. Lakini wakiwacha watu *in abeyance* na hatujui ukweli uko wapi, basi wanatuchanganya.

Tulipotangaza rasmi Katiba mpya mwaka wa 2010, muda wa *lease* wa mashamba wa miaka 999 ulipunguzwa mpaka miaka 99 lakini bado kuna mashamba mengi ambayo mpaka leo hatuna uhakika kuhusu umiliki wao kwa sababu wenyewe wanauza shamba hizo. Kwa sababu wale wanaouziwa shamba hizo hawafuatilii sheria sana, wananunua shamba ambazo miaka ya *lease* iliyobaki ni kidogo. Kwa hivyo, hii NLC ina nafasi kubwa ya kutatua shida za shamba nchini. Ninaunga mkono Mswada huu kwa sababu ninajua tumepata shida, hasa watu wangu. Watu wa Pwani na sehemu nyingine nchini Kenya wamepata shida.

Kuna hatimiliki zilizotolewa na Wizara ya Ardhi kisha, NLC wakasema kuwa hatimiliki hizo sio sawa. Ni lazima Wizara ya Ardhi na NLC wajifunze kufanya kazi pamoja ili wasiwachanganye wananchi. Tuna *title deeds* ambazo NLC waliandika barua na kusema kuwa ni *fake*, lakini tukienda kwa Wizara, wanatuambia *title deeds* ziko sawa. Ni lazima Serikali ya Kenya Kwanza itoe mwelekeo. Mheshimiwa Owen yuko hapa. Kuna *titles* ambazo zimekataliwa na NLC, na kuna zile ambazo Wizara imesema ziko sawa. *For us to solve* maswala ya shamba, ni lazima Kenya Kwanza *comes up with a clear land policy* ya kusema kuwa *questionable titles* zirudishwe, na watoe msimamo kamili wa Serikali ili wananchi waelewe maswala haya yataenda vipi.

Hivi karibuni, nyumba za watu zilibomolewa kule Voi. Watu wa Msambweni walivunjiwa nyumba zao kwa sababu mwenye ardhi hana hatimiliki. Wananchi walijulishwa kuwa Serikali inafuatilia maswala hayo. Ilipofika siku ya kubomoa nyumba, Kamishna wa Kaunti na wakubwa wa polisi walikuja na bunduki na kusimamia ubomoaji huo. Ninataka kukashifu swala hilo ingawa lilipita. Korti inapopeana ruhusa ya kubomoa nyumba za watu, Kamishna Wa Kaunti, vyombo vya Serikali na Wizara husika hawana ruhusa ya kuja na bunduki na kutishia wananchi wanapotoa vitu vyao pole pole. Wanapaswa kuketi na mwenye shamba na kuzungumza naye. Maswala haya ni lazima

(The Temporary Speaker (Hon. Farah Maalim) spoke off the record)

Ahsante sana, Mhe. Spika wa Muda. Ningekupa kura yangu kama ungekuwa unagombea kiti cha urais.

Mhe. Spika wa Muda, tumepoteza watu kule Msambweni. Nilikuwa pale siku ya ubomoaji wa nyumba. Waliosimamia ubomoaji ule ni polisi waliokuja na wakubwa wa polisi na Kamishna wa Kaunti. Watu walikuwa wanasumbuka, wanalalamika, na kupata shida lakini wale ambao walipewa nafasi ya kuweka usalama walikuwa wameketi pale na kuruhusu ubomoaji wa nyumba za watu. Ninataka kukemea visa hivyo. Rais William Ruto alisema kuwa akiwa mamlakani, nyumba za watu hazitabomolewa. Ninataka Mhe. Owen amkumbushe Rais kuwa alisema nyumba za watu hazitabomolewa tena. Tunaomba kuwa jambo liliitendeka pale Msambweni, Voi lisiwahi kutendeka kwingine. Watu wa Voi bado wana wasiwasi kuwa

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nyumba zao zitabomolewa. Rais anapaswa aseme vile alivyosema juzi – kuwa hakutakuwa tena na mauaji nchini Kenya. Rais anapaswa aseme *clearly* kuwa hakutakuwa tena na ubomoaji wa nyumba.

The Temporary Speaker (Hon. Farah Maalim): Hon. Mwiti, Member for South Imenti.

Hon. (Dr) Shadrack Mwiti (South Imenti, JP): Thank you, Hon. Temporary Speaker, for giving me an opportunity to contribute to this very important Bill. I will start by thanking Hon. Baya for bringing this Bill. This is the right time. The Bill is long overdue since land is very important in this country.

This Bill seeks to enable the Commission to direct the Registrar to revoke title deeds that have been illegally acquired. Some people have unlawfully acquired land and we would like the land to be given back to its rightful owners. This Bill will help to ensure that those who unlawfully acquired land do not get away with it. Also, justice shall be served according to the law. Some people invaded certain areas and grabbed land. This Bill will direct the Registrar to revoke title deeds that were unlawfully acquired hence the families of the aggrieved will get their land back as they are supposed to.

The Bill will also give the Commission an opportunity to investigate all historical land injustices. I am convinced that there are many land injustices in Kenya. The Bill also seeks to enable the Commission to investigate historical land injustices and recommend their appropriate redress. This will ensure that the aggrieved families which suffered because of historical land injustices possess it from generation to generation. Finally, justice will be served.

Hon. Temporary Speaker, it is also very important to know that there is the issue of people who may have lost their documents. Those people do not have access to their documents or they were not aware of the documents at that particular time. The issue will be revisited and they will get their land back. The documents will be traced and the ownership of the land will be reassessed. This is very important. We know quite a number of people who lost land because of lack of documents. However, we would like to emphasise that the title deeds that are owned must be investigated well so that people do not lose their land. A title deed is not just a piece of paper. We fear that influential people may state that it is not a necessary document.

Lastly, I support this Bill because it does not result in additional public expenditure. It is crucial at this time. We are in the process of economic recovery as a nation. There are no expenses that will be incurred because the same officers will be used. It is also very important for the NLC to look at various documents critically.

With those remarks, I support this Bill.

The Temporary Speaker (Hon. Farah Maalim): Where is Hon. Gikaria?

Hon. David Gikaria (Nakuru Town East, UDA): Thank you, Hon. Temporary Speaker, for giving me an opportunity to contribute to this Bill.

The Temporary Speaker (Hon. Farah Maalim): Hon. Gikaria will be followed by Hon. Siyoi.

Proceed.

Hon. David Gikaria (Nakuru Town East, UDA): Hon. Temporary Speaker, I have looked at the Memorandum of Objects and Reasons of this Bill. I take this opportunity to thank my brother and leader, Hon. Owen Baya, for bringing this very important legislative proposal that cuts across the whole country, particularly on land matters. People who come from the Rift Valley Region have had this problem since Independence. The NLC was created by the Constitution of Kenya 2010 to address public land matters. We thought it would bring a lot of changes.

As it has been said by the members who have contributed before me, we also need to be cautious on the members of this Commission. As Hon. Millie had indicated earlier, we

should not leave them to work without any restriction on time limits. It is important to note that the commissioners have a constitutional responsibility to address land matters without favouring anybody. I come from a county where NLC sits on Mondays and makes a decision. They sit two months after and make a completely different decision from the one they made earlier. You wonder what informs them to come up with two very distinct decisions regarding the same parcel of land. The law has given them that responsibility. It is good for them to be objective and fair to each and every party who comes with any land complaint.

At the same time, as Parliament, we must also ask ourselves whether we sometimes legislate on matters that are unconstitutional. Do we approve them without looking at them critically? Article 67(2)(e) of the Constitution says that the function of the NLC is to initiate investigations on its own initiative or on a complaint, into present or historical land injustices, and recommend appropriate redress. Where did this time limit come from? The Constitution is very open that they can initiate investigations on their own or upon receiving a complaint into present or historical land injustices. We need to ask ourselves what historical land injustices are. How many years become historical? Do we treat a land injustice that has been there for 40 years as historical or present issue? It is important for us to address constitutional issues. As Members of Parliament, we are not supposed to make unconstitutional legislations. As indicated in Article 67(2)(e) of the Constitution, we should not have time limits. We should allow the NLC to do its work.

After the promulgation of the Constitution of Kenya 2010, we went to Nakuru County. Unfortunately, there are many land cases from there. As my brother from Matuga Constituency indicated earlier, sometimes you do not know whether you should follow the Ministry of Lands, Housing and Urban Development, which issues title deeds to respective individuals; or the NLC, which says the issued title deeds are fake or just pieces of paper. It is unfortunate when we have such kind of disputes and long litigation processes that go on for over 40 years.

For instance, if you go to Naivasha, there is a case that has been in court for the last 30 years. The court has not made any decision. It is important for the NLC to take up its role and address land matters, so that we stop these litigations that continue in the Environment and Land Court forever.

With those few remarks, I support the Bill. However, we should not put time limits on constitutional issues like the NLC.

Thank you, Hon. Temporary Speaker.

Hon. Lilian Siyoi (Trans Nzoia County, UDA): Thank you, Hon. Temporary Speaker, for giving me a chance to support the Bill brought by Hon. Baya. I support it because land matters affect our country. I want to give a good example of Trans Nzoia County. There is a piece of land belonging to Kenya Prisons Service that was allocated to some individuals in Trans Nzoia County. These people have suffered. I feel that we will be doing injustice to a number of people in Kenya if we put time limit to the work of the NLC. We should remove the time limit and give them time and powers to execute their duties as mandated so that we deal with land injustices in Kenya.

People have suffered because it takes a number of years before their cases are heard. I do not know whether this has been indicated here. I feel that the NLC could be given powers to fast track the reviews they are doing for the people affected. People's properties are being demolished yet they have spent a lot of money to construct them. These people have been allocated these lands and they have been there for a very long time. After some time, you come to realise that these people are being evacuated and displaced from those places. Nobody cares about them. There is no compensation. That is why I support the idea that the NLC should be given mandate to manage public land and help members of the public get justice.

I also support because I realised that people have been given original title deeds acquired from the Ministry of Lands, with signatures of land registrars. Later, you are told the

title deed is not original or it is fake. You wonder how you acquired fake title deeds that bear the signatures of land registrars who are still in office. Nobody talks about them or questions them. No one has been prosecuted for putting signatures on the title deeds we are saying are not genuine.

I stand to support this amendment Bill. I congratulate Hon. Baya for bringing forward these amendments.

Thank you.

The Temporary Speaker (Hon. Farah Maalim): Hon. Feisal Bader, Member for Msambweni Constituency.

Hon. Feisal Bader (Msambweni, UDA): Asante sana kwa kunipa nafasi hii niongeze sauti yangu kwenye huu Mswada ulioletwa na Mheshimiwa Owen Baya. Vile vile, nampongeza Mheshimiwa Owen Baya kwa kuuzingatia na kuuleta hapa ili Tume ya Ardhi iongezwe muda wa kufanya kazi waliyopatiwa na Katiba ya Kenya. Suala la ardhi ni muhimu sana na nyeti. Tume ya Ardhi iliundwa kuangazia mambo mengi. Mojawapo ni kuangalia dhuluma za kihistoria. Nikisema dhuluma za kihistoria, sisi Wapwani tumedhulumiwa sana kuhusu masuala ya ardhi yetu. Nazungumza hapa nikiwakilisha Eneo Bunge la Msambweni. Mpaka leo, sisi ni Maskwota katika kijiji nilichozaliwa. Uskwota ule umesababishwa na dhuluma kwa sababu umiliki wa ardhi yote – Zaidi ya ekari elfu nne – umeshikiliwa na mabwenyenye wawili peke yake. Wananchi wa pale, zaidi ya familia elfu tano, tunakaa katika ekari kumi na tatu pekee.

Kwa hivyo, Mswada huu utaipa nguvu Tume ya Ardhi iendelee kupokea malalamishi na kuyatatua ili Wakenya na Wapwani waweze kumiliki ardhi zao. Tuko na matatizo mengi ya ardhi. Mpaka sasa, hatuwezi kufanya maendeleo katika sehemu zetu. Nina wadi moja katika eneo bunge langu iitwayo Ukunda ambako kuna changamoto nyingi sana. Mpaka sasa hatuwezi kuweka mradi wowote wa kimaendeleo katika wadi hii.

Kwa hivyo, naomba Wajumbe wenzangu katika Bunge hili waunge Mswada huu mkono ili upitishwe na Wakenya wapate hatimiliki na kumiliki ardhi zao kihalali.

Hon. Kwenya Thuku (Kinangop, JP): On a point order, Hon. Temporary Speaker. I rise on Standing Order 95. Looking at the mood of the House, and because there is repetition in the contributions being made in this House, the feeling is that maybe we should move forward. We have some other urgent matters that also need some attention.

The Temporary Speaker (Hon. Farah Maalim): Under the circumstances, I will put the Question that the Mover be called to reply.

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

Mover, proceed and reply.

Hon. Owen Baya (Kilifi North, UDA): I thank the Members who have contributed to this very important Bill that aims at giving power to the NLC to review historical land injustices and grants. That power granted in the Constitution was taken away through a legislation. It is important that the NLC goes back to look at these issues and solve land problems in this country.

I have heard many Members request that we do one or two amendments. I am happy to engage them, plus the Committee, so that as we move to the Committee of the whole House, we make amendments that will help this country move forward. What is important is that the NLC gets power to review grants and look at historical land injustices. That is so that all problems that led to the Njonjo Commission, the Ndung'u Commission, and all the commissions appointed, are sorted out.

I thank you and the Members for contributing to this very important Bill. I look forward to the Third Reading.

I reply.

The Temporary Speaker (Hon. Farah Maalim): Hon. Members, I defer putting the Question to this particular Bill to a later date.

(Putting of the Question deferred)

Yes, Leader of the Majority Party. What is the issue?

POINT OF ORDER

REORDERING OF THE BUSINESS OF THE HOUSE

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Speaker, I want to seek your indulgence. I know that Members were really interested in the business that we have just concluded. The next Order is the Niamey Report. The Chairperson of the Committee seems to have left. I wanted to seek your indulgence to reorder business so that we start with the Independent Electoral and Boundaries Commission (Amendment) Bill ahead of the Report of the Departmental Committee on Defence, Intelligence and Foreign Relations.

The Temporary Speaker (Hon. Farah Maalim): I thought I saw the Chairman and the Deputy Chairperson of the Departmental Committee on Defence, Intelligence and Foreign Relations. Hon. Member, you are in the Departmental Committee on Defence, Intelligence and Foreign Relations. Are you the Deputy Chair? I thought that you and the Chair wanted this matter disposed of today.

Hon. Major (Rtd) Abdullahi Sheikh (Mandera North, UDM): We have agreed with the Leader of the Majority Party that I give way.

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

Hon. Amos Maina (Starehe, JP): I rise on a point of order on Standing Order 35 to bring to your attention the fact that there is no quorum in the House.

The Temporary Speaker (Hon. Farah Maalim): Serjeants-at-Arms, is it true that we do not have a quorum? I will make a casual count.

(Loud consultations)

Order, Hon. Owen Baya and Hon. Members. The Hon. Member has exercised the provisions of the Standing Orders. I am convinced that there is no quorum. Ring the Quorum Bell for 10 minutes.

QUORUM

(The Quorum Bell was rung)

Stop the bell. Order, Members! We have quorum now. We can proceed with the business of the House.

I have a request from the Leader of the Majority Party to re-order the business of the House today. We were supposed to move to Order No.11, which is the Ratification of the African Union Convention on Cross-Border Cooperation. The Leader of the Majority Party is proposing that we push it to some other time and bring forward Order No.12 on the Independent

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Electoral and Boundaries Commission (Amendment) Bill (National Assembly Bill No.10 of 2024). I have acceded to that request. Standing Order No.40(2) allows the Speaker to rearrange the order of the business of the House and I have so ordered.

Leader of the Majority Party, can you move Order No.12, which is the Independent Electoral and Boundaries Commission (Amendment) Bill?

BILL

Second Reading

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

The Temporary Speaker (Hon. Farah Maalim): Leader of the Majority Party, you can move the Bill.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Temporary Speaker for acceding to the request to reorder the business on the Order Paper.

Hon. Temporary Speaker, I beg to move that the Independent Electoral and Boundaries Commission (Amendment) Bill (National Assembly Bill No.10 of 2024) be now read a Second Time.

Hon. Members will remember that this Bill is one of the consequential amendments or some of the statutory instruments that emanated from the National Dialogue Committee (NADCO) Report. The Leader of the Minority Party and myself committed to hasten this process and make sure that all the statutory instruments that relate to the NADCO process are allocated time by the House Business Committee (HBC). The HBC agreed to prioritise consideration of the Independent Electoral and Boundaries Commission (Amendment) Bill.

Hon. Temporary Speaker, the Bill seeks to implement some of the recommendations of the NADCO relating to electoral justice and related matters, and in particular the issue of restructuring and reconstitution of the Independent Electoral and Boundaries Commission (IEBC). Both Hon. Members and the entire country are aware that for almost a year, we have been operating without a commission in place. This has left our nation in a very precarious situation of a constitutional crisis that was never anticipated under any circumstances by the drafters of our Constitution.

Hon. Temporary Speaker, we are also aware that there was a panel that had been established under the old Act or rather the existing Act. It was mandated to replace the entire Commission whose vacancies fell vacant following the resignation of four commissioners and the ending of the term of three others. That is why I have just said that we are in a very unique situation where we do not have a single commissioner in office. The Constitution recognizes IEBC, not in terms of the secretariat but the commission. Therefore, without it, we cannot carry on with the business of boundaries delimitation, which is a very sensitive matter to the country. We cannot conduct by-elections. We are aware that the people of Banissa Constituency have been waiting for a by-election. Unfortunately, we also have a number of wards where we have lost Members of County Assemblies (MCAs) through death. Therefore, the constituents of those particular wards are also waiting for their by-elections. As a country, we have not been able to conduct them because we do not have a commission in place.

The passage of this amendment Bill will open the way for establishing or recruiting new commissioners. Reconstitution of IEBC is therefore a matter of national importance. As we are aware, the deadline for review of the boundaries also came and passed without a commission in place. As I mentioned, there is the issue of by-elections that are still pending. The courts have pronounced themselves on the question of whether or not elections should be

held and directed the panel that existed to complete its work and put a commission in place. However, through the NADCO process, it is worth recognising that reconstituting of an electoral commission is both a legal and political process. Therefore, we sought to agree within the NADCO on how best we can reconstitute the panel that will recruit new commissioners in a way that will generate the confidence of the majority of Kenyans. We may not satisfy everybody in a such a process but we should, at least, have the views and interests of as many Kenyans as possible represented in the recruitment of new IEBC commissioners. For that reason, we sought to expand the panel that will be recruiting the commissioners. This is what this new Bill seeks to do with the proposed amendments. The Bill seeks to increase the number of members of the selection panel from seven to nine. The current panel has seven as provided for in the current Act. We now seek to amend and expand it to nine members. The purpose is to have a broader representation of different interests in the religious circles, professionals and the political class. The new proposed composition of the section panel will be as follows:

1. Two persons nominated by the Parliamentary Service Commission (PSC). It is explicitly stated that it will represent the Majority Party or coalition of parties and Minority Party or coalition of parties. That is a departure from the previous provision of the Act that we seek to amend because it was never explicit that it would represent both the Majority and Minority Parties or coalition of parties. It is explicit that the Majority and Minority Parties will be represented by two persons who will be nominated by the Parliamentary Service Commission.
2. Three persons nominated by the Political Parties Liaison committee of whom –
 - (a) one person shall be from a party other than a parliamentary party or coalition of parties.

We recognise within NADCO that there are many political parties that are not represented in Parliament. Therefore, they are stakeholders in the electoral process, hence they need to have their interests well represented in the Commission. That is why they have one nominee. A case in point is the parties that are sitting in this House today. In the last Parliament, when a panel was constituted, it largely represented two political parties: Jubilee Party and Orange Democratic Movement (ODM). The United Democratic Alliance (UDA) was a newly formed political party without representation in the House. Therefore, it never had an opportunity. However, that did not stop it from moving on to win the elections under the commission that was established by ODM and Jubilee Party. We know that ODM and Jubilee Party were in the process of forming the Azimio Coalition at that time. This time, we are recognizing the fact that even newly formed political parties can move on to become big political parties. Today UDA is the largest political party in the country but it was never represented. If any Hon. Member forms a political party in 2026, or the political parties that are not represented in the House or in the Senate today, and do not even have a single elected member even in the county assemblies, they will have an opportunity to be represented in the selection panel that will midwife the process of recruiting commissioners.

- (b) One person shall be from a parliamentary party or coalition of parties forming the National Government, (the Majority Party) and;
- (c) One person shall be from a political party or coalition of parties not forming the National Government (from the minority side).
- (d) One person shall be nominated by the Law society of Kenya (LSK) as the case was in the Act that we seek to amend.
- (e) One person shall be nominated by the Institute of Certified Public Accountants of Kenya (ICPAK). This is a new provision, recognising the role of professionals. In the wisdom of the NADCO, they appreciated that election results tallying has a lot to do with technology and summation of numbers. Therefore, who is better to represent the interests of people who

can tally numbers other than ICPAK, just like lawyers are represented by LSK.

- (f) Two persons shall be nominated by the Inter-Religious Council of Kenya (ICK). This, again, is as the case that has been in place, where the ICK had two members nominated to this panel.

Further, the Bill proposes amendments to the IEBC Act to provide that the selection panel shall finalise the recruitment exercise within 90 days of its appointment and forward the names of the nominees to the President. It shall thereafter stand dissolved. Given the urgency of this matter, the prescribed timeline as agreed is geared towards ensuring that the selection panel recruitment process is concluded within the stipulated timeline. The Act that we seek to amend did not provide for a timeline. Kenyans, especially the ones from Banissa Constituency, had to go to court to instigate a closure of the process because under the current Act, the process is open-ended. Until the panel concludes the process, nobody or nothing in law tells them that they must recruit commissioners within a certain period. We are now seeking to amend the law to ensure that it is no longer an open-ended process but is time bound.

Therefore, once this Bill becomes an Act of Parliament and the panel is constituted, it must recruit commissioners within 90 days. They will take office and begin the work of either conducting by-elections or preparing for the next general election, and the very important process of boundaries delimitation ahead of time. We are cognisant, even within NADCO, of the need, as recommended by the Kriegler Commission, not to have boundaries delimited very close to a general election or to have very many electoral reforms and changes in the electoral processes very close to elections. This provision seeks to address that concern.

It is also noteworthy that the Bill contains a transition clause to provide that the selection panel existing immediately at the commencement date of the Act shall cease to exist. However, a person who served as a member of the selection panel may be nominated to serve as a member of the selection panel appointed under the new Act. In this regard, any of the existing panel members may still be nominated in the new selection panel once the Bill is enacted into law. We also appreciated that the panel has already done some work. They had called for people to apply for the jobs and there is already work that had been done that is yet to be concluded. We also sought, as a matter of creating some transitional mechanism, to accommodate the nominating bodies, for instance, the Parliamentary Service Commission, the Law Society of Kenya, the Inter-Religious Council of Kenya and those that had already had representation in the selection panel. If they wish to renominate the same people, there is nothing within this law that stops them from renominating or reappointing the same people. Those names will eventually come before the House to agree or disagree with the nominating bodies.

The Bill further proposes amendments to Section 6 of the IEBC Act to include experience in Information and Communication Technology (ICT) and accounting as professional qualifications for appointment as a member of the IEBC. Members will agree with us that these thematic areas align, as I mentioned, with the function of IEBC and hence form a basis for qualifications for appointment as an IEBC commissioner. As I mentioned, we have seen commissioners in the past who may not have all the requisite skills and knowledge on matters of ICT. Our electoral process is largely technology-driven. We found it necessary to have commissioners with requisite knowledge in matters ICT and accounting. I must take this opportunity to state that I am an accountant, although that had nothing to do with the recommendations of the Committee, where Hon. Opiyo Wandayi also sat in as a budding young lawyer. They were well represented. I know it is a requirement that the chairman of the Commission be a lawyer. There was a back and forth within NADCO.

Many people who made presentations before NADCO argued for the need for requisite skills in ICT and accounting so that we do not fight about tallying. Tallying is a summation of

numbers. One plus one is two and can never be three. We need accountants to ascertain that one plus one is always two and not three. Lawyers can argue that one plus one is not necessarily two and that it could be three. They would find a clever way of arguing that one plus one is three. Accountants are factual. I am not just speaking for accountants, but also ICT experts, because transmission of election results is one of the very sticky issues. We want that comfort in future elections. When results are transmitted, we do not want to hear lawyers arguing in court whether a PDF is something you can hijack somewhere in between the transmission area from your constituency or sub-county headquarters to Bomas of Kenya. We want commissioners who understand what a PDF or JPEG document is and how possible it is to manipulate the documents. When people demand servers to be opened, we need commissioners who understand what the servers are. That is why, in the wisdom of NADCO, we found it necessary to have that amendment.

I do not want to belabour everything because I want to allow Members to contribute well ahead of time, but let me ask all of us to support this as among NADCO statutory instruments under the report that we adopted in this House and the Senate. We have committed between ourselves and the leadership of the Minority Party to hasten the process of ensuring that all the NADCO statutory instruments are debated and agreed on by both Houses for full implementation. I do not need to belabour the importance of IEBC being put in place.

Hon. Temporary Speaker, with those many remarks, I pray for the support of Hon. Members in this process of adopting the Independent Electoral and Boundaries Commission (Amendment) Bill (National Assembly Bill No.10 of 2024). I request the Leader of the Minority Party to second. Thank you.

Hon. Opiyo Wandayi (Ugunja, ODM): Thank you very much, Hon. Temporary Speaker. I rise to second this Bill. I want to thank my good friend, the Deputy Minority Whip, who was on standby to perform this onerous task in my absence. Now that I am back, I have taken charge.

Let me start by saying that this is the first NADCO Bill to get to the Second Reading stage. As you will recall, NADCO produced a total of nine Bills. So, from the very outset, we should support and pass this Bill like yesterday.

Hon. Members, as you are seated here, you are forgetting Banissa Constituency in Mandera County has gone without a Member of Parliament for now more than a year because there is no functioning IEBC in place. Hon. Members, this is such a serious matter that we cannot afford to be oblivious to. Therefore, the passage of this Bill must be hastened if only to address the constitutional requirement of equal representation in this country.

As a country, we cannot afford to tempt fate all the time. Why do I say so? God forbid if we were to have concurrent vacancies in the Office of the President and that of the Deputy President. What would happen in the absence of a functioning IEBC? Hon. Temporary Speaker, you are a lawyer. What would happen?

The Temporary Speaker (Hon. Farah Maalim): God forbid if anything happens to the President, the Deputy President takes over. He would appoint his deputy president so we would not go through elections.

Hon. Opiyo Wandayi (Ugunja, ODM): I am asking if there were to be a vacancy in the Office of the President and that of the Deputy President at the same time.

The Temporary Speaker (Hon. Farah Maalim): Not at the same time! If they happen separately, you do not need an election. Proceed.

Hon. Opiyo Wandayi (Ugunja, ODM): If there was also a vacancy in the Office of the Speaker of the National Assembly?

The Temporary Speaker (Hon. Farah Maalim): You still do not need a general election and IEBC.

Hon. Opiyo Wandayi (Ugunja, ODM): If there was no IEBC in place, what would happen? That is food for thought. Legal scholars have debated this a number of times and concluded that we are tempting fate. This House must rise to the occasion and ensure we do not create a situation that would precipitate a constitutional crisis at any one given moment. That is our cardinal responsibility.

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

Hon. Opiyo Wandayi (Ugunja, ODM): Why? I have not even spoken, I am laying the foundation.

The Temporary Speaker (Hon. Farah Maalim): Who is on a point of order? Nobody? Ok, proceed.

Hon. Opiyo Wandayi (Ugunja, ODM): Why would someone raise a point of order on such an obvious matter? Coming back to this Bill, it is very progressive...

(Hon. Naomi Waqo consulted with Hon. Kimani Ichung'wah)

The Deputy Majority Whip, I am addressing the Leader of the Majority Party on a very serious matter of law. I want to thank Hon. Kimani Ichung'wah and his team at the NADCO. They had serious difficulties agreeing with most of the recommendations we had as Azimio la Umoja. If you will remember well, these serious disagreements led to the collapse of the "Murugara-Otiende" Committee. The Kimani-Kalonzo team was able to navigate through these very difficult issues and arrive at these products, one of which is this Bill. When history is written, Hon. Ichung'wah may get a paragraph...

Hon. Kimani Ichung'wah (Kikuyu, UDA): Or a sentence.

Hon. Opiyo Wandayi (Ugunja, ODM): Or a sentence. That is good enough. I hope I will not be very far from that because I was also around when these things happened.

The salient feature of this Bill is essentially the reconstitution of IEBC by and large. To take over from where Hon. Kimani Ichung'wah left off, the matter of the reconstitution of the panel has been spoken to and you can for sure see that we have expanded it from a panel of seven to nine. They have also given some bodies which were initially not represented, particularly the Institute of Certified Public Accountants of Kenya (ICPAK), for good reasons. We want ICPAK to have a representation in the selection panel to bring in their expertise and competence.

There is also the issue of representation of political parties in the Political Parties Liaison Committee. I have heard some busybodies out there arguing that that provision is vague. It cannot be vague. Any plain interpretation of the law would lead you to conclude what is being referred to in the First Schedule to the principal Act. Clause 2(b)(ii) and (iii) says that in addition to nominating one person who belongs to a party that is neither a parliamentary nor a coalition party, the Political Parties Liaison Committee shall nominate one other person from a parliamentary or coalition party forming the national Government. There is no other capitation. The party which forms the national Government or coalition parties can only be UDA or Kenya Kwanza Coalition. When it comes to 2(b)(iii), one person shall be from a parliamentary party or coalition of parties not forming the national Government. It leaves no doubt as to what it means. It is a coalition of parties or a parliamentary party that is in the House, but does not form the national Government, which can only be Azimio la Umoja-One Kenya Coalition Party. That is as clear as we may wish it to be.

There is also the issue of timelines. We saw some mischief where a selection panel which was formed more than a year ago is still in existence because they had no sunset clause. The panel could exist for as long as it wanted as long as it had not concluded its work and handed over the names to the President. It could even exist for five years or infinity. That was a dangerous situation that was created by the makers of that law. We have dealt with that

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mischievous by creating a timeline of 90 days within which the panel must conclude its work and submit names for appointment.

Let me not fail to thank the Members of the Makanda Panel who have done their best work. We know they are operating under difficult circumstances. They were supposed to identify and select IEBC commissioners when people were fighting on the streets. They are Kenyans. They had to be alive to what was happening outside because any small misstep would have led to more problems. I thank them for their wisdom and sense of nationalism and patriotism. I am sure history will be kind to them. Remember, they still have a chance to come back to the new panel. Members of the Makanda Selection Panel still have a chance to be considered for appointment to the new IEBC Selection Panel in the manner established in the new Bill.

There is the issue of the term limit for the Chief Executive Officer (CEO) of the IEBC. I heard some people making a presentation the other day saying that the recommendation is uncalled for and ill-thought. They alleged that the CEO would need two years to be inducted on what goes on in electoral management. Bullshit! What kind of a manager would you be if you needed two years to learn your work?

The Temporary Speaker (Hon. Farah Maalim): Order, Hon. Wandayi.

Hon. Opiyo Wandayi (Ugunja, ODM): What kind of a manager would you be if you required two years to be inducted into your work?

The Temporary Speaker (Hon. Farah Maalim): Order. Watch your parliamentary language. Apologise and withdraw the term “bullshit”. You do not say “bullshit” in Parliament.

Hon. Opiyo Wandayi (Ugunja, ODM): I withdraw the word “bullshit” and instead say “unreasonable”.

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

Hon. Opiyo Wandayi (Ugunja, ODM): It is totally unreasonable to require two years to understand your work. If you give them a three-year term, they will only work for one year because they will need two years to learn. It does not make sense. What kind of absurdity is this? Thank you for that word, Hon. Thuku. If you cannot learn your work and deliver in three years, then you have no business accepting that work. Hon. Baya, you agree with me.

I was a strategic manager in my previous life. I worked for a serious blue-chip company. In fact, I resigned as an expatriate during serious work to come and run for a parliamentary seat in 2013. As a strategic manager, if you cannot settle into a new role two years down the road, you better go home and look after your cows or goats. Stop wasting Kenyans’ time. Therefore, this provision must remain in the Bill. If you are appointed the CEO of the IEBC, serve for three years. If you serve Kenyans well, you can be given a second term of another three years. After that, you go home. In other words, an IEBC CEO will only superintend over one general election, not two or three. That is the import of this provision.

Some people have made the IEBC their home. They have become so entrenched in the institution that you cannot do anything without their permission. They have created cartels within the IEBC secretariat. This Bill is meant to cure that mischief. Serve for three years, and if you are lucky and Kenyans feel you have done a good job, you get another three years, and then you go home. Create room for another Kenyan to serve. That provision has to remain in the Bill. The Bill will remain the same, but that one is a no-go area.

The amendments proposed in this Bill are very progressive. If the House, in its wisdom, adopts them and passes this Bill as it is, this country will be better. We are a fledgling democracy, which is still maturing. Therefore, we must continually look at our processes, systems and legal infrastructure to allow our democracy to grow and mature for the benefit of the country, and both present and future generations.

In conclusion, this Bill is a negotiated document. We are being asked to pass it with all its flaws without any thought of amendments. We can address typos here and there to clean up

the Bill, but the substance of the Bill should not be amended. Like any other negotiated document, this Bill...

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

(Hon. Opiyo Wandayi spoke off the record)

You are out of time, Hon. Opiyo Wandayi.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Has he seconded?

The Temporary Speaker (Hon. Farah Maalim): I do not know.

(The Temporary Speaker consulted the Clerk-at-the-Table)

He has not seconded.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Temporary Speaker, I second the Bill. Thank you very much.

(Laughter)

The Temporary Speaker (Hon. Farah Maalim): Hon. Opiyo Wandayi, you do not cease to amuse even the Chair.

(Question proposed)

(Several Members spoke off the record)

Order, Hon. Members. I want to propose the Question again.

(Question proposed)

Is that very clear, Hon. Opiyo?

Hon. Opiyo Wandayi (Ugunja, ODM): It is very clear, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): I call upon the Chairman of the Departmental Committee on Justice and Legal Affairs, who is also the Member for Tharaka, to speak on the Bill. He will be followed by Hon. TJ Kajwang'.

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Temporary Speaker. I rise to support the Bill. At the outset, I must inform the Leader of the Minority Party that in spite of the Bill being a negotiated document, it is not cast in stone.

I am grateful to the Departmental Committee on Justice and Legal Affairs for doing a thorough job in scrutinising this Bill. I thank Hon. John Makali who is seated next to me, Hon. TJ Kajwang', Hon. Mogaka, Hon. Kaguchia and a few other Members who are not in the House now.

The Temporary Speaker (Hon. Farah Maalim): Hon. Murugara, you have forgotten to mention the Chair.

Hon. George Murugara (Tharaka, UDA): I also profusely thank Hon. Temporary Speaker, who is a Member of our Committee.

I confirm that we sat with the Senate's Standing Committee on Justice, Legal Affairs and Human Rights.

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

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

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Temporary Speaker, I am sorry to interrupt the Chairman of the Departmental Committee on Justice and Legal Affairs. I have been told, through whispers behind me, that there is a Report from his Committee. I have not seen it. Can you direct that I get a copy?

The Temporary Speaker (Hon. Farah Maalim): Hon. Opiyo, it is available. You will get it. Proceed.

Hon. George Murugara (Tharaka, UDA): Thank you, Hon. Temporary Speaker. Leader of the Minority Party, Hon. Opiyo Wandayi, the Report was tabled. So, you will get a copy. You need to read it because it has certain proposals which may be of interest to you and the entire House. As you said earlier, nobody else in this country can make anything that has force of law, apart from Parliament. Therefore, what was brought here by the NADCO is only a proposal. The real law will be made by this House.

I confirm that we sat with the Senate's Standing Committee on Justice, Legal Affairs and Human Rights. I emphasise that we did public participation together. When this Bill goes to the Senate, it will not have a second public participation. We also hope that there will be no undue delay with further amendments.

Hon. Temporary Speaker, I wish to speak to the proposed amendments. When the Departmental Committee on Justice and Legal Affairs sat, we were convinced that in spite of this being a negotiated document, there were certain areas which needed to be made even better than they are. This is because the law being proposed here is for posterity. It is for the future of the country, but not for any negotiation or anything else. We are making a law that will serve this country and the future generations in the best way possible.

Very quickly, I confirm that we looked at Clause 5 that proposes a three-year renewable term. We agonised over this. Beginning with where we are today, if for any reason we are to get a secretary today, that secretary will serve a term of three years. If the secretary is not good, then the contract will not be renewed after the three years. We will be having a new secretary as we go to the elections of 2027. What is the effect of this? In spite of the fact that some unparliamentary language is being used about it, we questioned why commissioners are given a non-renewable six-year term. The reason is so that they are able to go through an election cycle. We found it prudent that a secretary must also go through an election cycle. If you appoint a secretary during the first year after an election, he or she will not do an election. The next secretary may have less than two years to do an election. This does not guarantee properly prepared elections.

This Committee will propose an amendment for the secretary to have a non-renewable six-year term. We will combine the fears of the three-year term that they had with the renewable three-year term to get a six-year fixed term. That does not mean that the person has to serve the three years. We have provisions on how a secretary can leave office. He or she can leave office if he breaches any of that. The appointment is going to be that one serves a non-renewable six-year term. We have also made it clear that the current secretary has accrued rights and legitimate expectation. In the amendments, we will preserve the term "unexpired" on the contract that he has. From his contract, which may be of six years, he has one-and-a-half or two years to go. We have preserved that because we do not wish to face lawsuits because of legitimate expectations.

We have also made a few more recommendations, including on Clause 7. It proposes to amend Section 36 of the Act. Having looked at it carefully, we have rearranged Section 36 so that it becomes New Section 24B. That is where we are going to anchor Schedule Five, which is actually in respect of delimitation. The country is yearning for that very important exercise.

Regarding the dissolution of the selection panel, we have left it as it is. However, we have to introduce a clause that kicks in the President's action to declare vacancies. As per this

law, the person Hon. Wandayi is complaining about can be in office indefinitely. Therefore, the President must declare the vacancies within a given period. After that, we have made a proposal on the selection panel. The National Dialogue Committee has provided the nominating agencies here and said that they will do it in a competitive manner within 14 days. After that, the President will have seven days to name the selection panel.

We also looked at additional qualifications as regards to the selection panel. Those with competency in ICT, accounting and mathematics are extremely important. We do not want people to plead ignorance; that they did not know what it was, that they never understood what was happening. The chairman has to have a high qualification of a Judge of the Supreme Court and the other members must possess degrees that are recognised in the country. There are also other set rules which they must comply with, and they must have proven knowledge and experience in accounting and ICT.

We also had a discussion on quorum because we have seven commissioners. It may be onerous to make it that quorum will constitute five. So, our question was: Four is actually the majority, why do we not have quorum being four and the other three may be on standby just in case? Otherwise, there may be problems in the commission discharging its duties. We got wise counsel and we accepted it. The reason NADCO has provided that they be five is because if you have a quorum of four, which is an even number, there may be decisions required where votes are necessary. If you take a vote of four people, you will have a draw. We will have to think about a casting vote and we would also have to think about if there is no majority, the vote is lost. We actually saw sense in the NADCO provision that the quorum be five.

There may be other amendments which we have proposed. Therefore, it is vitally important that every Member gets a copy of the Report of the Departmental Committee on Justice and Legal Affairs, which we have tabled and go through it so that you acquaint yourselves with what we propose to do. This law is vitally important. We know very well that for almost two years, the country has run without the IEBC. Thank heavens, we have not had many of the problems which we would imagine. We do not want this to go on. Let us move with speed, constitute a selection panel, have the commissioners in place, and we begin with gusto what the IEBC is supposed to do, one of those ones being the delimitation and review of boundaries between wards and constituencies.

With those remarks, I beg to support.

The Temporary Speaker (Hon. Farha Maalim): Hon. TJ Kajwang'

Hon. TJ Kajwang' (Ruaraka, ODM): Hon. Temporary Speaker, I rise to support this legislation. First, I want to thank you, Hon. Temporary Speaker, for the manner in which you are leading this debate. It is very reasonable and we Members of both sides feel very comfortable in the manner in which it is going. We think this is how to handle a very fragile and emotive political issue. Allow me also to congratulate the parties that were involved in negotiating this discussion because they found wisdom to arrive at proposals which can bring the country together from both sides. I was in chambers when the Leader of Majority Party presented his views on it and when the Leader of the Minority Party, the two of whom are co-sponsors of this Bill, presented. In many respects, they mirror what we as a Committee discussed. The Departmental Committee on Justice and Legal Affairs is one of the most contemplating committees to be a member. One would have to be one of the many to be a Member of this Committee because, you know, what we go through and how we process Bills. So, when we bring them into this House, we have really searched and put our heads on it in spite of the circumstances that we face.

This is the Bill of make or break in a society. Elections, especially in Kenya, have been billed to be a very strong pillar in socio-economic interactions of people. If we mismanage elections, we probably mismanage everything else. The IEBC Act or the amendments that we propose today, are the pillar that many of these things will revolve around. The fact that this

Parliament is doing these amendments is a show that we are taking the bull by the horn, to do that which is central and reasonable for the man on the streets. The Bill is good as it is, but I think the Leader of the Minority Party has made a comment that we can expand. We can improve it with the reflections and the information we now have to make it better. I would advise that Members make themselves familiar with the Report of this Committee. If you do, we will not debate this Bill based on a lot of aggression. We will feel that we have brought together the different parties. One thing which has troubled people...

Hon. Temporary Speaker, even if you bring the angel himself to superintend the election, maybe only God is able to deal with human beings. If you brought anybody under God, the Holy Spirit, God the Father or the Son, he would not control human beings. This is because everybody votes, including the archbishop, according to their preference. Whether they announce or not, they have a preference. If you bring a *Kadhi*, they will still have a preference and it will be one over the others. Let us not be shy about this thing.

An election is something which requires practitioners in election matters. We need to recognise that as we have done since the introduction of multiparty politics. They have developed a body of political parties that are drawing consensus around them to be able to practise in this field of democracy and political parties. If these people are recognised in terms of their role in defining the referee, you will have very few complaints. However, if you decide that these people are not practitioners and come from the public service or other entities which have nothing to do with the election, you will still have problems.

This Bill is saying that there is an expanded space for practitioners in this field. That is what happens in mature democracies, that is the American and English experience. There would be one, two or three political parties that the country would be gravitating around. If those people are aware and comfortable or they can give confidence in how the referee is chosen, there would be no problem. Everybody else, including some parties here, which are non-parliamentary as I am told, would want to have a bite of the cherry, but Parliamentary parties must be parliamentary parties.

The Leader of the Minority Party used the term “parliamentary”, but did not define it. Do not assume anything. Define “parliamentary parties” in the manner in which it is in this Report. Define “parliamentary parties” to mean parties in the House, either minority or majority, making Government or on the minority side. However, if you leave it that way and define it in the Standing Orders, then you have a problem. This is because the Standing Orders are unable to define with legislative authority what those are. The courts have been very interactive in making decisions, but they are not practitioners in this province we call politics. They have a problem with the chairperson.

Hon. Opiyo Wandayi, through the Speaker, looking at the manner in which the original Bill was done, you would have created a very big issue of somebody called the ‘chairperson’.

Hon. Speaker, if I could just have one minute. We are just a few of us in the chamber and if we got good time, we can do some justice.

The Temporary Speaker (Hon. Farah Maalim): It is time for the chamber to...

Hon. TJ Kajwang (Ruaraka, ODM): I can see the time, but Hon. Temporary Speaker, probably...

(The Temporary Speaker spoke off the record)

I will keep to that. We would have made a mistake, Leader of the Minority Party. We would have created somebody called the ‘chairperson’ who is everybody. He is the chairperson and if he is not there to do certain things, then nothing will move.

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

Hon. Kajwang', when we resume this debate, you will still have two more minutes. With the good behaviour, the Speaker could also add you a few more minutes.

ADJOURNMENT

The Temporary Speaker (Hon. Farah Maalim): Hon. Members, the time being 7.00 p.m., the House stands adjourned until Wednesday, 24th April 2024 at 9.30 a.m.

The House rose at 7.00 p.m.

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