



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

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THE HANSARD

Thursday, 6th January 2025

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

Hon. Speaker: Serjeant-at-Arms, you may ring the Quorum Bell.

(The Quorum Bell was rung)

Hon. Babu Owino, this must be the first time you are in the chamber at the start. You always appear like a stranger.

(Laughter)

He is soliciting for something.

(Laughter)

Hon. Members, we now have Quorum to transact business.

COMMUNICATIONS FROM THE CHAIR

(Several Members walked into the chamber)

Hon. Speaker: Members on your feet, please, take your seats.

(Hon. Mugambi Rindikiri walked into the chamber)

Hon. Rindikiri, please, take your seat.

Hon. Members, I have two Communications.

COMMENCEMENT OF HOUSE RESOLUTION WITH RESPECT TO RECONSTITUTION OF COMMITTEES

Hon. Members, you will recall that during yesterday's Afternoon Sitting on Wednesday, 5th March 2025, the House approved the appointment of Members to 41 committees. As you are aware, Standing Order 179(2) requires that whenever a vacancy arises in the office of chairperson or vice-chairperson of a select committee, the Clerk shall within seven days, appoint a place and time for the meeting of a committee to elect its chairperson and vice-chairperson. In that regard, I instructed the Clerk to prepare a schedule for the affected committees to convene and conduct the said elections.

A concern has arisen regarding whether Members who were appointed to the respective departmental committees may participate in the legislative business that was already before the committees.

Hon. Members, you will note that in today's Order Paper, a rectification is being made to correct the Resolution of the House with respect to three committees. Further, it is notable that the departmental committees are engaged in the process of considering the 2025 Budget Policy Statement and Supplementary Estimates for the Financial Year 2024/2025. These processes, which have statutory timelines, are not to be interrupted by the changes made to committees yesterday.

In this regard, Hon. Members, it is hereby clarified that the resolution of the House with respect to reconstitution of committees and the changes to be made today, will commence on Wednesday, 12th March 2025. I, therefore, direct the Clerk to circulate a consolidated schedule showing the place and time of election of chairpersons and vice-chairpersons of all affected committees before the rise of the House today.

For clarity, Hon. Members, the counting of the seven-day period contemplated under Standing Order 179(2) shall commence tomorrow, Friday, 7th March 2025. This implies that the elections for chairpersons and vice-chairpersons of the specified committees will be held on Wednesday, 12th March 2025, or Thursday, 13th March 2025.

The House is accordingly, guided.

(Several Members stood at the Bar)

Order, Members, remain at the Bar.

Members, take the nearest seats. Hon. Shimbwa, on account of your seniority in age, we cannot keep you waiting. Hon. Junet is a fortunate beneficiary of that. Hon. Mwago, take the nearest seat.

INVITATION TO MUSLIM MEMBERS OF PARLIAMENT TO PARLIAMENTARY IFTAR DINNER

Hon. Members, as you are aware, our brothers and sisters of the Islamic faith are observing the Holy month of Ramadan, which commenced last Saturday, 1st March 2025.

You will recall that last year, we hosted the inaugural Iftar Dinner for Members of Parliament who profess the Islamic faith and invited guests. The hosting of the Dinner is in furtherance of Parliament's Strategic Pillar Three on enhancing public trust through parliamentary outreach and embracing the diversity of our nation's character.

Hon. Members, during the inaugural Dinner, it was agreed that the event be included in the Parliamentary Calendar and be hosted on an annual basis. In this regard, the Rt. Hon. Speaker of the Senate and I, hereby, extend an invitation to all Members of the Islamic faith in both Houses of Parliament for this year's Parliamentary Iftar Dinner. The event will be held on Thursday, 13th March 2025 at the Parliament Gardens, Main Parliament Buildings, from 5.30 p.m.

We have also invited the leadership of both Houses, Members of the House Business Committee, dignitaries from the other Arms of the national Government as well as members of the diplomatic corps to the Dinner.

I, therefore, take this opportunity to wish the Muslim Community *Ramadan Mubarak and Saum Maqbul*.

I, thank you.

(Applause)

Hon. Members, as I continue communicating, allow me to acknowledge the following institutions. In the Speaker's Gallery, we have St. Hannah's Boys High School, Lang'ata Constituency, Nairobi City County. In the Public Gallery, we have St. Thomas Aquinas Thomeandu Boys High School, Kaiti Constituency, Makueni County; Harambee Primary, Makadara Constituency, Nairobi City County; and Kiriti Day Secondary School, Tetu Constituency, Nyeri County.

On my behalf and that of the House, we welcome the students and their teachers to Parliament.

(Applause)

Yes, Commissioner Makau.

POINT OF ORDER

COMMISSIONERS HOLDING POSITIONS OF CHAIRS AND VICE-CHAIRS OF COMMITTEES

Hon. Patrick Makau (Mavoko, WDM): Thank you, Hon. Speaker. I stand based on your first Communication on reconstitution of House committees and the election of chairmen and vice-chairmen.

This is a House of traditions and rules. Hon. Adan Keynan served as a Commissioner during the 12th Parliament, and he was the Chairman of the Public Investments Committee at the same time. Placing Members in committees disadvantaged commissioners in the past. I was wondering if it is possible for a Commissioner to seek election as a chairman or vice-chairman in committees. I seek your indulgence and guidance.

Hon. Speaker: It is not an irregularity. It is embodiment of unacceptable conduct for any of us to be a Commissioner of the Parliamentary Service Commission, which is an extremely busy undertaking and a rare privilege for Members, and a chairman or vice-chairman in committees. I have only five of you in the Commission out of the 349 Members. I discourage you from salivating any seat of a chair of a committee. Leave the positions to your colleagues who do not have positions of privilege like you. If you want to go against that advice, no law bars you from presenting yourself for election as a chair or vice-chair of a committee. However, I think it is imprudent to do so.

Hon. Junet Mohamed (Suna East, ODM): On a point of order, Hon. Speaker.

Hon. Speaker: Yes, Junet.

Hon. Junet Mohamed (Suna East, ODM): Based on your guidance and the Standing Orders, Hon. Speaker, Members who become chairs of committees are not allowed to sit in any other committee other than the committee they chair.

A Commissioner is even higher than a chair of a committee. How will a Commissioner chair a committee, if a chair of a committee is not allowed to sit in another committee? I know Hon. Makau has been feeling disadvantaged in terms of memberships of committees, and for which he has approached me several times. I have, however, been reminding him that he is a Commissioner who is our employer. You are not a small man. We report to him. As our employer, he knows and deals with our personal matters both privately and publicly.

The next governor of Machakos must be contented with what God has given him as a Commissioner. Let him not create confusion.

(Laughter)

Hon. Speaker: Hon. Makau, simply, that buttresses what I have said. Apart from Commissioners who are in the House Business Committee, and because it is a unique Committee which we allow Members selected, and specifically, by their parties, for particular reasons, Members who become chairpersons of committees will be obligated to relinquish their second committees to other Members who do not have adequate committee placements.

Before Papers, allow me to recognise a delegation of staff from the Parliament of Zimbabwe. I acknowledge the presence of a delegation of ten staff members from the Parliament of Zimbabwe, sitting in the Speaker's Gallery to observe the House proceedings. You may stand for acknowledgement.

(Applause)

The delegation is on a benchmarking visit to share best parliamentary practices and experiences with our staff in the National Assembly. On my behalf and that of the National Assembly, I welcome them to Parliament, and wish them a fruitful engagement.

Hon. Members, the late President Robert Mugabe came to address us when we were in the university in 1980. We remember the phrase *pamberi ne chimurenga*. I am sure it makes a lot of sense to the delegation in the Gallery.

Hon. (Dr) Robert Pukose (Endebess, UDA): Which university was that?

Hon. Speaker: The University of Nairobi. The next Order is by the Deputy Whip of the Majority Party.

PAPERS

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

1. Reports of the Auditor-General and Financial Statements for the year ended 30th June 2023 and the certificates therein in respect of:
 - (a) Ahmed Shahame Mwidani Technical Training Institute.
 - (b) Coast Institute of Technology.
 - (c) Kakrao Technical and Vocational College.
 - (d) Kendege Technical and Vocational College.
 - (e) Keroka Technical Training Institute.
 - (f) Kinango Technical and Vocational College.
 - (g) Likoni Technical and Vocational College.
 - (h) Mabera Technical and Vocational College.
 - (i) Mawego Technical Training Institute.
 - (j) Msambweni Technical and Vocational College.
 - (k) Mungatsi Technical and Vocational Collage.
 - (l) Musakasa Technical Training Institute.
 - (m) Okame Technical and Vocational College.
 - (n) Sang'alo Institute of Science and Technology.
 - (o) Sirisia Technical and Vocational College.
 - (p) Taveta Technical and Vocational College.
 - (q) Wanga Technical and Vocational College.
 - (r) Wumingu Technical and Vocational College.
2. Reports of the Auditor-General and Financial Statements for the year ended 30th June 2024 and the certificates therein in respect of:

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- (a) Anti-Doping Agency of Kenya.
- (b) Anti-Female Genital Mutilation Board.
- (c) Asumbi Teachers Training College.
- (d) Augustine Teachers' Training College – Eregi.
- (e) Bomet University College.
- (f) Child Welfare Society of Kenya.
- (g) Communication Authority of Kenya.
- (h) Democratic Action Party – Kenya.
- (i) Export Processing Zones Authority.
- (j) Inter-Governmental Relations Technical Committee.
- (k) Judiciary Deposits Accountability Statements.
- (l) Kenya Agriculture and Livestock Research Organisation.
- (m) Kenya Bureau of Standards (KEBS).
- (n) Kenya Film Commission.
- (o) Kenya Health Professions Oversight Authority.
- (p) Kenya Petroleum Refineries Limited.
- (q) Kenya Safari Lodges and Hotels.
- (r) Kenya Tsetse and Trypanosomiasis Eradication Council.
- (s) Kisii University.
- (t) Konza Technopolis Development Authority.
- (u) Maendeleo Chap Chap Party.
- (v) Moi University.
- (w) National Oil Corporation of Kenya Limited.
- (x) National Research Crime Centre.
- (y) National Transport and Safety Authority.
- (z) National Youth Service.
- (aa) New Kenya Planters Co-operative Union plc (New KPCU).
- (bb) New Partnership for Africa's Development/Africa Peer Review Mechanism Kenya Secretariat.
- (cc) Numerical Machining Complex Limited.
- (dd) Occupation Safety and Health Fund.
- (ee) People Democratic Party (PDP).
- (ff) People's Empowerment Party.
- (gg) Progressive Party of Kenya.
- (hh) Public Service Commission.
- (ii) Pyrethrum Processing Company of Kenya.
- (jj) Rivatex East Africa Limited.
- (kk) State Department for Basic Education.
- (ll) State Department for Labour and Skills Development.
- (mm) State Department for Mining.
- (nn) State Department for Roads.
- (oo) The Jomo Kenyatta Foundation.
- (pp) The Shamberere National Polytechnic.
- (qq) Tom Mboya University.
- (rr) Tourism Fund.
- (ss) Road Maintenance Levy Fund.
- (tt) University of Eldoret.
- (uu) The Enterprise Development Fund.

Thank you, Hon. Speaker.

Hon. Speaker: Before the next Order, I would like to acknowledge three members of staff from Trans Nzoia County Assembly in the Speaker's Gallery. On my behalf and that of the House, we welcome you to Parliament.

Next Order.

NOTICE OF MOTION

Hon. Speaker: Hon. Tim Wanyonyi, Member for Westlands, proceed.

LAND USE POLICY ON ZONING OF LAND FOR AGRICULTURE AND BUILT DEVELOPMENT

Hon. Tim Wanyonyi (Westlands, ODM): Hon. Speaker, I beg to give notice of the following Motion:

THAT, aware that land is a critical, but limited factor of production that supports human habitation and food production; noting that agriculture is Kenya's economic mainstay; appreciating that that the Central Bank of Kenya (CBK) Monetary Policy Committee Agriculture Sector Survey 2022 estimated the contribution of the agriculture sector to the country's Gross Domestic Product (GDP) to be 22 per cent directly and 27 per cent indirectly, through its linkages with other sectors; further appreciating that the survey showed that the sector employs over 40 per cent of the Kenya's total population; concerned that in the Land Reform Vol.3 publication, the Kenya Land Alliance Land estimated that only 17 per cent of the country's land mass is classified as suitable for rain-fed agriculture land while the remainder is either semi-arid or arid; further concerned that the country's agricultural productivity has been decreasing over the years; cognisant of the fact that the decline in agricultural productivity is partly attributable to the shrinking agricultural land due to unplanned settlements that encroach on agricultural lands; further concerned that agricultural lands in rural areas are continually being subdivided into small portions for built development, and thereby, diminishing the size of land available for agriculture; noting that there is need to put in place measures for effective land use in the country in order to guarantee optimal use of agriculture; now therefore, this House resolves that the Government, through the Ministry of Lands, Public Works, Housing and Urban Development puts in place a policy framework for effective land use in rural areas by consolidating and designating zones for built development for commercial and residential developments with shared public utilities and separate zones for agricultural use in order to arrest further diminishing of agricultural land, and steady the country's agricultural productivity.

Hon. Speaker: Next Order. Clerk-at-the-Table, hold on. Before you call the next Order, I wish to acknowledge the following institutions in the House. We have Othaya Boys, Othaya Constituency, Nyeri County in the Public Gallery. Hon. Members, our usual style of acknowledging visitors *imekufa?*

(Applause)

In the Speaker's Gallery, we have Thigingi Girls' School, Runyenjes Constituency, Embu County and Yururu Girls' School, South Imenti Constituency, Meru County. On my behalf and that of the House, I welcome you all to Parliament.

Next Order.

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QUESTIONS AND STATEMENTS

REQUESTS FOR STATEMENTS

Hon. Speaker: Hon. Eli Letipila, Member for Samburu North, proceed.

BANDITRY AND INSECURITY IN SAMBURU NORTH CONSTITUENCY

Hon. Letipila Eli (Samburu North, UDA): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Administration and Internal Affairs regarding the escalating banditry and insecurity within Nachola and Nyiro Wards of Samburu North Constituency.

An alarming trend has emerged regarding brazen roadside attacks along the Baragoi-Maralal Road and an escalation of banditry in parts of Samburu North Constituency.

Recently, a police land cruiser that was ferrying remandees for a court session was attacked and a police officer, PC Humprey Oroba No.254918, who was also the driver, was killed and his rifle, AK47 No.59014079, stolen. The incident was reported at Baragoi Police Station on OB No.07/10/02/2025, and the four fugitives are still at large.

Two weeks later, a bus of Registration No.KCH 872N under Ngarua SACCO plying Maralal-Baragoi route was brazenly attacked at Mbukoi area on the same road, and two conductors, namely, Kevin Compel Lalampaa and George Lochuch were killed. Ten passengers survived with gunshot wounds and are admitted at Maralal Referral Hospital. These attacks follow an earlier spate of raids that resulted in the death of three young men, namely Alois Lorumu Lemoosa, Lenakuru Lempisikichoi and Lmulangai Lemeede. They also led to the loss of over 200 heads of cattle near Tuum area of Nyiro Ward, and another attack, which resulted in the death of a young man who was taking his child to school near Ngorishe in Nyiro Ward.

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. Report on the security situation in the Loruko-Tuum-Kawap-Parkati and the Marti-Lamirok-Suyian-Ngilai-Masikita belts of Nachola and Nyiro Wards of Samburu North Constituency.
2. Effort to apprehend the criminals and fugitives following the attack on the police escort, including the recovery of the missing firearm.
3. Measures put in place by the Ministry to ensure the safety of the passengers who ply the Maralal-Baragoi Road and other trunk roads like the Opiroi-Baragoi Road.
4. Plans put in place by the Ministry to facilitate peace, dialogue and cohesion amongst the Samburu and Turkana communities who live in Nachola and Nyiro Wards in Samburu North Constituency.

I, thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Letipila. *Wapi Mhe*. Tongoyo? Any Member of the Departmental Committee on Administration and Internal Affairs? Leader of the Majority Party, inform the Committee to bring a response in two weeks.

Hon. Kimani Ichung'wah (Kikuyu, UDA): I will do that, Hon. Speaker.

Hon. Speaker: Thank you. Hon. Umul Kheir Kassim, Mandera County.

POWER OUTAGES IN MANDERA COUNTY

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Hon. Umul Kheir Kassim (Mandera County, UDM): Hon. Speaker, Pursuant to the provisions of Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Energy regarding power outages in Mandera County.

Hon. Speaker, in the recent past, there have been frequent power outages in Mandera County, especially in Mandera East and Mandera South constituencies, which have disrupted critical services offered at health facilities, public institutions and commercial operators. In January 2025, Kenya Power and Lighting Company Plc installed two generators in Mandera East. However, one of the generators broke down within the same month.

The frequent power outages have caused panic amongst the affected residents, noting that this exposes the area to incidences of insecurity and negatively impacts economic activities. In addition, due to the high temperatures in the area, the residents are at risk of suffering from heat strokes and also affects their observance of the holy month of Ramadhan. Due to this, residents have been compelled to purchase ice blocks from Somalia thereby, increasing the cost of living. The incessant power outages continue to cause distress to the residents of Mandera County.

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

1. Report on the steps being taken by the government to address the frequent power outages in Mandera County.
2. The immediate measures being put in place to replace malfunctional generators including providing additional generators with the required wattage to ensure constant supply of power in the county.
3. The long-term plans for stable power supply in the county, including exploring alternative avenues such as acquisition of generators through independent power producers (IPP), whose contracts were terminated in 2023 resulting to this unfortunate incidence that we are in right now.

Hon. Speaker: Yes, Hon. Cynthia Muge, do you want to joyride on that?

Hon. Cynthia Muge (Nandi County, UDA): Hon. Speaker, allow me to joyride on this Statement because I have a burning issue. The KPLC is not only the home of inefficiencies, but of inconveniences too. The office of the Nandi County National-Government Affirmative Action Fund (NGAAF) paid a whopping Ksh800,000 for the purposes of installing power at Kabirsang Rehabilitation Centre 13 months ago. Efforts to even follow up on its installation have not borne any fruit. This is a very inefficient company, and they should put their act together as they sort out the issues raised by Hon. Umul Kheir.

Hon. Speaker: Hon. Omanyo, do you also want to joyride on this?

Hon. Catherine Omanyo (Busia County, ODM): Thank you, Hon. Speaker. I also want to add to what my colleagues have said about KPLC. I come from a border point, Busia, where we have so many trucks passing through Malaba and Busia towns. Unfortunately, there is always a power blackout, and there are no streetlights. I am hoping and urging KPLC to up their game and especially in towns like Busia, which serve many other nations. So many trucks go to Rwanda, Congo and Uganda via Busia and Malaba Customs.

Hon. Speaker: Yes, Hon. Member for Igembe Central. You will be the last joyrider.

Hon. Daniel Karitho (Igembe Central, JP): Thank you, Hon. Speaker. I also wish to ride on the same issue regarding KPLC. It is becoming a troublemaker. In my constituency, KPLC installed six transformers, registered members of the community as users, and agreed on metres. Then they installed the power, but delayed the metres for almost eight months. After that, they came back, vandalised everything, and carried away the transformers, leaving the community in darkness. It is their own failure not to bring enough transformers and delay. This has brought a lot of problems. Business communities were prepared to conduct their

transactions using the power, but they have been cut off, and nothing has been done for the last three weeks. We are challenging them to come out, work hard, and stop being sluggish, rendering our people irrelevant in business and work.

Hon. Speaker: Thank you, Hon. Sabina. Is it joyriding on the same?

Hon. Sabina Chege (Nominated, JP): Yes, Hon. Speaker. It is high time we looked into KPLC and especially in areas where we do not have digital metres. Their bills are funnily generated. Many businessmen and industries are moving out of the country because of the high cost of power. Kenya Power, therefore, needs to address the issue of efficiency and the cost of power, especially for people doing business. At the same time, it is good for people who owe Kenya Power a lot of money to pay their dues. We saw the drama that happened last week. Nairobi has become a dark city. Some of the streets that used to have street lighting are now in darkness. If you go to Kiambu Road at night, for example, you will find that the streetlights are off half of the time. So, as we censure Kenya Power, we also need to ensure that we pay our bills. But to the Governor of Nairobi, light up Nairobi County.

Hon. Speaker: Chairperson, Departmental Committee on Energy? The Leader of Majority Party, ensure the Chairperson of the Committee brings a response in two weeks.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Yes.

Hon. Speaker: Hon. Njeri Maina Gacheri, Kirinyaga County.

ISSUANCE OF TITLE DEEDS IN SOUTH NGARIAMA SETTLEMENT SCHEME

Hon. Njeri Maina (Kirinyaga County, UDA): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Lands regarding delay in issuance of title deeds in South Ngariama Settlement Scheme, Mwea Constituency in Kirinyaga County.

Hon. Speaker, the South Ngariama Settlement Scheme is a 17,000-acre land located in Kirinyaga County, which was established to provide land to residents of Mwea Constituency.

However, for decades, the process of formal land allocation and issuance of title deeds has remained unresolved. In February 2023, the Ministry of Lands initiated an adjudication process following a directive issued by the Kerugoya Environment and Lands Court, yet to date, the issuance of title deeds is yet to be finalised. This prolonged delay in issuing title deeds has affected development in the area. Without legal proof of ownership, investors remain hesitant and donors are reluctant to fund community projects.

Furthermore, the delay has caused land-related disputes, with a rise in conflicts in the area over land ownership. Article 40 of the Constitution guarantees the right to ownership of property and the continued delay in issuance of title deeds restricts the ability of residents of South Ngariama Settlement Scheme from exercising this right.

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

1. A report on the status of the adjudication process of the South Ngariama Settlement Scheme, indicating whether the process references the Geo-Acre Surveys Limited mapping conducted in 2009.
2. The specific timelines for the conclusion of the titling process, including issuance of title deeds to the rightful residents.
3. Measures being taken by the Ministry of Lands, Public Works, Housing and Urban Development to address land ownership disputes in the area, including steps taken to facilitate verification of rightful ownership in cases of disputes.

Hon. Speaker: Thank you, Hon. Gacheri. Leader of the Majority Party, inform the Departmental Committee on Lands to bring a response in two weeks.

Hon. Mark Mwenje, Member for Embakasi West.

STATUS OF 2024/2025 WORK PLAN FOR KERRA AND KURA

Hon. Mark Mwenje (Embakasi West, JP): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Transport and Infrastructure regarding the status of the 2024/2025 work plan for the Kenya Rural Roads Authority (KeRRA) and the Kenya Urban Roads Authority (KURA).

In November 2024, the High Court extended its orders freezing the disbursement of the Ksh10.5 billion Road Maintenance Levy Fund (RMLF) in conditional grants allocated to counties for the Financial Year 2024/2025, pending the determination of a court case on the Fund. The money from the Road Maintenance Levy Fund, which the Kenya Roads Board disburses, are used for maintenance in each constituency through the Kenya Rural Roads Authority and the Kenya Urban Roads Authority. The delay in disbursement of funds is expected to cause a deficit in the projects already tendered by constituencies for the Financial Year 2024/2025, occasioning pending bills.

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

1. Measures being taken by the Government to ensure the work plans tendered for the Financial Year 2024/2025 are not suspended due to lack of funds.
2. Measures being taken to ensure that the delay does not occasion pending bills and other charges that may result from a breach of tender agreements.
3. Actions being implemented by KeRRA and KURA to ensure that roads under their jurisdiction that are due for maintenance are not affected by the delay in disbursement of funds.

Hon. Speaker: Thank you, Hon. Mark Mwenje. Leader of the Majority Party, ensure the Departmental Committee on Transport and Infrastructure brings a response.

Hon. Kimani Ichung'wah (Kikuyu, UDA): In two weeks.

STATEMENT

Hon. Speaker: Thank you. Leader of the Majority Party, it is now your turn for the Thursday Statement.

BUSINESS FOR WEEK OF 10TH TO 14TH MARCH 2025

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(a), I rise to give the following Statement on behalf of the House Business Committee, which met on Wednesday, 5th March 2025, to prioritise business for consideration during the week.

As Members are aware, this week, the House debated the report on the 2025 Medium-Term Debt Strategy. I wish to commend the leadership of the House and Members for the dedication and cooperation exhibited in the consideration of this critical business. I also commend the Liaison Committee under the able chairmanship of the Deputy Speaker for taking the lead in the consideration and ensuring a conclusion within the set timelines.

I wish to remind the House that following the extension of time granted last week, we ought to conclude with consideration of the 2025 Budget Policy Statement (BPS) before the end of next week. In this regard, upon tabling of the report of the Liaison Committee on the BPS, it will be prioritised for debate.

With regard to business scheduled for Tuesday next week, the House is expected to continue with the consideration of the following Bills, should they not be concluded today:

1. Committee of the whole House on:
 - (a) The County Governments (Revenue Raising Process) Bill, 2023; and,
 - (b) The Public Audit (Amendment) Bill, 2024.
2. Second Reading of:
 - (a) The Learners with Disabilities Bill (Senate Bill No. 4 of 2023); and,
 - (b) The Treaty Making and Ratification (Amendment) (No.2) Bill, 2024.

Additionally, debate will be undertaken on the following Motions, some of which are listed in today's Order Paper:

1. Resolution to sit on other days.
2. Consideration of the Budget Policy Statement.
3. Consideration of the report of the National Dialogue Committee and the Report of the Multi-Sectoral Working Group on the realisation of the two-thirds gender principle.
4. Report on the public petition on legal recognition and protection of e-hailing motorcycle riders and delivery personnel.
5. Report on the state of security in six Counties of North Rift: Baringo, Elgeyo Marakwet, Turkana, West Pokot, Samburu, and Laikipia.

Hon. Speaker, regarding the attendance of cabinet secretaries to answer Questions from Members, I wish to inform the House that due to budget-related business, the cabinet secretaries that were scheduled to appear on Wednesday, 12th March 2025, have been rescheduled to a later date.

As I conclude, I wish to remind Members that the House is scheduled to proceed on a short recess next week. As such, Members should note that the House may be required to sit longer or have additional sittings on some days to conclude priority business before proceeding on recess, especially on the budget-making process for BPS and Supplementary Appropriations Bill that is already before the House.

Finally, the House Business Committee will reconvene on Tuesday, 11th March 2025 to schedule business for the rest of that week.

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

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

Next Order.

MOTION

CONSIDERATION OF 2025 MEDIUM-TERM DEBT MANAGEMENT STRATEGY

THAT, this House adopts the Report of the Liaison Committee on its consideration of the 2025 Medium-Term Debt Management Strategy, laid on the Table of the House on Wednesday, 5th March 2025, and pursuant to the provisions of Section 15(4) of the Public Finance Management Act, 2012 and Standing Order 232A(7) and (8) –

- (a) approves the 2025 Medium-Term Debt Management Strategy; and,
- (b) makes the Policy and Financial Resolutions contained in the Schedule.

SCHEDULE

POLICY AND FINANCIAL RESOLUTIONS RELATING TO THE 2025 MEDIUM-TERM DEBT MANAGEMENT STRATEGY

A. POLICY RESOLUTIONS

1. THAT, to comply with the Public Finance Management Act, 2012 threshold of Debt to GDP in Present Value terms of 55 per cent (+5%) by 2028, the Cabinet Secretary for the National Treasury and Economic Planning publishes quarterly reports detailing progress on fiscal consolidation as outlined in the 2025 Budget Policy Statement.
2. THAT, the Cabinet Secretary for the National Treasury and Economic Planning, Governor, Central Bank of Kenya, and Controller of Budget fully automate the withdrawal of debt service payments from the Consolidated Fund by 31st May, 2025, and submit a report to the National Assembly within 15 days after the automation.
3. THAT, to strengthen financial controls, ensure accurate and timely public debt statistics, and enhance decision-making for greater transparency and accountability, the National Treasury integrates the Public Debt Management System with the Integrated Financial Management System (IFMIS) by 31st May, 2025, and submits a report to the National Assembly within 15 days after the integration of the two systems.
4. THAT, to mitigate the growing risk of domestic debt interest payments and to reduce the tendency of the Government borrowing funds held by public entities, the National Treasury deploys the Treasury Single Account (TSA) for all ministries, departments and agencies (MDAs), parastatals, and public funds by 1st July 2025.
5. THAT, to improve transparency and accountability in anticipated increase in domestic borrowing, the Cabinet Secretary for the National Treasury and Economic Planning should within 60 days:
 - (a) Form a working committee to establish criteria for assessing the effective utilisation of borrowed funds by ministries, departments, and agencies (MDAs), establish the registrar of Government securities pursuant to Section 55 of the PFM Act, and,
 - (b) Record in the debt register the details on the utilisation of the borrowed funds, including the set of projects funded from the proceeds of infrastructure bonds.
6. THAT, the Cabinet Secretary for the National Treasury and Economic Planning establishes an interagency committee, including representatives from the Central Bank of Kenya and the Controller of Budget to review the public debt procurement process and debt utilisation, and submits a report to the National Assembly by 31st May 2025.
7. THAT, the Cabinet Secretary for the National Treasury and Economic Planning reports and seeks approval from the National Assembly on any variation to the approved borrowing mix in the 2025 Medium Term Debt Management Strategy (MTDS).

B. FINANCIAL RESOLUTIONS

1. THAT, the fiscal deficit target for the medium term is approved and set at 4.3 per cent of GDP for FY 2025/26; 3.5 percent of GDP for FY 2026/27, and 3.2 per cent of GDP for FY 2027/28, in line with the fiscal consolidation path; and,
2. THAT, the country's borrowing strategy is approved at 35 percent for net external borrowing and 65 percent for net domestic borrowing as contained in the 2025 Medium-Term Debt Management Strategy.

(Moved by Hon. Gladys Boss on 5.3.2025 - Afternoon Sitting)

(Debate concluded on 5.3.2025 - Afternoon Sitting)

(Hon. Kassait Kamket stood up in his place)

(Several Members stood up in their places)

Hon. **Speaker**: Members on their feet, and Hon. Kamket, take your seats.

(Question put and agreed to)

Next Order.

FURTHER CHANGES TO COMMITTEE MEMBERSHIP

Hon. Speaker: The Chairman of the Committee on Selection. Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, at times you run into problems when you sit next to Members who are very engaging like the Members for Murang'a and Laikipia.

Hon. Speaker: I have noticed that your level of concentration has diminished considerably.

(Laughter)

Hon. Kimani Ichung'wah (Kikuyu, UDA): The Member for Murang'a has taken over the seat of the Deputy Leader of the Majority Party, and the Member for Laikipia is in the Whip of the Majority Party seat. I am used to sitting with gentlemen here, but the two gracious ladies have given me very good company.

Hon. Speaker, I beg to move the following Motion:

THAT, further to the Resolution of the House of Wednesday, 5th March 2025 appointing Members to various committees and pursuant to the provisions of Standing Order 175, this House further approves the appointment of the following Members to the respective committees as specified hereunder:

1. Departmental Committee on Environment, Forestry and Mining
Hon. Chepkwony Charity Kathambi, MP, to replace Hon. Kuno Yakub Adow, MP, who appears twice in the approved list.
2. Departmental Committee on Tourism and Wildlife
Hon. (Dr.) Gichuki Edwin Mugo, MP, to replace Hon. Wainaina Antony Njoroge, MP.
3. Select Committee on Parliamentary Broadcasting and Library

Hon. Ahmed Shakeel Shabbir, CBS, MP, to replace Hon. Wetangula Timothy Wanyonyi, CBS, MP.

Hon. Speaker, these are just corrections. Members will note from yesterday's Order Paper that some Members appeared twice in certain committees. We are moving them so as to correct the typographical error.

I beg to move and request the Leader of the Minority Party to second.

Hon. Speaker: Hon. Junet.

Hon. Junet Mohamed (Suna East, ODM): Hon. Speaker, I second. I was away yesterday when the list was tabled and passed here. I wish to congratulate Members who have been nominated to different committees. The membership of committees will keep on changing because many factors come into play such as attendance and experience, as Hon. Osoro said yesterday. I urge Members to bear with us. I am currently seated next to a Member who wants to be moved from one committee to another. I am pleading with her to stay in that committee for one month, and if she is still uncomfortable, we will re-evaluate.

This is an ongoing exercise, as the Leader of the Majority Party has said. After the election of the chairpersons and vice-chairpersons, some Members will leave certain committees because chairpersons are only allowed to sit in the committee they chair. There will be another review to re-align the names of Members, after which we will bring another list back to the House, so that we populate the committees conclusively until the elections.

I saw a Member yesterday saying that he cannot be removed from the committee he is serving in because it is un-procedural. It is the prerogative of the leadership, especially the Chief Whips of the Majority and Minority parties, to place Members in committees. You do not come from your house with a committee. You come here and wait to be placed in a committee. You can be discharged or de-whipped from any committee at any time. The Standing Orders state that a Member should only be in one committee.

Even the Members' Services and Facilities Committee that deals with catering is a committee of Parliament. People should not belittle those who take care of our food, tea, and mandazi. Hon. Jayne Kihara has been placed in the Members' Services and Facilities Committee, which is fitting because she is a mother and should work there. She knows what to do much better than all of us. We only want the best of the best to serve on that Committee. If you can cook food in your house, why not also do it in Parliament? It is the prerogative of the leadership and Chief Whips of the Majority and Minority parties to place you in a committee or to discharge you from a committee. If your conduct is unbecoming, you will be dewhipped from the committee you serve in.

With those few remarks, I support the Motion.

Hon. Speaker: You beg to second.

Hon. Junet Mohamed (Suna East, ODM): Hon. Speaker, I beg to second.

(Question proposed)

Hon. Members: Put the Question!

Hon. Speaker: Should I put the Question?

Hon. Members: Yes!

(Question put and agreed to)

Hon. Speaker: Leader of the Majority Party.

STATEMENT

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MISINFORMATION CAMPAIGN ON THE PUBLIC AUDIT (AMENDMENT) BILL

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, I beg your indulgence before we move to the next Order, which is the Committee of the whole House. As I indicated in the usual Thursday Statement on the business for next week, one of the Bills we are considering is the Public Audit (Amendment) Bill (National Assembly Bill No.4 of 2024) in the Committee of the whole House. This Bill was published in January 2024. We considered it in the Second Reading stage, debated it, after which the only pending issue was the Committee of the whole House.

I wanted to give a Statement regarding a misinformation and disinformation campaign on this Bill, which was perpetuated by one of the media houses in the country. Many Members have seen it in the media. The campaign was perpetuated by one of the media houses. I do not know whether it was fake or real because the story that was initially circulated had the banner of one of the media houses, and was consequently picked up by the media.

The story alleged that the National Assembly had drafted a Bill that was taking away the powers of the Auditor-General following the pronouncements that she had made in her normal audit reports, which are before this House and committees of this House. When that happened, the usual characters on social media picked it up and spiralled it out of control alleging very absurd and unconstitutional things that were being done by this Bill. I thought it was important that we set the record straight on the import of the Public Audit (Amendment) Bill, which was published in January 2024, not January 2025. Therefore, if anyone imagined, as they have been saying on the social media, that this Bill was targeting the Auditor-General because of her recent report, it is very far from the truth.

It is that misinformation and disinformation campaign that saw this House suffer immensely in terms of reputation and interference with our work that led up to the events of 25th June 2024. In light of sensationalised, inaccurate, and false misleading reports that the Bill seeks to remove the Auditor-General from office, nothing could be further from the truth. The Office of the Auditor-General is an independent constitutional office whose tenure and independence are well protected under Article 229 of our Constitution. That is why even in my response on Twitter or X, I mentioned that there were certain unconstitutional things that cannot be done through an Act of Parliament.

The Bill seeks to amend the Public Audit Act Cap 412B in order to align it with the Constitution following a declaration issued by the High Court in the case of Transparency International (TI) Kenya vs the Attorney-General and two others of 2018 Petition No.388 of 2016. The Transparency International Kenya case alleged that Sections 4(2), 8, 12, 17(1), 18, 27, 40, 42 and 70 of the Public Audit Act Cap 412B were unconstitutional. The court ruled on that the Bill sought to align or correct the unconstitutionality of the Act that had been passed in 2016 in the last Parliament.

In the Transparency International Kenya case, the Petitioner filed a petition against the Attorney-General, the Auditor-General and the African Centre for Open Governance (AFRICOG) as first and second interested parties respectively. The Petitioner challenged the constitutional validity of Sections 4(2), 7(1)(g), 9, 12, 14, 17, 18(3), Part III, which was made up of Sections 25, 26, and 27, as well as Sections 40, 42, 68, 70 and 72 of the Public Audit Act Cap 412B. Justice Chacha Mwita held that Sections 4(2), 8, 12, 17(1), 18, 27, 40, 42 and 70 of the Public Audit Act Cap 412B were inconsistent with, in contravention of the Constitution, and were invalid. We came up with this Bill so that we could align the Public Audit Act with the High Court declarations.

I have looked at the Report of the Departmental Committee on Finance and National Planning that was tabled and its proposed amendments to the Bill and I have not seen a proposal to remove the Auditor-General as the head of the national audit office. In any case, when the

Auditor-General appeared before the Finance and National Planning Committee and made representations, she did not indicate that the Bill sought to remove her from her office. The Committee's Report is publicly available; it is on the parliamentary website. On my X account post, I have indicated the same so that Kenyans may be apprised with accurate information regarding business before this House or business that is speculated to be before this House. I have also seen other people speculating that there is a Bill on boda boda in the National Assembly, yet the Bill was proposed by the Senator for Kakamega in the Senate as a Private Member's Bill. My plea to our very good journalists in the Fourth Estate is that when they report the business before this House, they should do so accurately with the highest standards of journalism and refrain from having sensational stories that are only geared towards inciting members of the public or selling their otherwise slow-moving newspapers.

I want to end my Statement by appealing to everybody, including Kenyans. I want to inform them that any business that is before this House, be it a Motion or a Bill, is publicly available on our website. Bills on the website have their memorandum of objects and reasons at the back so they do not need a journalist or anybody on social media to interpret the Bills for them. They should just read. I believe our drafters in the National Assembly, the Senate and the Attorney-General's Office use plain and simple language that any Kenyan can read and understand. I also saw in some platforms our Bills being translated into Swahili for those who cannot read them in English. Therefore, there is no reason for people to be circulating inaccurate, misleading and inciting statements purporting that we want to remove the Auditor General from office. I say this with immense respect to the Auditor-General and the Office of the Comptroller of Budget notwithstanding what I saw yesterday when the Members of the County Assembly (MCAs) from Nairobi were demonstrating outside the office of the Comptroller of Budget.

From what I saw the MCAs for Nairobi County doing - you know I should be the last person to speak for governors - I implore on independent offices, specifically the Office of the Comptroller of Budget to style up. Governors in this country have to go through hell to get money approved for use in their counties by the Office of the Comptroller of Budget. Many will tell you that without parting with money or paying bribes to officers in that office, a governor will not get justice. It is the Members of the other House, the Senate, who should be speaking about this issue. I saw in the media the Nairobi MCAs having taken it upon themselves to go and demonstrate or seek justice about money that should go to the constituents in their wards. They cannot get approvals. This is not just happening to Nairobi County, but to all counties across the country.

Governors and county governments are suffering because of inefficiencies and corruption in the Office of the Comptroller of Budget. Since it is an independent office, they imagine that if anyone speaks about them the whole world will come crumbling down saying we are attacking independent offices. Their independence cannot go without being checked. It is only Parliament that can check these independent offices, including the Office of the Auditor General. The Auditor-General reports to Parliament and that is why her reports are sent to the National Assembly and for anything relating to counties, to the Senate to offer an opportunity to the ministries, departments, and agencies (MDAs) of Government to appear before Parliament oversight committees and answer all the issues that the Auditor-General has raised.

Therefore, when people pick sensational issues that are in the Auditor-General's report without paying any attention to the responses by the management of the MDAs, we run the risk of sensationalising everything about the running of public offices in this country. We must call for accountability in these offices.

As we correct this misinformation, I want to take this opportunity to call for accountability within our independent constitutional offices like that of the Comptroller of Budget. I am certain if our governors had a forum like what I have here, they will tell you they

are suffering. If you speak to any governor, they will tell you they have to bribe officers in the office of the Comptroller of Budget to get their expenditures approved. That is why we are seeing MCAs crying out on behalf of the people that they represent. The MCAs are people's representatives just like Members of Parliament. They represent constituents who are waiting for drugs to get to hospitals in their wards and children who are waiting for bursaries despite what I hear that there is something else to do with bursaries that will be coming from the counties. We must speak for these people. If we do not, it will become fashionable in our spot to talk about the sensational reporting that is out there but nobody will hold to account these independent officers. Nevertheless, that is our mandate and we must do it.

Hon. Speaker: Yes, Hon. Junet.

Hon. Junet Mohamed (Suna East, ODM): Hon. Speaker, I want to add my voice to what the Majority Leader has raised. This matter of the Public Audit (Amendment) Bill has been sensationalised in the country, to the extent that it was said the Leader of the Majority Party has tabled a Bill in Parliament to remove the Auditor-General from office. I was shocked. I am a Member of this House and I have never seen that type of a Bill. What shocked me more is that the story was carried by a highly reputable media House. What is happening nowadays in the media sphere in our country is shocking. Nowadays you can wake up to a headline like "Stupid man" or "Useless man." What kind of media reporting is that? Where is the Media Council of Kenya that is supposed to regulate the media? If people are gripped with what the media is doing, where do you go to complain? They have no apologies; they report and just move on. They can write anything today or tomorrow and nothing will happen.

The main issue I wanted to bring to the attention of the House is about the Auditor-General. He reports to the National Assembly in terms of expenditure of Government. I have been a Member of the Public Accounts Committee in the last two Parliaments. Auditing of Government expenditure did not start today or yesterday. There is a procedure that is followed whenever auditing is done and the law is very clear on that. I want to bring to the attention of the House that Article 226 of the Constitution read together with the Public Audit Act, PART IV, provides for the procedure of auditing, which requires that the Auditor-General engages the public servants who are in the public offices, audits them and reports to Parliament. Parliament is supposed to verify whether the audit report is correct or not. Until that is done and a report is tabled before the plenary of this House, the issues raised in that audit report are not yet confirmed. Nowadays, when the Auditor-General reports on a matter, before it is verified, it will be all over the country with information of so-and-so having stolen this kind of money or money having been lost and yet the Auditor-General has not been invited to appear before the Public Accounts Committee to confirm if that is what she found. She has not told the public that the matter has not yet been verified by the committee of the House. The committee of the House is the arbiter on that matter.

The public servant accused of malpractice and the Auditor-General who is the prosecutor appear before the committee of the House and everyone brings his or her documents before the committee. Unless we have changed our rules and changed our laws on auditing, that is the position as far as I am concerned. Now, any audit report is confirmed before it is brought before the House. That culture will lead to anarchy and that culture will lead to people's names being destroyed without any recourse. Civil servants are given an opportunity to explain what the Auditor-General has reported because they might have been delayed in submission of documents, misinformation and misreporting. All that needs to be looked at. But if the Auditor-General's word is final, then why report to Parliament? Why can the Auditor-General not do the report and publish it and that should be the end of the story. That is not what the law says. We must be people who are guided by the Constitution and the law.

Secondly, Kenyans nowadays ask themselves whether the independent offices they gave themselves through the new Constitution are really serving them. Let us look at the

Controller of Budget. The Controller of Budget is supposed to check whether expenditures that are incurred by the county governments and the national Government are in tandem with the budget that is approved by Parliament. Period. But now, every county government must seek the approval of the Controller of Budget for any expenditure. If they want to build a dam, they must go to the Controller of Budget and ask her if they can build the dam or not. Then, there is a lot of corruption. The other day, the Controller of Budget reported that the national Government spent Ksh1.3 trillion manually, without passing through her office. She said that the money was supposed to be spent electronically. Who is this mad person who knows that Parliament audits them and Parliament holds them accountable, and goes ahead to spend public funds which are not budgeted for? The corruption in the Controller of Budget's Office must end.

Devolution and governors are suffering. Governors are unable to perform. They cannot access money that is appropriated for them because of the Office of the Controller of Budget. This has been the norm, but the Controller of Budget has refused to take any action. She has been summoned to the Senate and the National Assembly. Governors and the Council of Governors have gone to see and pleaded with her that devolution is suffering. There is corruption in her office. For every approval, counties must part with something. Governors openly say that for them to get approval from her office, they must give some money. In this era when the country is facing problems and devolution is almost on its deathbed, and money has been given, but the Controller of Budget is stifling it, it is up to this House to rise to the occasion and take action.

With those few remarks, Hon. Speaker, I conclude.

Hon. Speaker: Hon. Deputy Speaker, take two minutes.

Hon. Gladys Boss (Uasin Gishu County, UDA): Thank you, Hon. Speaker. I will take two minutes.

I just want to follow up on the issue that has been said by the Leader of the Majority Party in regards to the media. We can see that there is indiscipline in the Fourth Estate and we have allowed that indiscipline because there are no consequences for misreporting and misinformation at all. We must begin to put pressure on them. One, if those who are within the Bunge grounds who are accredited to report from here misreport, then the accreditation must be withdrawn, and not just the individual accreditation, but also their media house. It is as simple as that. They owe us a duty to report accurately. That is why we allow them access to be here. They cannot be here and continue to misreport and we must ensure that there are legal consequences. Every time they misreport, the Auditor-General should sue them. If they misreport Parliament, we should also sue those media houses until they begin to know that we are not going to allow it. If we continue this way, the media houses will be in charge of destroying institutions, destroying individuals, and writing whatever they want. We cannot allow that. We must also make sure that we keep sending, no matter how many times, our complaints to the Media Council of Kenya. If the Media Council does not take action, then we can take them to account.

Hon. Speaker: Hon. Makali Mulu; two minutes.

Hon. (Dr) Makali Mulu (Kitui East, WDM): Thank you very much, Hon. Speaker. I just want to be very brief and talk about the issue of the media and the House. My colleagues have said that it should be the work of this House trying to tell the media not to report. I see it differently, Hon. Speaker. Since we are the initiators of the Bills, most of the Bills come from the Government side and others come from the Members of Parliament, why do we not have a communication strategy whereby either the owner of the Bill or Parliament, in a very simplified manner, communicates the objects of the Bill?

Commenting on this issue of the Public Audit (Amendment) Bill, procedurally, budget issues relating to the Auditor-General come to the Budget and Appropriations Committee. This

is basically because the Auditor-General should be an annex of this House. The work of the Auditor-General is to help this House do proper oversight because they give us information. That being the case, I do not know at what point we decided that this Bill should be looked at by the Departmental Committee on Finance and National Planning, which normally looks at issues of the National Treasury. From where I sit and I might be misinformed because I am not a lawyer, I thought because we are guarded as a House, we should make sure that we do not expose the Auditor-General to the interaction with the National Treasury. I think that is good for democracy and for all the purposes of our oversight role as a House.

So, even as we discuss the Public Audit (Amendment) Bill, there is a gap in that we might not have communicated effectively the objects of this Bill. The Leader of the Majority Party should have taken a bit of time to do that so that we do not allow Kenyans out there to comment on a Bill which they do not understand.

I submit, Hon. Speaker.

Hon. Speaker: But Hon. Makali Mulu, the objects of the Bill are in the Bill itself. Yes, Hon. Kimani.

Hon. Kimani Kuria (Molo, UDA): Thank you, Hon. Speaker. Misinformation starts with errors; disinformation starts with agenda. When I looked at what the media reported on this particular Bill, I could tell for a fact that there is an agenda they were trying to pursue. This Bill is giving more power and authority to the Office of the Auditor-General. For example, the function of auditing human resource was not expressly provided for in the law. Therefore, these particular proposals are giving more power and influence to the Office of the Auditor-General.

On the issue of disinformation, last week we held a meeting with the Controller of Budget on the issue of manual and automatic payments. I was surprised to see the headline of the *Sunday Nation* the following day. I wondered if they were reporting on the same meeting I chaired. The way, that particular discussion was interpreted like the National Treasury went to the Central Bank of Kenya and withdrew Ksh1.33 trillion in cash. That is what the disinformation was meant to inform Kenyans. What that really meant is that the National Treasury for a very long time would process payments manually. There will be a lot of paperwork that the principal secretary had to sign and take to the Controller of Budget manually for approvals. What the National Treasury has done is to move from manual to automatic approval of transactions. However, because debt payments are extremely many and there are payments that are made every time, some of these processes have not fully migrated into automation. What we should be doing is congratulating the Principal Secretary and the Cabinet Secretary for the National Treasury and Economic Planning for moving from the manual systems to the automatic systems and encouraging them that all those payments should be onboarded to the automatic system. The disinformation is an agenda and we must call them out.

Hon. Speaker: Hon. Members, I think we will end there. It is important to point out to our compatriots in the media that we expect and require them to report factually and accurately because these are not abstract issues. Bills are published, they are in print, they are posted on the parliamentary website and they can also get hard copies from the Government Printer and from the Parliament itself. As I said earlier, following the precedent set in the impeachment proceedings, we will be posting Bills to offices of Members of Parliament at the constituency, and county level for County Woman Representatives. This is to ensure that members of the public have access to the Bills so that they read, understand and critique without sensation and disinformation.

For avoidance of doubt, the Auditor-General of the Republic of Kenya is appointed under Article 229 and can only be removed from office under Article 251; not in any other manner. The Speaker of this House will not approve any Bill that is brought to this House to purport to remove the Auditor-General from office because that process is provided for in the

Constitution. We also encourage the media that in cases where they do not comprehend any matter before the House, they should feel free to reach out to the offices of the leadership of the House: The Office of the Speaker, the Leader of the Majority Party, the Leader of the Minority Party, the Office of the Clerk and any other office that they can access, for clarity on matters that concern the public. Let us rest the matter there.

I have two short Communications to make. In the Public Gallery of the House, we have Namanga Secondary School from Mathioya Constituency, Murang'a County. On your and my own behalf, I welcome the students and their teachers to Parliament.

(Applause)

COMMUNICATION FROM THE CHAIR

CORRIGENDUM-STAY OF CONSIDERATION OF THE KENYA SIGN LANGUAGE BILL

Hon. Members, you will recall that during yesterday's afternoon Sitting, I guided the House on the stay of consideration of the Kenya Sign Language Bill (National Assembly Bill No.1 of 2024). The Bill is sponsored by Hon. Umulkher Harun Mohamed. In the Communication, I indicated that the Bill has similar proposals as those contained in the Kenya Sign Language Bill (Senate Bill No. 9 of 2023), co-sponsored by Senator Crystal Asige and the Whip of the Minority Party, Hon. Millie Odhiambo-Mabona, which is also before the House. In this regard, I wish to clarify that the Kenya Sign Language Bill (Senate Bill No. 9 of 2023), sponsored by Senator Crystal Asige, is to be co-sponsored by Hon. Umulkher Harun in the National Assembly. This is because the Bills were identical and Hon. Umulkher had sponsored the Bill in this House. The House is accordingly guided. Thank you.

Next Order.

(Hon. Timothy Kipchumba stood in his place)

Sorry, hold on, Clerk-at-the-Table. I had given Hon. Timothy Toroitich an opportunity to raise a point of order. As a matter of interest, it is directed to both the Leader of the Majority Party and the Leader of the Minority Party. Hon. Timothy, you have two minutes to execute your point of order.

POINT OF ORDER

RECONSTITUTION OF SPECIFIED COMMITTEES

Hon. Timothy Kipchumba (Marakwet West, Independent): Thank you, Hon. Speaker. I pray that you give me five minutes to raise a constitutional matter regarding the reconstitution of committees by this House.

I rise pursuant to Standing Order 1, as read together with Standing Order 173, regarding the reconstitution of committees by this honourable House. This House consists of Members from the Majority and Minority parties. However, we also have Independent Members who are elected on an independent ticket to this honourable House. Independent Members of Parliament are elected pursuant to Articles 85 and 99 of the Constitution of Kenya. Further, Article 103(e)(ii) provides that the office of Member of Parliament becomes vacant if an Independent Member joins a political party. Further, Standing Order 259B establishes the Caucus of

Independent Members, as a coordination and advocacy platform to safeguard the interests of Independent Members of this House.

Cognisant of the fact that the caucus of Independent Members selected one of their Members to sit in the Committee on Selection in order to protect, defend and uphold the interests of the Independent Members of this House, Independent Members are nominated to committees, through the Committee on Selection, as per Standing Order 173, which provides that the caucus of Independent Members of Parliament - which has been formally recognised by this House - submits names of their preferred committees.

Concerned that the Whip of the Majority Party has jurisdiction over Members of the Majority Party, but does not have authority or jurisdiction over Independent Members, who are not bound by the party's disciplinary or attendance guidelines, I acknowledge the importance of fair representation in committee assignments and the autonomy of Independent Members in the governance of parliamentary business.

Hon. Speaker, in your direction yesterday, you ruled that what was before the House was reconstitution of committees rather than discharge of Members. Be that as it may, can House committees be reconstituted without taking into account the interests of the names submitted by the caucus of Independent Members of Parliament? I seek your ruling on the following issues:

1. Whether in the process of reconstituting committees, the Whip of the Majority Party can remove or re-assign Independent Members of Parliament without consulting them or the caucus of Independent Members of Parliament.
2. Whether such re-allocation or re-assignment or reconstitution would violate the role of the Committee on Selection as outlined under Standing Order 173 and the principle of fair representation in committees.

Hon. Speaker, I request for one minute to explain myself further. We have 12 Members of Parliament elected on independent ticket to this National Assembly. I am one of them. I am here not because of a political party, but sent here directly by the people of Marakwet West. The practice in this House was that, when the first committees were nominated, we sat down, formed a caucus, which was formally recognised by yourself, Hon. Speaker. We nominated our Members to serve in select committees in which they want to serve in. We have one Independent Member, Hon. Caroline Ng'elechei, who sits on the Committee on Selection to protect the interests of the 'independents' in this House.

I am not under the guidance or leadership of Hon. Kimani Ichung'wah, who is the Leader of the Majority Party. He is not my leader in this House. I am an Independent Member. I am not under the guidance or supervision of Hon. Kimani Ichung'wah. I am not under the guidance or supervision of the Whips of the Majority or Minority parties of this House. I have been removed from the committee, but I have no issue. However, for posterity, it is good that you give a ruling to protect Independent Members of this House who are elected from their constituencies to serve the interests of their people on the Floor of this House. I invite your ruling on those two fundamental issues, so that the interests of all the Independent Members of this House are not subverted.

Hon. Speaker: Hon. Junet.

Hon. Junet Mohamed (Suna East, ODM): Hon. Speaker, I have been in this Parliament since the new Constitution came into place. It looks like the hangover of the old ways and the old Constitution has refused to go away from this country. Hon. Speaker, you have been a Member of Parliament for a long time. In the previous Parliaments where you served before the new Constitution, Whips used to constitute committees, send them to the Speaker for approval and it would end there. A Standing Committee called the Committee on Selection was formed under the new Constitution. It deals with issues of placement to committees and

looks into whatever proposal on the leadership of the Minority Party, the Majority Party, Independent Members, and all kinds of caucuses in this House.

That Committee has representation from all sectors - the Majority Party, the Minority Party, the so-called "Independent Members", small parties, non-Parliamentary parties, and all shades of representation in the House. We bring proposals from different sectors to that Committee chaired by the Leader of the Majority Party. We bring proposals from the Minority Party stating how we want to constitute committees. The Majority Party brings theirs. Independent Members have a voice there. That Committee decides whether to go back to redo or have an agreement. People vote in that committee if there is a stalemate.

In this country, the whole idea of independence in this new Constitution needs to be relooked. How independent are Independent Members in this House? We know whom they align with when they come here. For instance, they joined the other side after the previous elections. They are confused now that there is a broad-based Government. Some were with us, but left us at night, not even during the day. I called and asked them where they had gone and they told me: "We are in Karen". I asked: "Where in Karen?" They said: "Where the new President is". I told them: "Okay, we shall meet later".

(Laughter)

Generally, we need to look into the matter of independence again. You cannot be independent when you just want to be in committees and then you are not independent when there are serious fundamental issues of the country. You are with either the minority or the majority. There are independents on our side here, like Hon. Fatuma alias Full Network who is the Woman Representative for Migori. However, she is an ODM Member by all intents and purposes. She votes with us and comes to our Parliamentary Group Meeting. Hon. Shakeel Shabbir is also independent. He is an ODM Member by all intents and purposes.

So, just say your Member did not get the lucrative committees like the Budget and Appropriations Committee or the Departmental Committee on Transport and Infrastructure that Members are looking for. Not everybody can get. My plea to your ruling is that you go broader and look at the whole issue of independence. How independent are independents?

With those few remarks, I submit.

(Applause)

Hon. Speaker: Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker.

I do not want to buttress what the Leader of the Minority Party has said. Under the current dispensation and in line with our Standing Orders, it is true that both parliamentary and non-parliamentary parties are represented in the Committee on Selection that I happen to chair. Decisions of the Committee are not decisions of the Chair. As the Leader of the Minority Party has said, they are decisions of the Committee. They are by consensus. We vote where there is no consensus.

In line with our own Standing Orders, it is also true that the independents in the House are accorded an opportunity to sit in that Committee on Selection. I do not want to question the independents. Hon. Timothy Toroitich raised an issue couched around the Constitution. However, it is more of a complaint over his relegation to a committee other the one he was serving in. Because we sat in that Committee on Monday evening, I confirm that another Independent Member replaces Hon. Timothy in the committee he was in. It is not a Member of the majority or the minority party. Another independent Member has taken his position in

line with the proposals the Committee on Selection got from the representation of Independent Members.

I engaged Hon. Ng'elechei and Hon. Karauri who lead the caucus of Independent Members. They submitted their list when they appeared before the Committee on Selection. As expected, every Member in this House wants to be a Member of the Budget and Appropriations Committee, the Departmental Committee on Transport and Infrastructure, the Departmental Committee on Energy, the Departmental Committee on Education, or the Departmental Committee on Blue Economy and Irrigation. However, it is not practical.

That is why what Hon. Junet says is true. The intent of the Constitution and our Standing Orders was to establish a Committee on Selections that would guide the House to settle Members in committees. If what Hon. Timothy Toroitich says is true or was to be true, what would happen if a particular grouping like Independent Members brought a list of 20 or 30 Members before the Committee on Selection expressing their desire to sit in the Budget and Appropriations Committee? Shall that Committee have only Independent Members? I think they are about 11 or 12. What if all of them wanted to sit in the Departmental Committee on Transport and Infrastructure? Would it mean that is the only Committee they will all sit in? The import of the Constitution and our Standing Orders was that there would be established a Committee on Selection. Like with all other businesses of the House, it would guide the House in settling matters through consensus. Where there is no consensus, a vote would decide which member sits in which Committee.

By and large, I hear him disgruntle and complain from Hon. Timothy Toroitich about the committee into which the Committee on Selections has settled him. However, I encourage the Member for Marakwet West to focus more on serving the people of Marakwet West. Some Members have served in this House without being in any committee of the House. They have done exemplarily well in addressing matters that are of concern to the people that sent them to represent them in the Assembly, plenary, and constituencies. It will be otherwise if you focus on the disgruntlement of whether you sit in this or that committee. As I said yesterday, we may not satisfy everybody. It is not practical to satisfy the desires and needs of everybody as individuals.

Let us use the opportunities that we are given to serve in whatever Committee we are relegated to. Whether it is the Departmental Committee on Transport and Infrastructure or even the very powerful Members' Welfare Committee. I said that I served in the Members' Welfare Committee in the last Parliament. I have never served in a more powerful Committee than that. The Committee oversees the Parliamentary Service Commission where the Speaker is the Chairman. Other than the Members' Welfare Committee, no other Committee of this House can oversight the Speaker.

I am very proud of my time as a Member of the Members' Welfare Committee. Hon. Speaker, Bunge Tower progressed in the last two years of the last regime because we oversighted the Parliamentary Service Commission before you took over as Chairman of the Parliamentary Service Commission. We worked to ensure that Members of Parliament enjoy good facilities by the time they join the 13th Assembly. I thank you, Hon. Speaker because you picked up from where the other commission left.

I ask the Members joining the Members' Welfare Committee to keep the Speaker on his toes so that he can continue guiding the Parliamentary Service Commission to improve your welfare as Members of Parliament. That is why I say it is one of the most powerful committees of this House. I was just engaging with my brother, Hon. Nimrod Mbai, telling him that we crafted the Public Petitions Committee in the last Parliament. It is bound to be one of the best committees of this House. However, committees are as good as the leadership and the membership. It is up to you to make the best out of whichever committee you are put in and serve your constituents.

Hon. Speaker: Hon. Milemba, I give you one minute.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Speaker. For the committee, notwithstanding as you will be making your ruling, it is very important that you listen to the voice of the Member who spoke. The original analogy was very clear that the Independent Members need to be protected. Though in the end, as I listened to him, he failed to explain whether the representative of the Independent Members was in the Committee on Selection that did the work. That is what he did not pronounce himself on. That is an important place you will have to check, so that we protect their section. Notwithstanding the committee that he has been given, it is important that their place is protected continuously.

Hon. Speaker: Thank you, Hon. Members. Hon. Timothy, I do not need to go and think deeply on this matter. It is a very straightforward one. Firstly, as you have rightly said, the Standing Orders give an opportunity to the Independent Members to form a caucus which can help them in prosecuting their interests at various levels in performance of your duty.

Secondly, the Speaker ensured that Independent Members from their caucus are represented in the Committee on Selection, by advising Leader of the Majority Party and Leader of the Minority Party. You are represented by none other than the distinguished lady from your own county, your County Woman Representative, Hon. Caroline Ng'elechei. So, you are not unrepresented.

Thirdly, Standing Order 174 is very clear that no Member shall be left without a committee. At the very minimum, each Member of this House must serve in one committee. From the reconstitution of committees that was brought to the House Business Committee, chaired by the Speaker and sitting Members from both sides of the House, I was satisfied that there is not a single Member of this House who was left without a single committee. Each Member has at least one committee. As to the quality of committees, that is not for the Speaker. I do not even know what quality in a committee means.

(Laughter)

I only know that we have committees of the House in the Standing Orders that I participated in their writing, together with Hon. Julius Sunkuli, the late Hon. Godana, a former Member from Nakuru called Hon. Bishop Kimani, and the late Hon. Henry Obwocha. We wrote them. Before then, this House had only four committees, namely, the Public Accounts Committee, the Public Investments Committee, the House Business Committee and the Committee of Powers and Privileges. There were no other committees. We created them to make the House work better.

Hon. Kipchumba, I advise you to go back to your representative in the Committee on Selection. Hon. Junet said that this is a moving target. Committees are dynamic in membership. You are in one today and then you are moved to another one tomorrow, subject to procedural issues being adhered to. I do not see any issue warranting me to retreat and bring a ruling. It is as straightforward as that.

Fourthly, I want to advise you as a young Member. Your prowess in your representation, debate and legislation is not hinged on which committee you sit in. It has many variables. I have been in Parliament for over 30 years and there is not a single parliamentary session that I served in more than one committee by choice. Every time I was given more than one committee, I declined. I served only one committee at a time. For over 30 years, I have never chaired a parliamentary committee. The only time I chair a committee is now by virtue of the office I hold, that is, House Business Committee. I have never presented myself to be elected as a chairman or vice-chairman of any committee. I was always guided by the belief that being a chairperson of a committee is cumbersome. It would withhold my capacity to think, debate, work and represent my people.

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(Laughter)

I kept off chairing any committee. Hon. Pukose holds a different view which is entirely up to him.

Hon. Kipchumba, as you navigate your first term, try your best to establish good public relations with your colleagues, especially those you send to sit in those committees, so that they can represent you better, agitate for your interest, vote for your interests, and give you what you want. The Speaker has no capacity to place any Member in any committee. He only has capacity to ensure that you cannot be committeeless. Hon. Timothy, I think that helps you, going forward. That is how we shall operate in future.

Allow me to acknowledge Sacho High School from Baringo Central Constituency in Baringo County who are in the Public Gallery. On my behalf and your behalf, I welcome them to the House of Parliament.

(Hon. Joshua Kandie spoke off record)

Pardon? I have welcomed them on your behalf, Hon. Kandie. I am sure you will go out there to engage them after this. Next Order.

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

Hon. Speaker: Sorry, Hon. Jared Okello. What is it? Take one minute.

Hon. Jared Okello (Nyando, ODM): Hon. Speaker, there is this thing that is now becoming my pet project, though inadvertently. You have ordered more than four times for a report that feeds into hardship areas in this country.

Hon. Speaker: The classification of hardship areas.

Hon. Jared Okello (Nyando, ODM): Yes. You have asked the Leader of the Majority Party four times to avail the report here. In fact, last week, when you were giving what I will call the final directive, the Leader of the Majority Party talked about the imbalances in his constituency. He averred that one particular location has one sub-location that is classified as a hardship area, but the rest of the locations in the same....

Hon. Jared Okello (Nyando, ODM): That is enough. You have made that point many times. Leader of the Majority Party, when will the report be ready?

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, allow me to do that when we resume from the short recess.

Hon. Speaker: That is after three weeks.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Yes.

Hon. Jared Okello (Nyando, ODM): Hon. Jared, hold your horses until after three weeks. Clerk-at-the-Table, call out the next Order. Hon. Members, be upstanding.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE COUNTY GOVERNMENTS (REVENUE RAISING PROCESS) BILL

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(National Assembly Bill No.11 of 2023)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Order, Members. Those who wish to participate in the Committee of the whole House may be seated. We will start with the County Governments (Revenue Raising Process) Bill (National Assembly Bill No.11 of 2023).

(Clauses 3, 4, 5, 6 and 7 agreed to)

Clause 8

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): We have an amendment by Hon. Irene Nyakerario Mayaka.

Yes, Leader of the Majority Party. You may proceed.

Hon. Kimani Ichung’wah (Kikuyu, UDA): Hon. Temporary Chairlady, allow me to move this amendment on behalf of Hon. Irene Mayaka, who went for the Kisii Consultative Meeting with the former Prime Minister.

Hon. Temporary Chairlady, I beg to move:

THAT, Clause 8 of the Bill be amended in subclause (2) by—

- (a) deleting the word “and” appearing in paragraph (d);
- (b) deleting the period “.” appearing in paragraph (e);
- (c) inserting the following new paragraphs immediately after paragraph (e)—
- “(f) the Kenya National Chamber of Commerce and Industry; and
- (g) the Principal Secretary of the State Department for the time being responsible for matters related to information, communication, technology and digital economy or a representative designated in writing.”

The import of this amendment by Hon. Irene Mayaka is to include under paragraph (f), the Kenya National Chamber of Commerce and Industry and under paragraph (g), the Principal Secretary of the State Department for the time being responsible for matters related to Information, Communication and Technology (ICT) and the Digital Economy or a representative designated in writing.

This relates to the establishment of the Inter-Agency Transition Committee ((IATC) to review taxes, charges and fees imposed by any county before the enactment of the Act. The committee consisted of the National Treasury, Commission on Revenue Allocation (CRA), Inter-Governmental Relations Technical Committee (IGRTC), the Council of Governors (CoG), Kenya Revenue Authority (KRA).

Hon. Irene Mayaka proposes to add the Kenya National Chamber of Commerce and Industry (KNCCI) which I agree with. This is because they are the people who engage almost on a day to day basis with traders. Therefore, they are adding value to that committee.

Also, the Principal Secretary in-charge of ICT and the Digital Economy will be included in this committee. He will help in reviewing systems for payment especially on digital platforms.

Thank you, Hon. Temporary Chairlady.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): I do not see any interest on this. Therefore, I will put the question.

(Question, that the words to be left out)

be left out, put and agreed to)

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

(Clause 8 as amended agreed to)

(Clauses 9, 10, and 11 agreed to)

(Clause 2 agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, as you have noticed, we have finished with the first Bill. I would like to now call upon the Mover to move reporting.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Chairlady, I beg to move that the Committee do report to the House its consideration of the County Governments (Revenue Raising Process) Bill (National Assembly Bill No.11 of 2023) and its approval thereof with that one amendment.

(Question proposed)

(Question put and agreed to)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, we are now going to the next Bill.

THE PUBLIC AUDIT (AMENDMENT) BILL
(National Assembly Bill No.4 of 2024)

(Clauses 3, 4 and 5 agreed to)

Clause 6

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): There is an amendment.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 6 of the Bill be amended in the proposed new Section 8(1) by inserting the following new paragraph immediately after paragraph (f)—

“(fa) conduct and prepare audits on human resource in the public service;”

This proposed amendment is seeking to provide an additional function to the Auditor-General to conduct and prepare audits on human resource in public offices. This will ensure compliance with constitutional provisions on values as specified in the Constitution, in relation to treatment of minorities; gender, youth, persons with disabilities, ethnic and regional minorities.

This proposed amendment aims at addressing this challenge by ensuring that regular audits are undertaken to ascertain compliance by institutions. This will enrich the functions of the Auditor-General, especially at the time when we are looking for inclusion of minorities,

young people and persons with disabilities. The Auditor-General will be required to submit an audit on human resource and make sure public offices are compliant.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you very much, Chairman of the Committee on Finance and National Planning. Please, if you are interested, press the intervention button. Yes, Hon. Makali Mulu.

(Question of the amendment proposed)

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you very much, Hon. Temporary Chairlady. This is a very important amendment. I support it because all along, the Auditor-General has been so keen on the financial performance of institutions. In this House, we have the Committee on National Cohesion and Equal Opportunity, which is supposed to ensure that all regions in this country are factored in matters human resource. At the same time, we had a Bill which was proposing a parallel audit office to look at matters human resource, only. It is a very good idea to bring this under the Office of the Auditor-General. I support.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you very much. Hon. (Dr) Nyikal, Member for Seme.

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Chairlady. I also rise to support this amendment. For any function, while money is important, human resource is the most significant. As the previous Member mentioned, there are a lot of issues with the distribution and handling of human resource. The major issue is the presence of ghost workers. There is no audit of how human resources are deployed, leading to a large number of ghost workers.

I support this amendment.

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

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

(Clause 6 as amended agreed to)

(Clauses 7, 8, and 9 agreed to)

Clause 10

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): We have an amendment. The Chairman of the Departmental Committee on Finance and National Planning, move the amendment.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairlady, I beg to move:

That, Clause 10 of the Bill be amended—

- (a) in by paragraph (a) by inserting the word “senior” immediately after the words “shall be a”;
- (b) by deleting paragraph (b).

This clause seeks to provide for a deputy Auditor-General without considering the existing structure in the Office of the Auditor-General, which already has seven deputies. The position of Senior Deputy Auditor-General, that currently obtains in the Act, is, therefore, practicable. Given the existing structures within the Office of the Auditor-General, it is important that these amendments align with those structures so that we do not pass a law here that could jeopardise the current arrangement.

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

(Question of the amendment proposed)

I do not see any interest in this. I will go ahead and put the Question.

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

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

(Clause 10 as amended agreed to)

Clause 11

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): The Chairman of the Departmental Committee on Finance and National Planning, move the amendment.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairlady, I beg to move:

That, Clause 11 of the Bill be amended—

(a) in paragraph (a)(i) by deleting the words “The Deputy Auditor-General” and substituting therefor the words “The Senior Deputy Auditor-General”;

(b) by deleting paragraph (b).

This is for the same reason I explained in Clause 10. It is important that this law is in tandem with the existing structures in the Office of the Auditor-General.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you very much, Hon. Chairman.

(Question of the amendment proposed)

Yes, Hon. (Dr) Makali Mulu.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you very much, Hon. Temporary Chairlady. While I support this amendment, it is important that we consider not only the existing structure in the Office of the Auditor-General but also best practices. This is not a stand-alone office; there are similar offices in other countries. Other than the existing structure, I would like the Chairman to explain whether they considered the best practice in other countries.

Thank you, Hon. Temporary Chairlady.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, would you like to comment on this?

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairlady, I want to confirm that the amendments we are seeking were made after lengthy consultations. We also considered best practices and structures of Auditor-General offices around the world. Therefore, this amendment is not just in tandem with the existing structures but also best practices.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Chairman and Hon. Makali.

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

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

(Clause 11 as amended agreed to)

(Clauses 12, 13, 14, 15 and 16 agreed to)

Clause 17

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, move your amendment.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairlady, I beg to move:

That, Clause 17 of the Bill be amended in the proposed new Section 25—

(a) in the proposed new subsection (1)—

(i) by deleting paragraph (d);

(ii) by deleting paragraph (e);

(iii) by inserting the following new paragraphs immediately after paragraph (c)—

“(ca) a nominee of the Institute of Human Resource Management;

(cb) a nominee of the Institute of Internal Auditors of Kenya.”

(b) by deleting the words “The Deputy Auditor-General” appearing in subsection (3) and substituting therefor the words “The Senior Deputy Auditor-General”.

Hon. Temporary Chairlady, Clause 17 of the Bill seeks to establish the Audit Advisory Board. What we found interesting was that paragraph (d), which we are deleting, was proposing that the Chairperson of the Budget and Appropriation Committee of the National Assembly be a member of the Advisory Board.

Paragraph (e) sought to have two representatives from Parliament, one from the National Assembly and one from the Senate, from the committees in charge of public finance and audit. This was quite intriguing and after public participation, we recommended in our report that we should delete this provision on the Floor.

The Constitution is clear on the separation of powers between the Executive and Parliament. Therefore, including Members of this House and the Senate in the advisory board would affect the independence of Parliament and the Office of the Auditor-General. It is also not in line with best practices and our Constitution regarding separation of powers.

Hon. Temporary Chairlady, I beg to move.

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

(Question of the amendment proposed)

I do not see any interest.

(Hon. (Dr) James Nyikal spoke of record)

There is? Hon. (Dr) Nyikal, proceed.

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Chairlady, I rise to support this for the simple reason that it would create a huge conflict of interest. A person cannot sit in the advisory committee and then have the audit report come to Members of Parliament to look through it, having already participated in the board. I support.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you very much, Hon. (Dr) Nyikal.

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

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

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

(Clause 17 amended agreed to)

(Clause 18 agreed to)

Clause 19

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, move your amendment.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairlady, I beg to move:

That, Clause 19 of the Bill be amended in paragraph (b) of the proposed Section 27 by inserting the words “strategic planning” immediately after the word “management”.

The proposed additional function arises because budgeting and human resource management and development functions are contained and derived from a strategic plan.

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

(Question of the amendment proposed)

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

(Clause 19 as amended agreed to)

(Clauses 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45 and 46 agreed to)

New Clause 6A

THAT, the Bill be amended by inserting the following new clause immediately after Clause 6—

Insertion of new sections in Cap. 412B.

6A. The principal Act is amended by inserting the following new sections immediately after section 8 —

Public Service
Human Resource
Audit Directorate.

8A. (1) There is established a directorate in the office of the Auditor-General to be known as the Public Service Human Resource Audit Directorate.

(2) The Head of the Public Service Human Resource Audit Directorate shall be competitively recruited and appointed by the Auditor-General.

Functions of the
Public Service
Human Resource
Audit Directorate.

8B. The Public Service Human Resource Audit Directorate shall be responsible for conducting and preparing audits on human resource in the public service.

(The new clause was read a First Time)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Proceed, Hon. Chairman.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairlady, I beg to move that the new clause 6A be now read a Second Time.

The amendment seeks to establish the Public Service Human Resource Audit Directorate within the Office of the Auditor-General to conduct and prepare human resource audits of offices in public service. This will ensure compliance with constitutional provisions on values established by our Constitution, relating to treatment of minorities; gender, youth, people living with disabilities, and ethnic and regional minorities. The proposed amendment seeks to address that challenge by ensuring regular audits are undertaken to ascertain compliance by institutions.

We are not just introducing an additional function, but we are establishing a directorate with a head that will be in-charge of ensuring that every Kenyan has an opportunity to work in public offices.

(Hon. (Dr) Makali Mulu stood in his place)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. (Dr) Makali, do you want to say something on this? Before he speaks, let me propose the Question.

(Question, that the new clause be read a Second Time, proposed)

Hon. (Dr) Makali, you may proceed.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you very much, Hon. Temporary Chairlady. I appreciate this new clause. The earlier amendment was to create a human resource function in the Office of the Auditor-General. Now that we have created that function, it is important that we have a directorate which will carry out that function, and that is why this clause is very important. We are defining the functions of that directorate, I listened to the Mover giving details of that directorate. It is clear that we have considered the constitutional provisions in terms of ensuring that minorities: people living with disabilities and marginalised groups in this country are part and parcel of our public service.

This country has faced a number of challenges due to the human resource function. We often receive reports from the ministries, which may not be independently produced. I often suspect that the reports could be manipulated, which prevents us from getting an accurate picture of what is happening. However, if this audit is done by the Office of the Auditor-General, we can be confident that we will receive accurate and correct information, enabling us to make the right decisions.

I support this new clause. I thank the Chairman of the Departmental Committee on Finance and National Planning for proposing it.

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

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

New Clause 11A

THAT, the Bill be amended by inserting the following new clause immediately after Clause 11—

Repeal of section 12 of
Cap 412B

11A. The principal Act is amended by repealing section 12 of the Act.

(The new clause was read a First Time)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, I now call upon the Mover to move Second Reading. Hon. Chairman, move new clause 11A.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairlady, I beg to move that the new clause 11A be now read a Second Time.

Section 12 of the Public Audit Act was providing for an Auditor-General to serve in an acting capacity. However, the case of Transparency International (TI Kenya) v Attorney General and two others [2018] in Petition No.388 of 2016 found that section to be unconstitutional. You cannot have someone in the Office of the Auditor-General serving in an acting capacity. This was envisioned when FCPA Ouko was in office and the Public Service Commission (PSC) took a very long time before appointing a new Auditor-General.

The thinking then was that there was need to have someone serve in an acting capacity in the absence of an Auditor-General. Having listened to all the stakeholders, and noting that the term of the Auditor-General has a constitutional timeline. It is possible to predict when that time will come to an end and start the recruitment process of a new Auditor-General on time. So, that before the term of the serving officer comes to an end, a new Auditor-General can be in place almost immediately. That is why we are repealing Section 12 of the Public Audit Act.

(Question, that the new clause be read a Second Time, proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): I do not see any interest in contributing to the amendment through the intervention button. Hon. (Dr) Nyikal, please proceed.

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Chairlady, I rise to support the amendment however, I would like to seek more clarification from the Mover. Does this amendment apply to all independent constitutional offices? It appears as though that is the basis for the amendment. This is just for my information. Nonetheless, I support the amendment.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, you may respond to Hon. (Dr) Nyikal on whether this amendment is transitional.

Hon. Kuria Kimani (Molo, UDA): I have not understood the question by Hon. (Dr) Nyikal.

This particular provision only relates to the Auditor-General. The current law provides for an Auditor-General appointed in an acting capacity. When the people of Transparency International went to court, the High Court declared that provision unconstitutional. Therefore, we are repealing that Section 12, so that we do not have an Auditor-General in an acting capacity. When the Constitution created the office of the Auditor-General, it was not envisioned that the independence of such a great office would be someone appointed in an acting capacity.

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

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(Question, that the new clause be read a Second Time, proposed)

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

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

New Clause 12A

THAT, the Bill be amended by inserting the following new clause immediately after Clause 12—

Repeal of section 18 of Cap. 412B. **12A.** The principal Act is amended by repealing Section 18 of the Act.

(The new clause was read a First Time)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, I would like to call the Mover.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairlady, I beg to move that the new Clause 12A be read a Second Time.

In the case I referred to, *The Transparency International versus the Attorney-General and two others, Petition No.388 of 2016*, the High Court held that Section 18 of the Public Audit Act providing for secondment of officers is unconstitutional. The court stated that secondment of staff and the terms of Section 18 of the Public Audit Act would be improper as it would lead to familiarity, it would undermine the independence of individual staff and interfere with institutional independence. Therefore, the section was declared unconstitutional.

Because of the need for independence of the officers serving in the Office of the Auditor-General, it is important that such officers should not be on secondment. They should be employed to serve under the Office of the Auditor-General and not seconded from other areas. Let me give an example. Let us imagine an accountant who has served for many years at National Treasury being seconded to the Office of the Auditor-General. Will the officer be loyal to the Office of the Auditor-General or loyal to the office he came from? Therefore, there is a need to remove that secondment of officers to the Office of the Auditor-General.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, before we go to Hon. Millie Mabona, let me propose the Question.

(Question, that the new clause be read a Second Time, proposed)

Hon. Millie Odhiambo.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you Hon. Temporary Chairlady. I wish to support that proposed amendment. I agree with the High Court. This is something that I have actually raised a lot of times in this House before. I have also brought many amendments in relation to secondment of officers to independent institutions. There are also cases of officers we have vetted in the House and we provide in the law that they can be seconded. I always propose an amendment to such a provision. That amounts to bringing people through the back door into independent institutions.

I wish to support the amendment and I agree with the Court.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you very much. Dr Makali Mulu.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you Hon. Temporary Chairlady. I also support this amendment more so on the basis of the independence of the Auditor-General. It is important to uphold separation of powers. This being a constitutional office, it is important that we get officers who are loyal to the institution.

It is also important to note that at times the Auditor-General gets external resource persons in form of consultants for short-term assignments. I would want to hear from the Chairman whether that position still obtains or we will be doing away with it. As the Budget and Appropriations Committee, we support the position that where the Auditor-General may not have the right capacity and requires extra personnel who can be contracted on a short-term basis, he/she should be allowed to get such personnel. I would like to hear whether that position still obtains. Thank you.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. Hon. Chairman before you respond to Hon. (Dr) Makali, I would like to give a chance to Hon. Njeri Maina, Member for Kirinyaga County.

Hon. Njeri Maina (Kirinyaga County, UDA): Thank you. I would like to support the amendment. It is important to protect the integrity of the Office of the Auditor-General. Sometimes people find their way in through the back door because they want to escape from their core mandate in their main line of duty.

We also need to factor in when outsourcing is required. We need to be clear on what will happen with regard to that because there might be a shortage of, perhaps, specific skilled advice that is required, and that the Office of the Auditor-General may not have the capacity to hire in-house support.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. Chairman, Departmental Committee on Finance and National Planning, you may respond to Hon. Dr Makali Mulu.

Hon. Kuria Kimani (Molo, UDA): Thank you, Hon. Temporary Chairlady. Those are very valid points raised by Hon Members. I will be moving a further amendment as new Clause 15A. Clause 15 of the Bill talks about Section 21 of the Act as amended in Sub-section 1, in the opening statement, by deleting the words, “a public body or any person employed in a public body”, and substituting thereof with the words, “any entity or any person receiving or being funded from public funds”.

It also provides that, by deleting the word “bodies” and substituting therefor with the word “entities”, and by deleting Sub-section 3, where the information required is from a private entity or person, the Auditor-General may apply to the courts to obtain such information.

Clause 15 of the Bill provides authority of the Office of the Auditor-General to outsource. So, we will find that in the next amendment. We are further amending that and saying that the outsourcing must be done competitively through the procurement laws so that we do not have the Office of the Auditor-General picking anybody to assist in the name of outsourcing.

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

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

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

New Clause 15A

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THAT, the Bill be amended by inserting the following new clause immediately after Clause 15—

Amendment of section 23 of
Cap. 412B.

15A. Section 23 of the principal Act is amended by inserting the words “competitively” immediately after the words “the Auditor-General may”.

(The new clause was read a First Time)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Mover

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairlady, I beg to move that New Clause 15A be now read a Second Time.

As I explained, we are providing the Auditor-General with the powers to outsource particular services that may not be available to the office of the current human resource. We are also saying that the outsourcing must be done competitively within our procurement laws.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Chairman, Departmental Committee on Finance and National Planning.

(Question, that the new clause be read a Second Time, proposed)

Let me start with the Hon. Millie Odhiambo.

Hon. Millie Odhiambo-Mabona (Suba North, UDA): Hon. Temporary Chairlady, I wish to state that I support. I thank the Chairman of the Departmental Committee on Finance and National Planning for bringing that amendment. I am very glad that finally, it had to take the court’s ruling for us to take us this direction. I always bring amendments on this issue from a governance perspective. This is because one of the things I do in this House is to mainstream cross-cutting issues of governance, human rights, rule of law, gender, and issues of inclusion. One of the things that I always include is exactly the word that he says—“competitively”. Competitiveness conforms to governance standards.

The other one that I hope he can use more frequently is “open” and “competitive”. The word I was looking for is “co-opting”. People also co-opt. Co-option in a body that is independent or passed by Parliament brings people through the back door. Hiring consultants for a short time is the only way to make sure that is done properly. That is acceptable in governance standards. I wish my Leader of the Majority Party was here to listen, because sometimes when you bring an amendment to say competitive or open, people think. People wonder why I bring amendments just to add “competitive” or “open”. Why are you bringing an amendment on two useless words? However, “open” and “competitive” are very powerful words in governance.

I support.

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

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

I also want to support the amendment bringing in competitive outsourcing. We must allow outsourcing in the Office of the Auditor-General. At times and more so when conducting a forensic audit, the Auditor-General may require some specialised expertise that is not in-house. You may also realise that it becomes very tricky getting such expertise permanently. When we allow this competitive outsourcing once in a while, the Auditor-General can get such specialised persons on board to do short-term assignments and give reports then go back to

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their usual assignments. That would be making the office more effective in delivery. The more effective this office is the more effective Parliament will be in oversight through our watchdog committees.

I support.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. Dr Nyikal, I guess your interest is not in this.

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

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

New Clause 29A

THAT, the Bill be amended by inserting the following new clause immediately after clause 29—

Repeal of section 40 of
Cap. 412B.

29A. The principal Act is amended by
repealing section 40.

(The new clause was read a First Time)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Mover, move Second Reading.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairlady, I beg to move that New Clause 29A be now read a second time.

Section 40 of the Public Audit Act provided the restriction of auditing national security organs. That law was limiting the Auditor-General from auditing security organs.

Transparency International (TI Kenya) v Attorney-General & 2 Others, Petition No. 388 of 2016 declared that section unconstitutional. Therefore, this is to enhance that ruling to make sure every public fund in this country will be subject to audit by the Office of the Auditor-General. The law was trying to protect particular entities from the scrutiny of the Office of the Auditor-General.

You can imagine the danger of saying that particular funds or budgets, for the disguise that they are for security reasons, are not subject to audit by the Auditor-General. We are now repealing Section 40 through the New Clause 29A to make sure that all public funds in the Republic of Kenya are subject to scrutiny by the Office of the Auditor-General, including those of security organs.

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

(Question, that the new clause be read a Second Time, proposed)

Hon. (Dr) Nyikal.

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Chairlady.

I support this because it will close a loophole that many of us believe has been misused. You can even get public funds used for political purposes and you can never know. I have sometimes wondered the process through which money leaves government when we see huge sums of money spent by people who are close to government. What procurement process

releases this kind of money? I have always thought, maybe wrongly, loopholes like these can be used.

I think putting everybody under audit is good. I support it.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. John Gitonga, Member of Manyatta.

Hon. Gitonga Mukunji (Manyatta, UDA): Thank you.

I also welcome this amendment in consideration of the significant amount of resources that go to our security organs. Such resources cannot go without audit queries, especially from the Auditor-General. This amendment will ensure that we at least do not have misuse of resources in the guise of security. I rise to support this amendment.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Dr Makali Mulu.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Yes, thank you so much.

This excellent amendment has made my day. The money we appropriate for the security sector in this country is such a huge amount that it does not make sense for it to go unaudited.

I want to share experiences from some of the developed countries. I was a Member of the Departmental Committee on National Security and Administration during the 12th Parliament. We had a chance to visit Israel. We discovered that the Confidential Vote and Security Vote are audited in Israel.

(Hon. Kuria Kimani consulted with Hon. Njeri Maina and Hon. Gitonga Mukunji)

I wish the Chairperson was listening to me because I will be posing a question.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Actually, the Chairperson is listening.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Hon. Njeri is engaging him very hard.

I was saying that I had a chance to visit Israel. We had gone there as the Departmental Committee on National Security and Administration and we were looking at how they handle their Confidential Vote and the security budget. Something came out from that visit, on what they do every year. I hope you have factored that into your amendment. There would be officers the system vets. Even if you are proposing the Auditor-General. Officers vetted by the system - the National Intelligence Service (NIS) and all that - to make sure they can keep the expected level of confidentiality.

In that case, once you get vetted officers in the Office of the Auditor-General, the officers can access any information. Be it a Military Vote or the Confidential Vote. The vetted officers will come to the Public Accounts Committee, not to an open session, to report and give assurance to the House that things are happening right. The Chairman of the Departmental Committee on Finance and National Planning, I can tell you that this country is rich enough to meet most of our obligations if we go in that direction.

I support.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Njeri Maina is the last one.

Hon. Njeri Maina (Kirinyaga County, UDA): Thank you, Hon. Temporary Chairlady.

Allow me to support this amendment. It is welcome because the security sector has been allocated a whopping Ksh377 billion in the 2024/2025 budget plan. Prudent use of public resources is important and imperative when we are struggling with debts and over 60 per cent of our revenue goes to debt allocation. The money termed 'Confidential Vote' and set aside for the security sector should now be audited so that spending it is no longer shrouded in mystery. It is a welcome amendment from the very able Chairman of the Departmental Committee on Finance and National Planning.

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The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): The last one is Hon. Millie Odhiambo. I encourage you to make the comments short, bearing in mind that this is the Committee of the whole House.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Yes. Thank you, Hon. Temporary Chairlady. I support this amendment. I know that many people may not be very happy with this amendment. However, you need to take very brave steps, especially for a small democracy like ours. I served in the Budget and Appropriations Committee until yesterday. I still serve in the Departmental Committee on Defence, Intelligence and Foreign Relations which oversees the National Intelligence Service (NIS). I know that it was well intended when the security money was ring-fenced against audit. However, this is one area that has potential for misuse. Again, going by what I talked about governance, it endears the country towards it. What Hon. Makali Mulu has said is perhaps the way to go to ensure that you have specific officers who are vetted to take that.

In conclusion, I observed something nice. Hon. Njeri is in the House. She is not just outside giving pastors a run for their money. She is in the House and distracting the Chairman of the Departmental Committee on Finance and National Planning.

(Laughter)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): I guess part of that was banter and canter.

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

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

New Clause 30A

THAT, the Bill be amended by inserting the following new clause immediately after Clause 30—

Repeal of section 42 of Cap. 412B. 30A. The principal Act is amended by repealing section 42.

(The new clause was read a First Time)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): I now call upon the Mover to move Second Reading.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairlady, I beg to move that the New Clause 30A be now read a Second Time.

Section 42 of the current Public Audit Act gags the Office of the Auditor-General from questioning government policy objectives. *The Petition No. 388, Transparency International versus the Attorney General*, found this to be unconstitutional. Therefore, we are proposing that this particular Section be repealed. This demonstrates that the Public Audit (Amendment) Bill is a very good Bill that will add powers to the Office of the Auditor-General, giving her more functions. An example is not gagging her from questioning government objectives like it is currently provided for in the law or the discussion we had earlier on giving her power to audit security organs.

I thought about what Hon. (Dr) Makali Mulu raised. Perhaps, we need to provide it in law that those officers who audit those security agencies probably need to be vetted by NIS. If

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we say this in law, it will be too administrative. They will expect that officers assigned to such a particular mission will be very experienced and senior ones. Nothing will stop the Auditor-General from sending their list to NIS for vetting to make sure that they handle those matters with confidentiality. That will be administratively handled through the office. It does not really have to come through an amendment in the law.

Thank you, Hon. Temporary Chairlady.

(Question, that the new clause be read a Second Time, proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Tindi Mwale.

Hon. Nicholas Mwale (Butere, ODM): Thank you, Hon. Temporary Chairlady. I am here. I support the amendment because you will find out that the experience and role of the office of the Auditor-General sometimes has a lot of insight on what government is supposed to do to improve efficiency of service delivery. Therefore, allowing the office of the Auditor-General to comment on policy objectives is vital in improving government reforms and service delivery to the public.

Thank you.

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

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Chairlady. I support that policy informs the law. If we say that you can audit something as a consequence of the law but you cannot look at the policy, sometimes a defective policy is what causes the problem. Therefore, I support that amendment.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. Next is the Member for Manyatta, Hon. John Gitonga.

Hon. Gitonga Mukunji (Manyatta, UDA): Thank you, Hon. Temporary Chairlady. I also rise to support the amendment. Policy directives by the government determine where resources are normally allocated during the budget-making process. When the Auditor-General cannot question the government on how they are going to handle policy—and the effectiveness and prudence of the resources to be put in those policies— as the Chairperson said, we are gagging her. This House should protect the rights and powers of the Auditor-General to ensure that she works well and gives directives regarding prudence in government.

This House cannot provide alternatives on the use of resources. I differ with many Hon. Members who spoke earlier and said that when the Auditor-General speaks and somebody feels there is misinformation, it is just right.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Gitonga, I encourage you to just focus on this amendment instead of debating. Take half a minute to conclude.

Hon. Gitonga Mukunji (Manyatta, UDA): Thank you, Hon. Temporary Chairlady.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): I am sure you will get another opportunity to take the direction that you want to take.

Hon. Gitonga Mukunji (Manyatta, UDA): Okay. Let me finish what I was saying. We need to be a House that completely protects the voice of the Auditor-General and ensure that the government is kept in check. We are supposed to be the people who motivate the checks, instead of saying that she should be gagged.

I support the amendment.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Member for Emuhaya, Hon. Omboko Milemba.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Temporary Chairlady. I am very happy because a few minutes ago, when the substantive speaker was here, it looked

like this law will shorten, demean or make the powers of the Auditor-General narrower, but I now see the opposite. I have been following this Bill throughout. All the amendments— like the one Hon. Millie, Hon. Adams, Hon. Njeri and other Hon. Members commented on— expand the scope of the Auditor-General. I am happy because she is now allowed to question policy in government. She should be our friend who helps us do this work. Unlike what was being circulated that this law curtails her space, the opposite suffices.

I support the amendment.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you very much, Hon. Members. It is very interesting to note that the amendments that have been raised by the Departmental Committee on Finance and National Planning are really enhancing the work that is done by the Auditor-General, clearly as opposed to what was being indicated out there.

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

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

(Clause 2 agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Mover, I would like to call upon you to move reporting.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairlady, I beg to move that the Committee do report to the House its consideration of the Public Audit (Amendment) Bill (National Assembly Bill No.4 of 2024) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

IN THE HOUSE

[The Temporary Speaker (Hon. Omboko Milemba) in the Chair]

MOTION

CONSIDERATION OF REPORT ON THE COUNTY
GOVERNMENTS (REVENUE RAISING PROCESS) BILL

The Temporary Speaker (Hon. Omboko Milemba): Very well. We may proceed. Mover? Please give the Mover the requisite materials.

No, the Chairperson to report. We begin with the County Governments (Revenue Raising Process) Bill (National Assembly Bill No.11 of 2023).

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Hon. (Dr) Rachael Nyamai (Kitui South, JP): Hon. Temporary Speaker, I beg to report that the Committee of the whole House has considered the County Governments (Revenue Raising Process) Bill (National Assembly Bill No.11 of 2023) and approved the same with amendments.

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

Hon. Kimani Kuria (Molo, UDA): Hon. Temporary Speaker, I beg to move that the House do agree with the Committee on the said report.

I request Hon Millie Odhiambo to second the Motion for agreement with the report of the Committee of the Whole House.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Millie.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Speaker. I wish to second and congratulate the Mover for the bold steps that he has taken at a point when people thought the Government would shy away from bringing progressive amendments that shield the Office of the Auditor-General. Congratulations for enhancing governance in the management of public funds.

(Question proposed)

The Temporary Speaker (Hon. Omboko Milemba): Hon. Members, I will suspend putting of the Question until the next sitting

(Putting of the Question deferred)

Yes, Hon. Makali.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Hon. Temporary Speaker, thank you very much. I do not know whether what I am about to say would be procedural or I should say it later, but I thought that with this progressive amendment coming from the Departmental Committee on Finance and National Planning relating to the Office of the Auditor-General, it would not be fair if we did not register our appreciation on behalf of Kenyans.

These are very progressive amendments, and this is the way to go if we want to improve our public management of resources because this country has suffered for many years from the mismanagement of public resources. So, I want to salute the Chairperson. As Millie said, I do not know whether this is a result of broad-based government or...

(Laughter)

This is a step towards the right direction. It will change this country forever if we allow the Auditor-General to do her work professionally and independently. I salute everybody. I wish we were a full House so that all of us carry these amendments with us out there.

Congratulations once more.

The Temporary Speaker (Hon. Omboko Milemba): Very well, Hon. Makali. Let us move to the next one. I have postponed the putting of the Question until the next sitting.

CONSIDERATION OF REPORT ON THE
PUBLIC AUDIT (AMENDMENT) BILL

The Temporary Speaker (Hon. Omboko Milemba): Chairperson.

Hon. (Dr) Rachael Nyamai (Kitui South, JP): Thank you, Hon. Temporary Speaker, I beg to report that the Committee of the whole House has considered the Public Audit

(Amendment) Bill (National Assembly Bill No.4 of 2024) and approved the same with amendments.

The Temporary Speaker (Hon. Omboko Milemba): Mover.

Hon. Kuria Kimani (Molo, UDA): Thank you, Hon. Temporary Speaker. I appreciate the good remarks from our colleagues. When I saw the reports in the media, knowing how the Bill came and the work that the Departmental Committee on Finance and National Planning has been doing, we felt that the information was really unfair and uncalled for. However, it is important to acknowledge that this House, across the political divide, has accurately recognised that our Committee has done a very good job in ensuring that we enhance the Office of the Auditor-General and empower her, not just with the functions, but with everything needed to ensure the work is done well. I thank you, my colleagues, for your very kind words.

Hon. Temporary Speaker, I beg to move that this House do agree with the Committee in the said report.

I also request Hon. David Mboni to second. Hon. David Mboni is one of the Members of the Departmental Committee on Finance and National Planning, and we did this work jointly with the rest of the Committee Members and the members of the secretariat

Hon. David Mwalika (Kitui Rural, WDM): Hon. Temporary Speaker, I beg to second. Thank you very much.

(Question proposed)

The Temporary Speaker (Hon. Omboko Milemba): Hon. Makali, I am sure your sentiments were geared towards this particular one, but we still take them because they were well placed.

Yes, Hon. Gitonga.

Hon. Gitonga Mukunji (Manyatta, UDA): Thank you, Hon. Temporary Speaker.

I also congratulate the Chairperson of the Departmental Committee on Finance and National Planning. I also acknowledge that he has retained his position after very serious changes in this House because he has impressed the House with what he is doing and what the Committee is doing and I commend it.

When we talk about audit matters, many people do not want to be known for how they are using public resources. It is instinctive to hide, but matters like those highlighted in the report of the Auditor-General and work-related matters are areas that this House must always ensure that their oversight is enhanced.

As I mentioned earlier, I would like the 13th Parliament to go down in history as the one that gave the Auditor-General teeth to bite rather than cut down its powers. I was one of the Members who expressed dissatisfaction with the original Bill, and we even had a serious argument with the Leader of the Majority Party on Twitter. Now that the amendments brought by the Committee are meant to improve the Bill, let us ensure that there is no conflict of interest by removing the part on separation of powers...

The Temporary Speaker (Hon. Omboko Milemba): Hon. Mukunji, you need to be precise.

Hon. Gitonga Mukunji (Manyatta, UDA): Hon. Temporary Speaker, I support the Bill and commend the Committee.

The Temporary Speaker (Hon. Omboko Milemba): Great. Next is Hon. Njeri.

Hon. Njeri Maina (Kirinyaga County, UDA): Thank you, Hon. Temporary Speaker. Allow me to also commend the Committee and the very able Chair. Hon. Millie forgets that I am a student of law. My evidence lecturer, Muthomi Thiankolu, told me to deny, deny and deny, 'It was not me that you saw.'

(Laughter)

Hon. Njeri Maina (Kirinyaga County, UDA): Allow me to note that one of the highlights of these amendments is the repealing of Section 42. It is very important for the media to also follow this closely so that we can engage on accurate and correct information. Recently, I went to CPU on an AI-based conversation. Artificial Intelligence is one of the tools that can be misused to bring down democracies. So, we must report accurately. I commend these amendments.

The Temporary Speaker (Hon. Omboko Milemba): Great. Finally, Hon. (Dr) Nyamai. Please, give Hon. (Dr) Nyamai microphone.

Hon. (Dr) Rachael Nyamai (Kitui South, JP): Thank you very much, Hon. Temporary Speaker. Let me take this opportunity to congratulate the Chairman and his Committee for their dedication. I was in the House when the matter of misinformation and disinformation concerning this Bill was discussed this afternoon. On the contrary, as I sat there presiding, I listened to the Chairman move very strong amendments. I also listened to Members on both sides of the House supporting and providing strong justifications, stating that this is a Bill that will enhance governance, as many Members have said. It will also ensure that the Auditor-General is more effective in her work.

Before reporting, it is important for the media houses to ensure that they examine the content and even invite experts in the field, including the Chairman of the Committee and Members like Hon. Mwalika, who have extensive experience and have taken their time to read the Bill. When it is reported that this Bill is intended to reduce the powers of the Auditor-General, it may make the House look bad, yet this House is doing a wonderful job.

I would like to congratulate the Chairman and the Members for their patience.

The Temporary Speaker (Hon. Omboko Milemba): Let me open up a little more space because of what ensued earlier on. This Bill was initially viewed as curtailing the powers of the Auditor-General.

Let us finally hear from Hon. Irene Mayaka.

Hon. Irene Mayaka (Nominated, ODM): Thank you very much, Hon. Temporary Speaker, for allowing me to say a word on this matter. I take this opportunity to thank my fellow Certified Public Accountant (CPA), Chairman, Kimani Kuria, together with his team, for the fantastic work they have done.

I am a champion of structures in terms of governance and how we do things differently. The only thing I would like to mention is that we have some very fantastic Bills from the Departmental Committee on Finance and National Planning that the public is not aware of. We need to find a way of educating the public and letting them know what has been passed in the House and how it helps Kenyans. This will enable us to prosecute this very good legislation that we do in the court of public opinion. Having said that, I once again congratulate the team and all the people who participated. I understand my amendment went through in the previous Bill, and I am very grateful for that.

I thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): We shall close it there.
Next Order.

(Putting of the Question deferred)

MOTION

ADOPTION OF JOINT REPORT ON REALISATION
OF TWO-THIRDS GENDER PRINCIPLE

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THAT, this House adopts the Joint Report of the National Assembly Departmental Committee on Justice and Legal Affairs and the Senate Standing Committee on Justice, Legal Affairs and Human Rights on its consideration of the report of the National Dialogue Committee (NADCO) and the report of the Multi-Sectoral Working Group on the realisation of the two-thirds gender principle, laid on the Table of the House on Thursday, 16th January 2025.

(Moved by Hon. George Murugara on 4.3.2025)

(Resumption of debate interrupted on 4.3.2025)

The Temporary Speaker (Hon. Omboko Milemba): Hon. Members, on this one, there was no speaker with remaining time. Therefore, we shall proceed as is reflected on the screen. On my list here, the next speaker is Hon. Njeri Maina. Are you ready for this? Thereafter, we will have Hon. Tindi Mwale.

Hon. Njeri Maina, proceed.

Hon. Njeri Maina (Kirinyaga County, UDA): Thank you, Hon. Temporary Speaker. I seem to have saved Hon. Tindi Mwale. Let me bite the bullet for him.

(Laughter)

Hon. Njeri Maina (Kirinyaga County, UDA): We have come from far in terms of equality and equity. I would like to, first, commend the working group on the implementation of the two-thirds gender rule. At times when we speak about women representation, we realise that the concern among Kenyans is how these gender-top up positions can be arrived at. There was a general feeling that these positions might be a preserve for wives and girlfriends, or for people who are connected, rather than for the grassroots woman who is well-versed with the needs of the common *mwananchi*. As we agitate for this, I often say that I will always back a woman who is worth backing. I know the veracity of that statement may not sit well with radical feminists. If we are to justify an extra budget and the cost for gender-top up positions in this House and the Senate, then it is important to bring in women who have the capacity to aggravate and push for women issues.

I also want to commend my Chairman, Hon. Murugara. He is actually my former Chairman as I have been affected by the de-whipping of committee memberships. However, I am grateful to have served as a Member of the Departmental Committee on Justice and Legal Affairs. I will continue to serve diligently wherever I will be, in whatever capacity. I believe I am like the mustard seed. Wherever you put me, I will germinate. I commend the NADCO Report and the two-thirds gender principle. Let us fast-track this issue so that we do not, once again, find ourselves improperly constituted as a House. We must comply with the Constitution that we promulgated in 2010.

The Temporary Speaker (Hon. Omboko Milemba): Very well, Hon. Njeri Maina. You are a promising young legislator. De-whipping from Committees notwithstanding, continue doing your work strongly from where you are.

Let us have Hon. Tom Kajwang’.

Hon. TJ Kajwang’ (Ruaraka, ODM): Hon. Temporary Speaker, there are several things that arise from this Motion, especially from the Report of the Committee. I may not deal with all of them. I just want to pick from where the distinguished Member for Kirinyaga has left even though I differ with her. I have also publicly spoken about some of these things. In my view, women issues are not a third representation in this House. Women issues are maternal

healthcare and capacity building for *mama mboga* to be economically viable in her local environment. Women's issues are about safe water as they bring up their families. It is so simplistic and is advanced by the political class and the elite who wish that representation was a woman's issue because those of us who are...

The Temporary Speaker (Hon. Omboko Milemba): Hon. Member, what is your point of order? Hon. TJ, let us hear this point of order.

Hon. Dorice Donya (Kisii County, WDM): Hon. Temporary Speaker, is Hon. Kajwang' in order to say that as we debate the National Dialogue Committee (NADCO) Report, we are only legislating on how women will share seats? In any case, whether elected or nominated to Parliament, women leaders are the voices of reason for their people. We have seen women school principals doing very well because they were given a chance to lead those institutions. Look at Hon. Gladys Wanga. She is doing very well in her current capacity.

As we support the proposal contained in the NADCO Report to actualise the two-thirds gender rule, we must acknowledge that women are peacemakers. If women have a seat at the table, we will discuss and ensure proper order. If women are not represented at the table, our issues will be forgotten.

I was having another conversation...

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. Member. I have listened to you very carefully. Hon. TJ is putting forward his story. He has not said any of the things that you claim he has said. So, allow Hon. TJ to put forward his story.

Proceed, Hon. TJ.

Hon. TJ Kajwang' (Ruaraka, ODM): Hon. Temporary Speaker, I hope you will give me a few more minutes because I have listened to the veteran Member, but I have not heard her advance anything that is out of order. I wish Members could, if they rise on point of order, speak about things that are out of order and not advance debate. This is a House of debate, and any Member can put across his or her issues without interruption.

The two-thirds gender rule is an interesting matter that we need to think through. Chief Justice Maraga Emeritus declared that the 12th Parliament, in which I served, was unconstitutional and that we should have been sent home. I do not know why Chief Justice Koome is taking so long to do the same for this Parliament because we will never get that formula at all. We are forcing the law to do something that is out of the ordinary. We are forcing the law to create a situation in which our mothers or fathers produce more women or girls to effect the two-thirds gender requirement. It is impossible. We cannot use the Constitution or any legislation, for that matter, to create that situation. The two-thirds gender rule can only be effected outside the law or biology.

The two-thirds gender representation is only canvassed in Parliament, but what about in the civil service? What about the two-thirds gender representation in the economic sector? Why is this aberration about representation? I have a lot of respect for the distinguished Members in the House, but they did not come to legislate as women. They came as national leaders. The Member for Tharaka-Nithi County can advance all the issues affecting the women of Tharaka-Nithi County as well as those affecting the entire country. The Member for Nyeri County would espouse all the issues affecting the men of Nyeri. I know they have many issues, but I am encouraged because the Member for Nyeri County is representing them.

So, these are not gender issues. These are able leaders who can raise issues of concern. I feel that the whole debate on the National Dialogue Committee is promoted more by political expediency rather than the need for law. I wish we could all go home, not for a general election, but for a referendum on this women thing. We will be surprised by the verdict that Kenyans will return on the issue of women representation. I wish the Chairperson of the Committee would propose that we go on referendum on this issue and try it afresh. We may find that the Constitution would be altered in such a manner that we will never believe.

In one way, I support it because there are all those issues which have been advanced by the proposer, but on this issue, I object.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Millie.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Speaker. Of course, I support the Report wholly. I did not want to start this way, but Hon. Kajwang' has forced me to go this direction.

First of all, I am very disappointed that he originally comes from my constituency. I am also disappointed that he is actually our grandson in Kolo Kanyala Village in Rusinga Island. I am disappointed that he is my protégé as a law student. He actually, together with Hon. Ochilo Ayako, used to study my notes. That is why he passed and is excellent. So, I am disappointed that he has such retrogressive ideas. That means I did not do my work well. There is still room for me to do that work to change his mind about this.

I also apologise again because of all the factors I have indicated here for the next things that I am going to say. Hon. Kajwang', we may be educated and even have PhDs, but there are factors that cannot change. One of the factors that cannot change is that as a man, you have never had periods and you have no clue what it is like to have periods. So, please, do not talk for me. Hon. Kajwang', you have never carried a baby in your tummy for nine months. Maybe, in that regard, you and I are at par, but most of the women here have carried babies in their tummies for nine months. So, you cannot talk for them. They know what it is to labour for nine months. So, do not talk for us on issues of women. Do not purport to know issues relating to women. It is the same way I cannot talk about wet dreams because I do not know what it is like to ejaculate in the night.

We are very different as men and as women. Therefore, let us keep to our lane. Let us love our brothers. Let us love our boyfriends. Let us love our husbands. Let us love our uncles. Let us love our fathers. Similarly, please, also love your sisters, love your aunties, love your mothers, and love your grandmothers. It is not a competition. Everybody knows that the world is skewed against us. What I am telling Hon. Kajwang, in a very crude manner, is that he is not wearing my shoe. Only the wearer of the shoe knows where it pinches.

Hon. Temporary Speaker, I have said it in this House before that there were days that I would not come to here to debate a critical issue. Why? Because I would be in a pool of blood; because I would faint. I was being admitted in hospital every month for three to four days. Hon. Kajwang' has not had to go through that experience, and he expects me to go out there and compete equally with him! There is a load that I am carrying as a woman that you have never carried and you do not know how to carry it. You will never know how to carry it because you have the privilege of being a man. The same way in the US and in other countries, there is white privilege. A white person cannot lecture a black person because he or she has not walked in the shoes of a black person. Similarly, a man cannot lecture me about being a woman because he does not know what it is like to be a woman. Many of the things that bedevil women start with "men", namely, 'menopause' and 'menstruation.' You are a necessary evil in our lives. That is why we love you, we marry you, and we have you as boyfriends.

I want to lecture you, but also plead with you, my brother and grandson, do not make it look like affirmative action is for elite women. Hon. Leshoomo did not know how to read and write when she came to Parliament. She could only speak in Kiswahili. What was so elite about her? Is the fact that she could not read and write elitist? She came from Samburu, where she was born and raised.

I am just from receiving an award for my work in advocating for women issues. I was with Chief Justice Martha Koome, and I told her that I was not happy when she said that our arguments during the election petition were "hot air." However, I also told her that when it comes to women's issues, my tribe is woman. I told off the people who are attacking her. They should focus on governance issues and not try to hound her out of office simply because she is

a woman. Some of the people trying to hound her out of office are extremely corrupt themselves, but they do not raise corruption issues when it comes to men. It is only when Martha Koome or Nancy Barasa sit in those offices that they notice the corruption. That is why I say women wear special shoes that men do not understand. Try wearing high heels. Try having the kind of figure I have and the “material” I am carrying behind my back. Try walking in high heels with that “material” and tell me if you can manage. Hon. TJ, you do not know what we go through as women. We also have to deal with menopause, hot flushes and other symptoms. Hon. Kajwang’, you do not know half the story of being a woman. That is why we need affirmative action.

I have seen the impact and effect of affirmative action as a Member of Parliament. Thanks to affirmative action, Hon. Njoki Ndung’u now sits on the Supreme Court; Cecily Mbarire is now a county governor; Millie Odhiambo is now serving a fourth term in Parliament; Gladys Wanga is now the Governor of Homa Bay County; Hon. Martha Wangari is now serving a third term in Parliament; and Hon. Lesuuda is also serving a third term in Parliament. How did we get here? We got here because we were given that platform.

When I first went to Suba, I was asked questions that Hon. TJ was not. I was asked why I did not have a child, where my home was, and if I was married. Nobody asked Hon. TJ those questions. My house was burnt down and my bodyguard was killed. I know that the violence we experience as men and women Members of Parliament is similar, but it is worse when you are a woman. I am leaving the chamber because of a case of a 19 year-old girl who was reported to have been raped. I am meeting her and her mother. People are mocking her on social media. The girl is depressed and we may lose her because of what she is going through. Men do not have to go through those kinds of things. We should not trivialise the things women go through and make them seem elitist.

Hon. Kajwang’, I know your daughter. She sings very well at the Nairobi Central Seventh Day Adventist (SDA) Church. She is an elite woman because she was raised in Nairobi. I hope that women in rural areas get the same opportunities that she does. If you do not like the women in the House, think about your daughter. She is a wonderful woman who needs opportunities just like other women.

I am very happy that we are discussing this Motion just as we are about to celebrate the International Women’s Day on 8th March. It is a reminder that it has been a long journey since 1975 in Mexico up to now. We went to Copenhagen and then New York. We came to Nairobi with the forward looking strategies. Hon. Kajwang’, it has been a journey. It is a lifelong journey for some of us. I am committed to changing the lot of women, which is why my outfit today bears the words: “Women committed to changing the lot of women.” I will not stop. I will not retire from this course because it is lifelong.

I am, therefore, encouraging my brothers not to trivialise this issue. These are your daughters and your mothers. I know for wives, we have different stories. These are your daughters and your mothers.

Please, have empathy in Jesus' name.

(Applause)

The Temporary Chairperson (Hon. Omboko Milemba): That is great. Hon. Members, you have seen what debate can turn out to be. Hon. Kajwang’ allowed Hon. Millie to have her story.

Now, let us have Hon. John Gitonga. Is he in the House? Are you ready for this?

Proceed.

Hon. Gitonga Mukunji (Manyatta, UDA): Thank you, Hon. Temporary Speaker. When you speak after Hon. Millie, you feel a little bit down because of how she speaks passionately about the other gender.

On the Joint Report of the National Assembly Departmental Committee on Justice and Legal Affairs and the Senate Standing Committee on Justice, Legal Affairs and Human Rights on its consideration of the Report of the National Dialogue Committee (NADCO) and the Report of the Multi-Sectoral Working Group on the realisation of the two-thirds gender principle, first, after perusing through it, it is very realistic on the recommendations it has made on the NADCO Report. Many of the proposals are on creating of new offices, including an office of the leader of opposition, and an office of Prime Minister. These are very serious recommendations that can change the way we govern this country.

In my interactions with the people, whenever there is an issue that involves increasing the number of leaders of this country, their uproar is deafening, to say the least. Our current governance structure accounts for almost 70 per cent of our Recurrent Expenditure, which includes salaries. Inevitably, that is one of the things that are needed to govern a country.

The recommendations on creation of more offices and the issue of getting gender parity in Parliament must go through a referendum. I want to inform this House these recommendations will not get support from the public. They will fall flat on their faces if they go on a referendum. The Constitution of Kenya, 2010 checks on fairness in representation. However, its framers forgot that fairness in representation will come with a cost on usage of resources in our budget. This House needs to consider dropping these two reports and concentrate on what really touches the lives of Kenyans and what can improve their lives.

It may look good now to be talking about accommodation of people in Government, and accommodation of certain individuals in the leadership of our nation. However, I believe that the conversation that should be taking the centre stage right now should be on how we can improve the pockets of Kenyans. This House has had its fair share of coming face-to-face with the wrath of the public on unpopular Bills. We need to be very careful not to find ourselves in situations we experienced in 2024.

I support and recommend election preparation and ensuring that there is fairness in terms of representation in the IEBC leadership. We shall be debating this. I know it is going to...

The Temporary Speaker (Omboko Milemba): You have had your bite on the cherry. Next is Hon. Kuria Kimani.

Hon. Kuria Kimani (Molo, UDA): Thank you very much, Hon. Temporary Speaker. First, I would like to thank the Chairman of the Departmental Committee on Justice and Legal Affairs and his Committee for doing a job that culminated in the reports that they have tabled in this House.

To pick from where my colleagues have left, I note that the NADCO Report contains some very ambitious plans that this Committee rejected. I want to point out a few of the proposals that are contained in the Report that this Committee rejected. Interestingly, there is a proposal in the Report to extend the term of Senators from five years to seven years. Why would we need to extend the term of senators from five years to seven years? I am very happy that the Committee rejected that particular proposal because it goes to the heart of our Constitution, where it says that elections shall be held every five years for these particular offices. Why was a proposal made to increase the term of senators from five years to seven years?

On entrenchment of the Office of the Leader of the Opposition in the Constitution, the proposal undermines the presidential system of governance in Kenya. Article 108 of the Constitution provides for how parties are represented in Parliament. What our Constitution envisioned is that the minority will form the opposition and the majority will form the

government. Therefore, entrenching the Office of the Leader of the Opposition in the Constitution undermines that same Constitution. We need to ask whether the Leader of the Opposition will become a member of the Executive. If the answer is in the affirmative, that arrangement will undermine the ability of the holder of that office to oversee the government. The framers of our Constitution were very clear when they said that there needs to be the Majority Party that forms the government side and the Minority Party that oversees the government. There is nothing that stops any oversight committee and any committee of Parliament from overseeing any particular decision that is made. We have seen Members and different committees overseeing the Executive as they should. Therefore, entrenching the office of the Leader of the Opposition in the Constitution is unnecessary.

I also note that the NADCO Report provides for the resignation of a Member of Parliament when they are deregistered from a political party. That means that if they are deregistered by their political parties, they automatically lose their seats. That recommendation undermines our Constitution because the power of the people to elect their representatives is over and above that of a political party. We also know that political parties are not necessarily very democratic. Some party mandarins could just have beef with you and decide to deregister you from the political party so that you lose your seat.

We congratulate the ODM party that has existed for over 20 years. I hope the UDA party will follow suit and exist for very many years. In Kenyan politics, people change their political parties all the time. Today one could be in TNA, but on another day, he could be in another political party. The provision of someone losing their seat because of being deregistered by a political party is very unfair. Therefore, I commend the Committee for rejecting that particular proposal in the NADCO Report.

On the issue of gender, it is important to point out that the NADCO Report proposed that within 30 days of the enactment of the Act, the two-thirds gender principle would have to be implemented. The Committee does not undermine the need to have women leadership or the current provisions of having two-thirds gender principle, as per our Constitution. However, they oppose the proposal to have the requirement met within 30 days because that timeframe is not practicable. Further, they propose that all the parties involved put in place structures that will make sure we have more women leaders being elected in the next general election.

Hon. Temporary Speaker, I support what Hon. Millie said...

The Temporary Speaker (Hon. Omboko Milemba): Add him one minute to wind up.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Speaker, the truth of the matter is that in our political space, women get it rougher than men. That is how it is in our society. Women aspiring for political positions are asked many questions that men who want to lead would never be asked. These include issues such as marital status and whether one has children or not. Men are never asked such questions. It is very important that we have an affirmative action for women so that we have more women legislators and leaders. This affirmative action should not just be for women, but also for the youth, minority communities and persons with disabilities. This will ensure that we have good representation of the whole population, and not just in terms of gender.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Irene Mayaka.

Hon. Irene Mayaka (Nominated, ODM): Thank you, Hon. Temporary Speaker, for giving me an opportunity to also add my two cents to the debate on this Report, especially on the two-thirds gender principle.

First, I am very worried because we have reduced this conversation to ‘us versus them’, which should not be the case. For a society to be well balanced and have good representation, it is good for us to have gender balance. In this case, gender does not mean ‘women’. We are not just talking about women. We are also talking about men. I would like to remind my parliamentary brothers - I see one of the very capable one walking out - that a few years from

now, based on the current performance of women leaders, men will come here to fight for the two-thirds gender principle because they will need it. We are taking over as they watch. Therefore, the two-thirds gender principle is not about protecting the space of women in politics. It is about ensuring that we protect the space of both women and men.

Our school-going children are operating under very different circumstances from ours. They also need to learn that we must have a balanced society for us to prevail. When we were young and could visit Parliament, for the longest time, the red logo up there read: “For the Welfare of Society and the Just Government of Men.” It was later amended to the ‘...of the people’. This is to demonstrate further that governance and leadership is not just about men, but about people. Therefore, people is both men and women. We need to start accepting that fact.

(Hon. George Murugara spoke off record)

Hon. Irene Mayaka (Nominated, ODM): I do not want to be informed, Hon. Temporary Speaker.

Hon. George Murugara (Tharaka, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Murugara, what is your point of order?

Hon. George Murugara (Tharaka, UDA): Hon. Temporary Speaker, I just want to clarify that in ‘Old English’ the word ‘man’ or ‘men’ represented both genders. That is why we say ‘mankind’. Have you ever heard of ‘womenkind’? That is the English language; not our mother tongue. When the motto of this House read, “For the Welfare of Society and the Just Government of Men”, it meant for the just Government of ‘mankind’. It includes both men and women. That is what it is. However, because of activism and what has come up every now and then, you have to say ‘chairperson’ instead of ‘chairman’. That is corrupting a language that is not our own. That is exactly what we are doing.

The Temporary Speaker (Hon. Omboko Milemba): Senior Counsel, you have made your point.

Hon. Irene Mayaka (Nominated, ODM): Hon. Temporary Speaker, the Senior Counsel is my senior. I am just a third year student in law.

I just want to inform him that English has different understandings the same way you would kill a goat by pressing it on the ground or cutting off its head. It depends on how you understand it. Tharaka-Nithi and Nyamira translate English differently. I do not blame him for having different understanding. I understand that they say, “For the welfare of society and the just government of the people” to mean a clear demonstration of governance and leadership as about both men and women, and not just men alone.

I will go back to my point so that I am not derailed any farther. We must all accept that our lives have men, sons, fathers and partners who have been supportive of our spaces out here. It is so beautiful and we must just embrace it. I have seen comment number 133 in the Committee’s Report. I just want to read what the justification says because I still cannot believe my eyes. It says, “The proposal is too ambitious and cannot be implemented in the current Parliament. It would be neater to implement the proposal during the next general election.”

The Kenya Kwanza Government has been a Government of braveries that has attempted to implement the Social Health Authority (SHA), the Housing Levy, and other things. They believe it can work. Why is it considered not neat, impossible, or ambitious when it comes to women's issues? Why are we afraid of implementing something because we think it is too ambitious? Since when did we, the people or leaders of Kenya, think anything as being too ambitious? Is it just because this particular one involves women?

I really need to understand that better. I cannot believe my eyes that this recommendation actually came from a Committee of this House - that, the recommendation is too ambitious and it requires neatness when it comes to women's issues. What do you mean?

(Hon. Naomi Waqo rose on a point of information)

Hon. Temporary Speaker, she may inform me.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Naomi Waqo, you are out of order. You have no permission from the Temporary Speaker.

You may proceed, Hon. Mayaka.

(Laughter)

Hon. Irene Mayaka (Nominated, ODM): Hon. Millie gave very many examples of women who have come before us. Others are still in this House. They have been extremely fantastic leaders. We continue to learn so much from them. We also want to follow the same path they have shown us.

Being a people who does not support gender politics blindly, I believe much is expected to whom much is given. We have to put in the work. Those of us who have been privileged to be in these spaces also have to demonstrate to people out there, both men and women, that we are actually capable. That is the only way society will continue to believe that we must have both women and men in these spaces to have equity and a fair society.

I just want to finish by wishing all the women in Kenya, Nyamira, and the entire world, a happy International Women's Day as we celebrate it on Saturday.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Florence Jematiah.

Hon. Jematiah Sergon (Baringo County, UDA): Thank you, Hon. Temporary Speaker. I join my colleagues in supporting this very fundamental Bill. I congratulate the Chairman of the Departmental Committee on Justice and Legal Affairs, and the Members of the Committee, for coming up with a very elaborate Report that guides us on the way forward.

The Report came as a result of a very robust debate and dialogue between the Senate and the National Assembly. It is going to guide us through its recommendations and the referrals to the Constitution, probably, up to referendum level. This will help build this country politically and legislatively.

Hon. Temporary Speaker, before I comment on the two-thirds gender rule, I refer to Page 18 of the Report where the Committee recommends that the proposals to amend the Constitution, as contained in the National Dialogue Committee (NADCO) and the Multi-Sectoral Working Group (MSWG) reports, propose to reduce the three Bills as follows: to entrench the National Government Affirmative Action Fund (NGAAF), Parliamentary Oversight Fund, and the National Government Constituencies Development Fund (NG-CDF) in the Constitution.

This will be one of the progressive Bills that will help elected leaders in managing the welfare and funds given to them for the people. In terms of NGAAF, I compete with Members of Parliament in the sub-counties. As a Member representing the county and considering the funds I get, I will not shy away from saying that the funds and this seat were designed to fail. It does not matter how you want to look at it. I am in charge of over six constituencies, with barely Ksh60 million per year, while my counterparts in constituencies get almost three times more. I do not wish their money to be reduced. It should be entrenched in the Constitution, but it affects me as a woman in the first place. I have to run around and represent the youth, women, and Persons with Disabilities (PWDs). They have specific differences and interests. I am

ideally in charge and supposed to protect and take care of the software of human beings, which is not possible.

As much as we will entrench this money in the Constitution, we will debate more and in future propose that it should be added. I would like to represent my people with a lot of dignity. For instance, as a woman representative of the county, my bursary in the first and second quarters is not more than Ksh3 million, yet I am supposed to take care of needy children in the entire county. This is a serious issue that requires an affirmative action. I, therefore, support that these funds should be fully entrenched in the Constitution, going forward.

I also support the amendment requiring the funds to be subjected to a referendum and the implementation of the two-thirds gender rule. It does not matter how you look at it. For example, how many women in this Parliament are in leadership? They are very few. Out of 10 or five Members, we probably have one or two. In the departmental committees leadership today, there is only one chairperson who is a lady, Hon. Alice Ng'ang'a. She is the Chairperson of the Departmental Committee on Social Protection. We have 20 departmental committees. All the rest are represented by men as chairpersons and vice-chairpersons.

The Temporary Speaker (Hon. Omboko Milemba): What about the Departmental Committee on Trade, Industry and Cooperatives?

Hon. Jematiah Sergon (Baringo County, UDA): The Departmental Committee on Trade, Industry and Cooperatives is chaired by Hon. Gakuya. He is deputised by Hon. Marianne Kitany.

The Temporary Speaker (Hon. Omboko Milemba): Okay.

Hon. Jematiah Sergon (Baringo County, UDA): That is a vice-chairperson. I am talking about chairpersons. I sit in the Budget and Appropriations Committee. They appear before me and I know it is only one chairperson who is a lady out of 20 departmental committees. It is very unfair that we have to even discuss the two-thirds gender principle. If it goes to the referendum this time, we will deal with it properly. We will mention ourselves, which is not fair.

One woman called Annabelle William wrote a book titled: *Why Women Are Poorer Than Men And What We Can Do About It*. There is one thing that determines this disparity; time. When I am pregnant, a man my age is busy making money. If I am married, I am supposed to be at home first to make sure there is food on the table, while this man is probably cutting deals in town. When I am in school, someone is negotiating to marry me off while my brother, who is of the same age as me, is being sponsored to go to university. There is no equality whatsoever. We are not saying that we want to be the same, we want to be given equal opportunities. The reason why men marry young women is because women are smarter than men. I want our society today to give women the opportunity to marry younger men, and you will see how the world will transform.

(Loud consultations)

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. Members.

(A Member spoke off record)

I think part of this debate can be suspended to other places. Anyway, add her one minute.

Hon. Jematiah Sergon (Baringo County, UDA): Thank you. Women naturally are nurturers and given an opportunity, we are able to make things work. As a leader, I understand that there is a lot of differences between when men lead and when women lead. Women will listen. It will take them some time, but they will always give you a best solution. Men use ego because a man versus a man, they all feel like they are equal. If you look at the diplomacy of

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the world today, you cannot tell me that Israel and America sat down, dropped missiles, and killed young children and women yet no male world leader said anything because of something called ego.

If you give an opportunity to women, through the two-thirds gender principle, we are going to make sure the world understands that women have soft power and they are the best in terms of delivery.

Thank you, Hon. Temporary Speaker.

(Applause)

The Temporary Speaker (Hon. Omboko Milemba): Where is Hon. Jane?

Hon. Jane Kagiri (Laikipia County, UDA): I am here.

The Temporary Speaker (Hon. Omboko Milemba): Proceed.

Hon. Jane Kagiri (Laikipia County, UDA): Thank you, Hon. Temporary Speaker, for giving me an opportunity to contribute to the NADCO Report.

As I start, I am just remembering the year 2010 when we all went to vote for the new Constitution. Many people said if the Rt. Hon. Raila Odinga had read it, then they too had read it. Others said if the late President Mwai Kibaki had read it, then they had also read it. Today, we are being shown a scene of what happened that time. When we look at Article 27 of the Constitution, it clearly indicates that there should be no more than two-thirds of either gender in appointive or elective positions.

So, when colleagues of mine stand here in this honourable House to declare that the two-thirds gender rule cannot apply, I wonder who actually read for them the Constitution because I believe each one of us read and made our decisions on how we were going to vote for it. By the mere fact that we voted yes, it means we were in support of the contents of the Constitution.

In my support of why I think we need to apply the two-thirds gender rule, I will start by requesting my colleagues not to see us as the leaders in this House. Do not see Hon. Jane Kagiri, Hon. Jematiah, or Hon. Irene Mayaka; see your sisters, mothers and nieces back at home. If you believe they do not qualify to be leaders, then we support you. If you believe they have not nurtured you to where you are today, then we support you. If you believe they are not the ones who have helped multiply whatever you have in your homes, then we believe you.

Women have capacity to lead and they can lead in any position. I have three examples that I would want to give. One, women have a diversity of perspectives and two, women are naturally peacemakers. I am reminded of the scene recently at the White House. I looked at the seating in that place and I saw the presidents of both Ukraine and the United States of America, but there were no women present. As the altercation was going on, the most I could see is men further inciting and others even asking the Ukrainian President why he did not come dressed in a suit. I found myself crying and wishing there was a woman present there because she could have redirected the conversation.

Second reason why we need to apply the two-thirds gender rule is because I am reminded of myself as a high school student. One day while I was at Othaya Girls High School, the late President Mwai Kibaki came to our school. I remember admiring his leadership and I told God one day I would want to be a leader and to sit in this honourable House. When I started following matters of this House, I was inspired by Hon. Beth Mugo, Hon. Martha Karua and Hon. Millie Odhiambo through their presentations, articulation, and the work they had done here. We are products that have stood on the shoulders of these great women to get here. By increasing the number of women in this House, we will be encouraging young women and girls out there that they too can be leaders in this country.

Third, I want to speak on better representation. We are all aware that women form half of the world's population. I am lost as to why half the world's population should be pleading for the few positions we get. We deserve these positions. I am forced to give an example of my position as a county member of Parliament. Our allocation is very little money. This time, when there are supposed to be budget-cuts, instead of deducting money from defence, roads or other facilities, they rush to deduct money from the county women's allocation. These are some of the injustices that we must address by increasing our numbers and fighting for our positions.

The money allocated to county members of Parliament goes to the most vulnerable of the community: People with Disabilities (PwD), the elderly, and needy women. That is why we need more women in this House to articulate all the issues affecting women.

Finally, I keep thanking the great people of Laikipia County. When they were given a chance to elect me, they chose not to see the issues that were raised by my opponents, such as me being a nursing mother with a six-month-old baby as I campaigned. They saw beyond that and gave me the opportunity to serve them as their County Woman Representative.

Thank you, Hon. Temporary Speaker. I support.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Gideon Mulyungi

Hon. Gideon Mulyungi (Mwingi Central, WDM): Thank you, Hon. Temporary Speaker. I rise to support the National Dialogue Committee (NADCO) Report, which has been formulated in a way that aims to enhance democracy and gender balance in Kenya. I commend the Chairman and the Members of the Departmental Committee on Justice and Legal Affairs for putting this proposal forward and tabling it on the Floor of the House.

The Independent Electoral and Boundaries Commission (IEBC) has been a challenge. Many times, elections are conducted, and there are always disputes. This amendment will enable the IEBC to be more transparent and respected by the Kenyan populace.

The issue of the leader of the opposition is a big issue in Kenya. It is high time we created an official position for the leader of the opposition in this House that is fully recognised by the Government, Parliament, and Kenyans, and is fully facilitated and funded by the Exchequer. This Bill has come at the right time because Kenya needs the opposition to keep the Government in check.

I also support the Political Parties Amendment Bill. Many of us are elected through political parties, but when we land in this House, some Members of Parliament decamp to other political parties or coalitions. This amendment will make it impossible for anybody to switch camps without following the due process. I propose that if one decamps from the party that sponsored them to Parliament, he or she should return to the electorate and seek a fresh mandate from the people who elected him or her.

On the issue of the two-thirds gender rule, women are very important. There would be no life if there were no women in this world. All of us, including women, are born by a woman. Even without a man, they can manoeuvre their ways and give birth. Therefore, I support the two-thirds gender rule so that women can get their place in Parliament, Government, and all the leadership positions in Kenya.

I support the Report.

(Applause)

Hon. Temporary Speaker (Hon. Omboko Milemba): Very well. There being no further interest in this, let me call upon the Mover to reply.

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Temporary Speaker. Allow me to begin by thanking each Member who contributed to this Motion, especially those who delved into the various issues that were covered in the NADCO Report and the Report by the Committee, which is currently before the House. After this, the House

will vote to adopt the Report. We will then consider various Bill that have been proposed and are attached to the Report. The Bills will first be subjected to pre-publication scrutiny. Thereafter, they will be published, so that they undergo public participation and the public is informed about what we are doing.

Notably, some of the proposed Bills in the NADCO Report which the Committee rejected on the basis that they do not find any position in our Constitution are not likely to see light of the day. I urge Members that once we pass the Bills, including the Two-Thirds Gender Principle Bill, and they are published, let us go out there and educate the public so that they understand what that rule is all about. There may be a belief that the public will not approve that Bill, but it may come as a shocker when the public buys in and we end up with a way of formulating the two-thirds gender principle and actualising it in this House.

Therefore, for those who have not participated in the debate herein, the Report is still available. It will be extremely informative when it comes to considering those Bills. There are about four or five Bills because some of them were passed and they are now laws in the country. Otherwise, we proceed as we have proposed in the Report.

There are proposals, including creating the office of the leader of official opposition, which we found not to have a place in our constitutional dispensation. There was also the issue of appointing a Prime Minister in a country which has a purely presidential system of government where cabinet secretaries are not recognised in our Constitution. We had issues with that and with another provision that stipulated that we have to obey court orders immediately and timeously. We felt that in as much as we are required to obey court orders, they may be subject to immediate challenge.

There are many other factors herein which we went through, and which Members should acquaint themselves with, so that when it is time to debate the NADCO Bills, we can do it in a rich and informative manner to Kenyans. This should be a manner that is informative to Kenyans who are anxious to know what became of the NADCO talks and the NADCO Report which was tabled before this House. There is a feeling out there that the NADCO talks were purely to cool political temperatures at that time, and now that the temperatures appear to have cooled, not many people are giving much regard to what is in that Report or what we are discussing today. But, as a House of Parliament, we are under an obligation to carry out the wishes of the people which were communicated to us through that Report, which was tabled here.

With those very many remarks, I beg to reply.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Members, I will postpone the putting of the Question on that particular Order until the next Sitting.

(Putting of the Question deferred)

Next order.

MOTION

The Temporary Speaker (Hon. Omboko Milemba): The Chairman, Departmental Committee on Transport and Infrastructure.

LEGAL RECOGNITION AND PROTECTION OF E-HAILING
MOTORCYCLE RIDERS AND DELIVERY PERSONNEL

Hon. TJ Kajwang' (Ruaraka, ODM): Hon. Temporary Speaker, I have the instructions of the Chairman of the Departmental Committee on Transport and Infrastructure to hold his brief.

Hon. Temporary Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Transport and Infrastructure on its consideration of Public Petition No.14 of 2024 regarding Legal Recognition and Protection of E-Hailing Motorcycle Riders and Delivery Personnel, laid on the Table of the House on Thursday, 20th February 2025.

As we are aware, Article 119 of the Constitution talks about public petitions and the right of every Kenyan to walk to the gates of the Assembly and lay a petition. One can simply walk to the Speaker and say in his or her own words, and the Speaker would then draft the sentiments into a petition, and such petitions would be reported to this House. This is what happened when one day in mid-morning, some young people were minded to come and make a petition through the gates of the National Assembly. The Speaker gave them an opportunity, listened to them and formulated, out of their distress, certain cogent issues which could form this Petition.

I just want to underline the fact that this is a very progressive development that allows members of the public to participate in law-making. Who are these E-hailing motorcycle riders and delivery personnel? In your house, Hon. Temporary Speaker, at some point at 2.00 a.m., you may have felt sick and you needed painkillers. So, you just looked for a bolt or a Yego and asked for house delivery. Those of us mentoring young people in our homes know that they do not cook. They simply hail services and before you know it, somebody is at your doorstep to deliver food. These are the people that we are thinking about. They are on bicycles, motorcycles, or three-wheelers. These people are very progressive. It is a new concept in this economy that has given the residents more relief in getting services on the last mile.

I just want to underpin this economic sector. If you look at Page 51 that is towards the end of the Report, we summoned the Kenya Revenue Authority (KRA) to the Committee. We asked them how much the National Treasury or KRA receive by way of revenue. You will be shocked that this combination amounts to Ksh16 billion annually. It is a crucial part of the sector even though it is not perceptible out there on the streets. It must be regulated and promoted. There must be deliberate efforts to encourage it because the revenue is handsome and very substantial.

The issues they were complaining about include unfair classifications of drivers and riders. They are classified as independent contractors while, in their view, they should not be classified as independent contractors. There is a regulation in the Act called the Transport Network Companies. They play in that space and control significant amount of the work of the drivers and riders, effectively treating them as employees, without offering employee protections. They apply oppressive pricing formulae and unfair and unprofitable pricing mechanisms.

The riders also claimed that they often face sudden deactivation from platforms without a fair warning and justification. The person who takes a ride on Yego to your house receives a certain amount of money as commission. Sometimes, big companies like Uber and Bolt decide to have a promotion. When I sat on this, I learnt very new English and things like “promo”, a short form of “promotions”. They just promote or advertise their services. They reduce the amount chargeable to these riders when they do that.

When they reduce prices, the problem is that they also reduce receivable commission to the young person or the poor rider. It is in that context the riders and drivers made a request through a petition, that the National Assembly, through the Committee, enacts or amends relevant legislation to formally recognise digital riders as a core subsector of the transport

industry to ensure that the rights provided recommend necessary amendments to the regulations to include motorcycles and vehicles protected under the regulations.

Now, the background is that the Committee on Delegated Legislation processed regulations presented to this House in 2022. This economy was still under Uber four-wheeler cars at the time. Hon. Temporary Speaker, you remember they played a big part during COVID-19 times. You could not leave the house, but could summon these people to your home. At that time, the regulations dealt with the four-wheelers. Other forms of couriers like bicycles and motorcycles came into place as things progressed. Those regulations did not recognise the bicycles and other two-wheelers. Therefore, they need protection under them.

Hon. Temporary Speaker, I will go to the recommendations that we made. We summoned the Cabinet Secretary for Roads, Transport and Public Works, which is the mainstream ministry that deals with this matter. We also got information from the Ministry of Information, Communications and the Digital Economy, which regulates the communication aspect under the Communications Authority of Kenya (CAK). We also talked about the digital economy under which this economy is built. We also dealt with the Kenya Revenue Authority (KRA) and the Competition Authority of Kenya (CAK).

The big companies like Uber and Bolt are very substantial. Many of them are owned by foreigners. Sometimes, we were unable to get their local offices. They are stronger in terms of purchase between an employee and the employer. It was necessary to come between them and investigate issues which are monopolistic in nature that can exploit the people in this industry.

The last one is data protection. When that gentleman rides a bike from Westlands, from one station to the other, for example, Bolt Company will have the data of the person whom he is going to deliver to. However, there is a breakdown in communication between the data which is held by the person who is harnessing it and the person using it. The big companies told us that they do not give the data of the person whom they are going to supply to. If the riders discover that person's distance is not lucrative, then they will drop that service.

We also said that if this person was to deliver to your doorstep, you should also know, as a consumer. You have a right to know who this rider is, his history and whether he has good conduct. You may find yourself with a bike on your door and somebody knocks your door. You open the door in the middle of the night, and you find that this bike has brought in robbers. We considered those situations when we were investigating the issues. For example, a woman was raped in Mlolongo as a result of this. We also have a rider, but he prides that he is a killer of the society. Because he has the data, he will ride into your house - and without processing it - and do some of those things that have happened. These are the kinds of situations we had to navigate through. How does the office of the Data Protection Commissioner safely keep the data and give minimum information to the players in the industry, so that the consumer and rider are safe, and the people who are in the Bolt industry make money?

The last thing is that the compensation is at 18 per cent. We have a capitalist or open society. People should come to Kenya to do business. We should make it easy for someone to start a business - a start-up. A young person can acquire several bikes or sit down and write an application (app). I am sure the Nominated Member from Nairobi City County understands me. These people are now complicated. Young people should be encouraged to do business in a different way.

They can develop an app, and within that app and platform, they can conduct business to rival the likes of Uber, Bolt, and so on. So, as we discussed, we do not want to micromanage or control pricing because that is an effect of the economy. Supply and demand must always be given an opportunity to play in an economy. In Europe, it is at 18 per cent. In the United Kingdom (UK), for example, which is the most progressive on this issue, it has risen to around 22 per cent. In fact, in the UK, it is difficult because they become employees, and once they

become employees, they get into trade unions where there are union regulations and union laws, which make it very difficult to compete.

So, we were in a position to advise these people that this is an open economy, that they should do their business well and start their start-ups. However, we must set a minimum mark-up to protect our young Kenyans in this sub-sector.

The recommendations, which you will find at the end of Chapter Four, are as follows:

- (1) THAT, the Cabinet Secretary for Roads, Transport, and Public Works should review the regulations and submit revised regulations incorporating three-wheelers, two-wheelers - motorcycles, e-bikes, bicycles - and pedestrians to the National Assembly within 90 days of the adoption of this Report. The revised regulations should also address the issue of pricing formula and dispute resolution mechanism.
- (2) THAT, the Cabinet Secretary for Roads, Transport, and Public Works must ensure that a regulatory impact assessment is conducted. This has been missing. A regulatory impact assessment informs the policy of drafting the regulations and should be completed within 90 days of the adoption of this Report, and submit a report on the assessment to the National Assembly.
- (3) THAT, the Cabinet Secretary for Information, Communications, and the Digital Economy should develop draft regulations to guide the operations on digital courier services in Kenya, especially the delivery of food items. These regulations should be forwarded to the National Assembly within 90 days of the adoption of this Report for consideration.

The Communications Authority of Kenya (CAK) regulates courier activities. You cannot wake up and start a courier activity without registering with the CAK.

- (4) THAT, the Cabinet Secretary for Roads, Transport, and Public Works should establish a team consisting of representatives from the National Transport and Safety Authority (NTSA), transport network companies, and the petitioners to deliberate on a fair, transparent, and equitable pricing policy for all players, particularly the end user and the customer. Recognising that this is an open economy, we will not micromanage or guide on pricing.
- (5) THAT, the Data Protection Commissioner should develop a draft policy or draft regulations on data minimisation to guide the operations of digital taxi and e-hailing transport and digital delivery services and enhance the safety of riders and passengers. The policy or regulations should be submitted to the National Assembly within 60 days of the adoption of this Report.
- (6) THAT, the Cabinet Secretary for the Ministry of Roads should ensure that transport network companies operating in Kenya establish a presence in the country. These are big foreign conglomerates, but they must enforce the Companies Act. The Companies Act envisages a situation in which, if the directors or owners of a company are foreign, then they must also get local directors to operate within the country.
- (7) THAT, to enhance accountability, the transport network companies should file bi-annual returns to the transport authority detailing the discounts. Those are the promos that I was talking about and compensation to drivers due to discounts and promotions extended to customers. I suppose this will be captured in the regulations that will be filed in the House.
- (8) THAT, the Director-General of the National Telephone Cooperative Association (NTCA) and the Data Protection Authority should strengthen licensing requirements for transport network companies to enhance safety and operational

standards. Additionally, transport companies should enhance the vetting of drivers and riders before engaging them as independent contractors.

- (9) THAT, to enhance safety of drivers, the National Transport Authority should ensure that transport network companies establish 24-hour emergency response systems to ensure swift operations in emergency and security situations. In fact, we ask them to have digital appliances by which they can install a microchip in a bicycle or taxi so that, wherever they go, they can be monitored effectively.
- (10) THAT, the county governments, in consultation with the Cabinet Secretary, should designate pickup and drop-off spaces for digital taxis in major cities across the country and at utility areas such as airports and railway stations.

Pursuant to the provisions of those Standing Orders, the findings arising from the consideration of this Petition be debated by the House.

Hon. Temporary Speaker, this is the Report of that Committee. I want to tell the members of the public that they have an opportunity to engage under Article 19 of the Constitution and the Standing Orders, instead of picketing outside like I saw with the nurses and doctors. They come here every day, and I meet with them. I appreciate their efforts, but they should present something structured such as a petition which, as a House, we can address effectively. It is of no use to come and shout “*haki yetu*” if we are unable to decipher what can be turned into law to help you.

I ask the Member for Baringo County to second these very good discussions because they are beneficial to them. At that age, I am sure they need these things.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Just take your seat, Hon. Jematiah. Let me direct as follows: Since this is a Petition that will be of great interest among many Members, given the population of people and the money we have been told is involved in this sector, I direct that Hon. Jematiah seconds this Motion in the next sitting. It will give Members a chance to get a synopsis of what you have talked about. I also further direct that this Motion will have a balance of two hours and eight minutes for debate at the next sitting.

Hon. Members, let us be up standing.

ADJOURNMENT

The Temporary Speaker (Hon. Omboko Milemba): Hon. Members, the time being 7.04 p.m., this House stands adjourned until Tuesday, 11th March 2025, at 2.30 p.m.

The House rose at 7.04 p.m.

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