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THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

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Wednesday, 26th February 2025

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: Hon. Members, we have a quorum to transact business. As you are aware, the House did not sit this morning due to a quorum hitch. I have since established that the bulk of the Hon. Members were in committees on budget issues, with at least 12 committee meetings taking place due to strict constitutional timelines. That being the case, I have directed the Clerk to publish a supplementary Order Paper combining the business of this morning and this afternoon so that we may seek to dispose of both in the course of this sitting.

Clerk-at-the-Table, let us proceed.

PAPERS

Hon. Speaker: Leader of the Majority Party.

(Hon. Ruku GK spoke off the record)

(Laughter)

Order, Hon. Ruku. Are you the Leader of the Majority Party? In the absence of the Leader of the Majority Party, a Member of the House Business Committee may transact business if they have it with them. Hon. Chepkonga, go ahead. You have a better locus than Hon. Ruku.

(Laughter)

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

Reports of the Auditor-General and Financial Statements for the years ended 30th June 2021, 30th June 2022, and 30th June 2023 and the certificates therein in respect of:

- (a) Kiamaina Secondary School;
- (b) Vitengeni Baptist Secondary School;
- (c) Tala Girls Secondary School;
- (d) Habel Nyamu Secondary School;
- (e) St. Martin Kathonzweni School;
- (f) Mukurweini Boys High School;
- (g) Isiolo Boys Secondary School;
- (h) St. Brigid Baraka Oontoyie Secondary School;
- (i) Elsa Secondary School;
- (j) Coulson Girls Secondary School;
- (k) Kilifi Township Secondary School;

- (l) Mwiyo Secondary School;
- (m) Moi Forces Academy - Lanet;
- (n) Watuka Secondary School;
- (o) Majani Mingi Secondary School;
- (p) Jomo Kenyatta Boys High School;
- (q) Kiriti Secondary School;
- (r) Nthukula ABC Secondary School;
- (s) Nyandarua High School;
- (t) Bibirioni Boys High School;
- (u) The Hill School Girls Eldoret;
- (v) Muindi Mbingu ABC High School;
- (w) St. Joseph's Chepterit Girls High School;
- (x) Kangubiri Girls High School;
- (y) Ribe Boys High School;
- (z) Utangwa Girls Secondary School;
- (aa) Aguthi Secondary School;
- (bb) Mama Ngina Girls Secondary School;
- (cc) Murray Girls Secondary School; and,
- (dd) Shimba Hills Secondary School.

Thank you, Hon. Speaker. I lay.

NOTICES OF MOTIONS

IMPLEMENTATION OF UNIVERSAL HEALTH COVERAGE 2020-2030

Hon. Sabina Chege (Nominated, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, aware that Article 43(1)(a) of the Constitution provides that every person has the right to the highest attainable standard of health, which includes the right to health care services; further aware that the Government committed to accelerating attainment of Universal Health Coverage (UHC) to ensure all Kenyans have access and receive essential quality health services; cognisant of the fact that in 2020, the Ministry of Health adopted the Kenya Universal Healthcare Coverage Policy 2020-2030 with the theme 'Accelerating Attainment of Universal Health Coverage', which is currently being implemented through the introduction of Social Health Insurance Fund; noting that there is need to increase the quality of care and services provided in the public health sector; concerned that the public health care services lack adequate funds to guarantee quality health care services; further noting that civil servants, public officers and state officers are accorded a comprehensive medical cover by the respective government agencies; appreciating that the use of the comprehensive medical cover by public officers and state officers in public hospitals would guarantee sufficient funding for public hospitals; this House therefore resolves that the Government, through the Ministry of Health, implements the Kenya Universal Healthcare Coverage Policy 2020-2030, and introduce a policy on mandatory use of public health care facilities by all civil servants, public officers and state officers who are using medical cover catered for by the Government of Kenya.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Sabina Chege. Next.

QUESTIONS AND STATEMENTS

ORDINARY QUESTION

Hon. Speaker: Hon. George Murugara.

Question 003/2025

RECRUITMENT OF TEACHERS IN THARAKA BY
TEACHERS SERVICE COMMISSION

Hon. George Murugara (Tharaka, UDA): Hon. Speaker, could the Teachers Service Commission—

- (a) state why Chiakariga Sub-County in Tharaka Constituency, Tharaka Nithi County, has not been allocated any teacher slots in the ongoing teacher replacement recruitment exercise?
- (b) elaborate on the criterion used to allocate Tharaka North Sub-County and Tharaka South Sub-County seven (7) and forty-two (42) slots respectively, despite the two (2) Sub-Counties being within Tharaka Constituency?
- (c) state the reason(s) that led to the teacher applicants from Chiakariga Sub-County being turned away from the recruitment exercise, limiting their chances to secure employment?
- (d) state the measures in place to address the unfair, discriminatory, and illegal conduct of the Commission in turning away the teacher applicants from Chiakariga Sub-County from the recruitment exercise and steps to ensure that the applicants are not left out in the ongoing recruitment exercise?

Thank you, Hon. Speaker.

Hon. Speaker: Chairperson of the Departmental Committee on Education. Where is Hon. Julius Melly? Is there any Member of the committee present? Hon. Tonkei, are you a Member of the Committee?

Hon. Rebecca Tonkei (Narok County, UDA): Yes, Hon. Speaker.

Hon. Speaker: Tell your Committee to bring a response in two weeks' time.

Hon. Rebecca Tonkei (Narok County, UDA): Noted, Hon. Speaker.

REQUESTS FOR STATEMENTS

Hon. Speaker: Hon. Barongo Nolfason, Member for Bomachoge Borabu, you look startled.

Hon. Nolfason Barongo (Bomachoge Borabu, ODM): Thank you, Hon. Speaker. I have a Statement Request.

Hon. Speaker: Yes, that is why I called you.

(Laughter)

DISMISSAL OF MR JAPHET MOCHAMA
FROM NATIONAL POLICE SERVICE

Hon. Nolfason Barongo (Bomachoge Borabu, ODM): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Administration and Internal Affairs regarding the dismissal

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of Mr Japhet Mochama Mauti (Force No.90638 and Identification Card No.25917223) from the National Police Service.

On 21st November 2016, the National Police Service Commission interdicted Mr Japhet Mochama Mauti for allegedly being found in possession of 720 rounds of 7.62 mm ammunition and five litres of rifle cleaning oil without proper authorisation. It is unfortunate that Mr Mauti remains interdicted for that long despite having been acquitted of all charges by a court of law on 25th July 2019. The court cited the failure by the prosecution to provide sufficient evidence to support the claims. The action by the National Police Service Commission is contrary to the provisions of the Employment Act Cap. 226, which outlines the due process to be followed by an employer in termination of employment, including the rights and obligations of both the employer and employee.

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. Why the National Police Service Commission has not reinstated Mr Japhet Mochama Mauti despite his acquittal by the court for lack of evidence on allegations levelled against him.
2. Measures the Ministry of Interior and National Administration has put in place to ensure that all employees serving in the National Police Service who are subject to disciplinary proceedings are fairly processed as per the law and the respective standard operating procedures.

I thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Barongo. Could you make an undertaking, Hon. Tongoyo? Give him the microphone.

Hon. Gabriel Tongoyo (Narok West, UDA): Thank you. I have the microphone now. I can respond hopefully on Thursday next week.

Hon. Speaker: It is so directed.

Next is Hon. Rebecca Tonkei, Member for Narok County.

VIOLATION OF WHEAT UPTAKE AGREEMENT BY CEREAL MILLERS ASSOCIATION

Hon. Rebecca Tonkei (Narok County, UDA): Hon. Speaker, pursuant to Standing Order 44 (2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Agriculture and Livestock regarding the alleged violation of the agreement between the Cereal Growers Association (CGA) and Cereal Millers Association (CMA) on wheat uptake.

In 2008, the CGA and CMA entered into an agreement to prioritise the purchase of local wheat stock and only import to supplement domestic production. The agreement is not only crucial for stabilising wheat prices but also for ensuring fair market access by local wheat farmers. Regrettably, in the most recent wheat harvesting season, it has been claimed that the millers have violated the agreement thus posing a significant threat to local wheat farmers, especially those in Narok County. Failure by millers to fully offtake wheat from local farmers before importing has far-reaching consequences across the entire value chain and key stakeholders, who depend on the crop for essential financial obligations and livelihood.

It is against this backdrop that I seek a response from the Chairperson of the Departmental Committee on Agriculture and Livestock on the following:

1. The national wheat demand, the quantity of wheat harvested in the current season in the country, including Narok County, vis-à-vis CMA's uptake.

2. The steps the Ministry is taking to cause millers to adhere to the 2008 wheat agreement and purchase locally produced wheat in the current harvesting season before importing more wheat to bridge the deficit.
3. The measures in place to enforce the agreement in the future so as to uphold the integrity of the agreement designed to promote fair trade in the agricultural sector and to protect local wheat farmers from unfair market access due to unregulated wheat importation.
4. The support mechanisms being considered to assist farmers in their country, particularly those in the upper Narok region, currently facing likely losses due to approximately 1,500 metric tonnes of unsold wheat stocks.
5. Interventions that the Ministry of Agriculture and Livestock Development intends to take to cushion wheat farmers in Narok County from losing their properties through bank auctions for non-performing loans arising from poor market conditions.

I thank you, Hon. Speaker.

Hon. Speaker: Yes, Hon. Sunkuli. What is it?

Hon. Julius Sunkuli (Kilgoris, KANU): Hon. Speaker, if you allow me, I want to support this Request for Statement.

Hon. Speaker: The Statement does not need any support.

Hon. Julius Sunkuli (Kilgoris, KANU): It needs a little bit of reinforcement, Hon. Speaker.

Hon. Speaker: Do you want to be a joyrider?

Hon. Julius Sunkuli (Kilgoris, KANU): Yes, Hon. Speaker. On Monday this week, there was a big demonstration by the people of Narok in Narok Town. This was not only a demonstration of the ordinary people but also the rich farmers of Narok. They are the main people who farm wheat in Narok. The reason is that wheat is full to the brim in the stores of Narok and there is nowhere to sell it. Narok has always been the main area, apart from Uasin Gishu, where wheat farming takes place in Kenya. Because of some reasons, there is a clog somewhere. The wheat in Narok cannot be sold anywhere. It is important for this Statement to make the matter very clear. There are allegations that we are not selling our wheat because we are importing it. This causes lack of market for our wheat.

The Cabinet Secretary must tell us if this is a fact. If so, then the Government must buy this wheat and pay the farmers, so that they can continue to farm. Otherwise, next year, we will still continue to import wheat.

Hon. Speaker, I support the Request for Statement.

Hon. Speaker: Yes, Hon. Tongoyo. Do you want to be a joyrider?

Hon. Gabriel Tongoyo (Narok West, UDA): Thank you, Hon. Speaker. I also want to joyride on what my colleagues, Hon. Tonkei and Hon. Sunkuli, have said. It is true that the farmers of Narok were all over the streets on Monday protesting because of failure by the National Cereals and Produce Board (NCPB) to uptake their produce. This is a matter of concern to all of us because we know that Narok – especially the Narok North belt – is the food basket of this country.

The failure by the NCPB to uptake this farm produce will renege the gain that we already got through the fertiliser subsidy. Farmers have already suffered post-harvest losses. We are very worried. If there will be no urgent intervention, there will be very little to be salvaged. I do not want to pre-empt any action but I prevail upon you; that, this matter should be treated as urgent, so that at least the produce can be salvaged. It is piled all over the place. I have been told that the farmers are already in Nairobi trying to look for help. We should look for an immediate intervention to this issue.

Thank you, Hon. Speaker.

Hon. Speaker: Is the Chairperson of the Departmental Committee on Agriculture and Livestock present? Hon. Ferdinand, are you a Member of the Committee?

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Yes, I am a ranking Member of the Committee. Given the urgency, and having witnessed the demonstration by the farmers, we will bring the Statement in two-and-half weeks' time. Wheat is very important in this country.

Hon. Speaker: You cannot acknowledge a matter as urgent and then ask for two-and-half weeks, Hon. Ferdinand.

(Laughter)

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Hon. Speaker, let us make it one week. I am sorry, on second thought, because we may have to send a team to the ground to interact with the farmers, one week might not be enough.

Hon. Speaker: Hon. Ferdinand, tell your Chairperson to bring a response on Wednesday afternoon next week. That is one week from today.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Hon. Speaker, we may need to send some people to the ground. One week is fine.

Hon. Speaker: I have given you the week you wanted.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Thank you.

Hon. Speaker: Yes, Hon. Okello. Give him the microphone. There is one next to you.

Hon. Jared Okello (Nyando, ODM): I thank you, Hon. Speaker. I join my brother, Hon. Ferdinand, to state that we will not disenfranchise farmers at the altar of importers. At the moment, we have had a stoppage of sugar importation because the country is believed to be producing enough. Therefore, the farmers of Narok and other areas should not be subjected to economic jeopardy just because some importers have a leverage over others. The process will involve the Farmers Association presenting their petition before the Committee. There will also be the element of the NCPB to come and explain the reasons underneath. The Kenya National Trading Corporation (KNTC) and the Ministry of Trade, Investment and Industry must all bring these issues together.

Finally, the millers, who ought to bear the burden of purchasing locally produced wheat, must also be brought on board. Whereas there is great urgency, I do not foresee a situation where one week will be sufficient to bring in all the players and come up with a cogent reason that will inform the next course of action for this House. I, therefore, want to plead with you to grant the Committee two weeks for us to get to the bottom of the matter and resolve it once and for all, so that farmers can at least offload the wheat they have in their stores.

Thank you, Hon. Speaker.

Hon. (Dr) Robert Pukose (Endebess, UDA): On a point of order, Hon. Speaker.

Hon. Speaker: Hon. Pukose, what is it?

Hon. (Dr) Robert Pukose (Endebess, UDA): Thank you, Hon. Speaker. I think the Member is misleading the House because what Hon. Tonkei sought is not a petition. You have already ruled that in a week's time, the Chairman of the Departmental Committee on Agriculture and Livestock should be able to table a report. Hon. Jared Okello is now putting a spanner into the whole issue. If we go by his suggestion, the period within which we can address this very urgent matter that has been well canvassed by the three Members from Narok County will be lengthened. I think your ruling should stand.

Hon. Speaker: Yes, Hon. Sabina Chege.

Hon. (Dr) Robert Pukose (Endebess, UDA): He is not a farmer. He is a fisherman.

Hon. Speaker: Who?

Hon. (Dr) Robert Pukose (Endebess, UDA): Hon. Jared Okello. He is fisherman. He is not a farmer.

(Laughter)

Hon. Speaker: Hon. Sabina Chege.

Hon. Sabina Chege (Nominated, Jubilee): Thank you, Hon. Speaker. Allow me to add my voice on this matter as a Member of the Departmental Committee on Agriculture and Livestock. I would also like to inform Hon. Pukose that even fishermen are farmers. It is a type of farming known as ‘fish farming.’ So, you cannot rule him out as a farmer.

Looking at the timelines you have given, and the notice that is supposed to be given for the summons, it is important to add us another week.

Hon. Speaker, I want to add my voice on the issue of importation of commodities that our farmers are already producing. Apart from the matter that has been raised by the Members from Narok County regarding wheat, we also have a big outcry on rice from farmers in Mwea. This is something that the Committee needs to look at holistically so that what our farmers can produce...

Hon. Speaker: There is a Statement coming up on that matter, Hon. Sabina.

Hon. Sabina Chege (Nominated, Jubilee): Perfect. We must protect our farmers by ensuring that before we import, we exhaust what they produce, so that we empower them. We should stop importation, through which people look for quick money.

Thank you, Hon. Speaker.

Hon. Speaker: Yes, Member for Elgeyo Marakwet County.

Hon. Catherine Ng’elechei (Elgeyo Marakwet County, Independent): Thank you, Hon. Speaker. I want to add my voice by saying that at times issues related to farming need to be handled within a very short time. We should remember that farmers depend on their harvest to prepare for the next season. After the Government of President William Ruto provided subsidised fertilisers, it is pointless for farmers to have a bumper harvest and then lack a market because of importations. It is pointless to subsidise production if there is no market. Therefore, I request that the time for bringing the response be reduced because farmers have had the produce since August last year. There is the expense of storage and a danger of destruction by weevils and other insects. It is important that we address farmers’ issues with the urgency they deserve.

Thank you, Hon. Speaker.

Hon. Speaker: The direction stands. The Committee will bring a response on Wednesday next week afternoon. For the unconvincing reasons advanced by Hon. Jared Okello, you do not need to go to all those agencies to bring a response on wheat. You have today until Wednesday at 2.30 p.m. to bring a response.

Member for Turkana Central, Hon. Joseph Namuar. Hon. Namuar, hold on. Take your seat.

(Loud consultations)

Order! This enclave is now notorious for holding illegal *Kamukunjis* in the House.

(Laughter)

Yesterday, I called you to order because of an illegal *Kamukunji*. This afternoon, there is yet another illegal *Kamukunji*. Since the three of you are newcomers, I want to inform you that there is a lounge outside, where you can go and consult. I also allow you to sit in the Speaker's enclave behind here and discuss whatever you need to.

(Loud consultations)

Hon. Members, before we go on with the Statements, allow me to acknowledge the presence of Bomachoge Borabu Constituency staff from Kisii County seated in the Speaker's Gallery. *Mnakaribishwa bungeni.*

In the Public Gallery, there are students of Kathoka Comprehensive School from Mwingi Central, Kitui County; and Kisii University from Nyaribari Chache, Kisii County. On my behalf and that of the House, we welcome all of you to the House of Parliament.

(Applause)

Hon. Namuar.

SUBMERGED PRIMARY SCHOOLS IN TURKANA CENTRAL

Hon. Joseph Emathe (Turkana Central, UDA): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I request for a Statement from the Chairperson of the Departmental Committee on Education regarding primary schools in Turkana Central Constituency which have been submerged due to rising water levels in Lake Turkana.

In recent years, the effects of climate change have become more evident with countries experiencing extreme weather patterns. One such consequence has been the rising waters of Lake Turkana, which have displaced settlements and submerged several primary schools. As a result, thousands of learners have been left without access to education. The affected schools, with a total enrolment of 1,442 learners are: Natole (406), Katula (202), Merier (210), Nang'olpus (314), and Ekwar (310). Unfortunately, many of the pupils have been forced to either transfer to other schools or drop out to engage in work, disrupting their education. To partly mitigate these effects, the National Government Constituencies Development Fund (NG-CDF) has constructed five (5) classrooms for Ng'imuriae Primary School, another institution affected by submersion. However, this intervention remains inadequate as the United Nations Educational, Scientific and Cultural Organisation (UNESCO) recommended three-kilometre school accessibility requirement is still unmet. This significantly limits access to education as envisaged by the Constitution in Article 43(1) and threatens literacy levels in the region.

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

1. Immediate intervention to ensure the continuity of education for displaced learners at Natole Comprehensive Primary School and other affected schools.
2. Report on the assessment conducted by the Ministry of Education to determine the extent of damage and the feasibility of rebuilding affected schools in safer locations;
3. Plans to establish temporary learning centres or mobile classrooms to ensure uninterrupted education for displaced learners.
4. Measures by the Ministry to provide the necessary infrastructure, equipment and school feeding programme for the affected primary schools, given that livelihoods in the region have also been severely impacted.
5. Long-term strategies in place to enhance climate resilience in school infrastructure within Turkana County and other vulnerable regions.

Thank you, Hon. Speaker.

Hon. Speaker: Chairperson of Departmental Committee on Education, Hon. Melly. Hon. Tonkei, will you bring a report in two weeks' time?

Hon. Rebecca Tonkei (Narok County, UDA): Yes, Hon. Speaker.

Hon. Speaker: Thank you. Hon. Members, allow me to acknowledge the presence of teachers of Chepngoror Secondary School from Ainabkoi Constituency, Uasin Gishu County. On my behalf and your behalf, we welcome them to the House of Parliament.

ENHANCEMENT OF FREE EDUCATION CAPITATION, CRITERION ON TEXTBOOK
TO STUDENT RATIO & STANDARDISATION OF ECDE PROGRAMMES

Hon. Speaker: Next is the Member for Suna West, Hon. Peter Masara.

Hon. Peter Masara (Suna West, ODM): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a statement from the Chairman of the Departmental Committee on Education and Research regarding capitation to schools, textbook ratio to pupils, and the state of Early Childhood Development Education (ECDE) programmes.

Hon. Speaker, the country has made remarkable strides in expanding access to education through initiatives such as free primary and secondary education, significantly boosting the enrolment rates and reducing the educational disparities. However, while access to education is essential, the quality of education must also be prioritised so as to equip learners with the skills and knowledge needed to succeed in the competitive and dynamic environment.

Unfortunately, the current Government capitation grants for primary and secondary schools are insufficient to address the rising operational costs driven by inflation and the high cost of living. These financial strains leave schools struggling to provide essential resources, ultimately compromising the quality of education. In addition, there is a need to ensure that the framework for textbook distribution in public schools under the free basic education system is designed to boost the quality of education provided.

Hon. Speaker, pre-primary education is crucial for early character development and cognitive preparedness of a child. Article 186 of the Constitution devolves ECDE to county government leaving each county to regulate its own ECDE programmes. Consequently, ECDE programmes in some counties have faced significant challenges, including lack of investment by counties, resulting to disparities with regard to poor facilities and underpaid teachers, hindering quality of education and resources available to learners and teachers.

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

1. Plans, if any, by the Ministry of Education to increase capitation for both primary and secondary schools to cushion schools against the high cost of living and inflation.
2. A report on the ratio of textbooks to pupils in the country, the criteria used by the Ministry to determine the ratio of textbook distribution and measures taken to ensure an equitable ratio countrywide.
3. A comprehensive assessment of implementation of ECDE programmes under the county governments, including steps taken to collaborate to ensure standardisation for smooth and effective transition of children from ECDE to primary school education.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Masara. Hon. Tonkei, the Request has been directed to the Departmental Committee on Education and Research. There is a joyrider in the person of Hon. Muthoni.

Please, proceed, Hon. Muthoni.

Hon. Dorothy Muthoni (Nominated, UDA): Hon. Speaker, I thank the Member who has requested for the Statement. It is important for county governments to take full responsibility of the ECD classes and make sure that they rationalise the payment of their teachers to make it uniform across all counties. Additionally, as he indicated, the Government

should consider increasing capitation to both primary and secondary schools. This is because of the high cost of food and other amenities.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Tonkei, how much time do you require?

Hon. Rebecca Tonkei (Narok County, UDA): Hon. Speaker, I appreciate the concerns raised by Hon. Members. This shows the seriousness people have towards the education sector. We will respond in two weeks' time.

Thank you.

Hon. Speaker: Thank you.

MEASURES TO CUSHION RICE FARMERS FROM UNFAIR COMPETITION

Hon. Speaker: Member for Mwea, Hon. Mary Maingi.

Hon. Mary Maingi (Mwea, 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 Trade, Industry and Cooperatives regarding importation of rice into the country.

Hon. Speaker, rice is the third most consumed cereal crop in the country after maize and wheat. A study conducted by the Sustainable Trade Initiative on Mwea Rice Growers Multipurpose in 2020 showed that about 80 per cent of rice grown in Kenya is from irrigation schemes. These schemes are established by the Government, and include the Mwea Irrigation Scheme, which as per the study, accounted for more than 70 per cent of the rice produce. However, over the years, domestic rice production has not been able to meet market demand, necessitating importation of rice to bridge the deficit and meet the market demand. There have been indications that KNTC intends to import rice into the country in the near future.

Considering the investments that have been made to revitalise irrigation schemes in the country, including Mwea Irrigation Scheme, so as to boost rice production, it is important that importation of rice by the KNTC be structured in a manner that promotes local rice production instead of encouraging over-reliance on imported rice.

It is against this background that I request for a statement from the Chairperson of the Departmental Committee on Trade, Industry and Cooperatives on the following:

1. The total quantity of rice that the Government intends to import as part of the measures to supplement domestic production and bridge the deficit in the local demand.
2. The total annual production of rice in the last financial year compared to the local annual consumption projections.
3. Measures in place to support farmers within the rice growing areas like Mwea to increase rice production for the country to cut down on over-reliance on imported rice.
4. Steps being taken to cushion rice farmers in the country from likely unfair market competition that could arise from saturation of the market by imported rice.

Thank you, Hon. Speaker.

Hon. Speaker: Chairperson of the Departmental Committee on Trade, Industry and Cooperatives, Hon. Marianne.

Hon. Marianne Kitany (Aldai, UDA): Thank you, Hon. Speaker. Two weeks is adequate for us to respond.

Hon. Speaker: Two weeks it is. Hon. Stephen Mogaka, Member for West Mugirango.

Hon. Stephen Mogaka (West Mugirango, JP): Thank you, Hon. Speaker, for giving me this opportunity. I request that you defer my request for Statement to a later date because I do not have an approved copy.

Hon. Speaker: What did you say? I am sorry I did not hear you.

Hon. Stephen Mogaka (West Mugirango, JP): Thank you, Hon. Speaker.

Hon. Speaker: Do you want your request for Statement to be deferred?

Hon. Stephen Mogaka (West Mugirango, JP): Hon. Speaker, I plead that you defer my request for Statement.

Hon. Speaker: To when?

Hon. Stephen Mogaka (West Mugirango, JP): Later today or tomorrow. It is ready. I just need five minutes.

Hon. Speaker: So, tomorrow afternoon?

Hon. Stephen Mogaka (West Mugirango, JP): Yes, Hon. Speaker.

(Request for a Statement deferred)

Hon. Speaker: Hon. Irene Mayaka.

DECLARATION OF PROTECTED AREAS IN NYAMIRA COUNTY

Hon. Irene Mayaka (Nominated, ODM): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Tourism and Wildlife regarding the declaration of certain areas in Nyamira County as protected areas and national monuments.

Tourism is a key driver of our economy and a significant contributor to economic activity. Nyamira County is fortunate to host numerous sites rich in cultural heritage that are essential for tourism development and economic growth. These sites include Manga Hills, Emanga Ridge, Engoro ya Manga, Keera Waterfalls, Nkoora Hills and Kiabonyoru Hills.

On Wednesday, 16th August 2023 during Question Time, I posed a supplementary question to the Cabinet Secretary for Tourism and Wildlife regarding the declaration of these historical sites, especially Manga Hills, as protected areas and national monuments. The Cabinet Secretary acknowledged the significance of these sites and confirmed that a proposal was being developed in collaboration with the State Department for Culture, the Arts and Heritage, and the County Government of Nyamira to achieve this objective.

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

1. A comprehensive report on the progress made by the Ministry of Tourism and Wildlife in implementing the undertaking by the Cabinet Secretary on Wednesday, 16th August 2023, including specific timelines for completion of the said process.
2. A report on the number of heritage sites in Nyamira County that currently receive support from the Tourism Fund.

Hon. Speaker, I want to bring to your attention the fact that this is the second time I am requesting for this Statement. I had not gotten a response by the time the last Session lapsed.

Hon. Speaker: We will make sure that you get a response this time round. Chairperson of the Departmental Committee on Tourism and Wildlife. Where is Hon. Kareke Mbiuki? Is any Member of the Committee present? Hon. Naomi, can you relay the message to the Chair of the Committee?

Hon. Naomi Waqo (Marsabit County, UDA): I will do so, Hon. Speaker.

Hon. Speaker: We have already requested for many responses to be brought in two weeks' time. Therefore, we will give this one three weeks.

Hon. Naomi Waqo (Marsabit County, UDA): Most obliged, Hon. Speaker.

Hon. Speaker: Hon. Omboko Milemba, Member for Emuhaya.

DELAY IN DISBURSEMENT OF FUNDS FOR TEACHERS' MEDICAL SCHEME

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I request for a Statement from the Chairperson of the Departmental Committee on Finance and National Planning regarding delay in disbursement of funds for the Teacher's Medical Scheme.

Prior to 2015, teachers received a medical allowance enabling them to access healthcare services through private insurance or out-of-pocket payments. In 2015, the Government introduced a medical scheme that is administered by a consortium of insurance companies led by Minet Kenya Insurance Brokers and debited to the National Treasury. Furthermore, teachers contribute 2.7 per cent of their salary towards the Social Health Insurance Fund (SHIF).

Unfortunately, since September 2024, there has been a cessation of medical capitation funds from the National Treasury. This has led to hospitals withdrawing services or demanding out-of-pocket payments from teachers due to non-payment. Consequently, over 300,000 teachers nationwide and their dependants are being denied medical services. They experiencing poor treatment by medical providers despite the regular deductions from their salaries intended for the medical scheme. Failure by the Government to remit these funds not only violates the rights of the teachers to healthcare as enshrined under Article 43(1) of the Constitution, but also undermines their dignity and productivity.

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

1. Reasons for the delay in disbursement of funds to the Teachers' Medical Scheme, considering the consistent monthly deductions from the teachers' salaries.
2. The status of disbursement of the Ksh11 billion owed to hospitals by the National Treasury, the total amount of funds remitted towards the medical scheme in the Financial Year 2024/2025, and the outstanding balance.
3. Measures the Ministry has put in place to ensure prompt and regular disbursement of funds to hospitals under the Teachers' Medical Scheme to prevent similar delays in future.

Hon. Speaker, three things happened. Firstly, teachers surrendered their medical allowance, which was a percentage of their monthly earnings. Secondly, teachers are the heavy lifters of the SHIF and the Social Health Authority (SHA), contributing 2.7 per cent of their salary to their medical cover. Thirdly, the teachers had surrendered their medical allowance to get a private medical scheme and they are now remitting 2.7 per cent of their salary to the medical scheme, but they are currently not covered. We do not want teachers to join the strike by the national hospitals.

Hon. Speaker, I request that this matter be expedited so that teachers do not get into that bracket.

Hon. Speaker: Chairperson of the Departmental Committee on Education. Did you ask for the Chairperson of the Departmental Committee on Finance and National Planning.?

Hon. Omboko Milemba (Emuhaya, ANC): Yes, but I feel that the request should have been directed at the Departmental Committee on Education.

Hon. Speaker: It should have been referred to the Departmental Committee on Education but you chose...

Hon. Omboko Milemba (Emuhaya, ANC): I thought it should have gone to the Departmental Committee on Education but the drafter of the request indicated the Departmental Committee on Finance and National Planning. The Departmental Committee on Education would be the correct one.

Hon. Speaker: I thought so too. Where is the Chairperson of the Departmental Committee on Finance and National Planning? I direct you to bring a response on Thursday next week.

Hon. Benjamin Lang'at (Ainamoi, UDA): Thank you, Hon. Speaker. I thank the Member for making that very important request. I also thought that the request should be referred to the Departmental Committee on Education unless the Member has information that the money has not been released from the National Treasury to the Ministry of Education.

Hon. Speaker: Member for Emuhaya, I honestly think you should have directed your request to the Departmental Committee on Education, otherwise, you will enjoy a ping-pong from one office to another.

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Speaker, I plead that you redirect the request to the Departmental Committee on Education.

Hon. Speaker: I order that the request be directed to the Departmental Committee on Education. Are there Members present from the Departmental Committee on Education? Where is Hon. Tonkei? She has left. Hon. Masara, are you in the Departmental Committee on Education?

(Hon. Peter Masara spoke off the record)

Hon. Peter Masara (Suna West, ODM): Hon. Speaker, give me one minute to say something on the request for Statement by Hon. Milemba.

Hon. Speaker: Go ahead.

Hon. Peter Masara (Suna West, ODM): Hon. Speaker, I am imploring you. Teachers' suffering on issues of insurance and healthcare should not be taken lightly. Those people are on the ground serving our children. If their insurance cover is not in place or their money is not being remitted on time, it brings suffering to them. Teachers are guardians to very many people. The society is unwell when the health of teachers is in trouble. Despite the fact that Hon. Milemba represents the union, we as representatives of the people need to add our voices to teachers' welfare to be taken care of. That is along the health insurance of all Kenyans.

That is what I wanted to add and I implore you to urge relevant Committee Chairmen to provide concrete information that can give hope to teachers.

Hon. Speaker: Thank you. Hon. Naomi Waqo, can you inform the Chairman of the Departmental Committee on Education to bring a response on Thursday next week?

Hon. Naomi Waqo (Marsabit County, UDA): I will do so due to the seriousness of this matter.

Hon. Speaker: Next Order.

BILLS

Second Readings

THE EQUALISATION FUND (ADMINISTRATION) BILL (Senate Bill No.14 of 2023)

(Moved by Hon. Kuria Kimani on 18.2.2025)

(Debate concluded on 25.2.2025)

Hon. Speaker: Hon. Okuome, take your seat. Let us put the Question first. I will give you a chance.

(Several Members walked into the Chamber)

Order, Members on your feet! Take your seats.

(Question put and agreed to)

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

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

(Moved by Hon. Kuria Kimani on 20.2.2025)

(Debate concluded on 25.2.2025)

(A Member walked into the Chamber)

Hon. Speaker: Order, Hon. Member on your feet! Take your seat.

(Question put and agreed to)

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

THE INSTITUTE OF SOCIAL WORK PROFESSIONALS BILL
(National Assembly Bill No.17 of 2023)

(Moved by Hon. Joshua Kimilu on 19.2.2025 - Morning Sitting)

(Debate concluded on 19.2.2025 - Morning Sitting)

(Hon. Ernest Kivai walked into the Chamber)

Hon. Speaker: Order, Member of Parliament for Vihiga! Take your seat.

(Question put and agreed to)

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

Hon. Speaker: Yes, Hon. Wamboka, Member of Parliament for Bumula.

POINTS OF ORDER

CONSTITUTION OF THE LIAISON COMMITTEE

Hon. Wanami Wamboka (Bumula, DAP-K): Thank you, Hon. Speaker.

I rise on a point of order under Standing Order 83 as read together with Standing Orders 217 and 232. It is on a matter for which I seek clarification. Indeed, you ruled and directed the Liaison Committee to deal with Budget issues a couple of days ago.

I am aware that the tenure of our 18 committees lapsed. Unfortunately, the tenure of all Committees of Members and Chairmen from the Minority side also lapsed. As it stands, the Liaison Committee consists only of Chairmen from the Majority side. Therefore, this brings its constitution into question. Is the Liaison Committee properly constituted in line with the spirit and meaning of Standing Order 217? I need your clarification on that. Can the Liaison Committee handle the Budget on behalf of the Budget and Appropriations Committee now that its constitution is in question?

We are aware that Chairmen present defend budgets before the Budget and Appropriations Committee. Are these Chairmen looking at their own budgets now that we do not have Chairmen from the Minority side? Are we not disenfranchising the Minority side that forms part and parcel of this House? I seek your ruling on that.

REDUCTION OF ALLOCATION TO THE NATIONAL
GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND

Secondly, this House passed an allocation of Ksh68.23 billion in the last Budget. That comprised an annual allocation of Ksh54.77 billion and carryovers from the 2023/2024 Financial Year amounting to Ksh13.45 billion.

I wish to bring to the attention of the House that, while defending their Budget Policy Statement (BPS) before the Departmental Committee on Finance and National Planning, the Ministry of National Treasury and Economic Planning proposes to scale down the National Government Constituencies Development Fund (NG-CDF) from Ksh68 billion to Ksh26 billion during the 2025/2026 Financial Year. I wanted the House to note that.

The law talks of 2.5 per cent. Looking at the Ministry's estimates of national Government's share at Ksh2.562 trillion, the NG-CDF allocation should be Ksh64 billion. I am bringing this to the attention of the House because there will be no way to reverse if it passes without our realisation.

Thank you, and I beg for your guidance.

Hon. Speaker: Thank you, Hon. Wamboka. Yes, Leader of the Majority Party. Is it on the issue? Hold on. Hon. Omboko Milemba wants to say something first.

Hon. Omboko Milemba (Emuhaya, ANC): Great, Hon. Speaker.

I thank the Hon. Member for raising the matter. The matter came up in the House Business Committee. I want to indicate that certain timelines have been set for specific happenings and the budget-making process is one of them. Possibly, the framers of the Constitution wanted it that way. It is so that no lapse or occurrence, even within Parliament, obstructs important processes, including budgeting.

Secondly, your direction will be important. Once constituted, I believe committees sit as a House and not as Minority or Majority. It will actually make us more comfortable when we have such a process going on. It is also important to remember that by the time we closed or by the time the Committee lapsed, we had issues with the Budget and Appropriations Committee. In fact, that is what has made me stand. Remember we had questioned the distribution that had been done by the Committee. Therefore, for me, it is very important to allow another unit or a different setup to handle that re-allocation. I want to convince Hon.

Members speaking on this matter that they, like myself, were victims of the distribution that was carried out by the previous Budget and Appropriations Committee.

Thank you, Hon. Speaker.

Hon. Speaker: Leader of the Majority Party, proceed.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. I heard what Hon. Jack Wamboka raised. I agree, to an extent, with the response by Hon. Omboko.

For Hon. Wamboka's benefit, this is not the first time the Speaker has directed that the budget process, whether it is the BPS or the Budget itself, be handled by the Liaison Committee. Those of us who were here in the 11th Parliament remember that during mid-term, the entire Budget and Appropriations Committee was disbanded by the House through a Motion tabled by the late Hon. Jakoyo Midiwo. It dismissed the entire Budget and Appropriations Committee of the House. For the next three years during that term, the budget-making process was done by the Liaison Committee under the able chairmanship of the then Deputy Speaker, Hon. Moses Cheboi. We still have a Liaison Committee. I hear Hon. Jack's concerns that the Minority side might not be represented. When committees sit, they do not do so as majority or minority entities but as committees of the House. More importantly, the outcome of any committee's report or work must end up in this plenary, where we are all present and where we represent the people on whose behalf we engage in the budget-making process. Therefore, I do not find anything wrong in the Liaison Committee, as currently constituted, handling both the BPS and, if necessary, the Supplementary Budget II. The Liaison Committee is well-placed to consider these matters.

Hon. Wamboka asked whether the chairpersons of Departmental Committees will be considering their own budgets. It is true that they actually present their own budgets before the Budget and Appropriations Committee which weighs submissions from each Departmental Committee. When I chaired the Budget and Appropriations Committee, some chairpersons requested to sit in during the Committee's deliberations to understand the ceilings they had and how resources were allocated across departments. Nothing stops any chairperson or a Member with an interest that they may want to engage in, like the BPS process, from seeking permission from the Member chairing to appear before the Liaison Committee. The Leader and Minority Party is not there but the Whip is there.

As we indicated in the House Business Committee yesterday, we are completing the reconstitution of all committees and that is why you did not see me, Hon. Millie and Hon. Junet here this morning and part of yesterday evening. The Committee on Selection is due to sit on Thursday, 27th February 2025 afternoon at 4.00 p.m. Once that is done and the list of the reconstituted committees is approved by the House Business Committee, they will catch up on the finalisation of the Debt Management Strategy Paper, BPS, and the Supplementary Appropriations Bill. I re-assure Hon. Jack Wamboka that there is nothing to worry about. Any outcome will be returned to this plenary for approval. I believe Hon. Jack is satisfied now.

Hon. Speaker: In future, Hon. Wamboka, when you have a matter of that nature, as a matter of courtesy, approach the Chairperson or the Speaker in his Chambers so that we can deal with it.

Hon. Milemba and the Leader of the Majority Party have partly addressed the issue, and it is not without precedent. On 16th February 2016, Hon. John Mbadi Ng'ong'o raised exactly the same point of order when there was a similar situation. The Speaker ruled that due to strict timelines in the budget-making process and with the existence of the Liaison Committee, it could step in and handle the matter. The House should not allow a vacuum to prevail. The Speaker directed the Liaison Committee, as it is now, to handle budget matters.

This matter also came up in the House Business Committee yesterday. If you had consulted the Leader of the Minority Party, Hon. Junet, you would know that the Committee unanimously agreed that in the interest of meeting constitutional timelines and considering the

issues at hand, no prejudice would be occasioned. The Liaison Committee will handle these matters until committees are reconstituted. I directed that both sides of the House leadership must be ready with the reconstituted committees by the end of the day tomorrow Thursday, 27th February 2025 so that we can begin next week with fully operational committees. Those that will be reconstituted differently will elect their chairpersons and proceed with their work.

On the issue of percentages for the NG-CDF, we have an NG-CDF Committee in this House led by Hon. Musa Sirma. However, it is one of the committees that has lapsed. I will direct that once the committees are reconstituted, your matter be placed before them to be dealt with together with the Budget and Appropriations Committee to ensure that percentages locked in the Constitution are respected. We will ensure that is done. I am a firm believer in NG-CDF and its impact on the country. Any shilling less on NG-CDF affects wananchi directly. It is so directed. Thank you.

Yes, Hon. Wamboka. Do you have something else?

Hon. Wanami Wamboka (Bumula, DAP-K): Thank you, Hon. Speaker. I am well guided on the issue of the Liaison Committee and similarly on the issue of NG-CDF. However, there is a worrying trend that even Kenya Rural Roads Authority (KeRRA) funds have been revised downwards. You may not be aware of that. We will bring a substantive Motion to deal with that.

Hon. Speaker: I thought KeRRA is subject of a court dispute. I understand they are surrogate litigants engineered by the Council of Governors (CoG) competing against the interests of constituencies in the management of some KeRRA funds. This is a matter we are dealing with.

Hon. Wanami Wamboka (Bumula, DAP-K): Hon. Speaker, we will need your direction because we need to be very firm. If CoG is using surrogates, we can also surrogate.

Hon. Speaker: Parliament is not looking for any surrogates; we are defending that suit with all the veracity we have.

Hon. Wanami Wamboka (Bumula, DAP-K): Hon Speaker, why would KeRRA be revising these figures downwards? Since the case is in court, why can the status quo not remain?

Thank you, Hon. Speaker.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Point of order, Hon. Speaker.

Hon. Speaker: Hon. Millie, then the Member for Kesses.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Speaker. You have just said that as the National Assembly, we are not surrogating but defending. When you are always under attack, sometimes attack is the best defence. The CoG is surrogating somebody else to take away work that helps in our constituencies yet under the Fourth Schedule to the Constitution, county governors have no constitutional mandate to issue bursaries. But because we know the bursaries help people, we block our ears and close our eyes to the fact that what they are doing is unconstitutional. So, instead of defending, why do we also not attack so that it is fair? The National Assembly has many brilliant minds. Like Paul asks in the Bible, "Foolish Galatians, who bewitched you?", foolish parliamentarians, who bewitched you? Why are we allowing people to always attack Parliament yet we have brains and we can also attack them in courts?

If they want to take away KeRRA funds that help our people, then let us refer to the Constitution. There is no bursary for Early Childhood Development Education (ECDE). The constitutional mandate for governors is very clear. In education, it is the ECDE. I do not know of any child who makes ECDE payment using bursaries. We only keep quiet because we know the bursaries help our people. If they want war, let them bring it on. We will meet them halfway.

Hon. Speaker: Member for Kesses.

Hon. Julius Rutto (Kesses, UDA): Thank you very much, Hon. Speaker. My concern is drawn from a continuous and systematic micromanagement by the National Treasury of matters that touch on our people directly. As we are considering the issues now, the National Treasury is deliberate on reducing allocation to NG-CDF in the BPS for the Financial Year 2025/2026. I am aware that there are stern instructions to KeRRA regional managers not to issue award letters in the recently publicised notices inviting contractors to undertake works. They deliberately invited bids and have completed the procurement process, but they have been instructed not to issue award letters for works to start just because somebody somewhere wants to control Exchequer releases.

We are aware that the money in question is around Ksh10 billion, but the total sum of money is more than the Ksh10 billion. What is happening with the contracts already awarded? It seems someone wants to take advantage of this situation to perpetuate their interest by not allowing funds to be utilised for service delivery on the ground. We have to take a look beyond this. Some people at the National Treasury want to play games with this situation. It is not about the issue in court. The people have a direct interest in manipulating services to the people, especially those being overseen directly at the constituency level. It seems CoG is being facilitated by people on the other side to confuse service delivery. Kenyans have been receiving directly at the constituency level and supervision and oversight being provided at that level. It is time to call a spade a spade. Somebody somewhere must take responsibility for this.

Hon. Speaker: Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. I want to inform the House and jog your memories a bit. You know we have come from a very long recess. Last year, we published the County Additional Allocations Bill for Financial Year 2024/2025. The Bill went to the Senate and they included the Roads Maintenance Levy Fund. (RMLF) money in it. We were to go into mediation but unfortunately the mediation process lapsed at the end of the last session. We republished the Bill without the RMLF money and it has been read the First Time. We will process it without RMLF, because that is the right thing to do.

It is good time to speak to our colleagues in the other House. I had an engagement with two governors. Let me not mention their names here. One of them told me that their county has funding of about Ksh1.1 billion from the Kenya Informal Settlements Improvement Project (KISIP). They cannot access the money because other governors want to fight over RMLF. They were telling me they would get only Ksh113 million for RMLF. The governor asked me what sense there is to fight over Ksh113 million and lose money that should go to the most critical elements like healthcare, water provision, and improvement of urban roads that would help the county to generate additional revenue.

There are a few governors who cling on to the RMLF issue. When we were debating this Bill last year, we reminded governors that back in 2021 when we had the same stalemate, the national Government added a whopping Ksh53 billion to the Division of Revenue Bill to cater for county roads. Ask Kenyans anywhere in this country where they see governors constructing roads.

Hon. Members: Nowhere!

Hon. Kimani Ichung'wah (Kikuyu, UDA): I am not asking Members of Parliament; I am asking Kenyans. They can tell us which governors are constructing any roads anywhere. If anything, the roads are maintained by KeRRA and then governors duplicate the same projects so that they loot from public coffers.

We must call out this corruption for what it is. It is nothing other than blatant corruption in the counties. Governors are not fighting for this money because they intend to maintain any road. In my constituency, there is no single road that the County Government of Kiambu has maintained in the last three years. None. If you speak to constituents around the country, they will tell you the same. Read the Controller of Budget reports and see how many counties devote

money to development. Many are busy devoting money to freebies, and things that are politically expedient and exciting to the masses but not to sustainable things. Members of Parliament, through proper oversight of RMLF, ensure that KeRRA and KURA maintain roads in our counties and constituencies.

We have pleaded with the Executive, through the Office of the Deputy President who is the Chairperson of the Intergovernmental Budget Economic Council (IBEC), to call the Council of Governors to order. First, they should withdraw the case that is in court. There is absolutely no reason why Ksh10 billion would be lying idle at a time when we are about to get into the short rains and Kenyans will start complaining about bad roads. They will not access their farms and get farm produce to markets because governors are holding money through a court process. We have asked the Deputy President, through IBEC, to speak to the Council of Governors to first withdraw that case.

As a House, we will process the County Additional Allocations Bill without the RMLF. It will never come to the Floor of this House. Let me not talk about courts. RMLF is a live wire that you will never touch on the Floor of this House.

(Applause)

We will consult with the leadership in the Senate, so that no Senator even imagines they can amend that Bill when it goes to them to re-introduce RMLF. This will end up in another stalemate and a mediation process that we can tell them, even before it starts, will go nowhere. Leave RMLF! Let KeRRA and KURA maintain the roads they maintain.

Hon. Speaker, lastly, I will speak to the Executive, the Cabinet Secretary for Roads, Transport and Public Works and the Council of Governors. It is high time we properly reclassified all our roads. I saw this in some countries. If you go to South Africa, you will see a road marked with numerals and alphanumeric coding that clearly tell members of the public that this is a county road, municipal road, or a national Government road. We must get to that level where the Ministry of Roads, Transport and Public Works does proper classification of roads.

(Applause)

If we have National Government Roads Class A, let us know this is NGA. If we have a county government road, let it be CG Class D, A or B. We should name those roads so that these Members of Parliament are not bashed by their constituents because we are the ones they are close to. They keep bashing Members of Parliament over roads that do not concern them because they have no budgets for them. The governors who have money for maintaining these roads are busy buying chicks, maize flour and *ndengu* to give as freebies to constituents to excite them for political expediency. It is high time they are called out. Kenyans must begin reading the Controller of Budget reports to see that counties are not devoting money to development. That is why we honestly cannot satisfy their insatiable greed for more money to steal.

We must maintain our position to offer meaningful oversight over KeRRA, KURA and Kenya National Highways Authority (KeNHA) to deliver on maintenance and construction of roads. They assume that this money is managed by Members of Parliament. None of these 290 Members of Parliament representing constituencies, 47 women or 12 nominated Members manage this money. It is managed through the regional offices of KeRRA, under the Director-Generals of KeRRA and KURA. Members of Parliament do not come near it. They do not even sit in the procurement committees. Our only interest is proper and meaningful oversight for delivery of services to Kenyans.

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(Applause)

The others are only bothered about what they will steal. They want to steal from hospitals. They have looted hospitals, water projects and now they are after roads. Honestly, who will satisfy their insatiable greed? We cannot, and we will not satisfy them by processing the County Governments Additional Allocations Bill, with RMLF included. I hope the Leader of the Majority Party in the Senate has heard me.

Thank you, Hon. Speaker.

Hon. Speaker: Leader of the Minority Party.

Hon. Junet Mohamed (Suna East, ODM): Thank you, Hon. Speaker. I just want to add a few things to what the Leader of the Majority Party has said. This issue of RMLF has been on this Floor now for some time, since last Parliament. I have realised there is a systematic programme going on in this country to disconnect Members of this House from the public completely. I do not know where that plan is hatched. I do not know whether it is in the Executive, Judiciary or somewhere else.

There is a serious plan to disconnect Members of Parliament, especially Members of the National Assembly, from the public. People tell me that it is not my work to bring development to the people. If I cannot bring development to them, what is the constitutional requirement of representation? You represent people so that you can speak on their behalf on the Floor of the House to get resources for them, if I understand it well. This is something that this House will not accept. Look at what is happening in the counties. We are not against devolution. We support it completely. However, we have to re-analyse, since the last 10 or 12 years, whether it has worked for this country. The only thing we see in it are conferences every year that show us beans, *ndengu*, carrots, cucumber and cassavas grown in our areas. Those things have been happening since Independence. My grandmother has been growing cassavas since Kenya became independent. That is what you are shown in devolution conferences. There is nothing serious that has happened since devolution came into place. Truth must be said. We must be truthful to the people.

(Loud consultations)

Look at the amount of money that has been devolved in this country. We have devolved trillions of shillings, since devolution came into place. However, there is completely nothing to show for it. Let us be honest to Kenyans. We do not want to describe them as devolved corruption. Hon. Speaker, can we have order here? People are preoccupied with the little money that is devolved through NG-CDF and RMLF. They do not take note of the billions of shillings that are devolved every financial year. Counties get their money. They are never in arrears. Even if they are in arrears, it is only for one month or two months, and in the end the money goes down to the ground. There are counties that are holding billions of shillings in their Central Bank of Kenya accounts. I was reading in the newspaper the other day that there are counties that have not spent Ksh48 billion. It is lying idle in their accounts, but they are still demanding for more money. They are saying the National Government has not devolved money.

Lastly, these people who call themselves KeRRA and KURA here in Nairobi must know that these are organs of national Government. They are not part of county governments. They are overseen by this House. The Director-General of KERRA is a joker. It is true. He thinks that he is supposed to report to counties. Which governor or county government oversees him? That man must be dragged to this House under a Committee of the House. He must be told, in no certain terms, that he is supposed to report to the National Assembly. He thinks that he is supposed to work with county governments. Which county government gives him money?

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Hon. Speaker, you can go round to every constituency today, and we will take you round. The roads that are maintained by RMLF, through the constituency, are known. In every constituency, they are not even more than four or five. Majority of the roads are classified as county roads. All of them are in pathetic condition. They are asking for RMLF for the constituency. The ones for the constituency are well-maintained. The national Government is trying its best to tarmac majority of the county roads. We cannot take this thing lying down anymore. We will put our foot down. We are tired of these shenanigans of counties and the judiciary saying all the time that NG-CDF is unconstitutional. These people are enjoying their monies. They are not delivering any services to the public. The people who are supposed to do that work are being curtailed. This matter must come to an end.

As Leader of the Majority Party has said, we will pass the County Governments Additional Allocations Bill. It has the extra money we are giving them, without RMLF. If they do not want money, the Bill will be stuck here for good. You can continue with the one that you were given at the beginning of the year. The Council of Governors should not joke with Members of Parliament. They were elected like the way they were elected. You have votes. We got votes the same way you got yours. Some of you got votes through waves. When the Constitution 2010 was being formulated, some people said that gubernatorial positions should be appointive. We can amend the Constitution, if need be.

(Laughter)

In conclusion, let us respect everyone's work, as enshrined in the Constitution and laws. We must make sure that we are not made like we are not supposed to bring any development to our constituents. A governor told me on my face that my work is representation and oversight. That, we just go to make noise in Parliament and that is all; we do not have any other work. I told him when we will be processing the Division of Revenue Bill, we will give them very little money if he continues to talk like that. Then, he will realise the power that has been given to the National Assembly by the Constitution.

(Applause)

We support devolution. However, this amorphous group referred to as the Council of Governors, which is not even in the Constitution but in the County Government Act that can be repealed, must respect Members of Parliament henceforth. That is not something we are begging. It is an order. We will stand firm to make sure that our constituencies get development as stipulated in law.

Thank you.

Hon. Speaker: Hon Members, your leaders have spoken. Can we end there and go to some other business?

Hon. Members: Yes.

Hon. Speaker: Hon. Caroli Omondi, what is it?

Hon. Caroli Omondi (Suba South, ODM): Thank you very much, Hon. Speaker for giving me this opportunity. I will add on what Hon. Millie said on taking the war to them. One score and two years ago when we were writing the new Constitution, the original proposal was to have 14 counties plus Nairobi. Counties were only supposed to be 15 but we ended up with 47. We have seen what has happened during this period. Most of the counties, as a matter of fact, have nothing to show. If you go to counties, what governors do are cultural festivals. In a year, there can be six to seven festivals. You cannot know which one you are at. There will be this and there will be that.

Some county governments are building posho meals while others are building rice meals. These are things that the central Government is already divesting from. I belong to a small group which is already doing a study on whether the structure that we have for devolution is sustainable for Kenya. Our preliminary conclusion is that it is not. As a matter of fact, what will be more sustainable is to protect devolution and devolve funds through constituencies. What that would mean, if I may use Turkana County as an example, it gets about Ksh12 billion per year. With its six constituencies, for direct development each constituency will have Ksh2 billion in a year.

In Suba South, from the calculation that we have done, if I was to oversee the constituency for 10 years at the current amount of devolved funds, we will resolve all the road networks, build hospitals, and finish constructing all the schools after the 10 years. We will be now talking about new things. So, the war that we should take to them – building on what Hon. Millie said – is to relook at the Constitution and the structure of devolution, take away the counties but protect the funds by channeling them as development funds directly to the constituencies. That is what is working in this country. All other things are not working. That is the war that we need to take to them as a House.

If this House, in a bipartisan manner, can come up with a working group to explore this matter and review the current status using experts – that is exactly what we are proposing – we will help this country. Devolution in its current structure is not sustainable. It will never work. It is a den of corruption and contains incompetent people. When you go to functions, governors carry truckloads of people to praise them. You will find other groups that have been brought to the functions fighting. It is all chaos! Devolution is not working for this country.

Thank you.

Hon. Speaker: Yes, Hon. Chepkonga.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you very much, Hon. Speaker. I want to join my colleagues... The Bible says remind them even though they know in 2 Peter 1:12. I want to remind the Council of Governors something even though they know what Article 95 of the Constitution says. That fact does not exist in any other Article. For the avoidance of doubt, it reads as follows:

“(1) The National Assembly represents the people of the constituencies and special interests in the National Assembly.

(2) The National Assembly deliberates on and resolves issues of concern to the people.”

There is no other person in Kenya that has the power to resolve issues that are of concern to the people. It is only this House. I am being reminded by a layman here that even the courts do not have power to resolve issues that are of concern to the people.

The other day we increased the RMLF from Ksh18 to Ksh25. Governors are now salivating because we increased that money. The reason why we did so, was to resolve issues that are of concern to the people. You know, in the last Government, they launched about 10,000 kilometres of roads and there was no money to pay for the construction of those roads. It was necessary that the RMLF be increased for purposes of paying-off the outstanding bills with regard to those roads that were constructed in counties. So, for someone to come and say that they are holding Ksh10 billion because they are salivating for the Ksh7 or Ksh8 that was increased, is completely unfair and unconstitutional.

People read Article 95 of the Constitution and go to sleep. Article 95 of the Constitution says Members of Parliament have four roles: oversight, budgeting, representation, and legislation. The National Assembly makes the Budget and there is no one else under the sun in Kenya who has the role of budgeting for the resources of this country that Kenyans pay through taxes. In fact, the Senate or any other body cannot originate money Bills. Money Bills can only

originate from this House. That is the reason why the County Allocation of Revenue Act (CARA) cannot be passed until this House agrees to the Bill.

We are not begging the Council of Governors. We want to ask them to withdraw that Bill so that they can get their money that is more than the Ksh10 billion. Just as other Members have said, I also come from a constituency and I have never seen the Council of Governors repairing roads or maintaining them in Ainabkoi. In fact, most of the time I am asked to assist even when it is known that I am not responsible for the affected road. In such cases, I go and plead with the Director-General of KeRRA to assist the people of Ainabkoi who have a problem with the road. Most of the time these roads are not KeRRA roads but county roads. I can give a plethora of roads that have been repaired by KeRRA yet they were not part of what had been appropriated to KeRRA.

We must stand very firm. In fact, we have now learned something that we can use – the Sakaja route – to stop them from doing some funny things.

(An Hon. Member spoke off the record)

No! I'm not saying it is the Sakaja route. That is very unfair.

Hon. Speaker: That is criminal conduct. There is no justification for that.

Hon. Samwel Chepkonga (Ainabkoi, UDA): I agree with you, Hon. Speaker. There is no justification at all for people to pour garbage at other people's gates. The National Environment Management Authority of Kenya (NEMA) must take action. That is what the Leader of the Majority Party is saying. We are saying...

Hon. Speaker: Hon. Chepkonga, are you saying if the Kenya Power Company (KPC) demands power payment from you, you will go and cut down their poles?

Hon. Samwel Chepkonga (Ainabkoi, UDA): No, Hon. Speaker. That is why I am saying that it is absolutely criminal. Nairobi County is a criminal enterprise. They were involved in criminality. It is just that we do not have any...

Hon. Speaker: No country will condone that kind of criminal behaviour.

Hon. Samwel Chepkonga (Ainabkoi, UDA): We will have to ask the Senate to call to order Governor Sakaja for dumping waste at KPLC premises. That is unbecoming conduct. The reason why people see us this way is because we are gentlemen and 'gentlewomen' who like to follow the law. However, we should not be handled as if we have no teeth to bite. We can bite.

Hon. Speaker: There are no 'gentlewomen'; there are ladies.

(Laughter)

Hon. Samwel Chepkonga (Ainabkoi, UDA): Oh! Sorry, Hon. Speaker. There are gentle ladies. It is just that one of them was told she was not properly dressed yesterday.

Hon. Speaker: Okay. Finish up.

Hon. Samwel Chepkonga (Ainabkoi, UDA): I thank you, Hon. Speaker. I support.

Hon. Speaker: Hon. Members, I will close with Hon. Otiende Amolo, Hon. Keynan, then Hon. GK. Only those, then we will go to the next business.

Exercise some brevity.

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Speaker. First is information to the Members. As Members are aware, we are in court on the NG-CDF matter. It is currently before the Court of Appeal. Next week on 6th March, we will be appearing for directions. As we had indicated to Members, we are fast-tracking the hearing. That notwithstanding, it does not give anyone the authority to reduce anything. However, the beauty of it, ultimately, is that we are the ones with the power. The Executive can only make proposals.

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It is within us to change what we need to change. I agree with the ruling of the Speaker earlier that we must proceed as a matter of necessity.

Secondly, on the RMLF matter, it is very interesting that the very people who are with us in court challenging the NG-CDF matter every day, litigating up to the Supreme Court and then restart again, have never found it necessary to challenge any exercise of authority by the counties, including the bursaries. Strictly speaking, the county governors are supposed to deal with ECDE and Technical and Vocational Colleges (TVCs). Now, TVCs end up with students coming to Members of Parliament for support, and even the institutions themselves. One would have thought that the governors would concentrate on the areas of their jurisdiction before they spill over.

However, many of us have not complained because, in most of our constituencies, students are needy. Even with all that, you still find other students who do not receive the bursary. But, when the same governors want to encroach into our area, it calls for us to demonstrate that our power is not just latent; it is potent. In that respect, as we move along, we do not have to wait for your direction on this. Members will be taking on these governors on many of these things, both in and outside court, in matters we have filed and those filed by others, so that we can achieve an equilibrium of power.

(Applause)

People need to understand that this is where the power lies. It does not lie in the courts or in the Executive. It lies here. Courts can interpret the law and our actions anytime, but, ultimately, they cannot stop us from making legislation however we want. Courts cannot stop us from exercising our powers in terms of the budget however we want. Let us send a caution to the governors that what is good for the goose is good for the gander.

Thank you.

Hon. Speaker: Thank you, Hon. Otiende Amollo, for finally agreeing with the Speaker that power lies here and not elsewhere. Let us have Hon. Adan Keynan.

Hon. Adan Keynan (Eldas, JP): Hon. Speaker, allow me to join this debate, which has two aspects. I am glad that, today, the Leader of the Majority Party and the Leader of the Minority Party have agreed on one thing; that this House has been reduced to a House of lamentations. Once upon a time, this august House was an appendage of the Executive. We freed ourselves and you know how it used to be. Unfortunately, we are going back to where we used to be. I am told the Chairman of the Departmental Committee on Transport and Infrastructure is here. It is shocking that a Managing Director (MD) of a national Government agency, without any due regard or consultation, simply by a circular, negates everything that this House has passed. The implication is that we are no longer the august House that we used to be. Why should the MD of the KeRRA sit down and negate what we have passed here yet we have a Departmental Committee on Transport and Infrastructure? Why should the Director-General for KURA sit down and negate a legislation that has gone through all the stages yet we have a Committee here? The only inference you can make is that this is no longer the august House.

I agree with what both the Leaders of the Majority Party and Minority Party have said. Under the current Constitution, and for those of us who have been part of this, we had certain considerations. You know how we included devolution and the Equalisation Fund in the current Constitution. The NG-CDF is now floating in the air. The governors have gone to court to make sure that the Equalisation does not work. It is no longer functioning. The governors have gone to court to ensure the NG-CDF and the RMLF are not working. They are now saying that Members of Parliament do not have a role in the governance of the Republic of Kenya. Is that where you want to be?

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Hon. Members: No!

Hon. Adan Keynan (Eldas, JP): Unfortunately, that is where we are. Some of them are going public to say that Members of Parliament have no role in county affairs. I urge my colleagues that there comes a time when people must be ready to make hard decisions. We need to do both summative and formative evaluation of all the resources we have devolved since the promulgation of the current Constitution, so that we allow Kenyans to see the value of the billions and trillions we have devolved, as the true representatives of the people. Otherwise, we will sit here, lament and go to court. I am glad with what Hon. Otiende Amollo has said, but that is the court. What are we doing in the House? The Budget-making process, oversight, legislative power rest in our hands, and we are not using them. What are we saying?

The Council of Governors has slowly taken over. Over time, they have blackmailed the Members of the National Assembly, the Senators, and the Executive. Everybody is being blackmailed under our watch. What are we going to do? We need to critically dissect the current Constitution and address all the gray areas that ought to have added value to the well-being of the people we represent. If we do both summative and formative evaluations, we will realise where the billions have gone. I had the privilege of representing two constituencies, and I am ready to take all of you for a benchmarking visit to Wajir West and Eldas Constituencies to see what the national Government and the county government have done over the last ten years. You will be in a position to compare and appreciate that our constituencies still survive on budgetary support from the national Government yet, billions are devolved.

As I conclude, I want to tell the Chairman of the Departmental Committee on Transport and Infrastructure that, if you are here, we cannot be under the threat of a mere MD of KeRRA. He has issued many circulars. In fact, some of these MDs, because we have failed to bite and act, are taking advantage.

I want the Leader of the Majority Party and the Leader of the Minority Party to hear me out. I want all the Members to hear that in the history of NG-CDF, from July, August, September, October, November, December, January and February, all our proposals are yet to be approved. What are these other funds you are looking for? Where are your NG-CDF proposals? You have been duped into asking to facilitate the bursary allocations. Where is the money? Even the basics are not there! I have been running after the Chief Executive Officer (CEO) and the management of the NG-CDF Board. Where are the approvals for the fund managers to actualise? The approvals have not even been done. Whose mistake is it? It is our mistake. That approval ought to have been in place by December so that we could roll out the project.

Hon. Speaker: Wind up, Hon. Adan Keynan.

Hon. Adan Keynan (Eldas, JP): So, we are all just sitting. Let us stop complaining. Let us not reduce ourselves to a House of lamentation. Can we act and bite constitutionally?

Thank you.

Hon. Speaker: Hon. George Kariuki.

Hon. George Kariuki (Ndia, UDA): Thank you, Hon. Speaker, for allowing me to add my voice to this debate. I want to remind Members that the Kenya Roads Board (KRB) Act has neither been amended nor suspended. We have an Act that stipulates how our RMLF funds should be shared, and as long as that Act stands, we will not allow anybody to take away any coin or cent from our allocation of 22 per cent and 10 per cent. The Committee that I lead has taken a position on this matter.

We met the Cabinet Secretary yesterday and raised this issue. He assured the Committee that he will support the position that exists. This position is in the law; the KRB Act. I want to assure Members that we will not cede any ground as far as these resources are concerned. We know what happens when governors are allowed to implement these resources; we are unable to see anything they do for our people. This money was set aside to avail to the

people of Kenya what we call ‘the common good’. We will stand with the people of Kenya and continue to serve them effectively by holding onto these resources.

Hon. Nabii Nabwera (Lugari, ODM): On a point of order, Hon. Speaker.

Hon. Speaker: Hon. Nabii, what is it?

Hon. Nabii Nabwera (Lugari, ODM): Hon. Speaker, is it in order for the Chairman of the Departmental Committee on Transport and Infrastructure to mislead the House that he is doing something when he is the problem?

Hon. Speaker: Chairman.

Hon. George Kariuki (Ndia, UDA): Hon. Speaker, I do not have to respond to that comment because he is totally out of order. I have been very consistent in my support for the Road Maintenance Levy Fund (RMLF) resources being appropriated through the constituency roads committees. That is the position we have taken as a Committee.

Once again, I assure Members that we will continue engaging the Ministry, Kenya Roads Board (KRB) and Kenya Rural Roads Authority (KeRRA) to ensure that nothing changes – the status quo remains. I urge the Executive to engage the Council of Governors and ensure that the Ksh10 billion that was frozen by the courts is released for the purpose of serving our people.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Antony Oluoch, your colleagues from Nairobi City County Constituencies have asked me to give you an opportunity to say something.

Hon. Anthony Oluoch (Mathare, ODM): Thank you, Hon. Speaker. This morning, the 17 Members of Parliament from Nairobi City County met with their regional engineers. The subject of discussion was the same question being discussed on the Floor of this House today.

First, I confirm that the tendering process for the RMLF and KeRRA roads for Nairobi City County have been done and letters expressing intention to award have been issued. The unique problem that the constituencies in Nairobi City County have, unlike the other 273 constituencies, is that we have to do tarmac or bitumen roads. Some of those roads are done in a layered form and sequential manner. Therefore, when we tell the people of Nairobi City County that we cannot do five roads which were tendered but only two, they get confused. Additionally, it is hard to select the roads that would be done and the ones to be left out.

There was a legitimate concern – especially when a Member of Parliament raised this question on the Floor of the House – as to why the ceilings were brought down from Ksh62 million to half the amount. That same afternoon, before I even sat down, that circular had been withdrawn. The House relaxed that this problem had been sorted and adverts put on the basis of Ksh62 million. However, after the tendering have been done and awards issued, we are being told that we can only do two roads.

In summary, I am of the opinion that this House does not have the teeth that it claims. As Hon. Kipchumba said earlier, this House must prove that it is the senior House that it claims to be. This is because the governors cannot exert pressure on the Executive on the prospective merger of KeRRA and KURA whose intention is still the very same – withdrawal of the money that goes to the constituencies. I am speaking here so that Hon. Ichung’wah can hear this. When the leadership of this House sits with the Executive, what do they tell them in terms of the ability to leverage our legislative power for them to bear? We are a House that is so much ado about nothing, including myself. We either show that we can do this or go the Hon. Caroli way.

In the interim, let us summon the Cabinet Secretary for Roads and Transport, even tomorrow and discuss the same. I urge the Members of Parliament for Nairobi City County Constituencies, and all the 290 Members to from Tuesday to Thursday, then run to their constituencies on weekends. The roads are not maintained or done by the governors. I can confirm that there is no single tarmac road in Mathare Constituency done by the governor. We

must, therefore, deal with the issue once and for all. I suggest that we summon the Cabinet Secretary tomorrow and suspend all our activities to address this issue.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Junet.

POINT OF ORDER

DUMPING OF WASTE BY THE NAIROBI CITY COUNTY GOVERNMENT AT THE KENYA POWER OFFICES

Hon. Junet Mohamed (Suna East, ODM): Hon. Speaker, I rise to bring to the attention of the House a matter of concern to the public. We are a country that is governed by the rule of law. In the last two days, we have been treated to an episode in Nairobi City County, where people who could not pay their electricity bills went ahead and dumped trucks full of garbage in front of the Kenya Power premises.

Hon. Speaker: Garbage and swill.

Hon. Junet Mohamed (Suna East, ODM): Hon. Speaker, garbage and what?

Hon. Speaker: Garbage and swill. Do you know what swill is?

Hon. Junet Mohamed (Suna East, ODM): Is it sewage, Hon. Speaker?

(Laughter)

Hon. Speaker: Go on.

Hon. Junet Mohamed (Suna East, ODM): Hon. Speaker, that is not the way to do things. Kenya Power and Lighting Company is a very important institution in our country. It is a public listed company and, therefore, this House oversees it. Many people have defaulted in paying their bills, and it is not only the Nairobi City County Government. If you cannot afford to pay your bills, it is proper that you negotiate with the person you owe. You do not use other means to intimidate and compel them to let you go with their money. I stand here to condemn that matter because it is a primitive, uncouth and irresponsible way of dealing with an issue.

Of late, the Nairobi City County Government has been doing a good job of cleaning the city and removing kiosks that have encroached on public pavements. However, the acts they did on Monday are unacceptable. Leader of the Majority Party, you agree with me on this. How can you, at this time, intimidate a Government institution? Even though some of the major shareholders of Kenya Power are private, including some Members of this House, it is still a Government institution. I am informed that they will get very good dividends this Financial Year because Kenya Power is doing very well. There is a Member who is not in the House now, but he is a serious investor in that place. That is very good because we also aspire to be there. However, I do not know how somebody who is younger than me achieved that. I am really worried. I need to pull up my socks and do something.

(Laughter)

That could be one of the reasons why we want change in the Budget and Appropriations Committee. Who knows? However, I leave it there for people to decide. It is not in my place to judge anyone.

The main issue that I would like to bring to the attention of the House is that the Nairobi City County Government must apologise and desist from that kind of act going forward. The governor must apologise to Kenya Power and Lighting Company, and the residents of Nairobi City County in general. We cannot do that. Tomorrow, if they have a problem with National

Environment Management Authority (NEMA), or any other institution, is that the way they will solve their disputes?

Hon. Speaker: What will stop them from dumping garbage and swill outside your gate?

Hon. Junet Mohamed (Suna East, ODM): Hon. Speaker, that is a good question. This is because if I do not pay for their water bills or service charge on time, they can also dump garbage in front of my house. Further, they will go ahead to tell me that until I pay my dues, they will not remove the garbage from my house.

This is a phenomenon that we have never seen. The governor is elected by Kenyans, through the United Democratic Alliance (UDA) Party, even though Orange Democratic Movement (ODM) has some symbiotic relationship with him. However, we cannot confirm that relationship yet because we do not understand where it is headed to. Hon. Speaker, in spite of all that, and with our symbiotic relationship with the governor, we have to condemn things that are done wrongly. That was a wrong act on the part of the Nairobi City County Government. We are warning people who might attempt to do that kind of nonsense. It may not end well with them. Other institutions can also do that; others can lock up your house for not paying your dues or something. That act must be condemned and it must not be repeated or else this House will exercise its mandate of oversight.

Nothing constitutionally, stops us from summoning governors. There is nowhere in the Constitution where it is written that governors can only be summoned by the Senate. The Constitution says that Parliament can summon anyone; Parliament refers to both the Senate and the National Assembly. Parliament can summon anybody in Kenya. So, under that provision of the Constitution, we will summon governors if they go wayward. They must stick to the rule of law, and respect the laws that we have put in place as a House to govern this country.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Ichung'wah.

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

I also join Hon. Junet Mohamed, the Leader of the Minority Party, to condemn that act by the County Government of Nairobi. I ask the County Government of Nairobi and Kenya Power and Lighting Company (KPLC) to get into a negotiation or some sort of dialogue, to be able to resolve the issues on pending bills before them. What we have seen around Stima Plaza are criminal acts. I was asking myself last night as I watched the television, where the police who should be ensuring there is law and order everywhere in the country, are---. The Inspector-General of Police must take decisive action and begin with the drivers who drove those trucks there. It should be very easy for the Inspector-General of Police through the Directorate of Criminal Investigation (DCI), to extract information about the drivers who dumped there and the people who instructed them. Whether it goes all the way up to the governor, it should not matter.

We should not entertain criminality in the guise of attempting to collect debts from public institutions. Some of our constituents are waiting for bursaries and for Grade 9 classrooms to be built through NG-CDF. Members of Parliament are also asking for the NG-CDF money. What if we decided that everybody now will take the law into their own hands and do whatever they want? Will we have a country? The City Council of Nairobi owes businessmen and women in this country money in pending bills to the tune of hundreds of billions. What if the people who are owed by the Nairobi City County decide to also go and dump their garbage outside City Hall tomorrow? How will the Governor of Nairobi take that?

Under the Ethics and Integrity Act, this is not only a criminal act but one that goes against the Integrity and Ethics Act.

Hon. Speaker: They are also criminal acts under the National Environmental Act.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Yes, they are also criminal acts under the National Environment Management Act and criminal acts touching on economic crimes. They dumped garbage and sewer deliberately on a road. They spent public resources to dump and later clean-up, which is an abuse of public funds.

Hon. Speaker: Yes.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Therefore, we should not allow this kind of behaviour to go unchecked. These are the same governors who sometime back, were asking to be given some security officers under their command. You can imagine if these governors had policemen under their command, they would trample on everyone. I ask the Inspector-General of Police to make sure that action is taken against the people who dumped garbage outside Stima Plaza.

I also want to encourage the business people I saw crying on national television. They have closed down restaurants because nobody can patronise their restaurants. They must take civil action against the Nairobi City County for compensation for lost business. They are closing down people's businesses. I did not know that Stima Plaza is not even owned by KPLC; they are tenants of Stima Plaza. It is owned by pensioners, our mothers and fathers who worked in KPLC and KenGen, as it were before. It is their business as landlords that is being spoilt by the County Government of Nairobi.

Hon. Speaker, the Chairman of the Departmental Committee on Administration and National Security is here so you should direct him to summon the Inspector-General of police to explain to the committee and this House why they are watching when criminality takes root unchecked. People are only left to cry on the television about how their businesses have been locked down. KPLC employees are also being paid a salary but they cannot go to work.

Hon. Speaker, I beg that you direct the Departmental Committee on Administration and National Security of this House to pick up that matter together with the Departmental Committee on Energy Committee, with the Inspector-General of Police and the Ministry concerned to make sure that there is an amicable solution to this problem. More importantly, the Inspector-General of Police should ensure that criminal charges are leveled against those who dumped garbage outside Stima Plaza. That behaviour cannot be condoned.

Hon. Speaker: Hon. Tongoyo, we shall not allow this country to be reduced to a wild waste behaviour, where you disagree with somebody and send goons and hooligans to sort out your mess. That is not Kenya. You must stop it. I direct you to summon the Inspector-General, find out why no action has been taken against this publicised criminal behaviour by the Nairobi City County Government.

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

Hon. Speaker: Yes, Hon. (Dr) Nyikal. Hold on, Hon. Tongoyo.

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Speaker, it is not only the police that we should ask. What was done is a public nuisance and under the Public Health Act. The driver and their bosses who allowed that to happen can be charged for exposing people to garbage and sewer as you said which can cause an epidemic.

We had a problem like that where some persons were dumping things in the river Sio in Western Kenya which eventually led to cholera outbreak. This is not just a police issue but a major health issue, not only for the staff of KPLC, but for all the people around. That element should also be looked into.

Hon. Silvanus Osoro (South Mugirango, UDA): On a point of information, Hon. Speaker.

Hon. Speaker: Yes, Majority Party Whip. Is it on the same issue?

Hon. Silvanus Osoro (South Mugirango, UDA): Hon. Speaker, it is in line with what Dr Nyikal has just said. We have created demigods in the name of governors and excellencies. The cries of the business people around Stima Plaza, should not be left just like that. I saw on

television, a lady who runs a restaurant next to Stima Plaza together with other businesses around there. They have no interest whatsoever on whatever happens between the county government and the KPLC, but are having it rough to run their business as a result of the dumped garbage. The county government towed away a car that did not belong to an employee who works at Stima Plaza. That is exactly what we are talking about in as far as the county governments and governors are concerned.

I join the Leader of the Majority Party and other leaders that have spoken in saying that, it is about time we invite governors to this House or found a way for Committees to investigate some of those actions. I know it is not within our mandate and we would be acting *ultra vires*...

Hon. Speaker: It is within your mandate. Read the Constitution.

Hon. Silvanus Osoro (South Mugirango, UDA): I am well guided, Hon. Speaker.

I presume that that mandate falls under Article 95 of the Constitution. We can then have all the relevant committees looking into the matter, not just the Departmental Committee on Administration and National Security, but also the Departmental Committees on Environment, Forestry and Mining, and Trade, Industry and Cooperatives because businesspeople around that area were affected. The Governor and his team must face this House and explain what exactly they were trying to do and the childishness we saw. We see governors moving around with about 30 vehicles. Each vehicle is assigned things like carpet, toilet, goons, a chair or a stand to burials and even disrupting people. There was an altercation between a governor, a senator, and a Member of Parliament at a funeral in Kakamega. We have created demigods.

We call upon the police to impound those trucks. The Governor's order to release them is playing to the gallery. It is just a public relations exercise. He is playing politics. It should not be that way. The trucks that dumped garbage in that place and those that blocked the road for three days should be impounded, and the drivers arrested and charged with criminal offences.

Hon. Speaker: Hon. Tongoyo.

Hon. Gabriel Tongoyo (Narok West, UDA): Thank you, Hon. Speaker. I am well guided. We will summon the Inspector-General of the Police to appear before the Committee next week on Thursday.

Hon. Speaker: Criminal offences were committed under the nuisance law, environmental law, Health Act, Penal Code, and several other Acts of Parliament. You can find up to 10 criminal acts that were committed due to those actions.

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, I could not agree more. What surprises us is that such a matter should not have gone that far without the Inspector-General acting. It should not have taken this long. We will do exactly as you have directed. We should severely punish the perpetrators.

That incident begs the question: If the Governor could do that to an institution like Kenya Power, what would happen to his political competitors? They would wake up every morning and find garbage dumped at their doorstep.

I join the rest of the Members in condemning that act. We will do exactly as you have directed. As Hon. (Dr) Nyikal puts it, the incident possibly goes beyond the mandate of the security organs. NEMA should also be enjoined in the matter.

Hon. Speaker: Members must take this issue seriously. Hon. Millie, you remember when we were going for a public rally at the Jacaranda Grounds, the then Governor, Hon. Sonko emptied raw sewage on the entire field and got away with it. This House must exercise its authority.

Hon. David Ochieng' (Ugenya, MDG): On a point of information, Hon. Speaker.

Hon. Speaker: Yes, Hon. Ochieng'. What is it?

Hon. David Ochieng' (Ugenya, MDG): Hon. Speaker, we allow governors and the county governments to get away with too much. If there was a single time a governor should

be impeached for gross misconduct, it is now. If the Senate was serious about its job, this is the time it should impeach a governor, not for corruption or stealing, but for gross misconduct. There is no reason why the Governor of Nairobi should continue being in office when his officers are telling us that they did what he ordered to be done. The County Executive Committee Member for Finance was on television yesterday saying they did this knowingly. Why should the governor still be in office?

Secondly, Hon. Tongoyo has spoken. The idea that the National Assembly cannot summon governors is illegal. We have always known this. This Assembly must start summoning governors when they go afoul of the law. Though we know it is wrong, we allowed Senators to summon Cabinet Secretaries. Hon. Speaker, you must give direction that the Chairpersons of concerned Committees should henceforth, start summoning governors when they go against the law. We should not shy away from summoning them. We would not be going against the law if we summoned governors to come to Parliament. When Hon. Tongoyo summons the IG, he must also summon the governor to appear before that Committee so that this matter is handled in a manner that shows that this House has “teeth” and it will “bite” when it matters most.

Hon. Speaker: Hon. Masara.

Hon. Peter Masara (Suna West, ODM): Hon. Speaker, my issue is related to the one we are discussing. Governors are becoming demigods. The Governor of Migori decided to impound tractors belonging to the Sony Sugar Company which were carrying sugarcane to the factory because of some pending bills. Around 12 tractors are currently impounded with sugarcane. That shows that if we do not control those governors, they will do anything they want and get away with it. That was the burning issue. The Sony Sugar Company is suffering because the governor wants cess from them, which is in the pending bills. However, if you do not pay the money, tractors carrying sugarcane are impounded and the sugarcane ends up drying simply because the Sony Sugar Company has not paid levies to the County Government of Migori.

Hon. Speaker: Hon. Members...

(Hon. Samwel Chepkonga spoke off the record)

Yes, Hon. Chepkonga.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Speaker, have you allowed Hon. Tongoyo to summon the IG on Thursday?

Hon. Speaker: I have not. I have directed him.

Hon. Samwel Chepkonga (Ainabkoi, UDA): He needs to be directed to call the IG on Monday. This is a very urgent matter. We cannot allow a criminal matter to wait until next week.

Hon. Speaker: Did he say next week?

Hon. Samwel Chepkonga (Ainabkoi, UDA): He said Thursday. You should direct that the Committee calls the IG on Monday.

Hon. Speaker: You are right.

Hon. John Kiarie (Dagoretti South, UDA): On a point of order, Hon. Speaker.

Hon. Speaker: Yes, Hon. John Kiarie. What is it?

Hon. John Kiarie (Dagoretti South, UDA): Before the Senior Counsel leaves the Floor, I wanted to find out if it is in order for a Member to direct the Speaker. We know the discretion of the Speaker is stipulated under Standing Order 1. While he has a very important point to raise...

Hon. Speaker: He has not directed...

Hon. John Kiarie (Dagoretti South, UDA): We all have an issue with the Governor of Nairobi County for the embarrassing activities and actions we witnessed. Kenya Power lines carry cables for the Last Mile Connectivity Programme. The information and communication technology (ICT) and digital economy sectors depend on Kenya Power to transmit the Last Mile Connectivity fibres to the homes of Kenyans. It is one of the biggest pillars of the Kenya Kwanza Government in the Kenya Digital Master Plan. Therefore, it is gross misconduct for a leader to upset a fellow government agency.

Hon. Speaker, I do not think it is in Hon. Chepkonga's place to guide you, to summon the IG to appear in Parliament. Under discretionary Standing Order 1, you are wise enough to make a Solomonic decision on that issue. However, what was done by Governor Sakaja is gross misconduct and goes against the tenets of the Constitution, even on matters leadership. I just needed to know if Hon. Chepkonga is in order to direct the Speaker.

Hon. Speaker: That matter is over. Hon. Tongoyo, summon the IG on Monday. Hon. Members, let us end it at that.

I do not know if this school is still in the Public Gallery. St. Jacinta Secondary School from Marakwet West Constituency, Elgeyo Marakwet County. Even if they have left, for the record, we welcome them to Parliament.

(Several Members spoke off the record)

Have they left?

(Several Members spoke off the record)

Okay. Next Order.

Hon. Murugara has requested me to stay Order 14 to next week. Let that be so.

MOTION

JOINT REPORT ON THE NADCO REPORT AND THE REPORT ON THE REALISATION OF THE TWO-THIRDS GENDER PRINCIPLE

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.

(Motion deferred)

Hon. Speaker: Call out the next Order, Order 11.

BILLS

Second Readings

THE GOLD PROCESSING BILL (National Assembly Bill No.46 of 2023)

(Moved by Hon. Bernard Shinali on 19.2.2025 – Morning Sitting)

(Resumption of debate interrupted on 19.2.2025 – Morning Sitting)

Hon. Speaker: Hon. Fatuma Zainab of Migori. She is not here. She forfeits the opportunity. She had four minutes to go. Hon. Martin Owino, are you here for the gold? Go ahead.

Hon. Martin Owino (Ndhiwa, ODM): Yes.

(Hon. Nabii Nabwera spoke off the record)

Hon. Speaker: Yes, Hon. Nabii. Is it for the Bill? I have given the Floor to Hon. Martin Owino. You will speak thereafter.

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

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

Hon. Martin Owino (Ndhiwa, ODM): Thank you, Hon. Temporary Speaker. I rise to support the Bill.

As it stands, mining gold in every part of the country is in a mess. Those people are desperate and looking for how to survive. They go into caves that collapse and many are killed. Some are maimed and disabled because they are looking for gold. When I look at the Bill, I believe it is going to bring order to the mining industry. The Bill seeks to establish an institutional and legal framework to organise the mining, gold collection, purification, smelting, fabrication, and registration of the whole business of the people struggling to mine gold. This is lacking right now.

There are small pockets of areas in my constituency thought to have gold. People go into these areas and start mining due to desperation. Many times, when it rains, the holes collapse and people die. In my submission, I thank the Committee for all the observations and recommendations presented in the Bill. Establishing that regulatory framework will put everything in order. Sometimes, middle-men blackmail these people when they get some little cash from mining. In fact, we have to come to their rescue. I hope this will be fast-tracked so that our people are not exploited as they struggle to mine.

With those few remarks, I want to say this is a good Bill. I urge other Members to support it. It will bring order to the industry. The whole country will also gain from the order.

Hon. Temporary Speaker (Hon. Peter Kaluma): Hon. Nabii.

Hon. Nabii Nabwera (Lugari, ODM): Thank you, Hon. Temporary Speaker. I rise to support the Bill.

You are aware that parts of Kakamega have some gold deposits. However, we have lost a number of productive people because the business has been done crudely, haphazardly and by exploitative forces. The community, the county government and the country have lost people and revenue. Some of the people who have engaged our local people in mining are basically smugglers. The Bill could not have come at a better time. Therefore, I thank Hon. Shinali and Members of the Committee for bringing it to this House.

We know western Kenya has been discriminated in other developments. I see this as a God-sent opportunity that no one can take away from us. We will improve the lives of our people if we realign, smoothen the activity, and have a legal framework to mine gold. We will also improve the per capita income of the people of Lurambi and Ikolomani in Kakamega, those in Bondo and other parts of Siaya, as well as those in Migori and some parts of Homa

Bay. This provides a platform even for the Ministry of Mining, Blue Economy and Maritime Affairs, and the Department of Mining, to go further and find other areas that have gold deposits in western Kenya.

I was really concerned when we lost two people and 18 others were injured in Shinyalu two weeks ago because they were mining gold crudely. I also want to bring to your notice an individual I know who has made billions of monies from the mines in Ikolomani. Unfortunately for us, miners are paid meagre earnings and the Government does not earn any revenue.

For this reason, I support the Bill.

Hon. Temporary Speaker (Hon. Peter Kaluma): Hon. Dick Maungu.

Hon. Dick Oyugi (Luanda, DAP-K): Thank you very much for the opportunity given that I may also add my voice to this important Bill.

From the onset, I really applaud my good brother Hon. Ben Shinyali and the Committee for coming up with such a progressive Bill.

Gold is an important resource. Kenya is one of the few countries that God has blessed with this rare resource. Therefore, a law that comes in to put order and protect small miners is highly welcome.

My good friend, brother Nabii forgot to mention that apart from Kakamega County, Vihiga County and specifically, Luanda Constituency is one of those areas that have been identified as potentially full of gold deposits. Therefore, the Bill will not only go to protect other counties but also my people in Luanda. We have these gold deposits in places like Mwibona Ward, Emaloba and other areas. However, the so-called cartels have abused and misused our young men for a long time. For lack of legislation and some framework within which to do processing, cartels have taken advantage of the young people. Therefore, the Bill comes in to bring order and sanity as we shall give protection to the people who do mining at that low level.

As late as last Saturday, we buried one of our great men who died in the process of mining gold. We have lost very many young men. These men go into these mines every other day, trying to secure an economic venture out of the mines but unfortunately, the mines collapse in the process. Sometimes, they are covered inside, never to be seen again. This leaves young widows and orphaned children.

Having a Bill that ensures safety in the environment within which gold is mined will go a long way in ensuring there is integrity. It will also ensure that artisanal miners are equally enabled, trained and facilitated so that brokers and cartels do not take over the industry.

I rise to support and thank my good brother, Hon. Shinali, for a well-thought Bill at this point in time. Thank you.

Hon. Temporary Speaker (Hon. Peter Kaluma): Hon. Ferdinand Wanyonyi.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Thank you.

I take this opportunity to talk about the Bill by my brother from the area. I also come from the gold mine neighbourhood in Kakamega, and several things should be done urgently. I read a paper about two or three weeks ago which said that Africa is still very rich in natural resources, but it is yet to exploit them. We do not even have any structure for the mining of some of the natural resources in Kenya. Way back when I was still in school, the gold mine areas were the best in Africa. The only issue is that there is very poor infrastructure. I have heard that some committees are actually involved. Anybody can just walk to the area, give a tip to the people around and start mining. There is very poor infrastructure.

The administration of this country together with the leadership of the area, including my brother who has proposed this Bill, should sit down with the foreigners and discuss how mining should be done. I understand that there are Japanese and Chinese there. If this is sorted, it is not only going to offer our people jobs, but it will also earn us foreign exchange. Gold is one of the most precious metals in the world. We can see what is here is gold.

I ask my brother, Hon. Shinyali, who we are depending on as our leader in that area, to organise and have an administrative unit to organise the whole place. It is unfortunate that people are looking for jobs, but there are none. That is why the boys and girls who rushed there died. They were only looking for income. I suggest we sit down and organise ourselves so that apart from gold mining, we govern the exploration of other natural resources. We have read history and know very well that Europeans rushed to Africa because it had all the natural resources. Maybe, we can even get gold in Nairobi. We have to organise and sort out the biggest problem that we have today. Let us see to it that this Bill is passed so that locals can have a source of income. We cannot blame the young men that we are mourning. They rushed to that place because it provided them income.

The Ministry of Mining, Blue Economy, and Maritime Affairs should go there and take charge. It should organise the whole mining structure to avoid a repeat of the same for the benefit of the people of Kakamega and the country at large.

I support this Bill and ask the Member of Parliament, the Mover of the Bill, to take leadership like he has done now, not because of the people who lost their lives but for the future of this country. Let him be on record and assist the Ministry and our people to do proper gold mining in the area.

Hon. Temporary Speaker, I support this Bill. Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Samuel Atandi.

Hon. Samuel Atandi (Alego Usonga, ODM): Thank you, Hon. Temporary Speaker for giving me this opportunity to make my submissions on this Bill.

The Gold Processing Bill (National Assembly Bill No.46 of 2023) is timely, because of the issues it seeks to correct. When we talk about gold, we basically think it is about money and wealth but when we go down to the villages and listen to the people involved in gold mining, we are surprised at the environment they work in. Gold miners are some of the poorest workers in this country. Gold mining is not beneficial to the miners principally because the miners do not get returns out of their work. One of the reasons they never get the returns is because of the existence of the middlemen.

This Bill seeks to establish a gold processing corporation. This is one of the most fundamental clauses in this Bill. It is very important because a corporation will ensure that there is order in the way gold mining is done. It also seeks to create a board that is going to ensure that there is testing, standards, and safety.

We are aware that in the recent past, in many parts of the country, we have lost many Kenyans who were involved in the mining sector. This is because the safety measures that are supposed to guide the workers involved in this sector do not exist. A gold processing corporation is going to ensure that safety measures are put in place, and that there is order

I spoke about the returns. If a sector is not organised and properly regulated, it goes without saying that even the workers in it will never be able to get proper returns.

In Siaya County, specifically in my Constituency, there are many segments of the Constituency where miners work daily but they do not have equipment for gold mining. It is a manual exercise. Once a gold processing corporation is established, they will plan and introduce technology. That will make the process seamless, commercial and bring equipment that will ensure the environment is protected.

In some parts of my Constituency, one of the roads got damaged because of how the miners go around their work underground. Mining can start, for instance, from here but go up to Nyayo Stadium underground. In the process, they may pass a road. As a result, the road gets damaged because of the mining activities. This happens because they lack the technical capacity to guide them to where the gold exists.

This Bill is important. I ask Members of this House that we pass it quickly to allow it to be in place for the safety of the miners and to ensure that they get returns.

One of the things that this Bill has not addressed is compensation for people who donate their land for mining. In my Constituency, I have cases where there is conflict between landowners where gold deposits have been detected. When the gold deposits are detected in a particular area, people who want to mine come to sign agreements. These agreements are not tested and after a short while, conflict occurs. People fight saying they are going to buttress the agreement they made. This is one of the things that we need to include in this Bill so that we can resolve cases of conflict for the benefit of miners.

Thank you, Hon. Temporary Speaker. I support.

The Temporary Speaker (Hon. Peter Kaluma): Hon. (Dr) James Nyikal.

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Speaker for giving me the opportunity to support this Bill.

Artisanal gold mining, which is small-scale gold mining involving people without experience, is all over the country but mainly in western Kenya. It is mainly practised in Kakamega, Vihiga, Kisumu, Migori, Siaya, and West Pokot counties. Western Kenya is probably, a geological gold belt that is under-utilised and under-exploited. Therefore, we need to focus on the area.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Nyikal, I hope the Mover of the Bill is in the House, and listening to you.

Hon. (Dr) James Nyikal (Seme, ODM): He is here, and I appreciate the work he has done.

The Temporary Speaker (Hon. Peter Kaluma): When you see the scope of the gold belt from Migori through the lake to Homa Bay, through Nyamula in Uyoma and a bit of Seme, to Ikolomani—which is the corrupted name Shinali’s people use for a gold mine—there could be a gold belt there.

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Speaker, if that belt is there, it needs to be exploited professionally. It will create employment and wealth for the people, and to the Government through taxes.

Currently, the process is destructive in most ways. What people are most concerned about is the safety of miners when the mines collapse. The miners work underground without the skills or resources to protect themselves deep inside.

The other issue is that mining distracts children from education. Children abandon going to school to work in mines thus having a negative outcome. The miners use generators while inside the mines. Sometimes, people die from carbon monoxide poisoning emitted from the generators. These are some of the issues that are mostly overlooked. But that is not the only danger miners are exposed to. The danger we all know about is the collapse of mines. Miners use bare hands when spanning, which has a lot of health hazards. The chemicals they use are poisonous. Mercury is extremely, neurologically poisonous. Arsenic is a slow killer. It can be used to poison people. Lead is very toxic to kidneys. Some of the miners may die slowly from kidney failure. Cyanide is an acute poison. The dust and silica, when inhaled for a long time, are dangerous to the lungs. In old age, they may start dying of chronic lung disease or heart disease. It may be difficult to relate the diseases to the mining activities that one engaged in previously. So, mining is a very dangerous activity. Aside from that, some of these chemicals are carcinogenic. Some of them, mercury in particular, affect unborn babies. So, the dangers are numerous while the returns are not that good because of exploitation. The young men and women working in the mines are underpaid by the middlemen controlling the mines.

I support this Bill. Clause 6 of the Bill establishes the Gold Processing Corporation. Clause 8 of the Bill outlines the functions of the Corporation. The Corporation shall establish mining structures, standards, materials to be used and the licensing process and timing. Once those aspects are addressed, we can examine the health hazards. We will have to carefully look at the Bill in more detail. It will not only protect the health of our people and improve their

livelihood but also generate more income for the country through taxes. This is an extremely important Bill and I support it.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Joseph Oyula, the only Member who best understands money.

Hon. Maero Oyula (Butula, ODM): Thank you, Hon. Temporary Speaker.

Let me add my voice to this important Bill. Some of us have suffered greatly because of gold mining. Gold is also found in Busia. The stretch from Kakamega crosses through Busia up to Uganda. Right now, there is fear at the boarder point because some Chinese are mining gold and we suspect they have crossed into Kenya through the underground. The major problem is that we do not have any regulator. Anything gold is messy, because the young men used are never properly compensated nor well protected. They go underground to follow the gold routes. Some of them die in the mines because of the chemicals they use. So, it is important that this exercise is regulated.

The establishment of the Corporation mentioned in the Bill will be quite important. It should be given teeth. In Busia, and particularly in my constituency, I faced many problems with gold prospectors. If you ask them for a licence or permit, they do not have any. They simply tell you that they have authority from 'above.' Who exactly is the 'above'? We need to ensure that the authority can be seen. Representation at the counties should be ensured by having respective Ministry officials at the county level. Without any regulation and representation, there are a lot of problems. In our area, we hope that there is a Ministry representative in Kakamega yet there is none. This Bill will help us a lot. It will help people at the border point. The gold belt runs from Uganda deep into Kenyan soil. We need to support this Bill so that our people can be protected.

We also need to protect the environment. Miners dig ditches but do not care to fill them up afterward. Some go into school compounds and leave big trenches, which is very dangerous for students. We need regulation and a corporation that can manage mining in the country.

I support this Bill, Hon. Temporary Speaker. Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Naomi Waqo.

Hon. Naomi Waqo (Marsabit County, UDA): Thank you, Hon. Temporary Speaker.

This is a very interesting debate on this Bill and especially, in the areas that have some gold like Dabel in my county. For the last five years, gold miners have been there trying to mine and grow their wealth. Unfortunately, many people have lost their lives in my place. As a result of this, many have been widowed and orphaned. The number of orphans has increased in my county simply because we do not have a Bill on gold processing that can help us. That is why I support this Bill so that the poor people in different parts of this country who are trying to mine, create their wealth and become rich, can do that.

The idea of having licences and corporation in place that can manage gold processing is one thing that we should all support. In my place currently, people just go and try to do what they can without any knowledge and licence. When they die, no one compensates them. They have no rights and maybe, they are there unlawfully. If this Bill will be passed, then whoever will be there will be under Gold Processing Corporation which will take care of licensed individuals and guide them on what to do.

Part II of the Bill says the headquarters of the Corporation shall be in Nairobi. It may establish offices in other counties. This means that even if the headquarters will be in the city, the other branch offices can be in every county where gold mining or processing is done. This will help us a lot because it will reduce the risk. It will also protect the people who are involved in the business. If any unfortunate thing happens, they can be well protected.

Under Clause 11(2)(a) of the Bill, a person shall be qualified for appointment as chairperson or member if he is a citizen of Kenya and holds a degree in geology, geophysics, mining, engineering, economics, business administration or law from a recognised university.

We need to add that all the areas that process gold can be represented so that their interest can be well protected.

Hon. Temporary Speaker, for the last many years, many Kenyans who are involved in gold mining and processing have suffered in the hands of cartels. This is simply because there are those rich people who are somewhere and the miners are on the ground. They try very much to dig the gold, harvest it and sell it at a very cheap price. There are middlemen who collect the entire gold and sell it at a higher price. Once we pass this Bill, their interests will be protected. They will earn from their hard work. The counties will also not be left behind. I am sure some percentages, 10 to 15 per cent, will be given to the local community around there so that they can benefit.

This Bill needs to be fast-tracked and assented to by the President so that Kenyans can benefit. We know that in areas where gold has been discovered, many people and countries have grown rich due to its mining and sale. Unfortunately, in Kenya we have not put in place rules, regulations or laws to guide us and that is why we need to do this. We need to debate and finalise the Bill so that people can be given licenses to start their own corporations and benefit from gold mining. The passage of this Bill will also ensure that miners no longer suffer. Currently, they suffer because they mine using their hands and explore mines in unsafe conditions. This often leads to loss of lives because those areas are not protected. They do not know what to do but continue with the hope that once they harvest enough gold, they will transform their lives.

With those few remarks, I support this Bill. It is my prayer that the lives of many Kenyans will be transformed through this.

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Geoffrey Mulanya Wakili.

Hon. Geoffrey Mulanya (Nambale, Independent): Thank you, Hon. Temporary Speaker, for giving me this opportunity to speak on the Gold Processing Bill of 2023. When you mention the word 'gold', in the minds of many Kenyans, it sounds like the gateway to riches. In many parts with crude gold mining activities, there is a scramble that sometimes leads to death. It is important that this Bill was brought by Hon. Shinali, a Member representing a constituency that is a gold mine. We thank you for bringing it because you have more experience in what has happened in your constituency. Recently, we almost lost the lives of good Kenyans in those gold mines.

As it was said by Hon. Nyikal, who is a health expert, the underlying issues often go unnoticed. In most incidences, we talk about miners being trapped underground, but people forget to talk about the health hazards associated with crude gold mining. It is a legal requirement that anyone on a construction site must put on protective gear. However, without regulations, crude gold miners go underground without any protection whatsoever. As much as they come out of the gold mines alive, they often pick up some chronic diseases that affect them, and they slowly die in their homes.

In the Western region, we have observed areas where prospective or crude gold mining is being undertaken. In particular, Hon. Oyula has mentioned that in an area called Bumuturu in Butula Constituency, Busia, that neighbours Nambale Constituency, crude gold mining is taking place. We find that many people abandon their farm work and families for prospective gold mining, only to come back empty-handed. They waste valuable time that could have been spent working on their farms to support their families. They come back with something that cannot even support or feed their families for a week. If that time had been put to proper use by working on their farms, it might have been more meaningful. For that reason, I support the proposal to have the Gold Mining Corporation so that it can bring order to this sector. Let us have a proper geological study to confirm that the prospects of gold is worth the mining. There

should also be regulations that any person who undertakes this mining must follow the safety precautions required for any construction site.

Hon. Temporary Speaker, we also know that our Government is losing revenue. This is a hard time that we do not have enough revenue in this country. Even at NG-CDF, we do not have money because of the hard economic times. When we have resources like gold that are being smuggled, the Government does not benefit. The local government is also not benefiting. The land is being degraded because when they dig tunnels underground, the soil becomes weaker and the soil topography is interfered with. There are too many things that are lined up that we need to control.

As a House, this is the most important time to have this in control because where there is no regulation, there is disorder. Indeed, there is a lot of disorder in gold mining in this country leading to death and poverty, which we as legislators, are under duty to control.

I thank Hon. Shinali and the Committee for bringing this Bill. I support it.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Peter Francis Masara, do you want to speak to this?

Hon. Peter Masara (Suna West, ODM): Yes. Thank you, Hon. Temporary Speaker.

Of course, you know my name is Masara, and Masara area has a lot of gold. That is the reason I have to add my voice to what has been said by other Members. This Bill is very important. This Bill will enable artisan miners to get what is rightfully theirs. As we speak, the miners in that area are unregulated. There are too many cartels. Too many people purport to have licences yet they are doing unlawful things.

We have Chinese, especially in Migori, Masara area, Osiri area, Kuria and Rongo, where gold is found. You will get too many cartels undermining the work of our people who are really suffering and working hard so that they can earn a living.

Clause 42 of the Bill talks about an application for the renewal of processing license. It says an application shall contain the information or be accompanied by the following documents:

1. The proposed programme for processing operations to be carried out during the term of renewal.
2. A plan of the area in respect to which renewal of this processing license is sought.
3. An approved environmental impact assessment licence, social heritage assessment, and environmental management plan in respect of the applicant's proposal where required under this law.

Hon. Temporary Speaker, currently, there is a school in my area called Arombe. People are mining within the school because that land belongs to somebody. There is no regulation. You get areas where people take natural water yet some are doing processing there. The chemicals used are affecting the community because there is no regulator. Once this Bill becomes an Act, I believe the people involved in mining are going to appreciate us as legislators.

If you go to Clause 48(1)(d), I want to be very specific about the laboratories. In my area, the laboratory that is being used majorly by the people engaged in mining is in Tanzania. So, it means we are losing a lot of revenue to the Tanzanian Government because people leave Migori and take samples to Tanzania, and the people involved are not professionals. Some people have been engaged in mining for a long time and have gained experience. They come, check the land, say a few things, and then continue exploiting our people. The Bill proposes that the headquarters of the Gold Mining Corporation be in Nairobi, with additional offices at the county level. That means that those involved in mining, including artisan miners, will get an opportunity to interact with professionals from the Corporation.

By and large, as you have mentioned, gold mining is happening in Kenya, but nobody knows the amount of revenue generated. Even transportation and standardisation of gold in Kenya today remains beyond our reach. With this Bill in place, many gaps will be filled.

Therefore, without taking much time, I support the Bill and congratulate my colleague for bringing it to the august House.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Florence Jematiah.

Hon. Jematiah Sergon (Baringo County, UDA): Thank you very much, Hon. Temporary Speaker. I also want to add my voice to this Bill and congratulate my friend and colleague, Hon. Shinali, for such good work.

The Bill was introduced in 2023, therefore, it is a good time for us to review it. In addition to considering this Gold Processing Bill, we also need to consider other natural resources in the country. There are sporadic gold deposits in the area I come from, which have not been fully utilised and properly harnessed. We also have other minerals such as rubies, and small pockets of oil here and there because of the nature of our environment, which is a desert. However, gold is considered to signify wealth, depending on who discovered it first. Even as we consider this Bill, we should also consider other minerals, so that we come up with one Bill to protect all minerals in the country.

We recently discovered cobalt in Meru and Embu in eastern Kenya. We need to do more to protect our minerals. If this Bill is passed, it will become an Act of Parliament which will work hand in hand with the Mining Act that is already in place. I urge the Committee to come up with a Bill for all our minerals for our safety and future.

Growing up, we used to be told that sometimes it is not good to touch what God has given you and use it as a reservoir in the future. If you look at countries that have exploited their minerals, it has become a curse for them or has brought problems. In most cases, the mining does not benefit the people who do the actual work; it benefits the cartels and international companies that exploit people. The Bill will help us curb that problem.

The Bill speaks for itself. It aims to establish and outline the composition, functions, and management of the Gold Processing Corporation. Additionally, it provides for the application, cancellation, and renewal of gold processing licenses, and for connected purposes. This will be a very good link between mining companies and the communities on the ground. The corporation is going to be a good link to miners and the royalties for communities there. It will be a good link both internationally and the Government.

Looking at it keenly shows it will also act as a framework. It will also regulate and act as a benefactor at the same time. The clause on the Gold Processing Corporation says its functions are to collect, sample, purify, smelt, fabricate, homogenise, sample, register, refine, monitor, and transport gold and or gold products. It says the corporation will also facilitate international accreditation. You cannot be a beneficiary and regulator at the same time.

The Bill should come out very clearly, whether this is a company or not. It says the corporation will help to transport and monitor. It acts as regulator and also a company because it also wants to help sell. The number of gold sites we have in Kenya should be made clear. If I am an international buyer, the corporation should direct me to the quantity I want. As much as I have not gone through the Bill fully, I cite there are areas that you should bring out as a regulator.

What happens in circumstances where the side effects of exposure to these minerals affect miners, specifically people in the locality? Will the corporation be liable? Is it going to build and take care of these people through insurance? Will the people who die in gold mining sites be given compensation through the corporation? All those things should come out very clearly.

Generally, as a leader, I believe we need a proper consortium of all minerals. The Government should conduct proper ground truthing to determine how many minerals exist in

Kenya. This will ensure a structured approach to mining in the future. We should not just wake up and mine everywhere. Instead, we should plan strategically. We may say we are mining in western Kenya at a given time to give room for other areas. Mining could be exhaustive to the earth. Minerals do not regenerate themselves. You exploit mineral wealth once you touch. It will deplete. What happens in future if we depleted all our minerals such as gold? We should consider maintaining reserves through the corporation. We should have reservoirs. We do not have to sell all the gold. We can also store it in our banks. The dollar might not be there in future. We can trade using gold as one of our backups for survival. With the dynamism of the world today, we never know what will happen in future.

I support the Bill. Given opportunity, we can make proper amendments to ensure clarity to its consumers. Thank you.

The Temporary Speaker (Hon. Peter Kaluma): The Member for Kitui Rural, Hon. David Mboni.

Hon. David Mwalika (Kitui Rural, WDM): Thank you for giving me the opportunity to support the Bill.

The Bill is important because gold mining and most mining has been done in a *juakali* or informal manner in this country. The Bill is trying to establish a Gold Processing Corporation. It also contains provisions relating to application of licences to mining and processing gold. Many of the people mining gold have poor returns due to middlemen. Most of them do not know the quality of gold. There are very many middlemen in this sector. Many times, we will hear that people have been conned by being sold fake gold. I remember one day my uncle bought gold. When he got to the house, he found that it was salt. People have lost a lot of money due to this kind of activity.

Miners suffer from diseases, especially chest problems, but they cannot pay for their medical bills due to the poor earnings. If the Bill is going to establish a society, it will help them negotiate and fight for their rights. Therefore, this is an important Bill. They will earn what they deserve.

Hon. Temporary Speaker, as other Members have said, all minerals in this country should be processed here. For example, gold is sold in raw form. The company that mines titanium in Kwale takes it for processing. Titanium is a very valuable mineral that is used in making the watches that we wear, and some parts of aircraft. These are very valuable products. If we process the minerals here in Kenya, we will create jobs, get income, and have economic growth. As we embark on this Bill, we also need to think about processing other minerals in this country so that as Kenyans we earn what is due to us.

The Government should also embark on mining other minerals. Kitui is the third potentially rich county in this country. We have plenty of limestone, iron ore, coal, and copper. The coal we have in Kitui can light this country for 30 years without using anything else. Can you imagine how fast we can grow with coal lighting this country for 30 years? When you have coal and iron ore, you can start the steel industry. As much as we say that the country is poor, we are not looking at the mining sector. This country has a lot of minerals. I do not know what happened to the oil in Turkana. We were made to believe that there is a lot of oil in Turkana. Someone should be in a position to tell us what happened.

This Bill is very important and we need to support it. We also need to think of other minerals. Thank you. I support.

The Temporary Speaker (Hon. Peter Kaluma): The Hon. Geoffrey Ruku.

Hon. Ruku GK (Mbeere North, DP): Thank you, Hon. Temporary Speaker. I rise to contribute to the Gold Processing Bill. The mining sector in the Republic of Kenya is one of the under-performing sectors. It is a sector that can create jobs, raise revenue of this country and earn us foreign exchange that we seriously need as a nation. It is not only gold; we have

other minerals that we need to invest in and come up with laws to regulate them in the Republic of Kenya.

As far as this Bill is concerned, the establishment of a corporation that will be dealing with issues of gold processing is a very critical factor. At the moment, it is true that we have gold miners who are doing gold business in the Republic of Kenya. There is a lot of conning and scams in the gold business. Therefore...

(Hon. Mutuse crossed the Floor)

The Temporary Speaker (Hon. Peter Kaluma): Hon. Mutuse, were you on this side?

(Hon. Mutuse spoke off the record)

Okay. I thought you wanted to cross directly. If you intend to cross the Floor, you have to do the right thing.

Hon Ruku GK (Mbeere North, DP): Hon. Speaker, I was saying that the establishment of a corporation to regulate the gold business is very important. As you may know, gold business is an international trade and the international standards should be assimilated in the most appropriate way. Appropriate licences should be given and verified. Verification of the licences is critical. There are areas in Africa where gold is in plenty but the consequences of mining that gold are dire. It can be war gold or black gold. Many people have lost their lives in the process of mining and selling gold. Selling gold can facilitate trade wars and armed dealings.

The corporation will institute rules and regulations, regulate acquisition of licences, ensure international accreditation is well facilitated, regulate how the gold tests and gold grading will be done, and regulate the purification, smelting and refining of gold. It will also take care of gold transportation. It will be one of the most critical institutions that will ensure we have more investors in this trade in Kenya.

I listened to the former Deputy President of the Republic of Kenya mention that President William Ruto is in gold business with one of the leaders in Sudan. That was a reckless statement from the former Deputy President. Now that we are discussing about gold dealings, it is important to mention that this is an international trade with credible traders. It is high time that Kenya, through the National Assembly, ensures we have a properly regulated gold business. I support the Bill because it is well drafted. However, we will need to look at the other minerals like mica and coltan in Mbeere. We have aquamarine, bismuth, iron and copper in Mbeere. If this National Assembly can come up with a law regulating all these minerals so that we take advantage of them as a nation, we can be in a position to repay some of the debts killing the economy of the Republic of Kenya. I support.

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Hon. John Waluke.

Hon. John Koyi (Sirisia, JP): Thank you very much, Hon. Temporary Speaker, for giving me a chance to contribute to this very important Bill. Our Government should take serious measures to make sure that this Bill succeeds. I urge the House to pass it. I support this Bill and thank the Member for Ikolomani, Hon. Bernard Shinali, for moving it. It is on time, because our country needs to grow economically.

This Bill can grow the economy of this country. I am a proud Kenyan to say that our country has a lot of minerals, including natural minerals like oil. I used to be in the military and we used to keep peace for visitors who came to survey for oil in this country. Those days, too many areas were discovered to have oil: Pokot, Marsabit, Baringo, Moyale and even in the ocean. Because of lack of adequate security, we are lucky that oil comes from the Arab

countries. If we drill enough oil, the Arab countries will have a problem with the amount of oil in their area, because we are in the lower side.

I keep asking myself about the cartels who buy gold from our miners. Who are the cartels who buy the gold that miners in this country struggle to get? Miners even die in the mining holes. Where is the gold sold? This country could be rich. An Indian used to buy gold, but he moved from this country to Nigeria. The Government should be serious by ensuring that it controls and regulates the people who get licences to mine such an important mineral like gold, and other minerals. We are aware that previously, Mr Pattni, used to trade in gold. However, currently, we do not know who is into that business. This is the question I keep asking myself – who are the gold traders in the country? There are people who get licences behind the Government's back. Therefore, the Government should be very strict. Hon. Shinali invited us to witness the commissioning of a Chinese company that will engage in this mining business. I attended, saw some machines and was very happy that this gold will help our country.

Hon. Temporary Speaker, with those few remarks, I support this Bill. Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Stephen Mogaka.

Hon. Stephen Mogaka (West Mugirango, JP): Thank you, Hon. Temporary Speaker, for the opportunity to also contribute. I also thank the sponsor of this Bill for this piece of legislation that will help regulate a hitherto unregulated industry. Gold mining in this country has been majorly done by individual experts who know how to identify gold. However, the beneficiaries are always people who are not directly involved in the search, mining, identification and production of this gold.

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

[The Temporary Speaker (Hon. David Ochieng') took the Chair]

We also know that the gold miners in this country – whether in Kakamega County or Macalder town – are volunteers who, by inheritance or being proximate to the gold mines, have sacrificed and put their lives on the line to go into those underground tunnels to try and get gold.

As much as I support this Bill, it requires serious amendments to include provisions for the people who put their life in danger and sink below the surface in the hunt for gold. If this Bill has to be passed by this House, amendments should be moved to create capacity building for these traditional miners. They need to be trained and equipped with guns that can identify the gold when they are down there, rather than going on a wild goose chase and bringing stones which, in their eyes, appear like gold. Sometimes, when they take the gold to the market they get conned. Even if what they have is gold, they are told it is not and are short-changed. Therefore, they do not get value for their risk and time.

This Bill states that it seeks to establish a Gold Processing Corporation and provide for the application and licensing of those actors in the gold industry. This is a noble thing. You may recall that this country had scandals about gold. Many times, people are associated with stones which are described as gold. Whenever they get to the true gold market, they turn out to be either not gold or they are short-changed. This Bill will help Kenyans who trade in gold. They will be clear in their minds on how to operate and who will be the licensed dealers in gold. It will help them not to be short-changed and lose their efforts and investment in search for gold. It is the most valuable mineral that we have.

As much as we are processing this Bill that deals with gold today, we have several other minerals in this Republic of Kenya that benefit us and even abroad which need regulation. I will make an initiative to promote Bills that deal with traditional minerals, including clay which

is a major input for manufacturing bricks. There is also another one which we call *rikoro* in my mother tongue. It produces gravel which is used many times in most of our roads.

[The Temporary Speaker (Hon. David Ochieng') left the chair]

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

The owners or producers of these minerals like clay and gravel do not get value for their money. It is time that the 13th Parliament legislated to protect the owners of the clay that manufactures bricks and other valuable construction materials, and the owners of gravel that helps in the construction of most of our roads. We should make sure that the local communities benefit. I will emphasise on capacity building because we have certain areas designated as gold mines, and I do not know for what reason.

We should capacitate our people to identify gold and various other minerals which may be lying unidentified and undiscovered in this Republic of Kenya. If they are exploited, they would expand our Gross Domestic Product (GDP). This will help put this country on a competitive platform in the international market where gold is traded. It helps create our national reserves, particularly in the banking sector. We have other minerals that help manufacture cement and steel that need be mainstreamed. It is up to this legislature to come up with Bills such as the Gold Processing Bill that we are dealing with today. This will ensure that not only the owners or people who originate from that mineral deposit area get value for their money but also the Republic of Kenya.

With those remarks and on behalf of the people of West Mugirango whom I am indebted, I support this Bill. Thank you, Hon. Temporary Speaker, for giving me the permission to speak.

The Temporary Speaker (Hon. Peter Kaluma): The Chairperson, Departmental Committee on Education, Hon. Julius Melly.

Hon. Julius Melly (Tinderet, UDA): Thank you, Hon. Temporary Speaker. I stand to support this Bill. I thank Hon. Shinali who has seen it right that the gold processing sector be regulated, organised and further developed. This Bill is long overdue. I remember one time when the Government of Kenya did resources mapping known as the Natural Resource Information Mapping System in 2016, it found out that this country has huge deposits of several minerals, which have been enumerated by my colleagues, such as iron ore, coal, oil deposits, rare earth metals and all these other kinds of minerals.

Hon. Temporary Speaker, this Bill seeks to address gold processing in this country, which has not been addressed for some time. The Ministry of Mining, Blue Economy and Maritime Affairs and this House need to recognise that we have concentrated so much on agricultural production such as livestock, tea, coffee and other commodities, while neglecting our minerals.

This Bill seeks to establish the Gold Processing Corporation. It also seeks to look at its functions, the functions of the board, the management and the legal and institutional framework for collecting, purifying and smelting gold.

I come from a constituency where there is a lot of gold. However, the processing, licensing and management of the gold has been very sporadic. At times it is at the whims of the Inspector of Mines, or even the prospector can allocate himself a licence and start mining. In fact, even the declaration of how much gold one has harvested is at the whims of the processor.

This Bill seeks to regulate the sector and will generate more foreign earnings for the country than any other sector. The legal framework we are developing will make the gold sector a real earner for our country.

It also addresses the smelting, fabrication, homogenising, sampling, registration, monitoring and even transportation of gold products and related products. This country has been accused of being a hub for gold syndicates. This has happened because young Kenyans, Kenyans and even the leaders in this country do not know the kind of gold products, the quantity and quality of gold products, or even how to handle fraudsters.

Clauses 5 to 23 of the Bill seek to establish the Gold Processing Corporation. It establishes the board and its functions. It also goes ahead to indicate the headquarters of the corporation and comes up with the Chief Executive of the corporation, who will be a Director-General. In that particular case, it will ensure that there is a board responsible for all the gold processing and gold products in this part of the world, set standards and even have expert staff.

It is well known that most of the gold processing in this country, like in Tinderet, Migori and even in Ikolomani, where my colleague comes from, is very rudimentary. Locals go to the river basins with their rudimentary implements, with some even digging up very unsafe mines that often collapse killing a number of them. It is time we regulated this and set standards. Whom do we license to procure and process gold? It should be somebody who has enough money, good machinery and expertise to ensure that the safety and lives of the miners are taken care of.

It is through this Bill that we also need to look into, and I think I will be proposing an amendment to this Bill, the insurance companies. If you go to Migori, like I have, gold mining is done on the roadsides. It creates huge gullies. When they are mining, there are a lot of chemicals used, like cyanide which is very dangerous for animals as well as for human beings. The environmental impact assessment needs to be done before companies are set-up. Some of the chemicals they use are very poisonous.

Other issues that I want to bring to the attention of this is that from Clause 24 to 27, the Bill tries to provide for the financial provisions of the board and this one is very important because as much as we are setting up this board, and I want us to really look at it going forward in setting up other boards, it should be a board that is not coming out to seek for funds from the Exchequer every other time. It should be a board that uses its own levies, its own way of collecting revenue and should develop itself. We need to learn this from other big mining corporations like De Beers Group in South Africa, the big gold trading companies of the world, which do not depend on a national Exchequer. It is able to run by itself, pay salaries, run its affairs and fully operate without having the dependency on the national treasury to run its operations.

I want also to say that from Clause 28 to 42, the Bill provides for the application of the licence, restriction in respect to processing, and consideration of applications. I just said in my introductory remarks that if you go to several areas of this country, you will find that foreigners have just walked in at times, colluded with some people in the provincial administration, set up illegal mining, and robbed this country of wealth. There are rare earth metals maybe in Garissa, some in Taita-Taveta and many parts of this country. This is the time to really make sure that any form of prospecting or licensing and any form of trying to establish a mineral processing plant, has to be very clear how you are establishing and running them plus how you are making sure that we have a benefit for our country.

I also say that in the other issues on record keeping, and even declaring the results, in the Mining Act, most of the time declaration of the proceeds has been left to the processor. The processor can under-declare at the expense of the resources of this country. So, I want to say that I shall be proposing a number of amendments to this Bill. On those particular areas, I want us to say that this Bill is very important. It is going to assist us to run the gold processing activities. But in the same breadth, we need to develop other Bills that give establishment of functions or running of other minerals like oil.

Thank you, Hon. Temporary Speaker. I support.

Hon. Temporary Speaker (Hon. Peter Kaluma): Hon. George Gitonga Murugara.

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Temporary Speaker. I rise to support this Bill by Hon. Bernard Masaka Shinali, the Member of Parliament for Ikolomani. The Gold Processing Bill (National Assembly Bill No.46 of 2023) has a very close association with Ikolomani. The gold mines of western Kenya, which to the best of my knowledge, were started in the 1930s, have remained rudimentary to date because we do not have any clear law that guides the processing of gold in the country.

We know very well that what happens is that prospectors, most of whom are illegal, go all over the place and try to use crude means to try and find gold, which they can process, possibly smuggle out of the country, and sell in lucrative areas. It is high time that we declared the Mining Act as not sufficient to cater for gold mining. We need to have a standalone Act of Parliament, which will guide us on how to process gold found in various parts of the country, including Taita Taveta, Nyanza, and eastern Kenya. Gold traces are found in those areas, which may be processed to become profitable.

If the Bill becomes an Act of Parliament, it will see prospectors or spectators coming over even to my Tharaka Constituency. Who knows? We may be lucky to find gold in those seasonal rivers which traverse my constituency, in the same style as what happened in South Africa in the 19th Century where prospectors in transit looking for gold came across what is known as the Sand River. The River is known to have plenty of gold in the form of pellets in the sand. As a result of their discovery, there was great development in Johannesburg and everywhere else.

I urge my colleagues to pass this Bill so that we start regulating gold processing. We know very well that the issue of gold is emotive. Many people have tried their luck with gold mining and sometimes it does not yield anything. They end up losing a lot of money because we do not have a clear law that guides us on the processing of gold in the country.

Let us look at the provisions of the Bill. After the preliminaries, we move to Clauses 6 to 24 which establish a Gold Processing Corporation. We begin by establishing a legal entity known as the Gold Processing Corporation. It will have a seal, and will be capable of suing and being sued, and doing all other things that pertain to corporations, including borrowing and lending money, if that becomes possible.

Clause 7 states that the headquarters of the Corporation shall be in Nairobi. That is good enough, although we should have made a provision that the Corporation will have offices, possibly in the counties, so that each county has an office which can regulate the mining and processing of gold.

The functions of the Corporation are set out in Clause 8. They elaborate on what the Corporation can do, including collecting, sampling, purifying, smelting, fabricating, and doing all other things pertaining to gold mining and processing. Clauses 8(a) to (j) outline the functions of the Corporation.

Clause 11 outlines that the Corporation will be run by a Board. The Board will have a chairperson and other members appointed by the President. Some are supposed to be experts in gold mining, exploration, smelting, and processing. The functions of the Board are given as well as the qualifications of the persons to sit in the Board. However, we shall be looking at this with a toothcomb as we go to the Committee of the whole House for the Third Reading of this Bill to see whether we need to amend certain areas.

From there we have financial provisions relating to monies of the Board and the Corporation. They will get funding through allocations appropriated by this House. The Corporation can also borrow and obtain money from grants and any other forms of revenue raising that will apply to it.

Let us go to Clause 29. It deals with processing licenses. Again, this is very important because initially there was no form of regulation. Anybody could mine gold. If lucky to get

any quantity, one would either sell to a third party who is a broker or smuggle it out of the country at a higher price. This time you need to be licensed. There will be no hawkers trying to entice innocent persons into the business. If caught doing that, your license is revoked immediately. Any licence issued has to be used under the provisions of this Act. Anybody who contravenes the provisions of that licence commits an offence and is liable to punishment.

Towards the end of the Bill, we have made a provision for regulations to guide us on how to process and deal with gold. It is always important to remind the House that regulations are the flesh of any law. The enactment of Parliament is the bones while the flesh is the regulations. These are important, especially when they are supposed to be subjected to public participation. That is so that Kenyans know that, on top of having the Gold Processing Act in place, we will have regulations the Cabinet Secretary will make thereunder but with the approval of this House.

As we conclude, we have penalties in respect of any person who commits an offence. We will be looking at these penalties because they only provide for breaches of the licence and false information to the Board. We need to expand areas to be punished so that whoever contravenes any provision of this Act is upon conviction guilty of an offence. Such persons will be liable to a certain fine or some term of prison in default or to both.

Important to note is that we are making amendments to the Mining Act because it governs us when it comes to speculation. It is a very weak Act of Parliament. This is the reason people move out there, exploit the loopholes, and get away with our minerals at paltry prices. Hence, we will repeal that law and exempt gold so that this Act of Parliament can now regulate it. It is an important Bill. Therefore, I urge my colleagues to look at the Bill and pass it. If there is need, we will amend at the Committee of the whole House.

I beg to support.

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

Hon. Mary Emaase (Teso South, UDA): Thank you for the opportunity to contribute to this important Bill. Regulations are crucial to the administration of mining activities in any nation. This Bill comes in to solve some of the challenges in the mining sector, not just gold but generally mining at large. There are numerous reported and unreported cases of gold being smuggled into and out of this country, of illegal dealings extraction, sale and transportation. Therefore, this must be addressed. I thank my colleague, Hon. Shinali, for bringing forth this Bill. At the outset I support.

Hon. Temporary Speaker, my contribution is on Part II of the Bill which I think is the most important. It is an important Part because it will bring order to this sector. The Bill provides for the Gold Processing Corporation and its functions. The Bill mandates the Corporation to collect, sample, purify, smelt, fabricate, homogenise, sample, register, refine, monitor, and transport gold and gold products. In fact, the major challenges in the mining sector are: infrastructure deficiencies, lack of proper roads, and lack of structured transportation systems which make the cost of transporting high. I believe, this Bill will bring some order in the trading and prospecting of gold.

This Bill also seeks to ensure that there is compliance of national standards with international ones. It also seeks to facilitate international accreditation, registration and licensing. This is very critical.

Clause 11 of the Bill provides for the establishment of the board. I am very happy that it provides for a chairperson to be appointed by the President, the Principal Secretary responsible for Mining, the Principal Secretary responsible for the National Treasury, the for Principal Secretary responsible for Lands, and the Principal Secretary responsible for Environment among others.

I want to speak about the environment because environmental impact assessment is very important. I will consult the owner of the Bill on how we can introduce a clause to protect

Kenyans who reside along the borders from negative environmental impact that is occasioned by mining at the border in neighbouring countries. As I speak to you, Hon. Temporary Speaker, the people of Teso South at Alupe area live in fear that one day they might wake up and find themselves buried underground. The ground might sink because there is mining right at the border. The soil excavated from the mining sites has blocked a river that separates the two countries. It has actually changed direction and changed the boundary. Our houses are cracking and air pollution is rampant thereby increasing respiratory diseases. So, we must have a law put in place that encourages cooperation and collaboration between the two countries so that the impact of mining on the environmental can be addressed because it is changing livelihoods and raising concerns.

So, as we pass this law to guide and help us in mining of gold, we must look further and see, irrespective of where the mining is done, how it affects the population around where it is done. Further, we must provide for how those that are injured or killed during the process of mining are compensated.

Hon. Temporary Speaker, this is a good Bill. I support it but as I said, we need to look further and see how to make mining safe for all human beings where it is undertaken. Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Jane Kagiri.

Hon. Jane Kagiri (Laikipia County, UDA): Thank you, Hon. Temporary Speaker, for giving me an opportunity to contribute to this Bill. I support it. I support regulation and licensing. Many of us would wish to have gold and gold mining in their areas. But many a time we wonder where one would start from and go to. With the establishment of the Gold Processing Corporation, there will be a go-to place for anybody who would want to know where to start off the gold mining journey.

Secondly, the Corporation will ensure that anybody given a licence protects workers from hazardous situations and ensures their safety and health as they undertake mining. Thirdly, the mining industry requires a support network, which the Corporation is going to offer. When we have a one-stop shop for gold mining, anybody seeking a market or a mine would have a reference point to start from. Fourthly, there should be economic benefits for the locals in areas where gold is mined as well as for the miners. The Corporation will ensure whoever receives a licence ensures the economic benefits of gold trickles down to the community. Fifth, the Gold Processing Corporation will ensure that we preserve our heritage. We have gold in Taita Taveta and Migori, but as all the gold is processed around the world, we do not hear that the gold is from Kenya. The Corporation will ensure that our heritage is protected and the world is made aware that this gold is from Kenya.

Environmental advocacy will be very important. As we have seen, many times minerals are excavated and pits are left wide open and water stagnates, which becomes a health hazard to the community. Mosquitoes find a breeding place and our children get sick when they play in those areas. We need an institution that will govern and regulate such issues. Miners will be required to cover any pits left open.

Where our economic situation is not well, the Corporation will have sufficient data to guide the country on our gold wealth. We could lack money in terms of currency, but the institution would tell us how rich we are in terms of gold. That will enable us to confidently know our actual wealth status.

Finally, I always say it is Laikipia's time. By mainstreaming this industry, it is certainly going to be our time to discover gold in Laikipia.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Patriot Eckomas Mutuse.

Hon. Mwengi Mutuse (Kibwezi West, MCCP): Thank you, Hon. Temporary Speaker, for the decoration and for giving me the opportunity to contribute to the debate on the Bill,

moved by the Member for Ikolomani, Hon. Shinali. From the outset, allow me to congratulate him for the good work of coming up with a private Member's Bill. It is not easy for a Member to engage in research and develop a Bill of this magnitude and present it before Parliament, to address certain deficiencies they think ought to be regulated through a legal framework.

It is not lost on us that we are representatives of the people. By dint of Article 94 and 95 of the Constitution, our work as Members of Parliament is to represent the people who elected us. There is a sizable population of people in Ikolomani, the constituency of the promoter, whose social and economic livelihoods rely on gold. Therefore, it is within the place of the Member for Ikolomani to propose a law to regulate gold. A sizable percentage of the population rely on gold, as are other places in the country.

Hon. Temporary Speaker, having listened to colleagues contributing to this debate, allow me to be the devil's advocate this afternoon. This will provoke our thinking so that we may also think broadly and critically. Mining of all minerals in this country is regulated under the Mining Act, 2016. If you look at the citation of this Act, it talks about processing, transportation and value addition of minerals. Section 2 of the Mining Act, 2016 gives the Cabinet Secretary responsible for mining the power to, under the Second Schedule, list the minerals that are subject to the Mining Act and to expand that list.

If you go to the Second Schedule of the Mining Act, 2016, you will realise that under precious minerals, gold is listed as among the minerals that are under its management and regulatory purview. Therefore, one fundamental question that I am asking, and it is necessary for Parliament to know, is whether we are processing the Gold Processing Bill because there is a legal deficiency or necessity. In my view, if it is about deficiency in law, I propose the route of coming up with regulations. In the Mining Act, 2016, it is also possible for the Cabinet Secretary to come up with regulations to regulate the details that are not there. We are not required to clutter our legislative book. If we come up with a law to regulate the mining of gold today, there are 136 minerals which are listed in the First Schedule of the Mining Act. Do we, therefore, then come up with other 136 pieces of legislation to regulate every mining of all the other minerals? If we do that, will we be neat legislatively and technically?

Secondly, as we debate the Gold Processing Bill that is proposed by the able Member for Ikolomani, we must also be alive to the prevailing circumstances in our country. I want to remind Members of Parliament that last year when this Parliament passed the Finance Bill, 2023 that had proposed several taxation measures, the country rose and said they did not want additional taxes. As a response to that, the Finance Bill of last year did not see the light of the day. In the financial provisions contained in this Bill, we are proposing that Parliament appropriates funds that will run the Gold Processing Corporation. We must ask ourselves whether that is in tune with what Kenyans want at the moment.

Thirdly, I also have in mind that last week, the President returned a memorandum relating to the Cotton Bill to the Houses of Parliament. He said we are at a time in our country where we are trying to consolidate our parastatals and state corporations. We do not want new ones because they increase the amount of money that we spend on administration rather than development. The President asked Parliament to amend the Cotton Bill that had been sent to him for assent to remove the part of the administration provisions that will create recurrent expenditures as opposed to development expenditures. Therefore, even as we say that the Gold Processing Corporation is a noble idea, we must also look at it against that. We are aware that there is a Cabinet resolution that is coming to Parliament for processing that proposes the abolishing of many state corporations. In that spirit of reducing the state corporations or our current expenditure, do we also want to propose legislation to add some more state corporations? I am just thinking aloud.

We must also look at the physical health of our country. We all know that we are currently moving towards austerity measures and seeking to cut costs. Regarding the regulatory

impact assessment, I proposed that instead of coming up with a new law, we could explore ways to work within the framework of the Mining Act of 2016 and come up with regulations specifically aimed at mainstreaming and addressing the deficiencies in gold mining.

So, I am inclined to support the proposal by Hon. Shinali, at least in the sense that, as a colleague, I value his contribution and the time he has invested. However, I still have reservations for the reasons I have stated. I am yet to be fully persuaded that this is the right direction to take. I say this because each of us here is a Member of the National Assembly representing a particular constituency.

In my constituency, there is iron ore, copper, calcium and many other minerals. The same applies to the Members here. As I have wondered before, what would it look like if every mineral had a Bill before Parliament? Therefore, I would seek an opportunity to sit with my colleague, and if he persuades me at the next stage, I will reconsider my position.

I have heard Hon. Waluke and several other Members of Parliament mention that our country has been used as a conduit for illegal transportation of gold. Therefore, as we come up with this law, we must be careful not to regularise illegality. We must not create a framework that allows people to obtain licences to smuggle gold through Kenya, using licences that appear as though they are mining. We need to address those fears so that, as we legislate and debate as Kenyans, the proposals passed in this Parliament will serve the public interest.

I thank you, Hon. Temporary Speaker. I congratulate Hon. Shinali.

Hon. Temporary Speaker (Hon. Peter Kaluma): Thank you. Hon. Lillian Siyoi.

Hon. Lillian Siyoi (Trans Nzoia County, UDA): Thank you, Hon. Temporary Speaker.

Hon. Temporary Speaker (Hon. Peter Kaluma): She will be followed by Hon. Augustine Mwafrika and then Hon. Peter Lochakapong, the Member for Sigor.

Hon. Lillian Siyoi (Trans Nzoia County, UDA): Thank you, Hon. Temporary Speaker. I stand to support this Bill with amendments, as my brother has just mentioned, because I also wanted to say the same thing.

Hon. Temporary Speaker (Hon. Peter Kaluma): Hon. Lillian Siyoi, today, we will go up to 9.00 O'clock. In fact, I am shocked you are not requesting for more time.

Hon. Lillian Siyoi (Trans Nzoia County, UDA): If this country takes minerals seriously, we can reduce poverty levels. This country is not just rich in gold, but in many minerals. However, we have never been serious or taken the miners seriously. Currently, it is very expensive to buy gold in the market, but the miners remain very poor. The areas where this gold comes from are also very poor. One might even wonder why we have a mineral that is very expensive when it reaches the dealers, yet our own people who mine the gold continue to suffer. I would propose that because majority of miners have complained about licensing issues... While dealers receive their licences on time, miners are often the same or the process takes too long, forcing them to rely on intermediaries or brokers. This increases the level of poverty among miners in our country.

This Bill focuses on gold, but I am concerned about other minerals as well. Should we have separate Bills for each mineral, or should we create a comprehensive mineral processing Bill that includes all minerals? This would ensure we maximise the benefits of minerals we have in this country.

I support this Bill by Hon. Shinali with amendments to see if we can incorporate all the minerals. That will be very important for this country.

Additionally, we have the Mineral Rights Board, which also serves a similar role equal to what we are discussing at the moment. I do not know how we are going to incorporate and work together with the board so as to combine what they have and what we have instead of having them differently. That is going to help us as a country.

I support. Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Augustine Mwafrika.

Hon. Kamande Mwafrika (Roysambu, UDA): Thank you, Hon. Temporary Speaker, for the opportunity to contribute to the debate on this Bill. The Bill is a wake-up call to the Ministry of Mining. Given the contributions raised by Members of this House, one wonders whether there is such a state department in this country. This state department was established to provide leadership in the management of the extractive sector. The state department is housed in Transcom House within the Community area, but I wonder what it does. If I get time, maybe tomorrow or any other day, I will visit those offices to find out what their mission is. The mandate of the State Department for Mining includes policy development, inventory and mapping of mineral resources, and capacity building for effective management of programmes. However, it has failed this country totally. This Bill is seeking the establishment of a corporation to manage gold mining in this country. If this corporation is established, it will be domiciled in this department. The establishment of this department is long overdue. I would ask this state department to rise to the occasion and provide leadership within the mining sector.

I support. Thank you

The Temporary Speaker (Hon. Peter Kaluma): Proceed, Hon. Peter Lochakapong.

Hon. Peter Lochakapong (Sigor, UDA): Thank you, Hon. Temporary Speaker, for this opportunity. I rise to support this Bill, which comes at a time when we have too many issues in Kenya's mining sector or generally mining. There is too much illegal mining going on, not only of gold but of other minerals, and there is a lot of exploitation of communities and locals due to their ignorance. I have gone through the Bill and I have not seen a provision for the local people and communities in terms of being licenced.

The preliminaries of the Gold Processing Bill describe the term "gold processing" as collecting, purifying, smelting, fabricating, homogenising, sampling, registering, monitoring, and transporting gold or products of gold. To my understanding, collecting gold is buying gold. If somebody is given a licence by the corporation to buy or collect gold, what is the relationship between them and artisanal miners who have artisanal permits, and those who have formed cooperatives within the local communities? How do they come in? We will run the risk of licensing somebody to process gold, and then that person dictates to the communities that have gold. I wanted to make that observation in the preliminaries.

Secondly, the object of the Act is to provide for licensing of exploration and exploitation of gold. Some of those provisions are in the Mining Act. The Bill goes ahead to state in Clause 4(2) that this Act shall prevail in the case of any inconsistency between this Act and any other legislation. That means that if there are any provisions that are inconsistent with the Mining Act, then the Gold Processing Bill will take precedence. We may easily run into conflicts because of that.

Clause 5(1) states that a person shall not engage in the exploration and exploitation operations of gold without obtaining a permit in accordance with this Act. We know that the Mining Act has set the process of obtaining a mining licence. Since gold is a mineral, it is covered under that Act. We have to look at that.

On the functions of the Corporation in Clause 8, I am interested in what it will collect in terms of gold or products of gold. My problem is whether the collecting refers to getting gold from the miners, and whether those miners are locals, cooperatives, or people who are licenced by the county governments with artisanal permits. What is their relationship with the corporation?

Clause 11(h) states that the Board of the Corporation shall comprise of one person with relevant qualifications or experience in matters relating to mining, geology, geophysics, or engineering nominated in writing by the Council of Governors. Earlier this afternoon, we were talking about how governors want to take everything. They even want to nominate a person to the Board of the Corporation. I would suggest that whereas we could agree to that, we should add a provision that the person appointed by the Council of Governors should be from a gold-

mining area, so that the Council of Governors does not just appoint somebody from anywhere. We must add the provision that the person should be from a gold-mining area. That is my thinking concerning that matter. On consideration of applications, Clause 31(g) says:

“The applicant's proposal with respect to engaging in community investment is socially responsible.”

I have a problem in measuring “socially responsible.” This is where we are coming closer to having a relationship between the person applying for a licence and a community. That, his engaging in community investment must be socially responsible. So, that is something that we must be certain what it is about, so that when we talk about this Bill to our people, we know what is in it that we are passing.

Part IV, Clause 36(1) says:

“The holder of a processing licence shall enjoy the exclusive right to carry out processing operations in respect of the gold or the gold deposits specified in the licence within the area specified, subject to the provisions of this Act and the terms and conditions set out in the licence.”

From my understanding, we will run into problems when somebody will be given an area to operate then he dictates terms and conditions to the people there just because no other person will be allowed to operate there. The people who will be supplying or selling gold to the person with the processing licence will not be allowed to take their gold anywhere else. So, there will be a big problem. Once somebody has been licenced, he will have the exclusive right to carry out processing operations in respect of the gold within the area specified.

Clause 36(3) says:

“A person appointed by the holder of a processing licence to act as an agent of the holder may exercise the rights of the licensee under the licence, subject to any limitations on the powers of the agent contained in the instrument of appointment.”

You know, in this country, mining is largely done by cartels. For example, in West Pokot where I come from, particularly in Sigor, we have illegal mining going on. There is collusion between the illegal miners and people in the Ministry of Mining, right from the regional offices in Eldoret to the headquarters in Nairobi. They undertake these illegal activities with the full knowledge of the people in Nairobi yet they have not satisfied the legal requirements. It is known they do not have mining permits but they are doing mining operations.

So, the provision in the Bill that somebody can get a licence and appoint an agent means that people can sit in Nairobi, do their documentation and get everything needed to obtain a processing licence then send people to the area that they will be allocated. That is not going to be good. If somebody gets a processing licence, he should go and do the job that he has been licenced to do.

In West Pokot, we must pronounce ourselves on environmental degradation. It must come out clearly in the Bill. I know it is something in some sections...

The Temporary Speaker (Hon. Peter Kaluma): You need a minute or two. Give the Member a minute.

Hon. Peter Lochakapong (Sigor UDA): Hon. Temporary Speaker, we have to seriously look at the environmental degradation, especially from illegal miners. In West Pokot, we have big challenges. Just as some colleagues have indicated, we may not legislate for every mineral. As we speak, we have the Mining Act, 2016. Now we also have a National Mining Corporation in place. I think it deals with what we call strategic minerals.

I want to support. However, we need to talk to Hon. Bernard Shinali and see whether we can talk about certain amendments when we go to the next stage. That is so that we see whether the Bill will solve the problems we have for our people. This is because illegal miners in our areas are exploiting them.

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Lastly, Hon. Timothy Toroitich.

Hon. Timothy Kipchumba (Marakwet West, Independent): Thank you for giving me an opportunity to contribute on this very important Bill, the Gold Processing Bill.

From the onset, I thank Hon. Bernard Shinali for this very important piece of legislation. My understanding of this legislation is that we are either addressing issues or conflicts will arise out of such legislation. We have the Gold Mining Act of 2016. If you read Clause 4(2) of this legislation, it says that this Act shall prevail in cases of any inconsistency between this Act and any other legislation.

The Mining Act of 2016 is the parent mining Act in this country. Look at royalties between the national Government and county governments. The Mining Act of 2016 clearly provides what county governments shall get out of mining activities in a certain county. There are royalties out of a mining in a certain area and county. If the Bill passes to be an Act of Parliament and we say that the Bill shall prevail in cases of an inconsistency with the Mining Act, it defeats the very intention of us passing the Mining Act of 2016 as a House. Those are the issues we shall look at and address when it comes to the Committee of the whole House.

Be it as it may, I believe this country is sleeping on its major resources. We need to do much to identify the minerals we have in this country. I believe we can get certain minerals in this country if we are serious to invest in determining where to find them. A county like Turkana and a constituency like Tiaty can sustain themselves if we are serious to invest in the minerals we have. We, as a country, must invest in that area. There are many gold deposits in this country.

I usually see men and women collecting gold deposits with their bare hands and some small basins along River Arol in Marakwet West Constituency where I come from. They wash the minerals and sell. I always ask myself what would happen if these people using their bare hands and local techniques to process gold in their primitive or traditional means had gold commercialised. I am very sure we would get deposits that would even fund the economy of this country to some extent.

I support the Bill to the extent that it comes to this House in good faith and is not to make Kenya a corridor or transit country for some people to smuggle gold from other parts of Africa. We have been told that there is gold in Kenya. There are people who export gold to other countries. Currently, Kenya is not a gold-mining country but there is a lot of gold that passes through this country. So, I hope that once this Bill is passed in this House, it shall not be used by corrupt elements to smuggle gold from other neighbouring countries and process it as if it is from certain areas of this country, then export it to other countries. I hope that the Bill is not being introduced so that that activity is executed by some few elements.

Clause 35 provides that the term of a processing licence shall be for a period not less than 25 years. In my opinion, that should be reviewed. It is not fair that a company is granted a licence for a period not less than 25 years. Further, Clause 35 does not give circumstances under which that licence can be revoked. It should have some limits so that if you give us a blanket of 25 years, then we shall give conditions under which that licence can be revoked. This is because it can be subject to abuse.

Be that as it may, to sanitise our mining industry, it is also good to break down the Mining Act (Cap. 306) so that we have sector-specific legislation. Sometime back, there were many reported cases of theft of transformers in this country. I asked Kenya Power the reason behind the rampant theft of transformers in this country. To my shock, I was informed that those who steal transformers extract copper from them. Kenya is not a copper exporting country and we do not process copper in this country for export. Under which circumstances is this copper extracted and exported to other countries? Therefore, if we had a copper processing law in this country, we could address such issues. If we have a Bill that provides for the entire

process of mining – exploration, processing, to the end product – it will seal some of the loopholes that we experience with extraction of some minerals in this country.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): The Mover to reply. Meanwhile, Hon. Peter Masara, approach the Chair.

Hon. Bernard Shinali (Ikolomani, ODM): Thank you, Hon. Temporary Speaker. As I reply, I emphasise that once enacted into law, the Gold Processing Bill, 2023, will provide the first ever regulatory framework for gold processing. It will streamline the gold processing sector and help our country to maximise on the benefits of this rare mineral.

A vote for this Bill is a vote for its immense economic benefits. First, the Bill will help establish a framework to create jobs by capping illegal gold transportation through our porous borders to black markets, which has led to loss of jobs in our country. Secondly, the regulatory and formalising gold processing in Kenya will generate significant revenue from taxes, licences and royalties. This answers some of the questions that have been raised, that this corporation will fully depend on the Exchequer for its funding. We are only looking for the initial capital and it will be generating its own revenues, hence giving Kenya revenue as I have already indicated.

In addition, the establishment of a clear mechanism to track gold and get royalties back to gold-producing areas will spur socio-economic development while enhancing the country's revenue to run various initiatives. As it is, it is not known where gold comes from. So, this Bill provides for the establishment of cooperatives in the local artisanal areas to identify and track back the royalties to where the gold was mined.

The framework provided for in the Bill will also attract both local and foreign investment into the country's gold processing sector because there will be a proper framework where business can be done. The passage of the Gold Processing Bill will also institutionalise a robust regulatory and oversight framework to ensure that gold processing activities are conducted in a safe and environmentally friendly manner.

The Bill establishes the Gold Processing Corporation that will be responsible for monitoring, compliance and enforcing regulations. This means that it will not be involved in transporting itself, but will be licensing institutions that are qualified to transport, and homogenise. For example, gold refineries will be the actual participants in these activities. This will mitigate against the loopholes that gold dealers have been exploiting at the expense of communities in areas with gold deposits and the country, which continues to lose revenue in the absence of a regulatory framework.

The Mining Act 2016, which I participated in passing, should be reviewed. This Bill was sent to the Ministry, and the committee itself looked at it, hence getting this approval.

The Bill will also benefit small-scale miners. As a House, we have dealt with issues where artisanal and small-scale miners across the country, who are at the bottom of the pyramid of our gold economy, have suffered for many years. They remain vulnerable to exploitation, illicit gold trafficking, counterfeit gold dealings and fraud. This Bill has the welfare of these small-scale miners in mind. It will protect their rights and interests by addressing illegal trading practices in gold, which denies the maximum returns from gold. The Gold Processing Bill will bring this to an end through the establishment of the Gold Processing Corporation as the regulatory body thereby securing maximum returns and encouraging investor confidence in Kenya's gold sector.

Establishing gold refineries and licensing, which is not provided for in the Mining Act 2016, will provide value addition to our gold. This means that jobs exported to Dubai and other areas will be domiciled in Kenya, and the youth and other participants in this field will get jobs.

Further, once passed into law, the Bill will enhance returns to small-scale gold miners through value addition as opposed to the minimum gains that they have been making through

unprocessed gold. The law will also support small-scale miners by providing them with access to modern processing facilities and technical assistance, including research.

I take this opportunity to thank all Members who have contributed to this Bill and participated by giving me ideas to enrich it. I also thank the Departmental Committee on Environment, Forestry and Mining and the Directorate of Legal Services in the National Assembly who ably helped me to develop this Bill to what it is. I have listened to contributions by Members and keenly noted them. I will be open to further discussion so that we can make this Bill better for it to serve the gold processing sector and the artisanal and small-scale miners. Once more, I thank all Members who have contributed and those willing to propose amendments to this Bill. I will seek them.

Hon. Temporary Speaker, I beg to reply and ask Members of this honourable House to pass this Bill into law. Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Shinali. The question on Second Reading will be put when this business will next be scheduled by the House Business Committee, for the convenience of the House.

(Putting of the Question deferred)

Next Order.

THE NATIONAL POLICE SERVICE COMMISSION (AMENDMENT) BILL
(National Assembly Bill No.23 of 2024)

Hon. Temporary Speaker (Hon. Peter Kaluma): Mover.

Hon. Peter Masara (Suna West, ODM): Hon. Temporary Speaker, I beg to move that the National Police Service Commission (Amendment) Bill (National Assembly Bill No. 23 of 2024) be now read a Second Time.

This Bill was published on 2nd April 2024. The Bill was read the First Time in the House on 5th June 2024 and thereafter committed to the Departmental Committee on Administration and Internal Affairs for consideration and reporting to the House, pursuant to provisions of Standing Order 127. This Bill is as a result of the work of the Departmental Committee on Administration and Internal Affairs, where I was a member for five years in the 12th Parliament. I went round to 27 counties, seeking opinions of police officers on various issues and not limited to this one.

The principal objective of this Bill is to make provision for the mental wellness and wellbeing of police officers, including but not limited to establishment of psychosocial support centres for police officers. The Bill seeks to amend Section 12 of the National Police Service Commission Act (Cap. 285) by inserting a new section 12A, which will obligate the National Police Service Commission (NPSC), in consultation with the Inspector-General of Police, to provide police officers with mental health and wellness resources and, in every county, establish well-equipped centres in offices, camps, training colleges and community for police officers to receive psychosocial support. Psychosocial support is further defined in the Bill to mean the attention given to persons relating to the interrelation of social factors, individual thoughts and behavior based on the mental state. The Bill also defines wellness generally to mean practicing healthy habits regularly to attain better physical and mental health outcomes.

The Bill is premised on the recognition that in the execution of their tasks, police officers work in potentially confusing roles, alternating between law enforcement and public service. They constantly face danger or mortality to ensure the safety of others. In some cases, due to the unique challenges of policing, they inflict harm on human beings, as police work is more stressful than other jobs. Numerous studies, including the Mental Health Taskforce

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Report of 2020, have examined the main aspect of mental health, but have overlooked the mental health of police officers. The Bill addresses this. The National Police Service Commission, in consultation with the Inspector-General of Police, will promote the mental health of police officers by providing the requisite resources.

This Bill also aligns with the Constitution of Kenya, 2010. It facilitates the progressive realisation of the rights to the highest attainable standard of health, which includes the right to health care services, guaranteed under Article 43(1)(a) of the Constitution. These rights include the mental health and well-being of all Kenyans.

Article 21(2) of the Constitution states that the State shall take legislative, policy and other measures, including the setting of standards, to achieve the progressive realisation of the rights guaranteed in Article 43 of the Constitution. The Bill, therefore, facilitates the fulfilment of the obligation by ensuring that the requisite mental health, wellness infrastructure and resources are put in place for the police officers who are the frontline responders.

This Bill has walked a long journey. I started pursuing it way back in the 12th Parliament which was around 2019 to date. Through that journey, there are some comparisons which were done. In the United States of America, such a Bill is in existence. It has proved that it helps many police officers who are in uniform to execute their duties in a robust way. In Canada, there are around eight provinces which have similar Acts of Parliament. The benefit of such an Act is that the law enforcement officers in such a country are outputs. When they are met with such circumstances, they usually recover and work well for their people.

In Namibia, Section 42(1)(b) of the Police Act 1990 empowers the Minister to make regulations on standard of physical and mental fitness and the medical examination of members of these families. If you can recall the history of this country, some time back, police officers were killing themselves, their superiors and family members. However, research indicated that their mental status was not sound. Therefore, if Members of Parliament fast-track this Bill, it will cure several gaps which are in the National Police Service Act. I want to remind this House that currently the Act governing the National Police Service Commission lacks this mandate. It is not there. You and I served in the Departmental Committee on Administration and Internal Affairs in the 12th Parliament and that is when we went around the country. The concerns we collected from the police officers and their seniors were the reason we requested the then Government to allocate some money so that psychiatrists and counsellors could be employed in the National Police Service Commission (NPSC). This depends on the goodwill of the Government.

If this Bill is enacted, it will now be a mandatory role for the NPSC to provide socio-psychological support to police officers. The Bill is very clear that these facilities need to be established in every county. However, in future, when the economy stabilises, there is need to introduce these facilities in every divisional headquarters so that when these officers face similar issues they can get assistance in the nearest centers.

These police officers are also our bodyguards and when their wives or mothers die, they just take a break and then come back since we need bodyguards. They are psychologically traumatised, but where do they go? They get orders from their superiors who are in stations. Maybe you went to the field and along the line of duty, you killed somebody and the following week, you are being posted again to go and work. You are psychologically disturbed, but what option do they have? That is why this Bill is very important.

The cost of this Bill as analysed by the Parliamentary Budget Office (PBO) is not much compared to the results we will get when it is enacted.

Many police officers have undergone training as psychologists and counsellors. Being that the role of the NPSC is limited, they are not being compensated as per their training. Some joined the police force when they only had the form four certificate but now they have gone

back to universities and trained. This Bill will allow them to be employed at the NPSC as counsellors who can help their colleagues when they face such problems.

Several organisations participated at the Committee level, including the NPSC, the Law Society of Kenya (LSK) and the Inspector-General and they all agreed that this law needs to be passed like yesterday.

I know that the Parliamentary calendar is tight with too many obligations, but I request and urge this House and my colleagues to pass the National Police Service Commission (Amendment) Bill (National Assembly Bill No.23 of 2024) so that it can benefit our men and women in uniform.

In this regard, I beg to move and request Hon. Shinali to second the Bill.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Shinali.

Hon. Bernard Shinali (Ikolomani, ODM): Thank you, Hon. Temporary Speaker. I want to begin by congratulating my colleague, Hon. Peter Masara, for coming up with this Bill to fill the gap that the National Police Service Commission Bill has not looked at. You and I are not new to this problem because we both served in the Departmental Committee on Administration and Internal Affairs in the last Parliament. First, I want to look at the training of police officers. The training of police officers overlooks this area, concentrating on defence, attack, and handling of ammunition. This is the case and yet after that activity or after their work, this becomes a critical area that should be looked into. This Bill is long overdue. It should have been enacted like yesterday.

The mental wellness of any person, including us in Parliament, is important especially police officers who are involved in duties that sometimes turn violent, traumatising, and maybe forceful, in a way. The psycho-social wellness is important and should be provided for. Therefore, it can be implemented alongside the employment of police officers, so long as the law is in place to allow them to practise alongside. In developed countries, as cited by my colleague, it is a mandatory department because it enhances the efficiency and effectiveness of working in the police force.

Hon. Temporary Speaker, the circumstances and environment in which police officers operate are wanting. Before one is deployed to their workstation, they live in houses provided to them. The living conditions are deplorable. This affects their mind set. This is an issue that needs to be looked into by first preparing the mindset of the recruits. When recruits leave Kiganjo Police Training College after work training, they do not expect what they experience in the police quarters. Once they arrive there, they are already disturbed. They are made to share one house with another family, a practice not allowed by some of our traditions and the communities we come from. This requires mental wellness and psychological advice.

To conclude, this Bill is important and very wide. I can contribute for a long time because I have a first-hand experience. I plead with this House and Members to pass this Bill with amendments to ensure that these police officers who have gone back to school are rewarded. Most were not lucky enough to continue with their education after Form Four due to financial constraints but got employed as police officers and now can take up loans to educate themselves. Also, let us give a chance to those who have experience in the police force and have seen the need and passion to help their former colleagues be reappointed to the Commission just like any other institution, otherwise it will amount to discrimination. We have to call it as is. So, as I applaud my friend, Hon. Peter Masara, for coming up with this Bill, he has also explained to us that it is not easy to visit 20 counties, but he has gone to 45 counties and he has seen it all. He has first-hand information. Some of us might talk about it, but we have not seen it first-hand.

We support Hon. Masara because we want a better police force. We will achieve that by passing this Bill.

I beg to second.

(Question proposed)

The Temporary Speaker (Hon. Peter Kaluma): Chairperson of the Departmental Committee on Administration and Internal Security, Hon. Gabriel Tongoyo.

Hon. Gabriel Tongoyo (Narok West, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity to contribute to this very important Bill. At the outset, I want to express my gratitude and appreciation to Hon. Masara for burning the midnight oil, traversing the whole country and researching intensively to bring this piece of legislation to being. Hon. Masara and I serve in the same Committee. The Member convinced us and majority of the stakeholders who were involved in the drafting of the Bill of its importance. I applaud the commitment and passion he demonstrated.

Hon. Temporary Speaker, I appreciate the Members of the Committee to whom this Bill was referred to for a job well done, and for their efforts to ensure that the Bill progressed this far. The Bill is long overdue. One of its objectives is to amend the National Police Service Commission Act in Section 10 to promote mental wellness and establish psychosocial support facilities within our counties. The intention of the drafter of the Bill was that we do it at the lower levels, even sub-counties. The Committee concurred with him so that we can start small and grow big. We will start at the county level, where we will have the headquarters and cascade it down.

The Bill has come at such a time when all of us can appreciate the mental trauma that our police officers go through due to the nature of their work. It is overwhelming and at times they get mental breakdown. The Bill will come in handy to help them. We have heard of cases of attempted suicide or suicide by police officers. Unfortunately, even junior officers have done the unthinkable by killing their seniors because of mental breakdown. We know the kind of hardships and horrors that officers go through. The Bill will be of critical help to them. I appreciate that the Committee saw it fit that we extend these crucial services, not just to officers but also to their families and the non-uniform civilian staff who work in these institutions. I support the Bill and call upon this honourable House to support it so that we give justice to our officers.

We know there was a Maraga Task Force Report that was put up by His Excellency the President immediately he was sworn in. One of the key recommendations in the report was the welfare of police officers to include mental well-being and psychosocial support facilities, counselling, increment of wages, housing facilities and uniform. As the Chairperson, we really appreciate the tremendous steps and progress towards the same. As we speak, there was an increment of wages to our police officers in the previous Budget. The BPS we recently went through has an increment aimed at continuously improving the welfare of our police officers. This includes their housing. There is a discussion toward that direction and more is yet to come.

Without much ado, I strongly support the Bill. It is going to help our police officers in a big way. We have also been in conversation with the National Police Service Commission that is already in anticipation of this kind of Bill. As we speak, there is a policy and regulation set to help operationalise the Bill when it comes into being so that these things take effect immediately in a majority of regions. I support the Bill and call upon this House to do the same.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Chairperson. Hon. Geoffrey Mulanya.

Hon. Geoffrey Mulanya (Nambale, Independent): Thank you for giving me the opportunity to also add my voice to this Bill. This is one of the Bills that the country has been waiting for a very long time. Instead of having too many taskforces every time we have issues

regarding the welfare and wellness of the police, this is the right procedure where we have regulations to govern the welfare of police officers.

In particular, I support the introduction of Section 12(a)(f). It tries to streamline the procedures of orderly room proceedings, what we call disciplinary proceedings, when there is an issue affecting a police officer. Some of us who are practising advocates get proceedings arising from orderly room proceedings. We note that the procedures are in most cases totally flawed. This impacts the rights of a particular police officer where there is no procedural fairness allowing them to defend themselves and have a fair hearing on the allegations against them.

We know that a majority of the living environments of police officers around police stations are crowded. Although they have families, you will find police officers living with their families in one house. Maybe three or four colleagues live together, which denies them the right to privacy.

Hon. Timothy Kipchumba (Marakwet West, Independent): On a point of order.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Timothy Toroitich, are you on a point of order?

QUORUM

Hon. Timothy Kipchumba (Marakwet West, Independent): I do not want to interrupt my colleague Hon. Mulanya.

Hon. Temporary Speaker, I rise pursuant to Standing Order 35 on quorum. This is a very important Bill that requires significant number of Members to be in the House to debate it.

The Temporary Speaker (Hon. Peter Kaluma): Ring the Quorum Bell for ten minutes.

(The Quorum Bell was rung)

There appears to be no quorum.

(The Quorum Bell was rung)

ADJOURNMENT

The Temporary Speaker (Hon. Peter Kaluma): Hon. Members, be upstanding. Standing Order 35(2) requires the Bell be rung for 10 minutes when the quorum call is made. If there is no quorum present, then the Speaker shall adjourn the House to the next sitting. Accordingly, Hon. Members, the time being 8.07 p.m., this House stands adjourned until Thursday, 27th February 2025 at 2.30 p.m.

The House rose at 8.07 p.m.

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