



**REPUBLIC OF KENYA**

**ELEVENTH PARLIAMENT – (THIRD SESSION)**

**THE NATIONAL ASSEMBLY**

**VOTES AND PROCEEDINGS**

**TUESDAY, NOVEMBER 17, 2015**

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **PRESIDING** – the Speaker
4. **PETITIONS**

**(i) Land grabbing and illegal evictions in Isiolo County**

The Speaker Conveyed The Following Petition –

“Honourable Members,

Standing Order 225(2)(b) requires that the Speaker reports to the House any Petition other than those presented through a Member. I therefore wish to convey to the House that I am in receipt of a petition, signed by over sixty members of a group called Okoa Jahazi Sacco. The Petitioners cite various issues including cases of forcefully eviction from their land, irregular allocation of community land to individual, land grabbing. The Petitioners also claim that there have been irregularities in Land Adjudication process in Kambi ya Juu and Mabatini and forceful evictions in Mwangaza, Kiwanjani and Chechelesi areas.

Honourable Members,

The Petitioners are therefore praying that the National Assembly, through the Departmental Committee on Lands:-

- (a) inquires into the circumstances under which the residents of Mwangaza, Kiwanjani and Chechelesi were forcefully evicted from their land;
- (b) Recommends investigation of the activities of the Nyara Sand Loader based in Isiolo County;
- (c) Recommends investigations to be carried out on the culpability of all State/Public Officers involved in eviction of the Petitioners and irregular allocation of land in Isiolo; and
- (d) Considers enacting legislation to govern evictions and resettlement of resident especially in right of the upcoming infrastructural projects.

Honourable Members,

Pursuant to the provisions of Standing Order 227(1), this Petition stands committed to the Departmental Committee on Lands for consideration. The Committee is encouraged to engage the National Land Commission and the Ministry of Lands and Urban Settlement with a view to exploring a solution to the issues contained in the petition.

Thank you".

(ii) **Establishment of Strategic Reserves of long-life milk and powdered milk**

The Member for Mathira (Hon. Kinyua Mbui) presented a Petition on behalf of dairy farmers in Mathira constituency on establishment of strategic reserves of long-life milk and powdered milk by the Strategic Food Reserve Trust Fund to cushion milk prices.

Petition referred to the Departmental Committee on Agriculture, Livestock and Co-operatives pursuant to Standing Order 227(1).

5. **PAPERS LAID**

The following Papers were laid on the Table –

- (i) The Reports of the Auditor-General on the Financial Statements of the Constituencies Development Fund for the ended 30<sup>th</sup> June, 2014 and the certificates therein, in respect of the following Constituencies:-

- a) Subukia
- b) Samburu West
- c) Malava
- d) Likuyani
- e) Teso North
- f) Garsen
- g) Ganze
- h) Tiaty
- i) Kabondo Kasipul
- j) Ndhiwa

*(The Leader of the Majority Party)*

- (ii) Reports of the Departmental Committee on Administration and National Security on-
- A fact-finding visit to Moyale from May 7-9, 2014;
  - Investigations into alleged irregularities in the disbursement of funds to civil society groups by the National Authority for the Campaign Against Alcohol and Drug Abuse (NACADA); and
  - Investigations into the Garissa University College terrorist attack.

*(Chairperson, Departmental Committee on Administration and National Security)*

- (iii) Reports of the Departmental Committee on Administration and National Security on-
- The Persons with Disabilities (Amendment) Bill (Senate Bill No.24 of 2014); and,

- The National Youth Service (Amendment) Bill (Senate Bill No.26 of 2014)

*(Chairperson, Departmental Committee on Labour and Social Welfare)*

6. **NOTICE OF MOTION – THE REPORT ON INVESTIGATIONS INTO THE GARISSA UNIVERSITY COLLEGE TERRORIST ATTACK**  
(Chairperson, Departmental Committee on Administration and National Security)

THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on investigations into the Garissa University College terrorist attack, laid on the Table of the House today, 17<sup>th</sup> November, 2015.

7. **NOTICE OF MOTION – REPORT ON THE INVESTIGATIONS INTO ALLEGED IRREGULARITIES IN THE DISBURSEMENT OF FUNDS TO CIVIL SOCIETY GROUPS BY NACADA**  
(Chairperson, Departmental Committee on Administration and National Security)

THAT, this House adopts the Report on the Departmental Committee on Administration and National Security on the investigations into alleged irregularities in the disbursement of funds to civil society groups by NACADA, laid on the Table of the House today, 17<sup>th</sup> November, 2015.

8. **THE HIGH COURT (ORGANIZATION AND ADMINISTRATION) BILL (NATIONAL ASSEMBLY BILL NO. 47 OF 2015)**

Order for Third Reading read;

Debate on the Third Reading having been concluded on Thursday, November 12, 2015 (Afternoon Sitting);

Question put and agreed to;

Bill read a Third Time and **passed**.

9. **MOTION - THE MAGISTRATES' COURTS BILL (NATIONAL ASSEMBLY BILL NO. 40 OF 2015)**

Order for Motion read;

Motion made and Question proposed –

**THAT**, the House do agree with the Report of the Committee of the whole House on its Consideration of the Magistrates' Courts Bill (National Assembly Bill No. 40 of 2015).

Amendment proposed-

**THAT**, the Motion for agreement with the Report of the Committee of the whole House on its Consideration of the Magistrates' Courts Bill (National Assembly Bill No. 40 of 2015) be amended by inserting the words "*subject to re-committal of Clause 8*".

*(Hon. Daniel Maanzo)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

10. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

**IN THE COMMITTEE**

The Second Chairperson in the Chair

(i) **The President's Reservations on the Higher Education Loans Board (Amendment) Bill (National Assembly Bill No. 09 of 2015)**

**Amendments recommended by H. E. the President to the Higher Education Loans Board (Amendment) Bill (National Assembly Bill No. 09 of 2015)**

The President's Recommendation to Clause 3 - amendment proposed –

**THAT**, Clause 3 of the Bill be amended by:-

- (i) deleting the proposed sub-section 13(1A); and
- (ii) deleting the proposed sub-section 13(1B).

*(The Leader of the Majority Party)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 3 - as amended agreed to

The President's Recommendation to Clause 4 - amendment proposed –

**THAT**, Clause 4 of the Bill be amended by deleting the proposed sub-section (6).

*(The Leader of the Majority Party)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 4 - as amended agreed to

The President's Recommendation to Clause 5 - amendment proposed –

**THAT**, Clause 5 of the Bill be amended by:-

- (i) deleting the proposed sub-section (1A); and
  - (ii) deleting the proposed sub-section 15(1B).
- (The Leader of the Majority Party)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 5 - as amended agreed to

The President's Recommendation to Clause 2 - amendment proposed –

**THAT**, Clause 2 of the Bill be amended by:-

- (i) deleting the proposed paragraph 4(1)(ia); and
- (ii) deleting the proposed sub-section 4(2A).

*(The Leader of the Majority Party)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 2 - as amended agreed to

**Amendments to be reported.**

**(ii) The Magistrates' Courts Bill (National Assembly Bill No.40 of 2015)**

*(Change of Chair from Second to Third Chairperson)*

Re-committal of Clause 8

Clause 8 - amendment proposed –

**THAT**, clause 8 of the Bill be amended—

- (a) in subclause (1) by deleting the words "claims for compensation for loss or damage suffered in consequence of a violation, infringement, denial of a right or fundamental freedom in the Bill of Rights" appearing immediately after the word "determine" and substituting therefor the words "applications for redress of a denial, violation or infringement of, or threat to, a right or fundamental freedom in the Bill of Rights";
- (b) in subclause (3) by deleting the words "any matter relating to Articles 47, 48, 49, 50 and 51 of the Constitution" appearing immediately after the word "determine" and substituting therefor the words "claims for compensation for loss or damage suffered in consequence of a violation, infringement, denial of a right or fundamental freedom in the Bill of Rights"

*(Hon. Daniel Maanzo)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 8 - as amended agreed to

**Re-committal to be reported;**

**(iii) The Small Claims Court Bill (National Assembly Bill No. 51 of 2015)**

Clauses 3 & 4 - agreed to

Clause 5 - amendment proposed –

**THAT**, clause 5 be amended in sub-clause (2)(a) by inserting the following words after the words "High Court of Kenya" "or a holder of a degree in social science"

*(Hon. Fatuma I. Ali)*

Question on the amendment proposed

Debate arising;

Question put and negatived

**THAT**, clause 5 of the Bill be amended in subclause (2) (b) by deleting the word "five" appearing immediately after the words "at least" and substituting therefor the word "three".

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Further amendment proposed –

**THAT**, clause 5 be amended-

- (i) in sub-clause (2)(b) by deleting the words "legal" and substituting therefor the word "relevant"

*(Hon. Fatuma I. Ali)*

Proposed amendment withdrawn;

Clause 5 - as amended agreed to

Clauses 6 & 7 - agreed to

Clause 8 - amendment proposed –

**THAT**, clause 8 of the Bill be amended—

(a) in paragraph (a) by deleting the word “and” appearing immediately after the word “experience” and substituting therefor the word “or”;

(b) by deleting paragraph (b) and substituting therefor the following paragraph—

“(b) has trained as a paralegal at the Kenya School of Law.”

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 8 - as amended agreed to

Clauses 9 & 10 - agreed to

Clause 11 - amendment proposed –

**THAT**, clause 11 be amended in sub-clause (2) by deleting the word “sub-county” and substituting therefor the word “ward”

*(Hon. Fatuma I. Ali)*

Question of the amendment proposed;

Debate arising;

Question put and negatived

Clause 11 - agreed to

Clause 12 - amendment proposed –

**THAT**, clause 12 of the Bill be amended—

(a) in subclause (1) (a) by inserting the word “or” immediately after the word “goods”;

(b) in subclause (1) (C) by deleting the word “of” appearing immediately after the word “delivery” and substituting therefor the word “or”;

(c) in subclause (3) by deleting the word “one” appearing immediately after the words “limited to” and substituting therefor the word “two”;

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 12 - as amended agreed to

Clause 13 - amendment proposed –

**THAT**, clause 13 of the Bill be amended—

(a) in subclause (1)(b) by deleting the words “or abandoned” appearing immediately after the word “withdrawn”;

(b) by inserting the following subclause immediately after subclause (2)—

“(3) subject to section 12 (3), a higher Court may transfer a claim to a Small Claims Court.”

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 13 - as amended agreed to

Clause 14 - agreed to

Clause 15 - amendment proposed –

**THAT**, clause 15 of the Bill be amended—

(a) by deleting subclause (2);

(b) by deleting subclause (3);

(c) in subclause (4) by deleting the expression “, (2) and (3)” appearing immediately after the expression “(1)”

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 15 - as amended agreed to

Clauses 16 & 17 - agreed to

Clause 18 - amendment proposed –

**THAT**, clause 18 of the Bill be amended in subclause (2) by inserting the word “mechanism” immediately after the word “resolution”.

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.



Clause 18 - as amended agreed to

Clauses 19 & 20 - agreed to

Clause 21 - amendment proposed –

**THAT**, clause 21 of the Bill be amended by deleting subclause (3).

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 21 - as amended agreed to

Clause 22 - agreed to

Clause 23 - amendment proposed –

**THAT**, clause 23 of the Bill be amended in subclause (2) by deleting the word “the” appearing immediately after the words “prejudice to”.

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 23 - as amended agreed to

Clauses 24 & 25 - agreed to

Clause 26 - amendment proposed –

**THAT**, clause 26 of the Bill be amended—

(a) in subclause (3) by deleting the word “had” appearing immediately after the words “on the claim” and substituting therefor the word “has”;

(b) in subclause (5) by deleting the expression “, (3) or (4)” appearing immediately after the expression “(1), (2)” and substituting therefor the expression “or (3)”.

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 26 - as amended agreed to

Clause 27 - amendment proposed –

**THAT**, clause 27 of the Bill be amended in subclause (3) by deleting the expression “(1)” appearing immediately after the word “subsection” and substituting therefor the expression “(2)”.

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 27 - as amended agreed to

Clause 28 - amendment proposed –

**THAT**, clause 28 of the Bill be amended in subclause (2) by deleting the word “had” appearing immediately after the words “on the claim” and substituting therefor the word “has”.

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 28 - as amended agreed to

Clauses 29, 30 & 31 - agreed to

Clause 32 - amendment proposed –

**THAT**, clause 32 of the Bill be amended—

- (a) in subclause (1) by deleting the words “by the strict” appearing immediately after the word “bound” and substituting therefor the words “wholly by the”;
- (b) by deleting subclause (8).

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 32 - as amended agreed to

Clause 33 - amendment proposed –

**THAT**, clause 33 of the Bill be amended in subclause (4) by inserting the word “be” immediately after the words “shall not”.

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 33 - as amended agreed to

Clauses 34, 35 & 36 - agreed to

Clause 37 - amendment proposed –

**THAT**, clause 37 of the Bill be amended—

(a) by deleting subclause (2);

(b) in subclause (5) by deleting the expression “46 (3)” appearing immediately after the words “under section” and substituting therefor the expression “40”.

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 37 - as amended agreed to

Clause 38 - amendment proposed –

**THAT**, clause 38 of the Bill be amended by deleting the word “matter” appearing immediately after the words “High Court on” and substituting therefor the word “matters”.

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 38 - as amended agreed to

Clause 39 - amendment proposed –

**THAT**, clause 39 of the Bill be amended by inserting the following paragraph immediately after paragraph (a)—

“(aA) order the attachment of the salary of the judgment debtor; or”

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 39 - as amended agreed to

Clause 40 - amendment proposed –

**THAT**, clause 40 of the Bill be amended by inserting the words “or any other of his or her assets” immediately after the words “immovable property”.

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 40 - as amended agreed to

Clause 41 - amendment proposed –

**THAT**, clause 41 of the Bill be amended—

(a) in subclause (1)—

(i) in the prefatory statement by deleting the word “its” appearing immediately after the words “party or on” and substituting therefor the words “his or her”;

(ii) by inserting the following paragraph immediately after paragraph (d)—

“(e) new facts previously not before the Court have been discovered by either of the parties.”

(b) in subclause (2) by inserting the words “or such other period as the Court may allow” immediately after the word “reviewed”.

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 41 - as amended agreed to

Clauses 42, 43, 44, 45 & 46 - agreed to

Clause 47 - amendment proposed –

**THAT**, the Bill be amended by deleting clause 47 and substituting therefor the following clause—

Power to  
punish for  
contempt of  
Court.

**47.(1)** A person who—

- (a) assaults, threatens, intimidates or wilfully insults an adjudicator, judicial officer or a witness, involved in a case during a sitting or attendance in a court, or while the adjudicator, judicial officer or witness is travelling to and from a court;
- (b) wilfully and without lawful excuse disobeys an order or directions of the court in the course of the hearing of a proceeding;
- (c) within the premises in which any judicial proceeding is being heard or taken, or within the precincts of the same, shows disrespect, in speech or manner, to or with reference to such proceeding, or any person before whom such proceeding is being heard or taken;
- (d) having been called upon to give evidence in a judicial proceeding, fails to attend, or having attended refuses to be sworn or to make an affirmation, or having been sworn or affirmed, refuses without lawful excuse to answer a question or to produce a document, or remains in the room in which such proceeding is being heard or taken after the witnesses have been ordered to leave such room;
- (e) causes an obstruction or disturbance in the course of a judicial proceeding;
- (f) while a judicial proceeding is pending, makes use of any speech or writing misrepresenting such proceeding or capable of prejudicing any person in favour of or against any parties to such proceeding, or calculated to lower the authority taken;
- (g) publishes a report of the evidence taken in any judicial proceeding that has been directed to be held in private;
- (h) attempts wrongfully to interfere with or influence a witness in a judicial proceeding, either before or after he or she has given evidence in connection with such evidence;
- (i) dismisses a servant because he or she has given evidence on behalf of a party to a judicial proceeding; or
- (j) commits any other act of intentional disrespect to any judicial proceedings, or to any person before whom such proceeding is heard or taken, commits an offence.

(2) A police officer may, by order of the Court, take into custody and detain a person who commits an offence under subsection (1) until the Court adjourns.

(3) A person who commits an offence under subsection (1) shall on conviction be liable to imprisonment for a term not exceeding five days, or to a fine not exceeding one hundred thousand shillings, or to both.

(4) In exercise of its powers under this section, the Court shall observe the principles of fair administration of justice set out in Article 47 of the Constitution.

*(Hon. Daniel Maanzo)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 47 - as amended agreed to

Clauses 48, 49 & 50 - agreed to

**New Clause 51 proposed –**

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 50—

Code of Conduct  
for Adjudicators.

**51.** The Chief Justice shall, within six months of the commencement of this Act, prescribe the code of conduct applicable to an Adjudicator.

Motion made and Question proposed –

THAT, the New Clause 51 be read a Second Time

Debate arising;

Question put and agreed to.

Motion made and Question proposed –

THAT, the New Clause 51 be part of the Bill

Question put and agreed to.

Clause 2 - agreed to

Title - agreed to

Clause 1 - agreed to

Bill to be reported with amendments;

**(iv) The Court Of Appeal (Organization And Administration) Bill (National Assembly Bill No. 52 Of 2015)**

Clauses 3, 4, 5 & 6 - agreed to

Clause 7 - amendment proposed –

**THAT**, clause 7 of the Bill be amended by deleting subclause (1) and substituting therefor the following subclause—

“(1) The President of the Court may, in consultation with the Chief Justice, organize the Court into such divisions as may be necessary for specialized and expeditious disposal of appeals before it.”.

*(Chairperson, Departmental Committee on Justice and Legal Affairs,*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 7 - as amended agreed to

Clauses 8, 9, 10, 11 & 12 - agreed to

Clause 13 - amendment proposed –

**THAT**, clause 13 of the Bill be amended in subclause (2)—

(a) in the prefatory statement by inserting the words “,in consultation with the Chief Justice,” immediately after the word “shall”;

(b) by deleting paragraph (b) and substituting therefor the following paragraph—

“(b) developing guidelines that ensure the expeditious disposal of cases;”.

*(Chairperson, Departmental Committee on Justice and Legal Affairs,*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 13 - as amended agreed to

Clause 14 - agreed to

Clause 15 - amendment proposed –

**THAT**, clause 15 of the Bill be amended—

(a) in subclause (1) by deleting the words “not less than three quarters” appearing immediately after the words “at which” and substitute therefore the words “more than half”;

(c) by deleting subclause (3) and substituting therefor the following subclause—

“(3) A judge who desires the removal of the President of the Court shall give notice, in writing through the Registrar, stating the reasons for the intended removal.”

(d) in subclause (4) by deleting the word “half” appearing immediately after the words “at least” and substituting therefor the words “one third”;

(e) in subclause (5) by deleting the words “forty-five days after receipt of the communication under subsection (3) respond to the accusations” appearing immediately after the word

“within” and substituting therefor the words “fourteen days after receipt of the communication under subsection (3) respond, through the Registrar, to the accusations;

(f) in subclause (6) by deleting the words “in such a manner as to reach all the judges within the period set out in that subsection” appearing immediately after the word “communicated” and substituting therefor the words “by the Registrar to all judges within seven days”;

(g) in subclause (7) by deleting the word “shall” appearing immediately after the words “Chief Justice” and substituting therefor the word “may”.

*(Chairperson, Departmental Committee on Justice and Legal Affairs,*  
Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 15 - as amended agreed to

Clauses 16, 17 & 18 - agreed to

Clause 19 - amendment proposed –

**THAT**, clause 19 of the Bill be amended in subclause (3) by deleting the word “but” appearing immediately after the word “shall” and substituting therefor the word “put”;

*(Chairperson, Departmental Committee on Justice and Legal Affairs,*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 19 - as amended agreed to



Clause 20 - amendment proposed –

**THAT**, clause 20 of the Bill be amended in subclause (1) by deleting the words “the Commission may determine” appearing immediately after the words “Court as” and substituting therefor the words “may be appointed under the Judicial Service Act, 2011.

*(Chairperson, Departmental Committee on Justice and Legal Affairs,*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 20 - as amended agreed to

Clause 21 - agreed to

Clause 22 - amendment proposed –

**THAT**, clause 22 of the Bill be amended in subclause (1) by deleting the prefatory statement and substituting therefore the following statement—

“The Registrar shall perform such duties as the Chief Registrar or the President of the Court may direct, and in particular be responsible for—”

*(Chairperson, Departmental Committee on Justice and Legal Affairs,*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 22 - as amended agreed to

Clauses 23, 24 & 25 - agreed to

Clause 26 - amendment proposed –

**THAT**, clause 26 of the Bill be amended in subclause (1)—

(a) by deleting paragraph (a) and substituting therefor the following paragraph—

“(a) from the Thursday before Good Friday to the Wednesday after Easter Monday, inclusive;”

(b) in paragraph (b) by deleting the word “September” and substituting therefor the word “August”;

(c) in paragraph (c) by deleting the expression “13<sup>th</sup>” and substituting therefor the expression “7<sup>th</sup>”.

*(Chairperson, Departmental Committee on Justice and Legal Affairs,*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 26 - as amended agreed to

Clause 27 - amendment proposed –

**THAT**, clause 27 of the Bill be amended—

- (a) in subclause (1) by deleting the words “adopted by the Court” appearing immediately after the word “policy” and substituting therefor the words “determined by the Commission”;
- (b) by deleting subclause (2).

*(Chairperson, Departmental Committee on Justice and Legal Affairs,*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 27 - as amended agreed to

Clause 28 - amendment proposed –

**THAT**, clause 28 of the Bill be amended—

- (a) in the prefatory statement by deleting the word “under” appearing immediately after the word “prescribed” and substituting therefor the words “by written law.”
- (b) by deleting paragraphs (a), (b) and (c).

*(Chairperson, Departmental Committee on Justice and Legal Affairs,*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 28 - as amended agreed to

Clause 29 - amendment proposed –

**THAT**, clause 29 of the Bill be amended in subclause (1) by deleting the words “initiate” appearing immediately after the words “judge shall” and substituting therefor the word “implement”.

*(Chairperson, Departmental Committee on Justice and Legal Affairs,*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 29 - as amended agreed to

Clause 30 - amendment proposed –

**THAT**, clause 30 of the Bill be amended in subclause (1) by deleting the words "There shall be" and substituting therefor the words "The Registrar shall maintain".

*(Chairperson, Departmental Committee on Justice and Legal Affairs,*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 30 - as amended agreed to

Clause 31 - amendment proposed –

**THAT**, clause 31 of the Bill be amended in subclause (1) by—

- (a) deleting the words " Chief Justice and the Chief Registrar" appearing immediately after the words "consultation with the" and substituting therefor the words "Commission";
- (b) deleting subclause (2).

*(Chairperson, Departmental Committee on Justice and Legal Affairs,*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 31 - as amended agreed to

Clauses 32 & 33 - agreed to

Clause 34 - amendment proposed –

**THAT**, clause 34 of the Bill be amended in subclause (1) by deleting the words "under the Civil Procedure Act or the Criminal Procedure Code" appearing immediately after the word "prescribed" and substituting therefor the words "by written law".

*(Chairperson, Departmental Committee on Justice and Legal Affairs,*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 34 - as amended agreed to

Clause 35 - amendment proposed –

**THAT**, the Bill be amended by deleting clause 35 and substituting therefore the following clause—

Contempt  
of Court.

**35.** (1) Subject to the provisions of any other law, the Court shall have power to punish for contempt.

(2) A person who, in the face of the Court—

- (a) assaults, threatens, intimidates, or insults a judge of the Court, the Registrar of the Court, a Deputy Registrar or officer of the Court, or a witness, during a sitting or attendance in Court, or in going to or returning from the Court;
- (b) interrupts or obstructs the proceedings of the Court; or
- (c) without lawful excuse disobeys an order or direction of the Court in the course of the hearing of a proceeding, commits an offence.

(3) In the case of civil proceedings, the willful disobedience of any judgment, decree, direction, order, or other process of a court or willful breach of an undertaking given to a court constitutes contempt of court.

(4) In the case of criminal proceedings, the publication, whether by words, spoken or written, by signs, visible representation, or otherwise, of any matters or the doing of any other act which—

(a) scandalizes or tends to scandalize, or lowers or tends to lower the judicial authority or dignity of the court

(b) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or

interferes or tends to interfere with, or obstructs or tends to obstruct the administration of justice, constitutes contempt of court.

(5) A police officer, with or without the assistance of any other person, may, by order of a judge of the Court, take into custody and detain a person who commits an offence under subsection (2) until the rising of the Court.

(6) The Court may sentence a person who commits an offence under subsection (1) to imprisonment for a period not exceeding six months, or a fine not exceeding five hundred thousand shillings, or both.

(7) A person may appeal against an order of the Court made by way of punishment for contempt of court as if it were a conviction and sentence made in the exercise of the ordinary original criminal jurisdiction of the Court.

(8) The Chief Justice may make Rules to regulate procedures relating to contempt of court.

*(Chairperson, Departmental Committee on Justice and Legal Affairs,*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Further amendment proposed –

**THAT**, the Bill be amended by deleting clause 35 and substituting therefor the following clause—

Power to  
punish for  
contempt of  
Court.

**35. (1) A person who—**

- (a) assaults, threatens, intimidates or wilfully insults a judge, judicial officer or a witness, involved in a case during a sitting or attendance in a court, or while the judge, judicial officer or witness is travelling to and from a court;
- (b) wilfully and without lawful excuse disobeys an order or directions of the court in the course of the hearing of a proceeding;
- (c) within the premises in which any judicial proceeding is being heard or taken, or within the precincts of the same, shows disrespect, in speech or manner, to or with reference to such proceeding, or any person before whom such proceeding is being heard or taken;
- (d) having been called upon to give evidence in a judicial proceeding, fails to attend, or having attended refuses to be sworn or to make an affirmation, or having been sworn or affirmed, refuses without lawful excuse to answer a question or to produce a document, or remains in the room in which such proceeding is being heard or taken after the witnesses have been ordered to leave such room;
- (e) causes an obstruction or disturbance in the course of a judicial proceeding;
- (f) while a judicial proceeding is pending, makes use of any speech or writing misrepresenting such proceeding or capable of prejudicing any person in favour of or against any parties to such proceeding, or calculated to lower the authority taken;
- (g) publishes a report of the evidence taken in any judicial proceeding that has been directed to be held in private;

- (h) attempts wrongfully to interfere with or influence a witness in a judicial proceeding, either before or after he or she has given evidence in connection with such evidence;
- (i) dismisses a servant because he or she has given evidence on behalf of a party to a judicial proceeding; or
- (j) commits any other act of intentional disrespect to any judicial proceedings, or to any person before whom such proceeding is heard or taken, commits an offence.

(2) A police officer may, by order of the Court, take into custody and detain a person who commits an offence under subsection (1) until the Court adjourns.

(3) A person who commits an offence under subsection (1) shall on conviction be liable to imprisonment for a term not exceeding five days, or to a fine not exceeding one hundred thousand shillings, or to both.

(4) In exercise of its powers under this section, the Court shall observe the principles of fair administration of justice set out in Article 47 of the Constitution.

*(Hon. Daniel Maanzo)*

Question of the amendment proposed;

Proposed further amendment dropped

Clause 35 - as amended agreed to

Clause 36 - amendment proposed –

**THAT** clause 36 of the Bill be amended by deleting the words “,so far as it is appropriate to do so” appearing immediately after the word “Republic”.

*(Chairperson, Departmental Committee on Justice and Legal Affairs,*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 36 - as amended agreed to

Clause 37 - amendment proposed –

**THAT**, clause 37 of the Bill be amended in subclause (1) by deleting the word “person” appearing immediately after the words “or other” and substituting therefor the words “judicial officer”.

*(Chairperson, Departmental Committee on Justice and Legal Affairs,*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 37 - as amended agreed to

Clause 38 - amendment proposed –

**THAT**, clause 38 of the Bill be amended by inserting the following subclause immediately after subclause (1)—

“(1A) Without prejudice to the generality of subsection (1), such Rules may provide for the—

- (a) conduct of the election of the President of the Court;
- (b) procedure of removal of the President of the Court;
- (c) form of notification of the sittings of the Court;
- (d) disposal of urgent and priority matters during Court recess;
- (e) automation of Court records, case management, protection and sharing of Court information and the use of information communication technology;
- (f) form, style, storage, maintenance and retrieval of Court records; and
- (g) procedure relating to contempt of court.”

*(Chairperson, Departmental Committee on Justice and Legal Affairs,*

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 38 - as amended agreed to

**New clause 38A proposed –**

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 38—

Code of Conduct  
for judges of the  
Court.

**38A.** The Chief Justice shall, within six months of the commencement of this Act, prescribe the code of conduct applicable to a judge of the Court.

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Motion made and Question proposed –

THAT, the new Clause 38A be read a Second Time

Debate arising;

Question put and agreed to.

Motion made and Question proposed –

THAT, the new Clause 38A be part of the Bill

Question put and agreed to.

Clause 2 - agreed to

Title - agreed to

Clause 1 - agreed to

Bill to be reported with amendments;

9. **HOUSE RESUMED** - The Deputy Speaker in the Chair

**(i) The President's Reservations on the Higher Education Loans Board (Amendment) Bill (National Assembly Bill No. 09 of 2015)**

Amendments recommended by H. E. the President reported without amendments;

Motion made and Question proposed –

THAT, the House do agree with the Committee in the said Report

*(Deputy Leader of the Majority Party)*

Question of the Motion deferred to another day.

**(ii) The Small Claims Court Bill (National Assembly Bill No.51 of 2015)**

Bill reported with amendments;

Motion made and Question proposed –

THAT, the House do agree with the Committee in the said Report

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Question put and agreed to.

Motion made and Question proposed –

THAT, the Small Claims Court Bill (National Assembly Bill No.51 of 2015) be now read a Third Time

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Debate arising;

Question of the Third Reading deferred to another day.



**(iv) The Court of Appeal (Organization and Administration) Bill (National Assembly Bill No.52 of 2015)**

Bill reported with amendments;

Motion made and Question proposed –

THAT, the House do agree with the Committee in the said Report

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Question put and agreed to.

Motion made and Question proposed –

THAT, the Court of Appeal (Organization and Administration) Bill (National Assembly Bill No. 52 of 2015) be now read a Third Time

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Debate arising;

Question of the Third Reading deferred to another day.

**(ii) The Magistrates' Courts Bill (National Assembly Bill No.40 of 2015)**

Bill reported with amendments;

Motion made and Question proposed –

THAT, the House do agree with the Committee in the said Report

*(Deputy Leader of the Majority Party)*

Question put and agreed to.

Motion made and Question proposed –

THAT, the Magistrates' Courts Bill (National Assembly Bill No.40 of 2015) be now read a Third Time

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

Debate arising;

Question of the Third Reading deferred to another day.

**11. THE HEALTH BILL (NATIONAL ASSEMBLY BILL NO.14 OF 2015)**

Order for Second Reading read;

Motion made and Question proposed –

THAT, the Health Bill (National Assembly Bill No.14 of 2015) be now read a Second Time

*(The Deputy Leader of the Majority Party – 29.10.2015)*

Debate interrupted on Tuesday, November 11, 2015 resumed;

And the time being thirty minutes past Six O'clock, the Second Chairperson adjourned the House without Question put pursuant to the Standing Orders.

12. HOUSE ROSE - at thirty minutes past Six O'clock

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**M E M O R A N D U M**

The Speaker will take the Chair on  
Wednesday, November 18, 2015 at 9.30 a.m.

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