

PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

THE HANSARD

Thursday, 5th March 2020

The House met at 2.30 p.m.

[The Speaker (Hon. Justin Muturi) in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

RESOLUTIONS OF COUNTY ASSEMBLIES ON DRAFT *PUNGUZA MIZIGO* (CONSTITUTION AMENDMENT) BILL

Hon. Speaker: Hon. Members, I have two Communications. This particular Communication is in addition to the one I made towards the end of the last Session. It is just to amplify and correct the situation.

Hon. Members, you will recall that on 5th December 2019, I made a Communication to the House regarding the status of delivery of decisions on the draft *Punguza Mizigo* (Constitution Amendment) Bill, 2019 by the county assemblies to the Speakers of the two Houses of Parliament.

In the Communication, I also informed the House that the Speaker of the Senate and I had jointly developed and published standard guidelines for delivery by county assemblies to the Speakers of the Houses of Parliament of a draft Bill for the amendment of the Constitution by popular initiative to inform the process. The guidelines were published in the *Kenya Gazette* as Legal Notice No.175 of 22nd November 2019.

Hon. Members, Paragraphs 5 and 6 of the guidelines provide as follows:

(5) Upon the expiry of the period specified under Article 257(5) of the Constitution for the consideration of a draft Bill by a county assembly, the Speakers of the two Houses of Parliament shall:

(a) Report to the respective Houses of Parliament:

(i) the county assemblies that have submitted the draft Bill and the certificate approving the Bill.

(ii) the county assemblies that have submitted the draft Bill and the certificate rejecting the Bill.

(iii) the county assemblies that did not submit the draft Bill and the certificate.

(iv) whether or not the threshold required under Article 257(7) of the Constitution has been met, and

(v) such other information as the Speakers of the two Houses of Parliament may consider necessary.

(b) Submit to the Independent Electoral and Boundaries Commission (IEBC) and publish by notice in the Gazette information specified under sub-paragraph (a).

(6) The Speakers of the Houses of Parliament shall not receive any draft Bill and certificate where the Bill was considered by the county assembly after the expiry of the period specified under Article 257(6) of the Constitution.

Hon. Members, in furtherance to requirements of Paragraph 5 of the said guidelines in respect of the draft *Punguza Mizigo* (Constitution Amendment) Bill 2019, I reported to the House the statistics of the submissions which had been formally delivered by the respective Speakers of the county assemblies as at 5th December 2019. In that Communication, I informed the House that:

- (a) Twenty six county assemblies had delivered the draft Bill with a certificate indicating their respective decisions on the Bill.
- (b) Out of the 26, three county assemblies, that is, Machakos, Turkana and Uasin Gishu, had approved the Bill.
- (c) Out of the same number, 23 county assemblies had rejected the draft Bill. These were Kwale, Kilifi, Tana River, Wajir, Mandera, Marsabit, Isiolo, Meru, Tharaka Nithi, Kitui, Makueni, Nyeri, Murang'a, Samburu, Trans Nzoia, Nandi, Laikipia, Narok, Kajiado, Kericho, Bomet, Bungoma and Busia.
- (d) Twenty one other county assemblies were yet to deliver decisions of the draft Bill to the Speakers of the Houses of Parliament with a certificate indicating either their approval or rejection of the Bill. These were the county assemblies of Mombasa, Lamu, Taita Taveta, Garissa, Embu, Nyandarua, Kirinyaga, Kiambu, West Pokot, Elgeyo Marakwet, Baringo, Nakuru, Kakamega, Vihiga, Siaya, Kisumu, Homa Bay, Migori, Kisii, Nyamira and Nairobi.

The Speaker of the Senate and I published this information in the *Kenya Gazette* under Gazette Notice No.11013 dated 22nd November 2019 for the information of the general public.

The County Assembly of Machakos initially submitted their certificate on 24th October 2019. Whereas the certificate indicated the County Assembly had rejected the draft Bill, the forwarding letter indicated the opposite. We have since received clarification to the effect that the County Assembly of Machakos did not actually approve the *Punguza Mizigo* (Constitution Amendment) Bill 2019.

In addition, we have also received a certificate indicating the rejection of the said Bill by the County Assembly of Vihiga. This was one of the 21 county assemblies which had not submitted their certificates to the two Speakers of Parliament. Given the fact that there is no timeline within which a county assembly has to submit its feedback to Parliament after having considered the draft Bill under Article 257 of the Constitution within the stipulated 90 days, the Speaker of the Senate and I found it difficult to disallow the submission by the said county assembly even though it was submitted more than two months after the county assembly had considered and made its decision on the draft Bill. This *lacuna* is one of the several gaps that have been identified with respect to the process of amending the Constitution through popular initiative under Article 257 of our Constitution which, in our view, may require to be addressed in law or through other legislative instruments.

As Speakers of the two Houses of Parliament, the experience of the *Punguza Mizigo* (Constitution Amendment) Bill 2019 has caused us to reflect on a number of questions. For instance, since the Constitution obligates only the county assemblies which have approved such a Bill to send their certificates to the Speakers of the Houses of Parliament, are we to assume that

those county assemblies whose certificates have not been received considered and rejected the Bill?

Further, since the three-month timeline under Article 257(5) and (6) of the Constitution relates to the period of consideration of the Bill by county assemblies and no timeline is prescribed for the conveyance of the certificates to Parliament, for how long should the Speakers of the Houses of Parliament wait for the speakers of county assemblies to submit the approval certificates before pronouncing the fate of the particular Bill? It is clearly evident that there are gaps in the Constitution that ought to be addressed.

Nevertheless, the new decisions now bring the total number of county assemblies that rejected the draft Bill to 25 and those that approved the Bill within the 90-day period to two. Article 257(7) provides that if a draft Bill to amend the Constitution by popular initiative has been approved by a majority of county assemblies, it shall be introduced in Parliament without delay. The statistics I have just read confirm that the *Punguza Mizigo* (Constitution Amendment) Bill 2019 did not meet the threshold to be introduced in Parliament and hence stands lost. It must remain where it was.

(Laughter)

In this regard, I hereby direct the Clerk to submit this information to the IEBC and also publish the same in the Gazette as required under Paragraph 5(b) of the guidelines published on 22nd November 2019.

MAINTENANCE OF SECURITY IN PRECINCTS OF PARLIAMENT

Hon. Speaker: Hon. Members making your way in, please, take your seats. I have another short Communication.

Hon. Members, I wish to draw the attention of the House to concerns that have been raised by the House leadership and Members in general with regard to the security and safety of Members in the precincts of Parliament. Standing Order Nos.99, 100 and 101 are explicit on maintenance of security in the House. The provisions of these Standing Orders are also replicated in the Speaker's Rules.

The concerns raised include the increased human traffic whereby there has been an alarming number of visitors hanging around the corridors and in the restaurants in Parliament. It is a major concern that at times, there have been more visitors in the restaurants than Members. In addition, it is a common occurrence to find visitors, staff of the Commission and staff of Members walking in the corridors without displaying their identification badges. It is very alarming that visitors in Parliament are being allowed into the buildings with bags and other luggage. There have also been cases of visitors accessing the galleries without going through security screening. There are also reports of visitors and former Members holding Parliament's vehicle passes. You will agree with me that the above concerns present major security concerns and the situation needs to be urgently addressed.

In view of the above, I wish to reiterate my Communication to the House made on 11th October 2017, where I called upon all Members to accord the necessary cooperation and support to the officers who are responsible for enforcement of the rules relating to security in the precincts of Parliament. Those officers are also mandated to conduct stringent screening of

Members' vehicles before allowing them access into the precincts of Parliament. The officers are instructed to ensure security in the precincts of the institution without fail.

The Speaker's Rules are also categorical on the number of visitors that a Member can bring to any part of the buildings or precincts of Parliament. That number is two visitors per Member at a given time. I wish to reiterate this. It is two visitors at any one given time. I have given strict instructions that if a Member has intentions of inviting more than two, you must obtain permission from the Clerk or from the Speaker. In view of the limited space in Parliament Buildings, particularly the restaurants which have a total sitting capacity of 340 against a membership of 418 in the two Houses, there is need, therefore, to further limit the number of visitors accessing the restaurant.

In view of the foregoing, the following measures should be strictly adhered to henceforth:

- (i) All persons must go through security screening before entering the precincts of Parliament.
- (ii) Upon going through security screening, all visitors must be given physical passes signed by the Speaker or the Clerk bearing the day's date and, thereafter, directed to the relevant offices.
- (iii) All passes issued whose permit is to access Parliament Buildings for a day shall be surrendered to the security at the gate at the time of exiting the buildings.
- (iv) All visitors, staff of the Commission and staff of Members of Parliament should at all times display their identification badges.
- (v) No visitor is to be allowed into the Parliament Buildings with bags or other luggage. All such bags and luggage must be left at the luggage holding area to be set up near the Ministers' Gate. The officers responsible for safety and security are hereby directed to put in place administrative measures for the management of left luggage.
- (vi) Security officers and orderlies should be discouraged from accompanying visitors and witnesses attending committee sittings as they end up hanging and idling around the corridors of Parliament Buildings in large numbers. They should instead wait at the parking bays or in the vehicles.

At this point, I wish to clarify this: There has been a noticed trend where, particularly State officers known as governors, have a very undesirable habit of coming with so many bodyguards and they hang around all over. Parliament is a secure place. Once they have been cleared to come into the precincts of Parliament, those other idlers must be left in their cars and not to hang around in the corridors. That applies also to Cabinet Secretaries and any other such State officers. There is nothing to fear. There is no war. This is not a war zone. Once they have been cleared to come into the precincts of Parliament, bodyguards and such other funny staff, supporters and the like, must remain in their cars at the parking lot. We have agreed that this is going to be implemented without exception.

(Applause)

- (vii) No person shall be allowed to access the galleries without going through security screening.
- (viii) Officers responsible for safety and security must ensure that the vetting process for Members and staff, for purposes of issuance of vehicle passes

is henceforth enhanced and such passes ought not to be issued to visitors or former Members.

Those are for car passes and they must be strictly for sitting Members. Those others can get theirs differently. The ones for sitting Members are to facilitate ease of entry of Members. We have agreed that all that is to be done.

- (ix) There should be adequate manning of the Parliament Buildings and random security patrols carried out in all the buildings and parking base including the basement parking. No vehicle should be left at the basement parking for unreasonably long periods of time.

Under this point, Hon. Members, those of you who park their vehicles and disappear for three months until when you go there, the vehicles are even deflated, what is the intention? Do you want to throw your cars away, so that we can have them removed and destroyed? So, Hon. Members, this is meant to address that problem because the parking bay is supposed to facilitate Members.

- (x) Whereas the “two-visitors rule per Member” for admission into the restaurant remains, going forward the restaurants in the main Parliament Buildings will only admit a maximum of 45 visitors at a time. This number represents about 15 per cent of the total sitting capacity of the said restaurant. Members are, therefore, encouraged to refrain from having repeat visitors in order to give other persons or Members an opportunity to access the restaurant.

Hon. Members, given these new challenges, the Speaker’s Rules 2017 will be reviewed in order to reflect the current modern safety and security standards. In the meantime, as the Chairperson of the Parliamentary Service Commission (PSC), I will, in the course of the coming week, issue a circular to actualise this Communication with respect to admission and conduct of visitors within the precincts of Parliament. The House is accordingly guided.

Hon. Members, this is not part of this Communication, but I want to encourage you not to be accosted by strangers who tell you that they know certain Members like Hon. Robert Mbui, Hon. (Dr.) Chris Wamalwa, Hon. Benjamin Washiali and Hon. Deputy Speaker and then you ask them if they come from their respective constituencies after which you tell them to follow you into Parliament Buildings. Hon. Members, that is also undesirable.

(Applause)

Do not let not a person meet you at the gate and tell you that he or she is coming to look for Hon. Olago Aluoch, Hon. (Ms.) Beatrice Nyaga Nkatha, Hon. (Ms.) Gladys Boss Shollei and so on, then you say: “Come. In fact, we are in the same committee. Let us go.”

(Laughter)

Please, Hon. Members, refrain from that also. If they were coming to see Hon. (Ms.) Gladys Boss Shollei, they should have contacted her or her Personal Assistant (PA). Do not be the one to assist.

(Applause)

Hon. Members, I am saying this because - I am sorry the Member is not in the Chamber - there is a Member who dropped a visitor in my office yesterday and disappeared. I allowed the visitor in and asked him how he found his way to my office. He said that he was brought by honourable so and so. The visitor wore some funny clothing and purported to be a bishop.

(Laughter)

Then he started telling me stories about how many children he has in different universities, his house rent and so on.

Hon. Members, I do not deal with the things that you do. So, please, keep me out of this. I am sure the Member knows himself. Here in the Chamber, he is also almost called a bishop. You can see where I am looking.

Certainly, he is not Hon. Kevin Ferdinand Wanyonyi. Hon. Kevin Ferdinand Wanyonyi does not refer to himself as a bishop. But, please, even if you are a bishop and you meet other bishops, do not come and dump them in my office. I do not know them. If they are my visitors, like I have said, they will come through the normal way. I do have visitors and they come through the normal way.

I know several Members have also come in that similar way and dumped visitors or strangers in these offices. Especially if they come from the northern part of Kenya, they dump them in the Office of the Leader of the Majority Party. They assume that he is supposed to deal with everybody from the northern part of Kenya.

(Laughter)

So, Hon. Members, these rules are supposed to help us serve you better because of the current state of affairs in the world, which we are all quite alive to. It is not a punishment or to say that we do not need visitors. We actually need visitors, but please, also observe that procedure.

Some of you also when you know you have invited 10 people, you just call your colleagues particularly from your region and tell them to help you bring them in by assigning two visitors to each Member. At the end of the day, one Member will be having a crowd of 10 visitors whom you have asked other Members to help you bring in. Please, let us not do those meetings in the restaurants.

Thank you, Hon. Members.

Hon. Olago Aluoch, I did not mention you in bad light.

Hon. Olago Aluoch (Kisumu West, FORD-K): Hon. Speaker, allow me to commend you for the direction you have given with respect of the security of Hon. Members and the Parliament Buildings.

Being a ranking Member of this House, I have noticed increasingly how careless the Members take their own security and that of the buildings of this Parliament. It is important that we take your directions very strongly because at the end of the day, it is the Members themselves who are responsible for their own security.

As a ranking Member of the House, I would like to urge all my colleagues in this House to take your directions seriously and let us be responsible for our own security and that of the buildings of Parliament. That is important.

Thank you, Hon. Speaker.

Hon. Speaker: Well spoken, Hon. Olago Aluoch. Hon. David ole Sankok, I know you are particularly concerned about the tunnel.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Speaker. We appreciate your Communication. Some of us who are new Members take your Communication very seriously and we will abide by it.

Hon. Speaker, we have an underground tunnel and if it is completed on time, we will not be loitering through the normal gate and we will not find visitors to bring in Parliament Buildings. It is good to inform you that I have never dumped any visitor in your office. I respect your office as the third most powerful office on the land.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you. Next Order!

PETITIONS

WITHDRAW OF HARMFUL CHEMICAL PESTICIDES FROM KENYAN MARKET

Hon. (Ms.) Gladys Boss Shollei (Uasin Gishu CWR, JP): Thank you, Hon. Speaker.

I, the undersigned, on behalf of the representatives of Biodiversity and Biosafety Association of Kenya, the Kenya Organic Agriculture Network, the Resources Oriented Development Initiative and the Route to Food Initiative, draw the attention of the House to the following:

THAT, there has been an increase in prevalence of chemical pesticides in Kenya which pose a risk to human health and harmful effects to the environment.

THAT, the volume of imported insecticides, herbicides and fungicides has more than doubled in the last four years from 6,400 tonnes in 2015 to 15,600 tonnes in 2018 with a growth rate of 144 per cent;

THAT, despite this, there is no data available concerning the use of pesticides, concentration of pesticides in water, soil and food and their related impacts;

THAT, there are products on the Kenyan market that are certainly classified as carcinogenic (24 products), mutagenic (24 products), endocrine disrupter (35 products), neurotoxic (140 products) and many which show clear effects on reproduction toxicity (262 products); many of which have been banned in Europe, United Kingdom and United States of America;

THAT, this is worrying because the increase in pesticide use has not been accompanied by the necessary safeguards to control how they are applied and used;

THAT, during the pesticides registration process in Kenya, mainly the purity and the efficacy of the product is tested. Data on human and environmental health under the local conditions is scarcely taken into consideration. The Pest Control Product Act Cap.346 of the laws of Kenya does not state environmental and/or human health as a possible concern during the registration process;

THAT, the Kenya Plant Health Inspectorate Service (KEPHIS) has been contravening Section 15 of the Pest Control Product Act by failing to publish available information on the actual levels of pesticides in food samples collected and putting in place regular monitoring systems;

THAT, there are no epidemiological health studies related to pesticide exposure on our health and their impact to the environment;

THAT, the Pest Control Products Board (PCPB) has not been following the World Health Organisation (WHO) and the Food and Agriculture Organisation (FAO) International Code of Conduct on Pesticide Management;

THAT, efforts have been made to address this matter with the relevant authorities to no avail;

THAT, the matters in respect of which this Petition is raised are not pending before any court of law, constitutional or legal body;

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Health:

(i) Causes the Executive to order for an immediate ban of all products on the Kenyan market classified as carcinogenic, mutagenic, endocrine disrupters, neurotoxic and many which show clear effects on reproduction toxicity.

(ii) Causes the Government to withdraw all harmful and toxic pesticides in Kenya's market based on the active ingredients used that pose serious health risks to Kenyans and develops and implements a strategy to remove such harmful pesticides from the market, recognising that it can take several years for products to be completely unavailable through local shops and dealers.

(iii) Ensures that the Government establishes and strengthens monitoring system on the use of pesticides through increased data collection on food samples in the market and the level of pesticides contained.

(iv) Causes an amendment to the Pest Control Products Act to include a list of pesticides that have been withdrawn from the market based on the serious health risks posed to Kenyans, and to make it mandatory for the Pest Control Products Board (PCPB) to assess data on environmental and human health impacts during the registration and re-registration process of products.

(v) Makes any other order that it deems fit in the circumstances of this Petition.

And your Petitioners will forever pray.

Hon. Speaker: Very well, the Petition is referred to the Departmental Committee on Health. Before we get to the next Petition, allow me to recognise the presence, in the Public Gallery, of students and pupils from the following institutions: Pioneer School, Gatanga Constituency, Murang'a County and Laikipia University Students, Laikipia West Constituency, Laikipia County. I welcome them to observe the proceedings of the National Assembly this afternoon.

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

Hon. Speaker: Hon. Pukose, what is your point of order?

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Speaker. The Petition that has been raised by Hon. Gladys Shollei is an important one. It was raised in the last Session of this Parliament and lapsed without being addressed by the Committee. The matters that she has raised are weighty. It concerns safety of food that each of us is exposed to everyday. Most of the food in the supermarkets, for example, oranges and tomatoes are sprayed with chemicals. Hon. Shollei, being a lawyer, has used terms like mutagenic and some people might not understand what mutations and carcinogenic mean, some of which are endocrine disruptors.

Hon. Speaker: That seems to be similar to something. What has it to do with wheelbarrows?

(Laughter)

Hon. (Dr.) Robert Pukose (Endebess, JP): If you can remember, one of the governors who now happens to be the Speaker of the other House imported some wheelbarrows that were anti-carcinogenic, meant to prevent cancer attack.

Most of us will start getting concerned when we hear cases of cancer increasing. Some of the cancer cases are related to the pesticides that we spray. So, in her prayer, she is saying that pesticides that can cause cancer should not be allowed into our market. That is an important thing. I hope that the Departmental Committee on Health will take this matter seriously and look at it. Apparently, the laws that we have in the country are relaxed on food safety. On food security, we can do something. On food safety, we have issues. The other day, if you may remember, meat that was stocked in supermarkets was laced with some chemicals as preservatives in quantities that can cause cancer. So, this is something that needs to be looked into with the seriousness it deserves.

Thank you.

Hon. Speaker: Very well. Let me not allow too many comments on this. It is a bit baffling that both the Chairperson and the Vice-Chairperson of the Departmental Committee on Health are conspicuously absent. I can see an agent of necessity who wishes to make some comment. Member for Matungulu.

Hon. Stephen Mule (Matungulu, WDM-K): Thank you, Hon. Speaker. I want to thank Hon. Gladys Shollei for that Petition. I belong to the Departmental Committee on Health. We handled the last Petition by Hon. Shollei and I wish to request your indulgence, Hon. Speaker, on this kind of Petition. It is a serious Petition and the Committee needs to deal with several agencies and the international community which deals with these products for guidance. Some products have been banned in Europe, but they are approved by our authorities. This is a Petition that, I believe, should not take the same course as other petitions. We need to sit down and come up with a clear time framework where we will engage the agencies that ban certain products in Europe. It also raises fundamental issues about the security of this country.

I want to encourage the Member that we will take the matter seriously. We still have pending requests from the original Petition. We have written to several agencies across the globe to give us clear evidence. We are dealing with some suppliers and an industry that is worse than terrorists. Some of these multinational companies dump their banned products in Africa. They use our regulatory authorities to make sure that they push the products to the African market. So, I will convey this to my able Chair and the Vice-Chair, so that we can have a quick sitting and come up with some timeframe. We will make sure that we involve all the relevant local agencies, including the Director of Criminal Investigations (DCI) I and the entire security agencies.

Hon. Speaker: Who has stopped you from doing that?

Hon. Stephen Mule (Matungulu, WDM-K): Hon. Speaker, if you look at how these products are registered...

Hon. Speaker: No, let us not just be alarmists. Go look into the issues and bring a report. If you need to be facilitated to travel to whatever part of the hemisphere, please, let us know.

Hon. Stephen Mule (Matungulu, WDM-K): We stand guided, Hon. Speaker, and I want to assure you that we will do our best to get to the bottom of the issue.

Hon. Speaker: Member for Nambale, do you want to also weigh on the same?

Hon. Sakwa Bunyasi (Nambale, ANC): Thank you, Hon. Speaker. This is really timely. I want to thank Hon. Shollei and her team for bringing it up. I would like to add that as they look at food, they should also look at feeds, because as we feed our livestock, they become what they

eat. As we eat them, we become what they ate initially. Two, there are risks of association. There are still many places where humans and animals are in very close proximity not just during the day, but during the night as well. Some are brought in because of security. Increased awareness on these risks is very important.

I know the Committee will look at the matter, which is sometimes camouflaged because of politics. The quality of imported food is very important, particularly imports ready for the table or to the frying pan and then to the table. We have had credible concerns about things like fish from certain countries because we do not control the quality of feeds. We take what they give us. It looks like this country is reluctant to take a firm stance. So, this will open the window for that kind of consideration in an impartial and rigorous way.

Lastly, she mentioned the need for studies in epidemiology. I think it is very important that even our counties and the Ministry have these kinds of surveys regularly. They should go out and make decisions on how we are going to maintain our health. They should help county government institutions to also understand the major sources of disease challenges in those areas. I hope they can get budgets to go to county institutions.

With those few remarks, thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, because of the business at hand... Members of the Committee, you do not need to begin telling us about this because the Petition is going to be with you. You are the people who are going to investigate. I know the Member for Seme would have spoken for another 10 minutes, but because of his prowess and expertise in the area, I want his contribution to come in form of a report. That is when Hon. (Dr.) Nyikal will get all the time he needs.

The next petition is by the Member for Bumula, Hon. Mwambu Mabongah.

INCESSANT INCIDENTS OF INSECURITY IN BUMULA CONSTITUENCY

Hon. Mwambu Mabongah (Bumula, Independent): Thank you, Hon. Speaker. I hope I am not the bishop you were referring to because occasionally I am referred to as bishop.

Hon. Speaker: The one I was referring to is in the Chamber now and I can see him laughing a great deal.

I, the undersigned, on behalf of the concerned residents of Bumula Constituency, draw the attention of the House to the following:

THAT, Article 26 of the Constitution guarantees every Kenyan the inalienable right to life by providing that a person shall not be deprived of life intentionally, while Article 29 of the Constitution safeguards every person's right to freedom and security, which includes the right not to be subjected to any form of violence from either public or private sources.

THAT, Article 238 of the Constitution envisages national security as the protection against internal and external threats to Kenyan territorial integrity and sovereignty of its people, their rights, freedom, property, peace, stability and prosperity.

THAT, Article 239(2) of the Constitution places the primary responsibility and obligation of promoting and guaranteeing national security on the national security organs, which are the Kenya Defence Forces (KDF), the National Intelligence Service (NIS) and the National Police Service (NPS).

THAT, the residents of Bumula have been experiencing incessant cases of insecurity involving armed gangs that have been attacking homes, businesses and individuals, causing loss of lives and property, injury to victims and continued disruptions of livelihoods.

THAT, on 15th September 2019, a second year university student named Amos Faluma was attacked, murdered in cold blood at Syoya Village in Kabula Ward and his motorbike stolen.

THAT, on 19th November 2019, thugs armed with guns struck Napara Market in Kimaeti Ward and injured a number of people, including Moses Kokonya, a woman by the name Evelyn and Martin Khapwondi.

THAT, on 21st November 2019, a Form Two student named Nipher Wafula, of St. Anthony Naburereya Secondary School in Kabula Ward, was shot dead at Sibembe Market by armed attackers.

THAT, on 19th December 2019, armed attackers attacked Mareba Bar at Mateka Market in South Bukusu Ward and shot one person identified as Mambo.

THAT, in December 2019 and January 2020, several herds of cattle were stolen from Kibachenje, Tabuti, Mateka and Muanda, among other villages in South Bukusu, and the theft of livestock has been going on almost on a daily basis throughout the constituency.

THAT, on 10th January 2020, a young man named Chrispinus Murakhi Wamalwa was attacked by the said gang at a local pub at Miyanga Township in Kimaeti Ward and later succumbed to injuries.

THAT, on 15th January 2020, a young businessman named Philip Osiako Mutichiro was fatally shot by thugs at night at Samichi Village in Kabula Ward and the following day, 16th January 2020, Yonah Simiyu was hacked to death at his home and his wife was raped in front of the children in Bitobo Village.

THAT, due to the proximity of the constituency to the Kenya-Uganda border, there are claims that some perpetrators of these heinous attacks sneak in from the neighbouring country, wreak havoc and retreat.

THAT, despite these numerous incidents and many others not detailed here and despite the numerous complaints filed by the residents, no definite security measures have been taken by the security agencies in the constituency to secure lives and property of the residents.

THAT, while victims and families of those who lost their loved ones are crying for justice, efforts to have the matter addressed by way of Questions raised on the Floor of this House to the Cabinet Secretary for Interior and Coordination of National Government and the Inspector-General of Police have been futile. Even last night, I lost somebody in the hands of reckless police officers.

THAT, the matters raised in this Petition are not pending before any court of law.

Therefore, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Administration and National Security, inquire into all the matters raised in this Petition with a view to compelling the relevant State agencies to take necessary action towards restoration of security, protection of lives and property of the residents and compensation of the victims of the said attacks.

And your Petitioners will forever pray.

Thank you, Hon. Speaker.

Hon. Speaker: I will have that Petition referred to the Departmental Committee on Administration and National Security for response.

Next Order.

PAPERS LAID

Hon. Speaker: The Leader of the Majority Party.

Hon. Aden Duale (Garissa Town, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House. It is the list of nominees to 80 National Government Constituencies Development Fund (NG-CDF) committees from the National Government Constituencies Development Fund Board. It is a long list of 80 constituencies. I will table the list and if your constituency is not here, that means you need to tell your fund manager to send it, so that the House can approve the committee members of the respective NG-CDF committees next week for gazettelement.

The constituencies are: Ainabkoi, Aldai, Awendo, Baringo Central, Borabu, Budalangi, Butere, Central Imenti, Chesumei, Embakasi West, Gatundu South, Gatundu North, Gilgil, Githunguri, Igembe North, Igembe South, Juja, Kabete, Kamukunji, Kangundo, Kajiado South, Kajiado West, Karachuonyo, Kasipul, Kathiani, Kesses, Khwisero, Kibra, Kibwezi West, Kieni, Kinangop, Kirinyaga Central, Kisauni, Kisumu East, Kitui Central, Kitui Rural, Kitui South, Konoin, Langata, Laikipia West, Likoni, Likuyani, Luanda, Manyatta, Maragua, Mathioya, Mathira, Matungu, Mbeere South, Molo, Mwingi West, Msambweni, Mukurwe-ini, Mumias East, Mwea, Nandi Hills, Narok South, Navakholo, Njoro, North Imenti, Nyaribari Masaba, Oljoro Orok, Othaya, Rabai, Rangwe, Rongo, Samburu West, South Mugirango, Soy, Suba North, Taveta, Tetu, Tiaty, Tigania East, Turkana Central, Turkana East, Turkana North, Turkana South, Ugunja, and Yatta.

Hon. Speaker: The Vice-Chair, Departmental Committee on Labour and Social Welfare.

Hon. (Ms.) Joyce Korir (Bomet CWR, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House.

Reports of the Departmental Committee on Labor and Social Welfare on its consideration of:

The Labour Relations (Amendment) Bill (National Assembly Bill No. 18 of 2019).

The Care and Protection of Older Members of the Society Bill (Senate Bill No. 17 of 2018).

Hon. Speaker: On behalf of the Departmental Committee on Defence and Foreign Relations, Hon. Caleb Amisi, have the Floor.

Hon. Caleb Luyai (Saboti, ODM): Hon. Speaker, I beg to lay the following Paper on the table of the House:

Delegation Report of the Oversight Inspection Visit to Kenya Missions in Muscat, Sultanate of Oman and Abu Dhabi, United Arab Emirates (UAE) from 10th to 17th November, 2019.

Hon. Speaker: Further, another report of that Committee by Hon. Charles Kilonzo.

Hon. Charles Kilonzo (Yatta, Independent): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Delegation Report of the Oversight Inspection Visit to Kenya Diplomatic Missions in Zambia and South Africa from 1st to 8th September 2019.

Hon. Speaker: Next Order! Is there a Notice of Motion? There is no Notice of Motion.

(Loud consultations)

I have not been notified. What is the problem? I do not have those names. Chair of the Committee on Implementation, do you have a Paper you want to Table.

Hon. Richard ole Kenta (Narok North, ODM): Yes.

Hon. Richard ole Kenta (Narok North, ODM): Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House:

Report of the Committee on Implementation on a study visit to Lusaka Zambia from 3rd to 9th March 2019.

Next Order!

ORDINARY QUESTIONS

Hon. Speaker: The first Question is by Nominated Member, Hon. Nasri Sahal. Is the Member present? Yes, she is. The Floor is yours.

Question No.029/2020

CONSTRUCTION OF MODAGASHE- SAMATAR ROAD IN WAJIR COUNTY

Hon. Nasri Sahal (Nominated, FORD-K): Hon. Speaker, I beg to ask the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works the following Question:

(i) Could the Cabinet Secretary explain why the construction of Modogashe-Samatar Road in Wajir County has stalled despite the project having received funding?

(ii) Could the Cabinet Secretary state when the construction of the said road is expected to resume, and when the road will be completed?

Hon. Speaker: That is to be responded to before the Departmental Committee on Transport, Public Works and Housing. Next Question is by the Member for Kabete, Hon. Githua Wamacukuru, the Floor is yours.

Question No.038/2020

NATIONAL HOSPITAL INSURANCE FUND PROGRAMME

Hon. James Wamacukuru (Kabete, JP): Hon. Speaker, this is Question No.038/2020 directed to the Cabinet Secretary for Health:

(i) Could the Cabinet Secretary explain why patients under the National Hospital Insurance Fund (NHIF) programme are mostly instructed to purchase prescribed medicine from outside the health facilities at prices that exhaust the allowable limit or that exceed the available NHIF cover?

(ii) Could the Ministry consider urgently addressing this matter that is greatly inconveniencing thousands of NHIF-covered patients?

Hon. Speaker: That would be responded to before the Departmental Committee on Health. The third Question is by the Member for Marsabit County, Hon. Safia Sheikh Adan. Is the Member present? Yes, she is.

Question No.039/2020

DEMARCATON OF BOUNDARIES OF CONSTITUENCIES IN MARSABIT COUNTY

Hon. Safia Sheikh (Marsabit CWR, JP): Hon. Speaker, I beg to ask the Chairperson of the Independent Electoral and Boundaries Commission (IEBC) the following Question:

When will the Commission clearly demarcate the boundaries of all the constituencies in Marsabit County including the neighboring counties to address the uncertainties regarding the physical features that guide the limits of the said boundaries?

Hon. Speaker: The Question indicates that it is for written reply. So, it is going to be forwarded to the Chairman of IEBC who is expected to respond within and not later than 14 days from the date hereof. If after 14 days you have not received the written reply, raise the matter on the Floor.

The next Question is by the Member for Laikipia County, Hon. Catherine Waruguru. Welcome back to the House.

Question No.040/2020

STATUS OF ISSUANCE OF TITLE DEEDS TO PUBLIC
SCHOOLS IN LAIKIPIA COUNTY

Hon. Catherine Waruguru (Laikipia CWR, JP): Thank you, Hon. Speaker. I thank God for you, the leadership of this House, Members of Parliament, and my good brothers and sisters for the support you accorded me when I was away. I also thank the people of Laikipia for being patient with me to continue doing the noble job of “*kuongeza kura*”.

I beg to ask the Cabinet Secretary for Lands and Physical Planning the following Question:

(i) Could the Cabinet Secretary provide a progress report on status of issuance of title deeds to public schools in Laikipia County in line with Government directive that all public schools be issued with title deeds?

Hon. Speaker: That would be responded to before the ever efficient Departmental Committee on Lands.

Hon. (Ms.) Odhiambo-Mabona: On a point of order!

Hon. Speaker: Yes, Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona: Hon. Speaker, thank you for giving me the opportunity. I am sure it must have escaped your attention because you were consulting that Hon. Cate Waruguru, failed to thank the man behind her success. She thanked her constituents and everybody, but failed to thank the man behind the success of the increase of the voters.

Hon. Speaker: Why? A man refers to singular, but she thanked the entire House.

(Laughter)

I only hope you had a successful... Is it each for equal breakfast meeting? The next Question is by the Member for Sigowet/Soin, Hon. Kipsengeret Koros, who has written requesting for its deferment, to which request I have acceded to. Therefore, it is not to be asked.

Question No.041/2020

STATUS OF CONSTRUCTION OF KAPSOIT-SONDU ROAD

(Question deferred)

I know the Member for Mandera East, Hassan Maalim, has an issue

REQUESTS FOR STATEMENTS

STATUS REPORT ON PRESENCE OF FOREIGN FORCES AT BORDER
POINT ONE IN MANDERA

Hon. Omar Mohamed (Mandera East, EFP): Thank you, Hon. Speaker. On 26th February, I had asked a Question by Private Notice to the Cabinet Secretary for Defence in respect to a serious issue in my constituency. I am yet to get any response from the Committee on Defence and Foreign Relations. It is a serious matter. I beg to know the status of that Private Members' Question which I asked on 24th February.

Hon. Speaker: Chair, Defence and Foreign Relations.

(Hon. (Ms.) Catherine Waruguru consulted loudly)

Now you have started misbehaving. The Member who went to increase population, you have forgotten the rules of the House in the process of doing what you have been doing.

(Laughter)

Hon. Katoo ole Metito (Kajiado South, JP): Thank you, Hon. Speaker. Indeed, the Member for Mandera East asked the Question and you referred it to the Committee on Defence and Foreign Relations. As a procedure, we forwarded the Question to the Clerk's office who wrote to the Ministry. I just want to request for more time because what is happening in Mandera is in public domain. It is a serious issue that needs a lot of consultation. We are all aware that there was a National Security Council meeting yesterday chaired by His Excellency the President and the Cabinet Secretary for Defence is a member. Therefore, because of all those consultations, I request that the Ministry be given more time to put its house in order and then they can appear before the Committee probably next week, and then we will dispense with the Question. The Leader of Majority will be in hand to assist our Committee to see how we can dispense of that matter.

Hon. Speaker: Leader of Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, the Standing Orders allow me to first put the Question. This is a very important Question, but the Cabinet Secretary for Defence is out of the country. Last week, she was out of the country and this week, she is out of the country. I will make more follow up before the end of tomorrow. If she is available next week, the Question will be answered before the Committee. But that is the only reason, I mean what is going on in Mandera notwithstanding, the Cabinet Secretary who is to answer the

Question is away. Therefore, once the Cabinet Secretary is back next week from official duties, we will ask Hon. Omar to indulge us.

Hon. Speaker: You want to make it a debate?

Hon. Omar Mohamed (Mandera East, EFP): Thank you, Hon. Speaker. As much as I appreciate the response given by the Leader of the Majority Party and the Chairman of the Committee on Defence and Foreign Relations, the Chairman said that they need more time. There is no time limit that he has asked for. He said next week and the situation is not as lightly put. This morning, Barwaqo Boys Secondary School is closed because of invasion of people from Somalia. I, therefore, want this House to understand the weight of this matter. The matter is being handled in a casual manner that the lives of Kenyans are at risk. Through your guidance, the Ministry has generals and a Principal Secretary. I do not believe the Chairman of the Committee on Defence and Foreign Relations could say that the Ministry needs more time without giving a timeframe within which the Question is to be responded to.

Hon. Speaker: The Chairman indicated next week also. He talked about next week. Since we do not sit on Saturdays and Sundays and on Mondays - until we amend the Standing Orders, and I will be willing to come and preside if you say that we need to sit on those days - next week the earliest they could meet should be Tuesday. Let us give the Chairman a chance to bring a report. Hon. Nyamai, you have some intervention. What is it? I am mindful that the Member for Kisumu Town East is about to miss his flight and he has a request.

Hon. (Dr.) Rachael Nyamai (Kitui South, JP): Hon. Speaker, this was before Hon. Katoo, the Chair, made a comment. I had just looked at Hon. Omar and watched both his verbal and non-verbal communication. I have been in this situation although it was not as grave as it is in Mandera. I know there is a lot of pressure on the Member of Parliament when anything to do with security happens. Therefore, I had put an intervention to ask whether there is anything that can be done or any assurance can be given, so that he can give to his constituents. I know what it means when constituents have a problem. I am relating this with what was happening in Mutha. Therefore, Hon. Speaker, I just felt that he needed some more reassurance than what he was getting from the Chair.

Hon. Speaker: Well, Hon. (Dr.) Rachael Nyamai now has become an expert in physiognomy, because she referred to visual and body language. Nevertheless, Hon. (Dr.) Rachael Nyamai, your suggestion is taken in good stand. I think the Chair, Hon. Katoo, will rise to the occasion. Hon. John Olago Aluoch.

ILLEGAL ACQUISITION/REALLOCATION OF LAND L.R. NO. 332/182
IN MASENO TOWNSHIP

Hon. Olago Aluoch (Kisumu West, FORD-K): Thank you, Hon. Speaker. I am glad I am asking for this Statement in the presence of the Chair of the Committee on Lands, Hon. (Dr.) Rachael Nyamai.

Pursuant to Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Lands regarding the illegal acquisition and reallocation of a parcel of land, LR.No.332/182, belonging to the National Police Service at Maseno Township in Kisumu West Constituency. For the last seven years since 2013, there have been illegal acquisitions of parcels of land in Maseno belonging to the National Police Service. The said parcel of land has been partitioned and then reallocated to private institutions and private developers without written approval of the National Police Service or the National Land

Commission. New numbers have been given to these parcels illegally created and the said parcels have then been allocated to individuals for development.

Hon. Speaker, it is against this background that I seek a Statement from the Chairperson of the Committee on Lands on the following issues:

- (i) When was parcel number LR.No.332/182 in Maseno Township, Kisumu West Constituency, allocated to the National Police Service?
- (ii) Under what circumstances was part of this parcel of land reallocated to private developers, the numbers of new parcels created and the identities of the persons or institutions to whom the reallocation was done?
- (iii) What steps are being taken by the Ministry to ensure that the parcel of land is reversed back to the National Police Service?
- (iv) What action is the Ministry taking to secure all parcels in the country belonging to the National Police Service to avoid irregular allocation and transfer in future?

Hon Speaker: Very well. I think the Chair is around. Hon. (Dr.) Nyamai, would you want to give an indication of how much time you may require to respond? This is a request for a Statement.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Hon. Speaker, I would like to thank the Hon. Member for raising the matter. I would like to give two weeks as the timeline for giving the response.

Hon. Speaker: I see Hon. John Olago Aluoch is agreeable to that. Next request is by Hon. Benjamin Gathiru Mwangi, Member for Embakasi Central.

VIABILITY OF MOMBASA-NAIROBI STANDARD GAUGE RAILWAYS PROJECT

Hon. Benjamin Mwangi (Embakasi Central, JP): Thank you, Hon. Speaker. I rise to request a Statement pursuant to Standing Order 44(2)(c) from the Chairperson of the Departmental Committee on Transport, Public Works and Housing regarding the viability of the Mombasa-Nairobi Standard Gauge Railways Project.

Hon. Speaker, the Mombasa-Nairobi Standard Gauge Railway (SGR) connects Mombasa with Nairobi and runs parallel to the Kenya-Uganda Railway line. The first phase of the Standard Gauge Railway was constructed at a cost of approximately Kshs360 billion, this project being the Kenya's most expensive infrastructure project since Independence. However, the project is yet to achieve its intended benefits and the country is struggling to repay the loan incurred in the construction of the said project.

Hon. Speaker, two years after the completion of the first phase, the Government has initiated a phase II from Nairobi to the Great Rift Valley, which is estimated to cost the country about Kshs150 billion.

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

- (i) When will the Government make public and submit to the National Assembly copies of the agreements entered between the Government of the Republic of Kenya or its agents and other foreign entities in respect of the financing, construction and maintenance of the SGR?
- (ii) What is the amount of revenue generated by the Mombasa-Nairobi SGR project since inception *vis-a-vis* the overheads incurred and amount spent to service the loan?

(iii) Could the Chairperson provide a detailed Statement on the SGR project loan contract agreement, actual cost incurred in construction of the SGR, stating the duration for repayment of the loan?

(iv) What measures has the Government put in place to ensure Kenyans get value for money in the project?

(v) Does the Government have any plan to renegotiate repayment of the said loan?

I thank you, Hon. Speaker.

Hon. Speaker: Chairperson of the Departmental Committee on Transport, Public Works and Housing, how long do you need to make a response?

Hon. David Pkosing (Pokot South, JP): Thank you, Hon. Speaker. This looks like a long Statement and so, it would take us three weeks.

Hon. Speaker: Three weeks? Hon. Member for Embakasi Central, the Chairman says he can only bring a response after three weeks.

Hon. Benjamin Mwangi (Embakasi Central, JP): Hon. Speaker, I consider three weeks to be a very long time considering that all the documents are available at the Ministry. It is only that the Ministry does not want to submit them. So, let the Chairman explain why he needs that much time.

Hon. Speaker: Yes, Hon. Pkosing.

Hon. David Pkosing (Pokot South, JP): Hon. Speaker, some of the questions he is asking are in public domain if that is the case. However, I do not want to answer because he has sought a Statement. Let me give him an opportunity when I do the Statement for him to seek further clarification. He might be shocked some of the answers are already in public domain. However, I want to maintain three weeks and we have reasons for that. We are busy as a Committees dealing with many Questions.

My Committee was number two in terms of the business of the House. So, the Member should indulge me and we will give him the best response that he will be satisfied with, which is the truth.

Hon. Speaker: Very well, so be it after three weeks. Hon. Melly, the Chairman of the Departmental Committee on Education and Research. I think you are giving a response.

STATEMENT

WITHDRAWAL OF TEACHERS BY TSC FROM NORTH EASTERN REGION

Hon. Julius Melly (Tinderet, JP): Thank you, Hon. Speaker. I want to give an update about a Statement sought by Hon. Ahmed Kolosh, Member of Parliament for Wajir West, on the withdrawal of teachers by the Teachers Service Commission (TSC) from the north eastern region.

Hon. Speaker, I sought to give this update because of the enormity and seriousness of the matter that children in north eastern region are not being taught.

On Tuesday 18th February 2020, Hon. Mohamed Ahmed Kolosh, Wajir West, pursuant to Standing Order 44(2)(c), sought a Statement from the Chairperson of the Departmental Committee on Education and Research regarding withdrawal of teachers from the north eastern region by the Teachers Service Commission due to security concerns in the region.

In the request for the Statement, the Member sought to know four issues:

1. What measures the Ministry of Education has put in place to address the teachers' crisis in the region;
2. Names of teachers transferred from the north eastern region and the criteria used to arrive at the transfers;
3. Reasons for withdrawal and transfer of the non-local teachers and whether the Office of the Inspector-General of the National Police Service had issued instructions to the TSC Board for withdrawal of teachers from the region; and
4. The TSC Board's deliberations with regard to this matter be provided including minutes and other records.

Hon. Speaker, in your considered opinion, this matter was urgent and of great national importance. You, therefore, directed that the Cabinet Secretary for the Ministry of Education, the CEO, TSC, and the Inspector-General of the National Police Service be invited to appear in person before the Departmental Committee on Education and Research to shed light on the issues raised in the Statement that fell under their respective mandates.

In compliance with this directive, the Committee sent invitations to the Cabinet Secretary, Ministry of Education, the CEO, TSC, and the Inspector-General of the National Police Service to appear in person before it on Tuesday 25th February 2020 to shed light on the matters raised.

Hon. Speaker, on Tuesday, 25th February 2020, save for the CEO, TSC, who personally presented herself, the Cabinet Secretary, Ministry of Education and the Inspector-General of the National Police Service, sent representatives, contrary to your directive. Given the gravity of the matter, the Committee deemed it fit to reschedule the meeting to the following day to allow the Cabinet Secretary and the Inspector-General to attend.

In a meeting held on Wednesday, 26th February 2020, the Committee received submissions in response to the issues raised by Hon. Kolosh, Member of Parliament. After lengthy deliberations where Members of the Committee and Members from the north eastern region fielded supplementary questions to the Cabinet Secretary, the CEO and the Inspector-General, the Committee drew a number of resolutions that would assist in improving the state of teaching and learning in the region, improving security of non-local teachers in the region with a view to ensuring teaching is restored and schools pursue their programmes un-interrupted.

Hon. Speaker, the Committee resolved to hold further deliberations and consultations to determine the best way to resolve the issue of insecurity and attacks meted out on non-local teachers in the region and to ensure that the teaching/learning process resumes in the region and continues uninterrupted within that area.

The Committee will be retreating to write a comprehensive report on how to address the teacher crisis in the region and table it before the House. Thank you.

Hon. Speaker: Let the report be tabled as soon as possible. Let us have the Leader of the Majority Party.

BUSINESS FOR WEEK COMMENCING 10TH TO 12TH MARCH 2020

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, pursuant to the provisions of Standing Order No.44(2)(a), I rise to give a Statement on behalf of the House Business Committee (HBC) which met on Tuesday this week at the rise of the House.

On Tuesday next week, we will consider, in the Committee of the whole House, the Representation of Special Interest Groups Laws (Amendment) Bill, 2019. We will also continue with the Second Reading of the following Bills, should we not conclude them today:

- (i) The Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bill No.27 of 2018).
- (ii) The Care and Protection of all the Members of the Society Bill (Senate Bill No.17 of 2018).
- (iii) The Parliamentary Pensions (Amendment) Bill (No.3) (National Assembly Bill No.57 of 2019).
- (iv) The Impeachment Procedure Bill (Senate Bill No.15 of 2018).
- (v) The County Outdoor Advertising Control Bill (Senate Bill No.19 of 2018).

The HBC has also prioritised the following Bills for consideration in the Committee of the whole House within the course of next week:

- (i) The Livestock and Livestock Products Marketing Board Bill, 2019 sponsored by Hon. Bashir Abdullahi.
- (ii) The Employment (Amendment) Bill, 2019 sponsored by Hon. Martha Wangari.
- (iii) The Kenya Institute of Curriculum Development (Amendment) Bill, 2019 sponsored by Hon. Joyce Emanikor.
- (iv) The Equalisation Fund Bill, 2019 sponsored by Hon. Kassait Kamket.
- (v) The Business Laws (Amendment) Bill, 2019, which is a Majority Party Bill.

Through you, Hon. Speaker, I urge Members with any amendments to the said Bills to forward them to the Clerk's Office as soon as possible.

Hon. Speaker, the HBC has also given priority to the following Committee Reports for debate:

- (i) Report of the Departmental Committee on Justice and Legal Affairs on the Annual Report on the State of the Judiciary.
- (ii) Report of the Departmental Committee on Defence and Foreign Relations on the Agreement between Kenya and Italy on the Luigi-Broglio Malindi Space Centre.

Hon. Speaker, in accordance with the provision of Standing Order No.42A(5) and (6), I wish to convey that the following Cabinet Secretaries are scheduled to appear before the departmental committees next week as follows:

- (i) The Cabinet Secretary for Education will appear before the Departmental Committee on Education and Research on Tuesday, 10th March 2020 to answer Question No.004/2020 from Hon. Wilson Sossion, relating to the status of investigation into the cause of the recent student deaths at the Precious Talents Academy and Kakamega Primary School.
- (ii) The Cabinet Secretary for Industry, Trade and Cooperative who will appear before the Committee on Trade, Industry and Cooperatives on Tuesday, 10th March 2020 to answer Question No.020/2020 from Hon. Hilary Kosgei, relating to the process followed in the recruitment and appointment of the current Managing Director of the Kenya Bureau of Standards.

Hon. Speaker, the Chairpersons of the various committees are reminded to table reports of pending Bills before next week as resolved during the Liaison Committee meeting on Wednesday, 4th March 2020, chaired by the Deputy Speaker who is the Chairperson of that Committee. Committees are expected to table reports on Bills committed to them within 21 calendar days, pursuant to the provisions of Standing Order 127(4), so as to inform debate in the House. It is my hope that going forward, committees and committee clerks will comply with this timeline.

This afternoon I did lay a Paper from the National Government Constituencies Development (NG-CDF) Board containing a list of nominees to 80 NG-CDF committees that have been referred to the Committee on NG-CDF for consideration.

I wish to draw the attention of the Members to the fact that from previous experience, the Committee has noted that this list of nominees sometimes usually contains errors. The said errors include indication of the wrong gender, the category that a particular nominee represents as well as failure to indicate the official names of nominees, among others.

So, once it is gazetted, we find errors. So, we want the Chair of the Committee, seated behind me, to ensure that the names and gender indication are correct before the House approves for on ward gazettment.

Hon. Speaker, this has caused a lot of inconvenience to the National Assembly because once the errors are realised, the Assembly has to issue a corrigenda in order to correct the same errors. Given these concerns, I wish to urge Members whose constituencies' nominees to the NG-CDF committees have been tabled, to walk to the Table Office. It takes you 10 minutes and pick the detailed document in order to verify the details indicated.

So, Members whose constituencies I have tabled this afternoon, the 80 of them, please, before we come for debate next week, just walk to the Table Office. You can even pick the document from the Clerk's Table. Check the spelling of the names and gender, so that we are not forced to issue a corrigendum. They should inform the Committee in writing if there are errors.

The HBC will reconvene on 10th March 2020 at the rise of the House to consider business. I want to ask the Members seated here to remain for some time because we have to finish the Budget Policy Statement (BPS) debate and the Question to be put. Today is the last day.

Let me help the Whips because I am not seeing the Minority Whips. You know Whips and the leadership enjoy certain privileges for the work they do. So, they must be in the House. The privileges include more security, vehicles and office. So, please, let us stay to finish the BPS because today is the last day after extension last week. On behalf of the leadership, let us stay for another one hour before we check-out.

The few of us who will deal with the Presidential Memoranda, I can see we are less than 100. So, the 233 the Speaker said we must raise today looks very futile. So, the Chair of Justice and Legal Affairs Committee, do not stress yourself. The Committee of the whole House will take less than 10 minutes.

I beg to table.

Hon. Speaker: I want to encourage every one of you to look at the list which has been tabled. As the Leader of the Majority Party has said, the names are many and this will help you know if you are there. These are only 80 constituencies out of the 290. They are very well put because they are listed alphabetically. For instance, all the constituencies that start with 'A', there are only three which have complied, namely, Ainamoi, Aldai and Awendo. If you go to the constituencies that start with 'E', I have gone there deliberately so that the Member for Emuhaya can know his constituency is not there. There is only Embakasi West. The constituencies that start with "S" like Suba North... The matter ends there. If you look at this list, I think the point made by the Leader of the Majority Party is to avoid a situation whereby the wrong particulars of your nominees are given. I think it is good to go and check these names before they are finally gazetted to avoid having to come later to say that we got to issue some corrigenda.

Before I make the next announcement, allow me to recognise students and pupils from the following institutions: EAPC Church Maua, Igembe South Constituency, Meru County;

Thangira Umoja Primary School, Maragua Constituency, Murang'a County; AIC Canaan Primary School, Kajiado Central Constituency, Kajiado County; Saint Bernard Primary School, Kajiado East Constituency, Kajiado County, and Mennonite Academy, Embakasi Constituency, Nairobi County. They are welcome to observe proceedings.

Hon. Members, for convenience of the House, I wish to reorganise the Order Paper, so that the House does not go into Committee of the whole House and that comes after the House transacts the business listed as Order No.9, which is business dealing with the BPS. Remember the resolutions contained in the Report go to inform the preparation of the Estimates and today is the deadline. So, Hon. Members, it is just to draw your attention to the fact that you must be as many as possible.

Of course, I gave the announcement yesterday relating to the business appearing as Order No.8, Committee of the whole House, that you require to have not less than 233 of yourselves. Maybe we need to reorganise, so that you can prepare yourselves thoroughly. Let me reorganise the Order Paper. If, indeed, it is the feeling of the Members... I can see quite a number of Members of the House Business Committee like the Leader of the Majority Party, the Whip of the Majority Party and the Leader of the Minority Party. Did I see Hon. Osotsi, Hon. Kimunya and Hon. Makali there? Yes. Maybe this business could come after Order No.11, so that then, even if it is not reached, you can deal with it on Tuesday. Over the weekend, you can mobilise yourselves to be here in your droves on Tuesday afternoon.

So, I reorganise the Order Paper so that the business appearing as Order No.8 will be transacted after the business appearing as Order No.11. Therefore, the changes effected are that what is business Order No.9, becomes No.8. What is No.10, becomes No.9. What is No.11, becomes No.10 and what is No.8, becomes No.11. So business will be conducted that way. The Leader of the Minority Party appreciates the provisions of Article 115 with regard to the Memorandum. No wonder he is saying what he is saying. We are giving the entire House the opportunity over the weekend, if possible, or maybe at 6.30 p.m. or 7.00 p.m., to come and deal with that business if we reach it. Also to announce to the House that it is important that we try to conclude the business on BPS later today. Thank you, Hon. Members.

Next Order!

MOTION

ADOPTION OF REPORT ON BUDGET POLICY STATEMENT - 2020/2021

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Budget Policy Statement 2020 and the Medium Debt Management Strategy for the Financial Year 2020/2021, laid on the Table of the House on Wednesday, 4th March 2020 and —

(a) approves the Budget Policy Statement 2020 and the Medium Debt Management Strategy for the Financial year 2020/2021;

(b) resolves that the Budget Policy Statement so approved forms the basis for the introduction of the Division of Revenue Bill, 2020; and,

(c) further makes the policy resolutions contained in the First Schedule to the Order Paper.

FIRST SCHEDULE

POLICY AND FINANCIAL RESOLUTIONS RELATING TO THE BUDGET POLICY
STATEMENT AND THE MEDIUM-TERM DEBT MANAGEMENT STRATEGY FOR THE
FINANCIAL YEAR 2020/21

Policy Resolutions

- (i) THAT, before the Budget Estimates for 2020/2021 are submitted to the House, the National Treasury should resubmit the Macroeconomic and Fiscal Framework with adequate information on debt, clearly indicating the amount of concessional, semi concessional and commercial loans; as well as clearly outlining the country's borrowing strategy. This information should be accompanied by a list of specific projects that will benefit from these funds and realign what they submit to the Medium-Term Debt Strategy.
- (ii) THAT, by 30th April 2020 when the budget estimates are submitted to the House, the National Treasury develops a criterion for identifying and isolating core priority programmes (Big 4) in the 2020/2021 Budget in order to protect these from ad-hoc expenditure cuts. In addition, an accountability matrix should be provided clearly identifying the total resource requirements as well as a monitoring and evaluation framework.
- (iii) THAT, user fees (fines and forfeitures) collected by the Judiciary for services rendered be retained and applied at source to enable operationalisation of the Judiciary Fund in line with Article 173 of the Constitution and similar to other government institutions that generate and retain AIA revenues.
- (iv) THAT, to enforce commitment control, Ministries, Departments and Agencies ought to submit a quarterly projection of details of commitments by sub-programme/project to the National Treasury. The Treasury then ought to align its cash releases to those specific commitments.
- (v) THAT, pending bills that have been established as legally payable and above Kshs500 million be settled through a long-term instrument including establishment, where necessary, of debt swaps for intergovernmental bills.
- (vi) THAT, in order to enhance transparency and accountability, beginning 1st July 2020 the net exchequer issues be published in the website of the National Treasury at the end of the month and this be by vote, programme and project.
- (vii) THAT, adequate funds be provided for full operationalisation of institutions of public finance, in particular, recent institutions created through various pieces of legislation.
- (viii) THAT, on the expenditure reduction efforts, the policy of cutting the budget by a certain percentage across the board is not a very effective way of expenditure control. Rather, there ought to be critical reforms in expenditure that will isolate wasteful expenditure and ensure only key expenditure needs are funded.
- (ix) THAT, by 30th April 2020 when the Budget is submitted, it should clearly indicate projects that will be funded through the Sports fund and the funds be directly applied to these projects.
- (x) THAT, the process of filling a vacant constitutional, statutory, or any critical senior leadership position in the public financial and budgetary sectors including the Audit Office should be expedited before the incumbent leaves office to ensure continuity and performance of critical roles provided in the Constitution and the statutes.

- (xi) THAT, to support ongoing reduction in the fiscal deficit, the borrowing strategy should entail a reliable net domestic borrowing target for 2020/21 and the medium term, and a commercial debt borrowing target consistent with the debt ceiling and to ensure that external debt service costs do not breach internationally accepted debt service to exports ratio threshold in the medium term.

Financial Resolutions

- (xii) THAT, the ceilings of each arm of government for FY 2020/2021 be capped as follows:
- (a) Parliament – Kshs39.14 billion
 - (b) Judiciary – Kshs19.05 billion
 - (c) Executive – Kshs1,778.13 billion
- (xiii) THAT, Kshs3 billion be allocated for strategic response to public initiatives.
- (xiv) THAT, the financing gap of Kshs7 billion be funded through reprioritisation and realignment within the Executive’s approved ceiling.
- (xv) THAT, in effecting the proposed ceilings for each arm of government, the National Treasury should take into consideration the summary of recommendations of the Departmental Committees on specific Ministries, Departments and Agencies as attached to Schedule 2 and 3 of the Committee Report.
- (xvi) THAT, county governments be allocated Kshs369.868 billion for FY 2020/2021 distributed as follows:
- (a) County Government Equitable share of Kshs316.5 billion.
 - (b) Conditional allocations from the national government’s equitable share of revenue as follows:
 - (i) Leasing of medical equipment Kshs6.205 billion
 - (ii) Compensation for user fees foregone Kshs900 million
 - (iii) Level 5 hospitals Kshs4.326 billion
 - (iv) Supplement for construction of county headquarters Kshs300 million
 - (v) Rehabilitation of village polytechnics Kshs2 billion
 - (vi) Allocation from Fuel Levy Fund (15% of collections) Kshs9.433 million
 - (vii) Allocation from loans and grants Kshs30.204billion
 - (c) Before finalisation of the Division of Revenue Bill (DoRB), the transfer of functions of the Nairobi County to the National Government ought to be reflected in the allocations provided.
- (xvii) THAT, the allocation to the Equalisation Fund of Kshs6.53 billion be approved as provided in the Budget Policy Statement.
- (xviii) THAT, once approved by this House these recommendations together with Schedule 1 attached SHALL form the basis for preparation of the 2020/2021 budget estimates.

Hon. Speaker, this morning, my Vice-Chair tabled the Report that contains the Schedule that I have referred to. On behalf of the Members of the Budget and Appropriations Committee, and in conformity with section 225(7) of the Public Finance Management Act 2012 and Standing Order 232(7), it is my privilege to present to the House the Report that was tabled this morning on the Budget Policy Statement 2020 and the Medium-Term Debt Management Strategy for the Financial Year 2020/2021.

(Hon. Kimani Ichung’wah on 4.3.2020- Afternoon Sitting)

(Resumption of Debate interrupted on 4.3.2020)

Hon. Speaker: Had Hon. Sakwa Bunyasi completed his time? You had finished your time. You are sure you are the last person who spoke on this. Yes, Hon. Pukose.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Speaker. I rise under Standing Order No.95 on the issue of the BPS. As the House is aware, today is the last day. Many issues have been canvassed. Many of us have already contributed to this BPS. Even some of the amendments that were proposed were defeated. May I ask that the Mover be called upon to reply?

Hon. Speaker: Hon. Members, the Member for Endebess, Hon. (Dr.) Pukose.

(An Hon. Member walked along the gangways)

The Member who is loitering from corner to corner, what is your name? You are not a very frequent face. You just walked in today, maybe, after two weeks. It is not done like that, please. Hon. Members, Hon. Pukose has risen in his place and claimed that because several Members have contributed to this Motion, the Mover be called upon to reply. Therefore, since it is you to make the decision, I, therefore, put the Question. The only things I will have are the ears. So, do not remember the statement by Speaker William Lenthall in January 1642.

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

Let us have the Mover.

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Speaker. As I reply, allow me to take this opportunity to thank the many Members who contributed to the Motion and even those who led in the chorus of rejecting my amendment. I appreciate that the House has a role to play in this debate and the contributions that Members made to the debate are invaluable to the budget-making process.

The BPS is the beginning of the budget process for the Financial Year 2019/2020. We have noted many of the issues that were raised up to 7.00 p.m. yesterday on policy issues and even on issues that we may need to address as a Committee, departmental committees, the National Treasury and the Executive as we move towards the Estimates.

Allow me to appeal to the Chairs of departmental committees that even as we move towards the Budget Estimates in April, we intend to hold a one-day symposium or conference with Chairs, their Vice-Chairs, Members of the Budget and Appropriations Committee, the National Treasury and our Parliamentary Budget Office to further deliberate on many of the issues that were raised here and others that many Members would have wanted to raise, but were unable to do so.

On the question of public participation, fortunately, the Budget remains as had been proposed before. Let me also clarify, as I had mentioned, that the public participation initiative by the Budget and Appropriations Committee is not a kitty for Members of the Budget and Appropriations Committee.

As I indicated in 2017, we have a four-year framework to ensure that we conduct public participation initiatives in all the 47 counties. So far, we have done 24 counties and this year, with the budget that is available, we should cover another 12 counties if the Budget and the Estimates stage remains as such.

Therefore, because of obvious reasons, I beg to reply.

(Hon. (Ms.) Gladwell Cheruiyot stood in her place)

Hon. Speaker: Order Members. Member for Baringo, we are still in business. I know it is Thursday and, of course, Baringo is not near. So, perhaps you may want to catch the next flight.

Hon. Members, this is the Budget Policy Statement and I have confirmed with the staff that there is sufficient quorum for me to put the Question.

(Question put and agreed to)

Next Order.

Second Reading

THE BUSINESS LAWS (AMENDMENT) BILL

Hon. Speaker: Who is the Mover? Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to move that the Business Laws (Amendment) Bill 2019 be read a Second Time.

Hon. Speaker, the objective of this Bill is to amend various statutes for the purposes of facilitating the ease of doing business in Kenya. To apprise the House, over the past five years, and we thank the Government under President Uhuru Kenyatta, Kenya has undertaken reforms that are procedural, legal, regulatory, cost-effective, time-based and have the quality of service, which have generated positive results in terms of ease of doing business in the country. What are the dividends? Currently, Kenya is ranked 56 globally in ease of doing business from 136 in 2014, out of 190 countries that went through this study.

So, out of the 190 countries that went through this exercise since 2014, we are happy to report today that we are number 56 and number 3 in Sub-Saharan Africa. That is a very great improvement over the years on what the Government had done through the Ministry of Industry, Trade and Cooperatives, the Cabinet Office and the direct involvement of His Excellency the President. So, this particular piece of legislation is important to our bilateral and multilateral donors, International Monetary Fund (IMF), the World Bank, investors who want to do business in Kenya, Kenyans and local investors.

Hon. Speaker, if you look at Clause 2 of the Bill, it proposes to amend Section 3(6) of the Law of Contract Act, Cap 22 by inserting the words ‘physical’ and ‘electronic’ in the definition of the word ‘sign’. There are five or six Committees whose Members are in the House, who will confirm because they went through the public participation of the importance of this piece of legislation. What does this do in terms of doing business? The amendment ensures that both the physical and electronic formats be recognised as a signature to show that a person intends to bind himself to the content of an instrument in terms of contract. So, we are putting both the physical and the electronic in the definition of the word “signature”.

Again, Hon. Speaker, this amendment is in conformity with Section 83B of the Kenya Information and Communication Act 1998, which recognises an electronic signature where any law provides the information on any other matter that shall be authenticated. So, we already have

that law, but we need to make sure that we create a synergy between different pieces of legislation so that they do not contradict each other.

(Hon. Kimani Ichung'wah consulted loudly)

Hon. Speaker, the Chairman of the Budget and Appropriation Committee has just walked into the House. Yesterday, you made it very clear that if people want to consult - whether they are pro-reggae or anti-reggae - they have places from where they can consult. He is really disturbing me. He should go and use the facility. We want Members, whom laws did not pass through their committee, to understand this: You cannot just come now and want to disrupt the whole session of the House.

Clauses 4, 5 and 6 of the Bill seek to provide for amendment of Sections 2, 3 and 4 of the Registration of Documents Act, Cap 285. This includes electronic documents and various forms of electronic signatures, to authorise the Registrar of Companies to establish and maintain the principal and Coast registries in physical and electronic form. So, if you are an investor out of the country, this will give you an opportunity to sign a contract. You do not need to fly all the way to Kenya. You can use the electronic form of signature, once you agree with your contact person in Kenya, to sign the contract. The whole of that section is trying to amend Sections 2, 3 and 4 of the Registration of Documents Act.

Clauses 7 to 10 of the Bill propose to amend Sections 2, 5, 30 and 32 of the Survey Act, Cap 299, to include the definition of various forms of electronic signatures to provide for the sealing and security features of electronic documents that have been processed under the Act. This again is to allow the lodging of documents under the Act in either physical or electronic form and to incorporate the electronic affixtures of the seal of the Surveyor of Kenya. To make sure that we do not carry documents all along, we want to create both systems. It went through the Departmental Committee on Lands and I am sure either the Chair or a Member of that Committee is going to speak to that. I do not want to go through the Bill because the various Chairs and Committee Members are here.

Clauses 18 to 23 of the Bill provide for the amendment of the Land Registration Act to include the definition of the various forms of electronic signatures, to remove the requirements for land rates certificates, to be obtained before an instrument transferring is done.

Hon. Speaker, clauses 28 to 33 of the Bill propose to amend Sections 35, 37, 42, 43 and 49 of the Companies Act. This is just to eliminate the use of a company seal as a means of authenticating a company's documentation. This means the document is valid, executed by a company if it is signed on behalf of the company by two authorised persons. So, the whole of this set of amendment to various statutes is just to improve the ease of doing business in our country. We were at position 136 out of 190 in 2014. We are now at position 56 out of 190. We are number three in Sub-Saharan Africa. Even as I speak, the World Bank is sending questionnaires to businesspeople. Therefore, once these laws are amended, we want to be among the top 10 countries in the world in terms of ease of doing business and maybe number one in Africa.

Clause 39 of the Bill proposes to amend the First Schedule of the Excise Duty to encourage local manufactures of glass bottles. This is to make sure that we support local industries. We cannot talk of increasing 15 per cent of our manufacturing sector in the Big Four Agenda, while allowing every Tom, Dick and Harry, to import goods. For us to support

manufacturing, we must impose more Import Duty and protect local industries. I hope the Kenya Revenue Authority (KRA) and the National Treasury will implement these laws.

The Chairman of the Departmental Committee on Finance and National Planning who received all the reports from the various committees, consolidated them and tabled them with a number of amendments suggested, will second this. In a nutshell, this Bill mainly deals with how to facilitate the ease of doing business in Kenya. Under this Government, we have moved from 136 to number 56. We are, with this legislation, going to make sure that we get to the top 10 in the world and the best in Africa.

I beg to move and ask Hon. Limo, the Chair of the Departmental Committee on Finance and National Planning, who consolidated these laws, to second.

Hon. Speaker: Hon. Limo, you may proceed.

Hon. Joseph Limo (Kipkelion East, JP): Thank you, Hon. Speaker, for giving me this opportunity to second this important Bill.

Indeed, as the Majority Leader has said, Kenya has made a very serious move to come to the top in terms of ease of doing business because that is the essence of attracting investors in any country. When investors come to the country, it is easy to acquire all the requirements as soon as they come and set-up their businesses. In fact, late last year, we had an opportunity to attend a serious workshop, where Kenya was really praised for making serious strides in improving our global ranking in terms of ease of doing business. It has become one of the best in Africa. According to the Cabinet Secretary who is spearheading ease of doing business, the country is going to be one of the best in the whole world, which is a good thing.

The Business Laws (Amendment) Bill 2019 was published on 18th November 2019. It was read the First Time on Wednesday, 4th December 2019. The Bill has a total of 41 clauses. Some of the clauses were allocated to my Departmental Committee on Finance and National Planning while many others were allocated to other committees. The laws which are covered by this Amendment Bill are as follows: -

- (i) The Law of Contract Act Cap. 23.
- (ii) The Industrial Training Act Cap. 237, and
- (iii) The Registration of Documents Act Cap. 285.

Hon. Speaker, allow me to make this presentation in a way that indicates which committee was considering which particular Laws.

The Departmental Committee on Justice and Legal Affairs was tasked to cover the following Acts –

- (i) The Law of Contract Act Cap 23.
- (ii) The Companies Act (No. 17 of 2015, and
- (iii) The Insolvency Act (No.18 of 2015).

The Departmental Committee on Labour and Social Welfare was tasked to do the following Acts –

- (i) The Industrial Training Act Cap. 237, and
- (ii) The Occupational Safety and Health Act (No.15 of 2007.

The Departmental Committee on Lands was tasked to deal with the following Acts -

- (i) The Registration of Documents Act Cap, 285.
- (ii) The Survey Act Cap. 299.
- (iii) The Stamp Duty Act Cap. 480, and
- (iv) The Land Registration Act (No.3 of 2013).

The Departmental Committee on Finance and National Planning, which I Chair, was tasked to deal with the following acts –

- (i) The Income Tax Act Cap. 2,470.
- (ii) The Public Finance Management Act (No.18 of 2012).
- (iii) The Value Added Tax Act (No.35 of 2013).
- (iv) The Excise Duty Act (No.23 of 2015), and
- (v) The Miscellaneous Fees and Levies Act (No.29 of 2016).

The Departmental Committee on Communication, information and Innovation was tasked to deal with the Kenya Information and Communication Act (No.2 of 1998) whereas the Departmental Committee on Transport, Public Works and Housing was to cover the National Construction Act (No.41 of 2011).

Finally, the Departmental Committee on Trade, Industry and Cooperatives dealt with the Business Registration Act (No.5 of 2015).

Hon. Speaker, all these Committees held public participation sessions, which is a requirement of the Constitution, to involve the public. Therefore, this Bill was published in the newspapers and the Committees were tasked to collect memoranda from members of the public. Following the call for memoranda from the public, which was placed on print media on Monday, 13th January 2020, a total of 16 memoranda were received from the following stakeholders-

- (i) The National Treasury.
- (ii) The East Africa Grain Council (EAGC).
- (iii) Kipkenda and Company Advocates.
- (iv) The Communication Authority of Kenya (CAK).
- (v) The Institute of Certified Public Accountants of Kenya (ICPA-K).
- (vi) KPMG Advisory Services Limited.
- (vii) Milly Glassworks Limited.
- (viii) The Kenya Association of Manufacturers (KAM).
- (ix) The Central Organisation of Trade Unions (COTU) and other trade unions.
- (x) The Ministry of Labour and Social Protection.
- (xi) The Ministry of Transport, Public Works and Housing.
- (xii) The National Construction Appeals Board.
- (xiii) The Ministry of Lands and Physical Planning.
- (xiv) The Ministry of Industry, Trade and Cooperatives.
- (xv) The Office of the Attorney-General, and
- (xvi) The Nairobi Securities Exchange, PLC.

Hon. Speaker, on receipt of the memoranda from the stakeholders, seven departmental committees invited stakeholders for further consultations on the Bill. Several stakeholders appeared. For example, the Departmental Committee on Finance and National Planning engaged the National Treasury, pursuant to Article 114 of the Constitution, on issues touching on money Bills. We also did stakeholder consultations with the Kipkenda and Company Advocates together with the East Africa Grain Council.

It is important to point out that various Committees did their public participation by receiving memoranda as well as meeting various stakeholders. The Departmental Committee on Finance and National Planning was tasked with the work of consolidating reports from the various stakeholders. The various Committees went through the Bill and gave us their reports which cover various observations including a few suggested amendments which will be done during the Committee of the whole House.

The Business Laws (Amendment) Bill, as the Leader of the Majority Party said, were all covering almost the same thing, but touching on different areas. All are aimed at supporting the

Government's objective of making this country a good destination for investors. The Bill covers various aspects of making the environment attractive for investors to invest in manufacturing as well as supporting infrastructure which has been built in the country to enable goods and services to be moved from one area of the country to another. When investors go to a country, the first thing they are interested in knowing is whether there is clear infrastructure to support their services and ease movement of goods from one area of the country to another. To support that, there are certain incentives and tax laws which will be amended to ensure that they are in tandem with what the country has always promised investors. The proposed amendments are necessary, so that economic viability is realised. They are also intended to promote the purpose built into the various infrastructure in the country.

Given that the Departmental Committee on Finance and National Planning was tasked to consolidate the reports, I wish to thank the various Chairs of Committees who tackled this Bill because they supported us and delivered the reports as required. I will not go clause by clause because the Leader of the Majority Party tried his best to touch on the various clauses. I want to on save time and leave room for Members to contribute to the Bill.

I take this opportunity to thank the various Committees that presented their reports on the Bill to our Committee. Equally, I thank the Office of the Speaker and that of the Clerk, the staff who support our Committee together with other Committees as well as Members of the Departmental Committee on Finance and National Planning who ensured that this Report was made ready and presented to the House on time.

Hon. Speaker, I beg to second.

(Question proposed)

Hon. Speaker: Hon. Robert Mbui.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Speaker, for giving me this opportunity to support the Business Laws (Amendment) Bill.

Business, basically, is the engine that drives an economy. Considering that we have constantly spoken about...

Hon. Speaker: Sorry, Hon. Mbui. Let me interrupt for a short while. I will compensate.

Hon. Members, allow me to recognise the presence, in the Speaker's Gallery, of students from Alliance Boys High School, Kikuyu Constituency, Kiambu County and in the Public Gallery those from Moi Girls High School, Kamusinga, Kimilili Constituency, Bungoma County. They are welcome to observe the proceedings of the House.

Proceed, Hon. Mbui.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Speaker. Business, basically, is the engine that drives an economy. Obviously, every time we talk about how we would like to grow economically, we are basically talking about the ability to generate enough money and enough businesses in the community, so that we can say the country's economy is growing. We have just been talking about the BPS, which we passed. The BPS proposes to encourage foreign direct investments because that is one of the ways an economy can grow. It also talked about expansion of exports by businesspeople in the country. So, basically, it is clear that it is important for us to do business in the country. These laws are about helping us to do business in an easier way and make it easy for anyone to come to this country and carry out business.

I want to talk about one issue which overrides an observation I have made concerning these laws. This is the idea of replacing physical documents with electronic signatures. The ability to transact business across borders and without being physically present or physically near is good. We have the coronavirus that is becoming a real bother. Obviously, we need to move away from doing things the old way of carrying papers and files all over the place. We can communicate with each other electronically because the world has become a global village. It has become smaller and a place where we can communicate and do great things without being near each other.

This is a good idea. The proposals are excellent and I am certain if we pass the Bill, we will encourage more people to transact with us. If we are going electronic, let us be careful. Recently, people were purporting to sell arms to this country carrying files all over the place, stamps and signatures. We have to be sure that as we move to electronic systems, we are able to protect our people and the nation from fraudsters who take advantage of that ability to take us down.

Hon. Speaker, with those few remarks, I support. I hope the whole House will hasten the process to support and move on and do business in an easier way in the country.

Hon. Speaker: I remember there was mention of various Chairs who in their respective Committees did public participation. Let us have the Chair of the Departmental Committee on Transport, Public Works and Housing. I have been given names of people who are representing the other Chairs who are not present. I want the House not to worry even if you see certain people sitting next to each other being called.

Hon. David Pkosing (Pokot South, JP): Thank you, Hon. Speaker, for giving me the chance to add my voice to this Bill, which proposes to promote our country as a destination for doing business.

We were tasked with the responsibility as Committees to carry out public participation in various legislative proposals that came under our Committee. In supporting the Bill, I thank Hon. Limo, the Chair of the Departmental Committee on Finance and National Planning because we worked very well as Chairs with his Committee.

Hon. Speaker, our country wants to move a notch higher in terms of giving conditions to businesses so that they can choose our country. The benefit is that the more people come to do business here, the more money will come to our country. Therefore, more jobs will be created. This is a win-win situation for our country.

There were issues raised concerning the Departmental Committee on Transport, Public Works and Housing. For example, the Bill that is attempting to amend the National Construction Authority (NCA) Act was to provide for a building code in this country. We do not have it yet. It means that when contractors are building, they may not even know about the code to be followed. Therefore, their assessment and monitoring becomes subjective. So, we want to give new power to the NCA, so that it can develop a building code. This will enable us avoid issues of marking houses later because they were not done properly. You have the code, therefore, you can define yourself as a Kenyan. This is a very good move. It is like a marking scheme. It is good for the contractor, the owner and the NCA. The NCA becomes objective rather than subjective in saying that some buildings were not done properly and when you ask why, they do not have a code. It is a fundamental amendment to the NCA Act and we are supporting it. As a Committee, we thank the Executive on this one.

There is something we have been arguing about during our Committee meetings on the SGR. The Government has been having a problem in terms of meeting operational costs because

of the design. I made a presentation to the Budget and Appropriations Committee because it was one of the policy directions. I am glad it is being proposed as an amendment that regards ease of doing business. Our agreement earlier on was that once the SGR is completed, the revenues that come from the SGR be used to populate the escrow account to pay for the loan. Therefore, it was not supposed to be used at the source. The loan came to the Government and was used to meet operational costs like buying fuel and employment of people who operate the locomotives. That cost was to be met by the Government of Kenya. From 2017 to now, the Government has not met its obligation. Therefore, it has accrued about Kshs35 billion. We have been arguing as a Committee that we open the Railway Development Levy Fund (RDLF). When we open the RDLF, it will enable the Government to pay for operations, so that the proceeds are used to pay the loan.

Let it be understood clearly because people were asking where the proceeds the SGR is making will go. The proceeds from the SGR will be used to pay the loan. Therefore, the payment of this loan becomes sustainable because the RDLF will meet the operational costs. I have seen that being captured as an amendment in the Bill. That is very encouraging. My Committee would like to appreciate the fact that the Executive has bought our idea. It is not going to be a load to the people of Kenya, therefore, making it easy to do business in this country. It is not only a benefit to traders, but also to the people of Kenya because taxes will be reduced.

Further, we have been having a problem in the Departmental Committee on Transport, Public Works and Housing. Kenyans are saying that we are forcing people to use the SGR. What was on the Floor of the House recently was between us – the Departmental Committee on Transport, Public Works and Housing and other Members of Parliament. There was an order to force people to use the SGR. With regard to this matter of ease of doing business, we are moving from forcing people to use an installation such as the SGR to voluntary use. If you want to transport your goods, it is not a must to use the SGR. You can use the SGR or whatever you want. But to enable the SGR to work properly, there are proposals to give some incentives to the people who will promote the use of the facility. This is what happens world-wide. This is a big benefit to the people of this country. However, we will come up with some amendments because the requirement of somebody or a company to enjoy that facility in terms of being given reliefs is a little bit too high. Making it at Kshs10 billion will create more monopoly, particularly in this industry of bulk handling. We do not want to make laws that will only benefit a number of specific people or cartels. If it is making it easy to do business, then it should be for everybody. It is not for a few individuals. As a Committee, we can see that if it goes on like that, then it will benefit just a few individuals.

So, you might want to see my amendments as the Chair of the Departmental Committee on Transport, Public Works and Housing. I propose to reduce that further, so that the people of Kenya can benefit. The more people use the SGR, the more money the SGR will earn and the more benefit to the people of Kenya. That is very critical.

As I conclude my contribution, I want to appeal to Members to agree that we make our country a better one in terms of doing business by approving this Bill with amendments that will come at the Committee stage. Otherwise, this is a very important direction that we are taking. As a Committee, we are saying that we should not force people, but rather, we should give them incentives, so that they are motivated to go a certain direction naturally. In any case, this is a democratic country.

With those few remarks, I beg to support.

Hon. Speaker: I have been given to understand that the Member for Emuhaya is to give the position of the Departmental Committee on Labour and Social Welfare.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Speaker. From the outset, I wish to support this Bill. I also want to report, on behalf of the Chair and the Members of the Departmental Committee on Labour and Social Welfare that, indeed, we had a section to deal with the National Industrial Training Authority (NITA). In that section, we invited the stakeholders on 13th January 2020. We wrote to the stakeholders and some stakeholders appeared before us. Some of them gave us documents and others came in person. The Central Organisation Trade Unions (COTU) did a written memorandum to us. We also heard from Kipkenda Advocates, the Ministry of Labour and Social Welfare among others.

They all appreciated the importance of making the business atmosphere in Kenya good, so that it can attract more players from local businesspeople, foreign investors and even the Small and Medium-Sized Enterprises (SMEs). Of concern to the Committee was NITA. There is a charge of Kshs50 per employee per month that is levied upon every businessperson who has employed workers in Kenya. The law seeks to amend that to make it easier for businesspeople, so that they can pay that levy annually. Therefore, if it is Kshs50 per month for every employee, then it means in a year, every employee pays Kshs600. The Bill seeks to amend it, so that the payment is done once in a year. That will be very easy for the businesspeople. Both COTU and the Ministry of Labour and Social Protection were agreeable to that proposal. The NITA depends on this money for its day-to-day workings. So, there is need for the money to be paid in advance. Later on, when this matter goes to the Committee stage, we shall be bringing amendments. In general, all the players concerned were in agreement that it was a very good amendment in order to promote business in Kenya.

The other area that we dealt with was about safety and occupation hazards of workers at their places of work. The amendment provides a by-law that those who are starting businesses should not pay in that particular category. Both players in the sector were also in agreement that if there is a new business coming into play and it has less than 100 employees, then it can be given a period of one year before they start paying for their workers.

There was a reservation and we may bring it in the Third Reading. Where there are certain businesses that are high risk, those are the only ones we shall have an exception which will depend on the advice of the Cabinet Secretary because he has been given powers to categorise which businesses are high risk. Therefore, that is how we shall move with it. I do not think we had so much in this Bill. We want to support it as both the Committee and the players in the sector.

With those few remarks, I beg to support.

Thank you.

Hon. Speaker: The Chairperson of the Departmental Committee on Communication, Information and Innovation.

Hon. William Kisang (Marakwet West, JP): Thank you, Hon. Speaker, for giving me this opportunity. I rise to support this Business Laws (Amendment) Bill (National Assembly Bill No.80 of 2019).

As a Committee, we were given the Kenya Information and Communications Act (KICA), 1998 to look at Clause 83B. When we met the Ministry and the Communications Authority of Kenya (CA), they were all in agreement that we need to amend the Act to take into account electronic signatures. In the recent years, there has been a general widespread use of electronic means of communication including electronic transactions for global trade. In this

regard, electronic records are expected to play an increasingly significant role in commercial practice.

Hon. Speaker, electronic signatures are not accepted even now in some quarters, but as soon as we pass this law, electronic signatures and documents are going to be legal. This will help to fast-track business.

As earlier indicated, Kenya currently is number 56 in the ease of doing business. We were number 136 and we have come to number 56. As soon as we pass this Bill and it is assented to law, there is a chance that Kenya is likely to be number one in Africa and may be in the top five or 10 in the world.

Documents of title like shipping documents and bills of lading are subject to application and operations of electronic transactions. It is even going on currently. When you get documents, say from Singapore or Japan, they are sent electronically. The only ones that come in print form are logbooks. As soon as this is done, they should be able to send logbooks electronically so that you receive them the same day.

Some of the benefits of adoption of these documents in electronic form are many. One of them is speed of transaction leading to cost reduction and avoidance of liability arising from paying demurrage if there are delays in submission of documents.

As the Departmental Committee on Communication, Information and Innovation, we strongly support this Bill because we are the champions of technology in the country. This should also enhance competitiveness to a higher efficiency. There will be confidentiality and creation of more secure trading environment due to prevention of fraud and human error. One of the Members said that we need to be very sure so that there is no fraud.

I want to tell Members that it is very easy to forge physical documents but if you submit electronic documents, it is not easy. It is difficult. I know there might be some hackers who can interfere, but it is easy to forge a physical document than an electronic one.

This will also create convenience, trust and confidence. It will also promote documents and data reusability because you do not need any physical paper. We will even save our forests. Documents of title are key instruments in e-transactions and e-commerce. Accommodating them will facilitate safe and secure use of transactions and promote trust in transactions.

I want to urge Members that we support this Bill because this will put Kenya on the map in terms of ease of doing business. In the recent past, there were some investors who started running away from our country because of the over 200 processes that you need to go through before you are given a permit to invest in the country. With these amendments of more than 20 laws, basically, it means that Kenya is going to be attractive and we will get more investors. Even with the coronavirus epidemic, those businessmen from this country who import things from China and other countries do not need to go there. You just do your business online. The documents are sent electronically where you sign your contracts and eventually your goods are shipped.

Hon. Speaker, I wish to support and thank Members of the Departmental Committee on Communication, Information and Innovation who sat with the Ministry and the Communications Authority of Kenya. We agreed that we are passing the amendments as they are. We are not coming with any other proposed amendments. So, I beg to support.

Hon. Speaker: The Member for Kilifi North, I am informed you are the one standing in for the Departmental Committee on Lands, the component touching on lands, but of course you are at liberty; you are not limited to that only.

Hon. Owen Baya (Kilifi North, ODM): Thank you, Hon. Speaker. I stand to support this Business Laws (Amendment) Bill (National Assembly Bill No.80 of 2019) on behalf of my Committee.

To begin with, I would like to say that, as a Committee, we looked at the amendments. We did public participation for the same and received a memorandum from Kipkenda and Company Advocates. We also had a meeting with the State Department for Physical Planning and also the National Land Commission to look at the clauses which affect land in ease of business.

I am happy to report that in the new amendments, we have clauses 4 up to 23 that affect ease of business especially on land transactions. When you go through all these you will realise that one of the things that we are trying to amend is to introduce electronic signature as one of the ways to transact business and also have electronic documents that can be used as part of land transactions that we have.

In doing this, we realised that we are going to have ease of doing business. If you go to the State Department for Physical Planning today, you will realise that there are many queues of people and many brokers who hover around there and they hinder progress of business. It will take you over one year to process a title. If you want to sell land from one person to the other, it takes a long time because of, for example, unavailability of the registers and all that.

When we introduce this aspect of filing documents and doing the whole process of transactions on lands through the electronic media by using electronic signatures, *et cetera*, it will become very easy.

If you look at the amendments, they affect different laws such as the Land Registration Act, 2002, the Stamp Duty Act, the Survey Act and others. So, several Acts that relate to matters of lands will be affected. It suffices to say that one of the things that we would like to see as the Departmental Committee on Lands is enablement of the National Lands Integrated Management System. Up to date, this has not taken off because of the problems that all matters of Information, Communication and Technology (ICT) in this country must go through the State Department of ICT. That all the money that we have voted in this Parliament to enable the Ministry of Lands and Physical Planning to ensure that they have put this system in place, first goes for implementation in the State Department of ICT. In the last two years we have voted money, but the State Department of ICT has not actually enabled this system may be because of the bureaucracies that are involved.

We have made suggestions in the BPS that this project now be implemented by the Ministry of Lands and Physical Planning itself because it is delaying. Today we are saying that this must be done. When we go into the physical process of doing it, you will realise that it cannot be done because the system is not there. The National Land Commission said that had they been given the money; they would have finished this process. I think there is a general agreement in Government that all ICT matters be handled by ICT. In buying a computer, a laptop and Ipad for a person in the Ministry, they have to go to ICT for them to be enabled. So, as we support this Bill, we need to hasten the processes so that we have a system that can allow the laws that we are amending today to be actualised. We can pass this law but if the system is not there, it will become difficult to implement.

As you look at the BPS, land is a factor of production. Three items of the Big Four Agenda are hinged on what happens on land. Housing, food production and manufacturing require land. The more we ease doing business within the land sector, the better we will be to actualise the Big Four Agenda. So, improving the ease of doing business is important. If we can

make it easier for people who want to invest from outside the county, we will attract direct foreign investments, create jobs and move to a manufacturing country status. We need to make it easy for anyone who wants to transact land business like conveyancing in this country, so that we achieve what the President wants for this country, moving forward.

I support this Bill. As a Committee, we did not make any changes to the amendments of the Bill that were brought to us. We agreed in total with the amendments that were suggested. The Cabinet Secretary of the Ministry for Lands agreed that ease of doing business is important for the county, moving forward.

Thank you.

Hon. Speaker: Majority Whip.

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Speaker, for giving me an opportunity to support this Bill. Ease of doing business means creation of employment and improvement of the economy. There is nothing that can stop us from supporting such a Bill.

[The Speaker (Hon. Justin Muturi) left the Chair]

[The Temporary Deputy Speaker (Hon. Christopher Omulele) took the Chair]

I have been looking at the business laws that are being amended. There is one particular area that I wish is improved. It is the issue of inspection of imported goods. We have a big problem. I heard what the Chairperson of the Departmental Committee on Transport, Public Works and Housing said. He said that this Bill will ease inspection of imported goods, that is true.

On inspection of imported goods, we have a serious problem that we need to look at, especially if we mean to create a conducive atmosphere for doing business in this country. As it is today, our local agency, the Kenya Bureau of Standards (KEBS), has assigned international companies to inspect goods on its behalf yet after they give approval, when those goods get into the country, they are inspected afresh by KEBS. That is unfair. We should use this opportunity that we have of amending the business laws to amend that section of the law. If the international companies have inspected goods and approved them, why should they be subjected to fresh inspection? When rejected, it becomes expensive for investors and people who want to do business in this county.

During the Committee of the whole House, I will propose an amendment to say that once goods have been inspected in foreign countries, they will not be subjected to further inspection here. Otherwise, we will have to allow KEBS to inspect all goods from their points of origin. When goods come here and they are rejected, the companies are forced to repatriate those goods to the countries of origin at their own cost or destroy them at their cost. That is expensive. A case in mind is the edible oils that are currently still lying at the port. These goods were inspected at the point of origin. When they came here, KEBS realised that they did not meet the standards of this country. That was good. However, why could we not have rejected such goods at the point of origin to cushion the importing companies from the cost of carrying those containers all the way to this country only for them to be told that a particular item is missing from the oil? That is unfair. We do not want to create such business atmosphere in this country because it does not promote business.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Washiali, did I hear you say that we have a situation in this country where goods are inspected in the countries

of origin before they are shipped into this country and when they arrive in the country they are subjected to a second inspection? Is that what you are saying?

Hon. Benjamin Washiali (Mumias East, JP): That is exactly what I am talking about. Maybe, for your information, I should tell you that I have interest in logistics business. I know what goes on at our ports of entry. The truth is that this is inhuman. The companies that inspect such goods are approved by KEBS and paid a lot of money for doing so. I am sure KEBS gave them the standards that are required for our country. They inspect the goods from the points of origin and approve them to...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Washiali, just hold on. Hon. Oundo seems to be having something burning that he thinks is out of order. What is out of order?

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Speaker, my senior colleague is not factual, specifically on the issue of edible oils. I do not purport to speak for KEBS but I sit in the Departmental Committee on Trade, Industry and Co-operatives ---

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Oundo, you are out of order. What is out of order? What you are trying to advance is a point of argument.

(Hon. (Dr.) Wilberforce Oundo spoke off record)

He is misleading the House? That is what you should have said.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Yes, Hon. Temporary Deputy Speaker. He is not being factual. He is misleading the House.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Washiali

Hon. Benjamin Washiali (Mumias East, JP): I do not know. Despite the fact that my colleague, Hon. Oundo sits in the Departmental Committee on Trade, Industry and Cooperatives, the issue at hand is in the public domain. Everybody is aware of what has been happening. The importance of that edible oil has been captured in documents from... Even if that is not a case that we would want to cite in this matter, we have had many other importers who have brought in goods with documentation of pre-verification having been done in the country of origin. They come here and are subjected to fresh inspection. If we have to improve the business environment, then we have to relook at this policy so that businesses in this country know that after their goods have been inspected at the point of origin and a clean bill of health given, then that should count even when the goods come into this country.

Hon. Temporary Deputy Speaker, I support this Bill.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Washiali, I believe you have a valid point that you are trying to make, but I think what you are trying to speak to is to neaten the space where KEBS pre-inspects goods at the country of origin, so that when the goods arrive here, they should easily be admitted without too much asking. But I think Hon. Oundo may be able to help in making that point clearer, so I am inclined to allow him have this opportunity. Hon. Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Speaker, I was waiting because I was detailed by my Chair for the Departmental Committee on Industry, Trade and Cooperatives to make a comment in respect of one particular clause, Clause 27 so to speak. I will make other comments after I have made a presentation on the matter.

There is an amendment to Business Registration Act (No. 5 of 2015) and this amendment has been necessitated by the reassignment of the function of ease of doing business from the

Ministry of Industrialisation, Trade and Enterprise Development to the Ministry of East African Community for purposes of coordination. Consequently, the import of the amendment is to include the party or the department responsible for ease of doing business to sit on the Business Registration Services Board. That is essentially why they propose to delete reference to the CS in charge of Trade and replace it with CS in charge of business reforms and transformation. That is why there is that particular change.

We received public comments, fortunately or unfortunately, from only the State Department for Trade and the Office of the Attorney-General. While the State Department for Trade requested to include the CS in charge of Trade, the Office of the AG was of the view that this is a department or a section that can be moved any time from the Ministry of East African Community and brought back to the Ministry of Trade or moved to the Ministry of Foreign Affairs or to any other Ministry. That is why we were inclined to accept their comments that we retain the amendment as indicated under Clause 27, changing from Trade but retaining ‘business reforms and transformation.’ As a Committee, we will not make any further changes or propose any further amendments; we will retain it as it is.

As the Speaker had mentioned, let me also take this opportunity to make a comment on the Bill so that we picture what we are talking about. We must accept that technology makes it easy to do business. It makes it more convenient to undertake business. But as we support the changes to incorporate ICT, we remain wary, especially those of us whom ICT found around, because we are not so sure how secure the electronic signatures are. Many times we read in the newspapers how the so-called hackers have hacked into bank accounts and moved millions of money. We just pray that our systems will be secure enough to avoid issues of impersonation, hacking and changing the documents. If the Documents and Survey Act is tampered with, the ramifications to doing business in the lands sector will be unimaginable. If those electronic signatures are ever forged or tampered with, I worry about the consequences. So, I hope and pray that indeed our system will be secure enough and even if it is breached, we will have mechanism to indemnify those who act in the strength of the forged or tampered-with documentation. In essence, I support. But that is my cause of worry.

Secondly, Clause 15 proposes to make amendments to the National Construction Authority Act. Requiring the NCA to enforce a prescribed building code in the construction industry is to substantially extend or expand the mandate of NCA. Obviously, it will come with a huge financial implication. I sincerely hope there is sufficient budgetary allocation to enable NCA undertake the function. Secondly, mandatory inspection of all building sites at any time sounds very progressive and good, but with the vastness of this country and with so many informal constructions in the rural areas that are not within any gazetted urban areas, I can see the difficulties of achieving this objective. Probably, as we go to the Committee of the whole House, it might be important and we will have to persuade the Committee responsible to listen to us and probably only designate this mandate, at the first instance, within cities and urban areas as provided in the Cities and Urban Areas Act.

I also want to go on record to correct a misconception that the Chair of the transport committee had made on the Floor, purporting to indicate that there is no building code in this country. That is off the mark. And it is unfortunate that he was not apprised enough. There is the Building By-Law of 1968 that was adopted by all the local authorities under the former Local Authorities Act. Under the Physical Planning and Land Use Act, there is donated the power to make by-laws to the various local authorities, in this sense the various county governments. I know sometimes back, when we were still under the NARC Government, there was a draft

National Building Code, which was never concluded because of one thing or another. It is the best way to go. But geographically, a sparse country like ours, with different housing expectations and housing definitions, it will be practically impossible to have one overriding building code that will uniformly cover the peculiar housing requirements of the people of north eastern and the people of Funyula Constituency. Some of the times we make very good proposals, but we need to subject them to reality checks to confirm that we know the correct position. So, it will be important that at a particular time we do a proper check to ensure that whatever we are coming up with is right.

The NCA does not issue building permits. It merely inspects to confirm that the construction process meets engineering and basic construction standards. I can foresee a conflict between NCA and the county governments. So, it might be important we harmonise that process, together with the Physical Planning and Land Use Act as well as the Public Health Act. Otherwise, making those amendments alone without tying them to those other Acts will be an exercise in futility.

Hon. Temporary Deputy Speaker, as I conclude, let me again put on record what my colleague has mentioned.

Hon. Temporary Deputy Speaker, as you are aware, we have a multiagency that was formed to weed out contraband goods and substandard goods and to sort out dumping. Obviously, it became necessary at that particular moment that we have to rethink the entire process. Quite a number of goods that were imported into this country turned out to be of lower standards than provided for by KEBS yet they were certified and allowed to come into the country. So, it was important that we start another process of randomly counterchecking. It is not a wholesale checking of goods and any other item brought into this country. I am sure the issue of edible oil is in court. It is only important to note that it was just random sampling where quite a number of containers failed the tests for fortified vitamins.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Cheptumo, the Floor is yours.

Hon. William Cheptumo (Baringo North, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill.

It is important for us to know that prior to 2015, before the amendment of the Companies Act, it was difficult to do business in this country. The process of registering companies would take as long as a month or even beyond. However, when we did the overhaul of the Companies Act in 2015, we made it possible for Kenyans to do business in our country and therefore, creating a very conducive business environment in our country. This has also facilitated investors in our country to do business in our country more efficiently compared to the years before 2015. Therefore, this proposed law is supposed to strengthen and create a better environment for doing business in our country. It is important that as Members of this House we indeed, support the Business Laws (Amendment) Bill.

I want to refer to two specific areas which were handled by my Committee, that is the Companies Act No.17 of 2015. The Bill proposes to amend Sections 35, 37, 38, 42, 43 and 495 of the Companies Act, 2015 to entirely eliminate the use of company seals as a means of executing and authenticating company documents. Currently, if you have a company and you want to execute a document, either transferring, buying or acquiring interest in land or whatever kind of interest, a company seal is fixed on the document and witnessed by two directors. This proposed amendment intends to entirely eliminate the use of company seals. This proposed amendment has been supported by a number of stakeholders who appeared before our

Committee. The Attorney-General indeed supported this particular proposal. Even though the requirements to obtain company seals in Kenya is optional, in practice companies still get seals made which take around two days to obtain. It goes for about Ksh2500 and sometimes Ksh3000. It is an element of cost when you want to have a seal for a company.

The Attorney-General also admitted that with the digitisation of the process of incorporating companies in Kenya, the security features offered by the company seals have been rendered obsolete owing to more technologically advanced security features of the digital system currently in place. Therefore, we support this particular proposed amendment because we feel it is going to create a better environment for us to do business in our country. The amendment therefore, seeks to streamline post registration procedures by eliminating the need to obtain a company seal which in turn reduces the procedures, time, cost or paid up minimum capital requirement for starting business in Kenya.

The other area I would like to briefly capture in my submissions is the proposed amendment to amend Section 611 of the Companies Act of 2015. This amendment seeks to raise the applicable threshold within which an offer or can have a right to buy out minority shares from 50 to 90 per cent. Currently, the law as it is, states that if you are a shareholder of a company with 50 per cent, you can actually buy out the minority shares of that company. However, this proposed amendment is to increase the threshold from 50 to 90 per cent. This is so that if you own 50 per cent shares of a company, it will be easy for you to convince the remaining 10 per cent shareholders who are the minority and you buy their shares. This is fair because if you are a 50 per cent shareholder of a company, and still want to buy the remaining shares, indeed it is unfair. I think this is going to help in ensuring that you must have a high stake in a company for you to indeed convince the minority shareholders to sell their shares to you.

Minority shareholders should be protected from abusive actions which are taken in the interest of controlling shareholders acting either directly or indirectly. The 50 per cent threshold is detrimental to the market as a whole and companies may be vulnerable to stakeholders. That is another very important amendment and we support it. The various stakeholders who appeared before us also supported that particular proposal.

Finally is another very interesting proposal which is also contained in this Bill. In Clause 32 of the Business Laws (Amendment Bill), the Attorney-General proposes insertion of a new Clause 32A on protection of minority investors. The insertion proposes to amend Section 289 of the Companies Act which seeks to ensure that minority shareholders are given a fair chance to be heard by being accorded the right to put in an item in the agenda. When we have general meetings with these companies, the minority shareholders are normally not given a chance to propose an agenda in those meetings. So, this proposed amendment is to give a chance to the minority shareholders also so that when they attend annual general meetings for their companies, they are also able to propose an agenda for discussion in that meeting. The proposed provision seeks to ensure that in the case of a quoted company, shareholders representing 5 per cent of the paid-up capital of their company are at liberty to propose an item in the agenda to be circulated to members of the company. This is really a way of protecting the minority shareholders of companies so that they are able to introduce agendas in that meeting so that they can protect their interests.

As I conclude, currently the unemployment of the youth in our country is alarming. It is actually one of the greatest challenges we are facing as a country. Hon. Speaker, if we make the business environment in our country to be efficient, we are going to create opportunities for our young people because we will have more investors coming on board and the Kenyan investors

also expanding their businesses. They will be in a position to employ the youths of this country. We will improve our economy and build a better business environment for our population. I want to plead with my colleagues that we pass this Business Laws (Amendment) Bill for the betterment of our economy, country and citizens.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Christopher Omulele): Hon. Lodepe. However, before you speak Hon. Oundo, you spoke to this matter that Hon. Washiali had spoken to earlier about Kenya Bureau of Standards re-inspecting goods and multi-agencies purporting to do the re-inspection. Just food for thought for you as you think about it, the standards inspection, is it not a special jurisdiction that has been created specifically by the Act and requires that anybody who wants to inspect goods for standards must be a gazetted inspector under that act? So, these multi-agencies that are purporting to inspect goods for standards, are those gazetted officers under the Standards Act, Cap 496? Just food for thought for you and your committee.

Hon. Lodepe, proceed.

Hon. Lodepe Nakara (Turkana Central, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity. First, I would like to appreciate the way we have dealt with this Business Law (Amendment) Bill, National Assembly Bill No. 80 of 2019 because the Chairs of the Committees have already presented their views and proposals. The Chairs of the Committees are representatives of the people and whenever they come up with such views, it gives favour to every Bill.

I am happy that public participation was done. Members of the public should contribute their views towards this Bill because this law will affect generations to come. Therefore, I would like to thank the Committee for allowing members of the public to participate by way of presenting their views.

*[The Temporary Deputy Speaker
(Christopher Omulele) left the Chair]*

*[The Temporary Deputy Speaker
(Hon. (Ms.) Soipan Tuya) took the Chair]*

These laws will provide qualitative indicators of regulation for starting or doing business in Kenya. His Excellency the President has been saying, “Buy Kenya, Build Kenya.” For us as a nation to grow in business we must encourage local investors to do business in a level that can enable them to compete with other international investors. The reason we have this law is so that we can protect minority investors who are upcoming entrepreneurs in this country. And that is why we are saying this law must protect the minority investors so that they too can be encouraged to do business in this country.

Hon. Temporary Deputy Speaker, this law will help us to register our businesses so that one can have legal documents that would enable one do business in this country as of right. That will apply even if one is a foreigner. The by-laws will moderate the playing ground so that everybody can do business.

Hon. Temporary Deputy Speaker, the proposed by-laws measure the future of employed workers. When we increase businesses in this country, we also increase the number of employees. We need to create more businesses in this country so that those unemployed youths who have no jobs in this country and have skills and knowledge can work in those businesses in

order for them to earn income. We need to pass and support such laws that actually make our people generate businesses and, therefore, job opportunities for our people.

Hon. Temporary Deputy Speaker, the goal of this law is to provide the objective basis of understanding and improving regulatory environment for businesses in our country. I want to highlight one thing that happened. We went to one of the countries last month and met a group of Kenyans who told us what happened to some investors who came to this country last month. We are told there are some investors who came here and they wanted to see a Cabinet Secretary concerning investment in this country. They stayed here for three weeks without seeing the Cabinet Secretary. They left and went to Rwanda where within three days they did not only see the cabinet secretary, but also met the President of Rwanda himself. They have now invested in Rwanda. The bureaucracy in this country... Our own civil servants like the Cabinet Secretaries are denying Kenyans a chance to invest in this country. They are also denying us jobs by denying foreigners who want to invest in our country the opportunity to do so here. The investors I have talked about went to Rwanda and they met the President let alone a cabinet secretary. That is what encourages investors to go and invest in such countries.

I think this law will guide our country in terms of how to do business. We need also to go beyond what we have done and hold to account persons who have been given mandate to make sure that businesses in this country are done well. If they fail to perform their duties, we must also have a law on how to deal with such people because they will be denying this country employment and taxes.

Hon. Temporary Deputy Speaker, with those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have the Member for Igembe South, Hon. Mwirigi.

Hon. John Paul Mwirigi (Igembe South, Independent): Thank you, Hon. Temporary Deputy Speaker, for giving me this moment to add my voice to this Bill. I rise to support. The Bill seeks to introduce electronic registration which will help to ease mode of registering companies, and other businesspeople, including foreign investors. If we pass this law, it will enable people to invest in this country more. Our economy will grow through businesses. The youths will benefit a lot. Remember, many of them are not employed. When investors set up businesses in this country, they will attract many young people of this country in terms of securing jobs for them.

Hon. Temporary Deputy Speaker, it is a secure mode of doing business and forging of documents by hackers will be not happen and misplacement of documents in offices will not arise. So through this mode of doing business, many people will secure their businesses. Thirdly, upcoming businesses will be able to secure their companies when they want to register them because the time required to register them will be minimal compared to our current mode of registration.

This mode will facilitate the country to grow economically compared to the previous years because we will have attracted many investors who will come here to do business in this country. They will have ease of accessing this country because many investors failed to come to this country for business because of the process they were supposed to follow. So there was a long process before you could be allowed to do business in this country. Through electronic registration, with signatures being submitted electronically, most investors will come because they will not be required to be physically in this country to register or to do business here. He can conduct business from outside the country.

On land registration, this will create security because the information which will be contained like electronic registry will be secure for business dealers especially those who invest in land.

Therefore, these amendments will help a lot, especially the upcoming generation. So, I would like to urge the House to support the amendments so that this law can be implemented so that our people who are stranded out there can benefit from it.

With those few remarks, I support. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon Osotsi.

Hon. Godfrey Osotsi (Nominated, ANC): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to also contribute to this very important Motion.

First, I appreciate this system of handling omnibus amendments as opposed to what we are used to - the Statutes Laws (Miscellaneous Amendments) Act which sometimes contains so many amendments to unconnected laws and gives us a lot of problems. When we put together amendments of a similar nature, it becomes very easy. So, I commend the Government for that approach.

Secondly, this particular Bill proposes to introduce electronic signature and advanced electronic signature to have a force of law just like the hand written signature. This is long overdue. It is something we have been wishing to have especially some of us who work in the IT sector. We have been pushing for this electronic signature.

Hon. Temporary Deputy Speaker, I have reservations. You can see the amendment is proposing to amend the definition of “signature” to include two aspects: electronic signature and advanced electronic signature. Those are two different things. An electronic signature is like the hand written signature that you can sign and scan on a document and use electronically. An advanced electronic signature is a digital signature which is something else. I have heard my colleagues talking about security of online transactions now that we are going to have electronic and advanced electronic signatures. The concern I have is that in this country we seem to do things half measure. Last year we went through a very comprehensive national process of the National Integrated Identity Management System (NIIMS) where we gave our details including biometric ones.

This project has gone quiet yet, it intended to centralise registration of data in one system. But, without it in place, this Bill we are debating here will not work. We need to have NIIMS working because it will give us things like unique biometric identifier. This will help us implement the advanced electronic signature we are talking about in this Bill.

This Bill is not talking about data protection. It is dealing with electronic data but there is no reference to data protection. The standard was set since we passed the Data Protection Act which was assented to by the President. Any other Bill that talks about data must make reference to data protection principles. This is the global standard. So, at the Committee of the whole House we will need to make reference that data generated will have to comply with established data protection standards and regulations.

Another thing is our capacity to manage digital transaction. I am talking about the digital infrastructure and data security which I wonder if we have. Are we able to manage identity fraud that will result from this? I have concerns because we also passed a law called the Computer Misuse and Cybercrime Act. I know the matter went to court and was resolved. But, we are still very low on implementation of this law. This is the basis on which this other law will be based. Otherwise, we will have challenges with cybercrime, identity fraud and many others.

You have heard the CS, ICT, talking about the Government wanting to implement block chain technology, artificial intelligence and e-government in our system. This Bill will play a big role in helping the Government achieve some of those very good technologies.

In brief, I think this is the way to go but, I am concerned that we have to deal with the half measures I have referred to so that this can work. Otherwise, we will have a lot of challenges especially on matters to do with digital signature which is being referred to as advanced electronic signature.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Osotsi, you will certainly have time in the next level to prosecute your reservations to the provisions of the Bill. You can be assured of that. Let us have Hon. Kipyegon Ngeno.

Hon. Kipyegon Ngeno (Emurua Dikirr, KANU): Thank you, Hon. Temporary Deputy Speaker, for giving me this chance to give my views on this Bill. I wish to state that I am in full support of it. The world all over is going electronic, but we are the only ones who have been very careful in a few areas. This is especially on matters to do with documents which we feel if they went online there would be a lot of fraud.

As we are advancing on the part of ICT, the world no longer has fears because everybody knows there are ways of protecting documents stored in electronic devices. There are so many issues in our country when it comes to businesses. We have not invested in attracting investors and making our country business friendly. We are still on an agrarian system and are lagging behind on matters development. So, it is high time we realised that the foreign earner in every country is business.

This Bill will help in putting Kenya in the global village through ease of doing business with foreign countries and within. The issue of registration of companies has been a very hectic exercise. People take around two to three months to register a company. This is because most of the things we do are just physical. This Bill will make processes electronic so that if somebody is registering a company it will not take a whole day but will be a matter of hours and the company is approved.

On the issue of signatures and stamping, this should be done electronically. This will ease processes for the youth who want to register companies and use them in doing many activities. The physical registration of companies has brought a lot of fraud in this country. Today, somebody can use a company to defraud the Government and the following day that company's certificate is burned. No record can be found to trace that fraud to a particular person or directors.

But, with the electronic system you cannot burn evidence. Also most county governments have been stealing from coffers and when being investigated, they burn documents, the registry or accounts department. This is so that nobody can trace what happened. This new system will help store all documents electronically. So, if somebody was to burn their county offices, investigators can trace all the documents they want electronically.

We also have issues with the Ministry of Lands because when doing a transaction, tracing the title deeds or other documents takes ages. That is why most cases in courts take years to be concluded. This is because they tend to hide files making it hard to trace them. I think this system will go a long way in helping us store transacted documents. Remember, the Government normally gets millions through transactions on land. The problem is those processes take long and some of them stall, thus denying the Government the revenue it gets. If we were to have all

these issues addressed in this Bill, I think our country would run smoothly especially in the area of storage of documents.

Another area I think this particular Bill will go a long way in easing is the trade between our country and other countries. Just like one of the Members had hinted here, investors who would want to come and invest in this country find it hard because the procedures that we use in engaging them are usually stringent. Sometimes it does not allow people who know that globally we normally do these things electronically. They will not have time to do what we normally do in our country. This Bill will help to ease the trade relationships with foreigners in our country.

Another issue which also I feel needs serious support is that of placing the signatures, especially electronically. Just like my colleague, Hon. Osotsi, has also hinted most of the fraudsters will find their way unless we have very serious laws and ways of protecting the data that we have in our systems. Otherwise, fraudsters might use it to defraud our systems.

I will also be looking at this particular Bill deeply so that I can also bring amendments that will guide the House in matters of protection, especially on penalties and punitive measures that can be taken against those who would want to defraud the systems that we will have put in place. I want our country to go electronic not only on the business systems but in everything. We wish to go electronic like what we have in this House. This House is almost going electronic in most of the issues that we have. We would wish to have our country move to the next level so that most of the things can be sorted out electronically.

With those remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have Hon. Oyula Maero.

Hon. Joseph Oyula (Butula, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to also comment on this proposed Business Laws (Amendment) Bill. This is a very good move for the business atmosphere of our country. You may wish to know that Kenya has been having a lot of problems and sending away investors because of the systems that we have had. It has been taking more than three months before one could get a business registered, and that has chased away a lot of investors. As we chase away investors, we lose opportunity to create employment for our people. Employment will only be created through business. So, these amendments are opening up the field for Kenyans to increase investments and also allow external investors to come into the country and establish business, which will increase the number of employed youths in this country.

These laws, particularly the revenue laws that are being amended, will help in reducing the bureaucracy at the Inland Container Depots, where it takes a long time for one to get containers cleared and released to their owners because of so many laws that have to be observed before any container is released. It was mentioned a while ago that inspection of goods is done outside the country by KEBS-appointed agencies. However, when goods reach Kenya, another inspection is done. Yes, we have pre-shipment inspections which have been on. This arrangement has not helped to reduce the time taken for containers to be released to their owners once the goods arrive in the country because another inspection is done in the country. I hope with these changes in the revenue laws, we will have goods inspected only once outside the country and have them released to their owners immediately they arrive in the country.

We are now going to have a lot of investors. It is very encouraging if you are outside there and your country is being praised for following the right channels. That is what Kenya is moving towards. I was recently in meeting on Sustainable Development Goals (SDG) and Kenya was rated among the countries that have taken up the SDGs as was agreed on. I am sure this is

also going to impact positively on our pace of attainment of the SDGs, which is a 2030 requirement in Africa. So, this amendment is very timely. Therefore, we should, as a House, ensure that we approve it.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Member for Tharaka Nithi County, Hon. Nkatha.

Hon. (Ms.) Beatrice Nyaga (Tharaka-Nithi CWR, JP): Hon. Temporary Deputy Speaker, thank you for giving me an opportunity to support this Bill. The amendments are very important, particularly at this time when our economy is not doing very well. We are aware of that. The economy of any country cannot grow without business. For us to attract business from other countries, we particularly need to improve our technology. We need to improve our security, which is very important to business and even to the people of this country. We also need to have good roads and other infrastructure, including air transport and railway lines like the SGR that we have at the moment. We need to have all those in a very good shape so that we can improve or grow our economy. We need to create industries. We need to go back to manufacturing. Talking about manufacturing, I have in mind the industries that closed down some years back. I have in mind the KICOMI Industry, Mount Kenya Textiles, Webuye Paper Mills and the Bata Shoe Company, which is really struggling to survive at this time when we have *mitumba* shoes and very cheap shoes from other countries. We need to improve our laws so that we can sustain our economy.

We need to have an environment that is friendly to business people from other countries. We have so many youths in this country who are loitering. They have nothing to do. They are not able to feed themselves. Young people are not able to sustain their families because they have nothing to do. Once we have friendly business laws, our youths will get employed. So many things in the country will improve. I am not sure if I heard the Departmental Committee on Administration and National Security discussing this particular Bill.

Today, when you read in the social media—I do not know whether it is true or not but it is important to mention—people are fighting in Mandera. That is the insecurity that we are talking about. We need to secure our country so that we can maintain and keep our business friends from other countries.

I support the amendment Bill, Hon. Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Very well, let us have Hon. Makali Mulu.

Hon. Makali Mulu (Kitui Central, WDM – K): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this important Bill.

Hon. Temporary Deputy Speaker, I agree with my colleagues that these amendments are very important to this country and more so, when they are targeted at improving the business environment. When this Bill was being moved by the Leader of the Majority Party, it was indicated that it is targeted at improving the ease of doing business. Hon. Joseph Limo and I had a chance of attending a workshop where this was being discussed. There is what they call the ease of doing business index which is calculated every year facilitated by the World Bank. If you look at what is happening, Kenya has managed to move from position 136 in 2014, to position 56 this year. Putting this into context, in Africa, there are two countries which are doing better than Kenya, that is Rwanda — which is at position 38 now but was at position 29 last year, so, they dropped by about 9 positions — and Mauritius — which is at position 13. So, in the top 50,

we only have two countries and if you look at the top 100, Kenya will come in. This law is going to assist Kenya to achieve the target.

In that meeting, Hon. Temporary Deputy Speaker, the Cabinet Secretary indicated that Kenya's target this year is to at least be in position 30, so that we can be among the top 30 countries. During our discussion, some of the issues which the CS in charge of this area raised are being addressed by this Bill. That is why I get encouraged when I see the idea of going electronic, that is using electronic signature, affixation of the seal and authenticating documents through electronic means. This is the way to go. While I agree with my Hon. colleagues that there might be some risks associated with this—and this has been mentioned by the Hon. Member who has just spoken, the ICT expert—it is important to note that even as we go electronic, there is need to think about security. I agree with them that the more we go electronic, the more we need to improve our security. As Kenyans, we have reasons to get concerned about security, because we have had cases where people have lost money in banks through electronic fraud. It is important that we support this Bill, so that we cannot get to that level.

Just as a way of giving an example, Hon. Temporary Deputy Speaker, one of the things that is making Rwanda do very well is that they have made a policy decision, that if you are either small or micro enterprise and you register a new business, for the first two years you are exempted from paying any trading licence fee. So, you just register and work for two years. It is like giving you time to settle and all that. These are the things which attract business. When you attract business to any economy, there are things that you do to the economy which are very important. First of all, you trigger economic growth. When the economy grows, you are able to create job employment for the youth. At the same time, when you make the business environment encouraging, you get private foreign investments—people coming from other countries to invest—and when they come, other than employment, you also boost your foreign exchange reserves. So, these are some of the things which this country will be benefiting from as a result of this law. It is really important that we support it.

Hon. Temporary Deputy Speaker, I have two areas which I want to make some observations on and as we go to the Third Reading, it is important that we think about them. One, there is this proposal that with this Bill passing, we will be doing away with the requirements for land rates certificates when transferring any land interests. So, when I sell my land to you, we will be doing away with the issue of land rates. I was asking myself: What is the implication of that in terms of those people who do not pay land rates for a long time, and they sell the land to you so that they do not pay the land rates? What happens in terms of collecting revenue which we require to improve this country?

That is tied closely to other clauses which are talking - if you read through the Bill - about tax exemption for activities related to the SGR. That has been mentioned a lot. I get concerned when I see that we will be exempting tax for everything which is locally procured or imported relating to the SGR. We have already built the railway from Mombasa to Nairobi and now Naivasha, and I do not know whether we are talking about the next phase of SGR. If that happens, I go back to my earlier question.

Hon. Temporary Deputy Speaker, we have just concluded discussing the BPS. One of the key observations which do not make economic sense is that our Gross Domestic Product (GDP) is growing while our revenue collection is dropping. One of the potential reasons why the revenue collection is declining is tax leakages and unrealistic tax exemptions. If the country does not collect tax because of these many exemptions which we are giving to institutions, then we negate the objective of growing the economy. As we go through the Bill, it would be very

important for the Committee, and I wish the Chair of the Departmental Committee on Finance and National Planning is listening because he is the man charged with the responsibility of ensuring we collect enough revenue... So, in this case of SGR, we need to be very specific on what we mean when we say tax exemption on anything which is locally procured or imported in relation to SGR.

(Hon. Joseph Limo consulted loudly)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Order, Hon. Joseph Limo. Hon. Makali Mulu is addressing a very important issue and I can see you are in deep consultations. It is good for him to catch your attention because what he is saying is important for you, in relation to the just concluded BPS.

Hon. Makali Mulu (Kitui Central, WDM – K): I do not know, Hon. Temporary Deputy Speaker, whether I need to repeat what I said or he can pick the *Hansard* and see what I have said, because I was pleading with him to listen. Since the *Hansard* is available, he can easily pick it from there so that I can secure my time.

The other thing, Hon. Temporary Deputy Speaker, is the issue of NCA. When we say that they must inspect all construction sites — and Hon. Dr. Wilberforce Oundo presented the matter very well but I just want to add—we must be careful not to create opportunities for rent seeking. If we do that, we are going to collapse the systems such that Kenyans will not construct because NCA must be available to inspect and give authority. In that case, instead of motivating people to construct, we might be blocking them from constructing.

As I conclude, Hon. Temporary Deputy Speaker, there is something we call Rapid Results Initiative (RRI). This is where you track the results that you want to achieve as an economy in a rapid manner. When we were with Hon. Joseph Limo and we listened to a presentation from United Arab Emirates (UAE), one of the things they told us in that conference is that the reason they are doing very well in business, is because they have a system of tracking all the targets that they have committed to achieve. Every month there is a committee that sits to find out where they are in terms of their targets. Every three months we should have a target. We should know where we are doing well, where we are slow and where we are not doing anything. The Committee should ensure that every implementation is fast-tracked. Goals must be achieved within the shortest time possible.

With those remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I am sure Hon. Limo will be interested to pick some notes from you after we adjourn as he consults the *Hansard*.

Let us have the Member for Ainamoi, Hon. Sylvanus Maritim.

Hon. Sylvanus Maritim (Ainamoi, JP): Thank you, Madam Temporary Deputy Speaker, for giving me an opportunity to contribute to the Business Laws (Amendment) Bill 2019. It will make doing of business in this country easy.

Kenya has been a preferred destination for foreign investors seeking to do business in the region. This law will positively contribute towards economic growth as well as create more job opportunities for Kenyans. Kenya has remained a preferred destination because of a number of reasons one, of course, being the political stability in the country. Previously, we have seen countries like South Africa, because of their xenophobic attacks, keeping off investors.

We also have good infrastructure in place. We have good roads. If you look at where we are now, with good road network to remote areas like Moyale, in one way or another, this

encourages investors to invest heavily in Kenya. The other reason is the strong communication network in the country. With fiber crisscrossing every part of this country, it makes it easier for investors to invest in this country. I am saying this with Turkana County in mind. Today, I saw the county asking for a wayleave of Ksh93 million shillings from an investor who wants to connect that county with fiber optic. They are basically keeping off investors from that county.

Our country has friendly rules, regulations and tax regimes. I am happy because this Bill, in a way as much as it encourages foreign investors, it also ensures that products that we can easily manufacture as a country will be given first priority by exemption of tax and excise duty.

Clauses 6 and 13 are about embracing technology where now we do not have to file or authenticate documents or even append signatures manually. With introduction of electronic means of doing all that, for sure, it is going to ease doing of business. However, I have reservation with Clause 14 because it suggests that for companies that will be having less than 100 employees, considerations should be made so that they can be exempted from occupational safety and health. Issues of security and health should largely be dictated by the nature of work that one is doing. There is no direct relationship between the number of employees and the exposure to risk. There are companies which could be having less than 10 employees, but the risk level is high. Consider those people who work with masts or power lines. They are equally exposed to high risks, however few they can be. My recommendation, later on, will be that, let that be dictated largely by the nature of work that they handle.

Hon. Temporary Deputy Speaker, I am happy because clauses 15, 16 and 17 are introducing a building code for the NCA. We have been seeing structures mushrooming all over the place. If you look at the speed at which foreign companies, for example, Chinese are putting up structures — I am not saying it is disturbing or worrying — are they in conformity with the NCA standards? We know the minimum duration a slab should be left to cure but sometimes we ask ourselves if they really follow those rules and regulations. The proposed law is introducing a penalty that will ensure that people in the construction industry comply with best practice and the requirements we need as a country. As much as we encourage investors, we will also get value for money and quality structures.

Finally, on NCA carrying out regular inspections on various sites, it is good so that should there be a situation where a contractor is doing shoddy work, we can get hold of him on time and rectify the situation before it gets out of hand.

With those few remarks, Madam Temporary Deputy Speaker, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Very well. Let us have the Member for Kitui West, Hon. Nyenze Edith.

Hon. (Ms.) Edith Nyenze (Kitui West, WDM-K): Thank you, Madam Temporary Deputy Speaker. Let me take this opportunity to also air my views on the Business Laws (Amendment) Bill 2019. At the outset, I support the Bill. This is because it seeks to make the rate of doing business in Kenya easier. Kenya's ranking in the World Bank's ease of doing business index has improved from about 130 to 50, globally. This means that we are actually opening the market for more investors, which would translate to improved economy and creation of jobs especially for our jobless youths who are not able to get white-collar jobs. When doing business in Kenya becomes easier and then investors come in, this will create jobs. This will also mean that there will be more innovation in our country because as we learn from the investors, we will get more innovative.

There is still room for improvement, especially in our own country, not only for investors but also for Kenyans. We still have very many requirements for start-ups. It is also very

expensive for these start-ups to run business in Kenya because there are so many charges. Start-ups are expected to pay so many charges. The tax is also quite high as some businesses are highly taxed. As we open the doors for investors to do business, we should also mind our own Kenyans.

We should encourage Kenyans to engage in business activities, since as I have said, there are no white-collar jobs. In this case, I am thinking of a way of reducing by a certain percentage the cost of starting small businesses for the youth. If it is taxes, the same way we have said that 30 per cent of the businesses should be given to youth and persons living with disabilities, we should also consider reducing the tax by a certain percentage, as well as the charges especially when starting small businesses for the first time. This will encourage them to do business since there are so many requirements.

Again, as we open our doors for investors, we should also mind about the security. We might open so much when concerned about growing the economy, only to open doors for the wrong people. Security should be ensured so that we do not open doors for insecurity.

I would also like to comment on taxation. Every time we say that we do not collect enough revenue. We should look into this proposed law to make sure that we do not exempt some businesses which are supposed to be giving us revenue. We should especially look at the SGR. The Bill encourages building of big storages for bulky commodities like grain when it comes to importation and exportation. This is very positive. The Standard Gauge Railway has been constructed, but if we do not have bulk storage, then we will not have enough storage for grain and other commodities in bulk.

We should also be very keen when it comes to exemption from taxes. If we exempt very many and open it much, then we will lag behind as far as revenue collection is concerned.

Hon. Temporary Deputy Speaker, I support the Bill, but there is room for improving it. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have Member for Gatanga, Hon. Ngugi Nduati.

Hon. Joseph Nduati (Gatanga, JP): Thank you very much, Hon. Temporary Deputy Speaker, for giving me an opportunity to make my contribution.

At the outset, I support the Bill. It is going to be a game changer especially for people who participate in tenders and those engaged in the construction industry. As it is known in this country, before this law, I am sure electronic documents were not accepted. It has been very difficult for Kenyans especially when they are tendering because even filling the business questionnaire can take a very long time and many Kenyans have lost tenders just because of wasting a lot of time and being late in submission of the tender documents.

This law is going to create a fair playing ground. In the past, we have seen instances where somebody would submit tender documents and some of them would be plucked out. For example, the Value Added Tax (VAT) or tax compliance certificate would be plucked by fraudsters who want one to lose a tender for no apparent reason.

Another good thing about this law is the submission of survey documents. Survey and some architectural drawings are very bulky. In the past, as an architect or a surveyor, the Ministry of Public Works would not accept documents submitted electronically. We have changed. The Government has been lagging behind. For those who work in the construction industry, it is well known that an architect and an engineer can exchange various documents but, when it comes to Government jobs, it is not allowed.

The other good thing with the law is in Clause 16 where the NCA has been given powers to enter construction sites to find out whether investors or contractors are following the law. We have seen many buildings collapse in the country because many Kenyans refuse to use professionals. They fence the construction sites such that the NCA personnel are not allowed to enter them. It is important we ensure the safety of Kenyans. We have many Kenyans who use huge amounts of money. One may invest Ksh100 million, but the building collapses. Sometimes, it is not the problem of the investor but that of professionals masquerading as qualified to do that job while they are not. Now with the electronic submission of records, the inspector will make sure that the person who has done the drawings is also in the register of architects or contractors.

The other good thing about this law is about registration of business. In the past, it was very difficult to register a business in this country. A name search would take more than three days while to register a company would take several weeks. If it were to be in electronic form, somebody would do a name search, register the business the same day and trade, especially our youth. We are providing substantial amounts of money to support our youth but, most of them have problems even to register companies.

Submission of tender documents will take lesser time than in the past under this law and it will be cost friendly. Making photocopies is very expensive in this country. That cost will be reduced substantially.

With those remarks, I support the law. Thank you very much, Hon. Temporary Deputy Speaker, for giving me an opportunity to make my contribution.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Member for Kanduyi, Hon. Wamunyinyi.

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Thank you very much, Hon. Temporary Deputy Speaker, for giving me the opportunity to make some remarks on this Bill.

The Business Laws (Amendment) Bill, 2019 comes at a time when there has been consistent emphasis on improvement of conditions for doing business in our country. A lot of emphasis has gone to foreign investment and investors in various fields. What this Bill should do is to enable all those would be investors who intend to do business in our country, both locals and foreigners, to have good environment or good business conditions that would help them to realise what they envisage.

There has been talk of one stop shop and measures taken by the Government to ensure the business community is accorded the opportunity to do business in that environment desired, but it has not worked for various reasons, one which is being addressed by this Bill in having electronic manner of engaging in business registration, in applying for licenses and registration of companies. This is going to be a big cure. It even goes as far as providing for electronic signatures. This will enable one to do everything or pursue all that you want to do and conclude it electronically. You do not have to walk to the Attorney-General's Chambers or to the Registrar of Societies or of Companies or to the Huduma Centre at the County Commissioner's office in Nairobi to get this registration done. You can do it and finish it online. This is going to save time and assure people or give confidence needed to ensure that you do not even speak to anybody when registering a business. This is going to solve many problems.

These laws are intended to solve problems. I was recently approached by some young men who are starting a company and they wanted the NCA certificate. They were being asked for thousands of shillings in order to be registered by the NCA. The same thing applies in counties in issuing licences to someone who has never even done business. A newly registered company has to buy a trade licence when they have not done any trade or when they are not even

sure that in the next business that will be advertised they are going to win any but they are required to have a trade licence. These are some of the things we need to look at.

I also wanted to say that this business environment will not apply to those we are focusing on because some of our local mills have collapsed because of the kind of environment we are talking about. Look at Mumias Sugar Company, a giant. What is it that did not happen? What is it that the Government, stakeholders and development partners failed to do that brought down Mumias? Look at Nzoia, with the best soils in Africa for sugarcane growing. It is going under. What is it that the Government, managers and the people concerned have failed to do? It is also about doing business. The production cost of sugar in Kenya is very high. Sugar produced in Brazil is very cheap in the Kenyan market. You cannot even compare it with locally produced sugar in terms of pricing. Even if you charged VAT and other charges, they will pay and still make money out of their sale of sugar in Kenya. It means something is wrong. We also need to address this as we aim to meet the standards of the United Nations, SDGs, World Trade Organisation (WTO) and so on. We want to get to those levels but we must address the issues that affect the locals themselves. I am sure these are going to be good laws.

I wanted to raise an issue with the Leader of the Majority Party, my friend Hon. Duale. I am not sure when we will specifically bring an amendment. In my view, the laws that we want to make in this country, the legislative business we introduce here, should be for the good of the country and for everybody in relation to business in this country.

Clause 11 states that the Bill provides for the amendment of the Income Tax Act specifically in order to provide for investments deductions on capital expenditure incurred for the construction of bulk storage facilities for supporting the SGR. I saw something like that again about the same thing in Clause 25. It causes an amendment to VAT Act specifically for SGR. You are amending the Income Tax Act and VAT Act and saying you are amending it for SGR. We already have had problems. We want to make good laws. I always support the Leader of the Majority Party when he brings good proposals to the House but I think we may have to relook some of those specific proposed amendments that you are targeting to amend. We do not make law for specific individuals or entities. We make good laws for the entire country.

Another thing I wanted to mention has already been mentioned by colleague, Hon. Makali Mulu, but just to reiterate it, it is about land rates. Land rates should not be an issue when it comes to transfer. In the past, you had to pay to clear the land rates before a transfer was effected. It was not an issue. Projections in the national Budget and the county budgets are undertaken on the basis of what is anticipated to be collected, and land rates is one of the sources of revenue. If you throw it away, saying that you are not going to pursue land rates, what happens? It misleads. You do not attain your projections and you fail to raise the resources that you require to undertake specific development in the country.

On electronic documentation and the various forms of electronic system suggested for amendment, safeguards must be undertaken to ensure that we prevent fraud.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): That is recorded. Let us hear the Member for Kisumu East, Hon. Shabbir.

Hon. Shakeel Shabbir (Kisumu East, Independent): Thank you very much, Hon. Temporary Deputy Speaker. I am pleased that this particular matter has come for our consideration. The difference between Singapore, Malaysia and other economies is the fact that organisations and business is easy to transact. It is very easy to create wealth in some of those countries. Under this new proposal, much of what is envisaged is to make business easy to

transact so that *wananchi*, youths and women can have their businesses registered quickly and have favourable terms and regulations to allow them run their businesses.

As far as we are going ahead with electronic incorporation of big companies, electronic registration of names, we are doing the right thing. My daughter was doing it the other day, and I was astonished how quickly she got a name and a business registered within minutes. That is a great thing but somewhere along the way, what comes up is the issue of certificate of good conduct. That is the biggest problem that we have. Every year you have to go to the same place to get a certificate of good conduct. Every year, you have to take about one or two hours to get certificate of good conduct. One of the things that we should have captured, or hopefully somebody will do, is to reduce the time and the procedures involved in acquiring a certificate of good conduct. If now everything is electronic, including your fingerprints, it should be easy to renew a certificate of good conduct. That is one of the biggest problems that the youth have at this moment. I know that is part and parcel of the ease of doing business but I can assure you that even if you have an organisation before you get a contract, the first thing they ask for is certificate of good conduct. As much as we are going further, there are certain requirements that are holding us back. It is important that they are done away with.

I have been waiting for a Huduma Card for a long time. I was one of those who felt that Huduma Card would be one of the most forward-looking approaches that we could have. It has not come out yet. The moment Huduma Cards come out and we make everything electronic, it will be a great thing. In Denmark, the moment you are born, you are given a number that you will have until you die. That allows you to register so many things quickly. What we need to do with the 40 million Kenyans that we have is to make sure our ease of doing business is improved. It is much better now, but it can be improved greatly.

There is one other matter that I need to bring up here, that is, ease of access. It goes with the ease of doing business. When you want to go to a certain office of the Government, you have to leave your identity card (ID). An identity card is your personal property and nobody else should be holding it. Nowadays, if someone wants a small loan, the shylock will need the ID card. You have to deposit your ID card to get the loan. Once you deposit that ID card it becomes a problem. When you are coming for official business with both the Government and private entities you have to give your ID card to them. This is the sort of thing that we hope the Huduma Card will be able to sort out so that we do not have to be handicapped by small procedures like producing ID cards, certificate of good conduct, *et cetera*.

With those few remarks, Madam Temporary Deputy Speaker, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Member for Kaiti, Hon. Joshua Kivinda.

Hon. Joshua Kivinda (Kaiti, WDM-K): Thank you, Madam Temporary Deputy Speaker, for giving me this opportunity to join my colleagues and contribute to this very important Bill.

I am happy that this Bill has come at the right time. I want to support it because, one, it brings fairness. Going electronic will sort out the problems we have in tendering processes. Due to the high competition which is there, there is a lot of corruption and games going around in the tendering processes in both the Government and private sectors. Going electronic means that there will be fairness. Once a tender is placed, it will sort the problem where someone can pluck a paper of your document. It will also make the process easier.

Two weeks ago, I had a meeting with youths in my constituency. We talked about how they can apply for tenders and get jobs. We have so many learned people out there, but there are

no jobs in Kenya. With such a law, it will ease things whereby those youths can start their small businesses and make their own money without being employed by others. It is not a must that once you get your degree from the university, you seek employment. You can employ yourself.

This Bill will make things easier. It will also sort out the problem of double taxation so that once an organisation pays for any advertisement, an agent or a dealer will not be...

(Hon. Shakeel Shabbir crossed the Floor)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): What is it Hon. Wafula Wamunyinyi?

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Hon. Temporary Deputy Speaker, I wish to bring to your attention what I have just seen here. This House must be respected. The Hon. Member, Hon. Shakeel Shabbir, is hovering around and moving from one place to another. He has just crossed the Floor. Hon. Shakeel Shabbir is a senior Member. He has just crossed the Floor.

(Hon. Shakeel Shabbir spoke off record)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Order, Hon. Shakeel Shabbir!

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): He needs to conduct himself well when it comes to the House, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Shakeel Shabbir, I am sure there are many witnesses so just make right the wrong you have done.

(Hon. Shakeel Shabbir spoke off record)

You are not even on record.

Hon. Shakeel Shabbir (Kisumu East, Independent): Madam Temporary Deputy Speaker, I want to stand on my rights. I walked up to there, bowed and then walked back. I want to call a witness. He was there and he saw it.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): So, let us assume that Hon. Wafula Wamunyinyi saw you on your seat and the next minute he saw you here. Let us assume that it is what happened.

Hon. Shakeel Shabbir (Kisumu East, Independent): I think he was not looking. I know he is my in-law and I think he was not looking, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Okay. Let us have the Hon. Member for Kaiti Constituency.

Hon. Joshua Kivinda (Kaiti, WDM-K): Thank you, Madam Temporary Deputy Speaker. Before Hon. Wafula Wamunyinyi interrupted I was about to finish. I was saying that I support this because I know it will bring change and improve our system of doing businesses in Kenya. It will also encourage investors because people will be interested to come and do business in Kenya because of the system. It will be smooth and encouraging. I support this Bill.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I see no further interest in debate on this Bill. On that note, I call upon the leader of the Majority Party to reply.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Temporary Deputy Speaker. From the outset, I want to thank Members who have contributed. I specifically want to reply to Hon. Wamunyinyi's concern. On sections 25 and 26, we have agreed, in principle, that I am going to withdraw those amendments on VAT before we proceed to the Committee of the whole House. The other amendments are on ease of doing business. They are meant to encourage investors and to make sure that ultimately the SGR is successful. So, they are part of the incentives given to investors who want to invest in bulk all the way from Mlolongo to Naivasha to Kisumu.

The essence and the most important objective of this Bill is that when the Minister in charge appears before the World Bank and IMF, he or she will help advance our interest which is ease of doing business. We are now number 56 and we anticipate that in the few years to come, this year or next year, we will improve our position to a more favourable one. Maybe, we will be among the top 20 or top 10 in the world and the first in Sub-Saharan Africa and Africa in general. So, this is an important Bill. It is rare to see business laws amendment. The reason those statutes are being amended is to make sure there is tidiness and efficiency in terms of cost, time, regulatory framework and legal framework which will ensure that we support the process of easing the doing of business in the country as spearheaded by President Uhuru's administration.

With those many remarks, I beg to move.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Leader of Majority Party, are you moving?

Hon. Aden Duale (Garissa Township, JP): Sorry, I beg to reply.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): We are at the tail end.

(An Hon. Member shouted in the Chamber)

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, I was thinking that you also use the camera in the Chamber to confirm. I do not think Hon. Wamunyinyi would just speak for the sake of it and Hon. Shabbir cannot also do that. So, between the two, come Tuesday... Let it be on the record. We must know who is lying to the House. If it is confirmed that Hon. Shabbir crossed and we confirm that, then you should be ready to be named.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I think we need to have a third eye. Now it is Hon Wamunyinyi's word against Hon. Shabbir's word. They are both ranking Members of this House. That puts us in a quagmire.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, the time being 6.59 p.m., this House stands adjourned until Tuesday, 10th March 2020, at 2.30 p.m.

The House rose at 6.59 p.m.