

**PARLIAMENT OF KENYA**  
**THE NATIONAL ASSEMBLY**

**THE HANSARD**

**Wednesday, 22<sup>nd</sup> September 2021**

The House met at 9.30 a.m.

*[The Deputy Speaker (Hon. Moses Cheboi) in the Chair]*

**PRAYERS**

**QUORUM**

**Hon. Deputy Speaker:** Hon. Members, we do not have the required quorum this morning. I, therefore, ask that the Quorum Bell be rung for 10 minutes.

*(The Quorum Bell was rung)*

Order, Hon. Members! We still do not have the required quorum. I order that the Quorum Bell be rung for a further five minutes.

*(The Quorum Bell was rung)*

*(Hon. David ole Sankok walked into the Chamber)*

**Hon. Deputy Speaker:** That Member walking in; just walk in so that we can move to business. Order, Hon. Members! We can now start business.

**PAPERS LAID**

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Deputy Speaker. On behalf of the Leader of the Majority Party, I beg to lay the following Papers on the Table of the House:

The Annual Report and Financial Statements, for the year ended 30<sup>th</sup> June 2020 in respect of the Independent Policing Oversight Authority (IPOA).

The Reports of the Auditor General and Financial Statements for the year ended 30<sup>th</sup> June 2019 and the certificates therein, in respect of the following institutions:

- (i) The University of Eldoret.
- (ii) The Karen Technical Training Institute.
- (iii) The Kabete National Polytechnic.
- (iv) The Kenya Ordinance Factory Corporation (KOFC).
- (v) The Ewaso Nyiro South Development Authority.
- (vi) The Nyayo Tea Zones Development Corporation.

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- (vii) The Kenya Meat Commission.
- (viii) The Micro and Small Enterprise Authority.
- (ix) The Africa Institute for Capacity Development.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Very well. We will go to the next Order. We will start with Questions. We only have Ordinary Questions this morning. So, let us start with the Member for Nandi Hills, Hon. Alfred Keter.

## ORDINARY QUESTIONS

*Question No. 351/2021*

### MEASURES TO ADDRESS SPIRALING DOMESTIC AND EXTERNAL DEBT

**Hon. Alfred Keter** (Nandi Hills, JP): Thank you, Hon. Deputy Speaker. I rise to ask the following Question to the Cabinet Secretary for the National Treasury and Planning:

- (i) What is the current amount of the country's total debt, both domestic and external?
- (ii) Could the Cabinet Secretary provide a breakdown of the total amount of funds that the country has borrowed both domestically and externally since independence, indicating the amount borrowed under and during the term of each of the previous and current Presidents?
- (iii) What plans has the Government put in place towards ensuring that its debt levels, particularly the external debts, are maintained at manageable levels?

**Hon. Deputy Speaker:** Very well. That one will be replied to before the Departmental Committee on Finance and National Planning.

The Question by the Member for Jomvu is deferred upon his request, which I accept.

*Question No. 356/2021*

### STATUS OF MADAFUNI-JITONI-RABAI ROAD

*(Question deferred)*

So, we will go to the Member for Loima, Hon. Jeremiah Ekamais Lomorukai. Hon. Members, you should be asking brief Questions. This Question is extremely long. Proceed.

*Question No. 361/2021*

### RECTIFICATION OF IRREGULAR CENSUS RESULTS FOR TURKANA COUNTY

**Hon. Jeremiah Lomorukai** (Loima, ODM): Thank you, Hon. Deputy Speaker. This is the second time I am introducing this Question. This is Question No. 361/2021. It is directed to the Cabinet Secretary of the National Treasury and National Planning:

- (i) Could the Cabinet Secretary explain the method used by the Kenya National Bureau of Statistics (KNBS) during the 2019 National Population and Housing Census exercise in Turkana County, specifically Loima Constituency which recorded a 12

- % drop in the population from the figure recorded during the 2009 census, despite the area having a recorded fertility rate of 6.9 % and a growth rate of 3.35 % on average, which is higher than the national average of 5.9 % and 2.9 %, respectively?
- (ii) Could the Cabinet Secretary also explain why the pre-census projection for the population of Loima Constituency indicated a population of 151,935 in 2016, 157,340 in 2017 and 162,807 in 2018 with the population catchment projections estimating 32,334 households with an average household size of 5.9 translating into a population projection of 190,770.6 only for the 2019 Population and Housing Census to record a 12 % reduction?
- (iii) Could the Cabinet Secretary provide the formula used in data collection and the methods applied in the reporting, storage, analysis and data smoothing for the enumeration results of Loima Constituency, and also avail the raw data as captured by the enumerators and further explain why the cross-border population of approximately 9,000 persons was not factored?
- (iv) Could the Cabinet Secretary indicate when the post-census analysis for Loima Constituency would be conducted so as to ascertain the actual population of the area considering it is a key component for planning and resource allocation?

**Hon. Deputy Speaker:** Very well. That one will be replied to before the Departmental Committee on Finance and National Planning. Let us proceed to the next Segment in that particular order.

*(Loud consultations)*

Order Members! There are some two Members who are speaking very close to each other and that can only be done by people who have just come from the same House.

Let us proceed.

*(Laughter)*

### REQUEST FOR STATEMENTS

**Hon. Deputy Speaker:** The Request for Statement by Hon. Kangogo Bowen is deferred. I have received a request to that effect, which I accept.

*(Request for Statement deferred)*

The next one is by Hon. Olago Aluoch. Are you ready, Hon. Olago?

**Hon. Olago Aluoch** (Kisumu West, FORD-K): Yes, I am, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Proceed.

#### FAILURE TO SET ASIDE LAND FOR PROPOSED KOTETNE SECONDARY SCHOOL

**Hon. Olago Aluoch** (Kisumu West, FORD-K): Hon. Deputy Speaker, I request for a Statement regarding the failure by the Ministry of Interior and Coordination of National Government to set aside land for the proposed Kotetne Secondary School from Kodiaga GK Prison Land.

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Pursuant to Standing Order No.44 (2) (c), I wish to request for a Statement from the Chairperson, Departmental Committee on Administration and National Security regarding the intention of the Ministry of Interior and Coordination of National Government to request the Department of Correctional Services to identify and set aside specific acreage of land for the creation of the proposed Kotetne Secondary School.

Sometime in 2011, the then Vice-President and Minister for Home Affairs, Hon. Kalonzo Musyoka, after consulting with his then Permanent Secretary and myself, confirmed in writing that, that land would be set aside from Kodiaga GK Prison for creation of the much needed secondary school for boys and girls. Thereafter, despite several efforts by the community living around Kodiaga GK Prison, the Ministry has not been able to indicate the acreage and the specific siting of the land that has been set aside for the school. Since then, the number of pupils that needed access to public secondary schooling has increased enormously. The Government policy on 100 per cent transition from primary to secondary school has put even more pressure on the few secondary schools in that area. It is now time for the Ministry to identify an appropriate acreage of Kodiaga GK Prison land that lies adjacent to Kotetne Primary School so that the community may realise the dream of starting a secondary school there.

It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Administration and National Security to address the following issues:

(i) Could the Chairperson confirm whether a decision had, indeed, been made around 2011 to excise part of Kodiaga GK Prison land for creation of a secondary school for the community?

(ii) Is the Chairperson aware that creation of such a school would ease the pressure on secondary school admissions in the surrounding area, and would also have a place for pupils in Kodiaga GK Prison Primary, Kotetne Primary School and other primary schools in the vicinity?

(iii) Is the Chairperson aware that the proposed secondary school would offer places not just for children of the staff of Kodiaga GK Prison but also of members of the surrounding community, and would translate into corporate social responsibility by the Department of Correctional Services and thereby improve the relations between the Department and the local community?

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Members are discouraged from coming to the Speaker's Chair because it disorientates his line of thought. That one, of course, will be referred to the Departmental Committee on Administration and National Security.

We then go to the next Statement by Hon. Kipsengeret. I can see you are in the House. Proceed.

#### DEMARCATION OF BOUNDARY TO DETERMINE THE LOCATION OF SONDU MARKET

**Hon. Kipsengeret Koros** (Sigowet/Soin, Independent): Thank you, Hon. Deputy Speaker. Pursuant to Standing Order No.44 (2) (c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding incessant border conflicts along Nyanza and Rift Valley regions, particularly in Sondu Market in Sigowet/Soin Sub-County.

Historically, land issues in those two regions have continued to be emotive and sensitive with residents experiencing persistent conflicts and fighting which have spurred confusion and misunderstanding on the administrative boundaries. A case in point is that Kisumu County officials

have been crossing to Kericho County's Sondu Market to collect revenue in the name of taxes from traders operating in Kericho County.

Hon. Deputy Speaker, it is prudent to note that Sondu Market has been in existence even before Independence as part of the defunct Rift Valley Province and, particularly, as part of Kericho District. The acts leading to revenue collection at Sondu Market by officials from a different county government is a recipe for chaos and disorder. Traders have been victimised and forced to pay taxes twice after officials from both county governments claim that such conflict areas were within their jurisdictions.

Aware that there have been survey beacons since time immemorial clearly demarcating the two regions, it is impracticable for Kisumu County government officials to cross the border to Sondu Market and frustrate innocent traders in the guise of lack of clarity – a problem which has persisted in the last three to four years without mitigation. It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Administration and National Security on the following:

(i) Is there a clearly demarcated boundary between the counties of Kericho and Kisumu? What has changed in the last four years given that such an encroachment did not exist earlier on?

(ii) Who removed the initial beacons of the general boundary survey distinguishing the two regions, and under whose supervision?

(iii) What measures has the Ministry undertaken to clearly demarcate the boundary between the two counties with specific interest at Sondu Market?

(iv) What short-term measures has the Ministry put in place to ensure that traders at Sondu Market are protected from the menace of double taxation?

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** That one will also be referred to the Departmental Committee on Administration and National Security. I would be very happy to get the Chairperson, Vice-Chairperson or even one Member of that Committee telling us how long those two requests will take. Well, through the Majority Whip, we should have this within 14 days. Is that fair or do we give them 21 days?

**Hon. Emmanuel Wangwe (Navakholo, JP):** Thank you, Hon. Deputy Speaker. Given that I will act as a conveyor belt, I request that we allow them 14 days. That should be sufficient time for a response to come to the House.

**Hon. Deputy Speaker:** Okay. Let us see how we can expedite that. Alright? Let us go to the next Order.

**Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM):** *(Off-record)*

**Hon. Deputy Speaker:** Hon. Akoth, what is it?

**Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM):** Sorry, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** You shouted when you know you can just press your gadget and I can see from here.

**Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM):** Sorry, Hon. Deputy Speaker. Thank you for giving me this opportunity. Sorry for raising this but sometimes some of these things are unforeseen. There was a tragedy in my constituency yesterday evening. A number of people were traveling from Homa Bay Town by boat. The weather was bad and the boat capsized. Two people have already been confirmed dead and nine are missing. Because they were missing overnight, it is presumed that they are most likely dead. My constituency is likely to have lost 11 people. Let

me take this opportunity to send my condolences to the people of Nduru, Lambwe and Suba North in general.

However, in a very special way, the reason why I am raising this point of order is because tragedies do not respect orders. I will later be raising a more substantive issue. I request the Government to assist. I know there are people who are already helping with the rescue. I ask the Government to help us because as people of the lake, those who die are buried immediately their bodies are recovered. The Government can help us to assist the families who are bereaved.

**Hon. Deputy Speaker:** Hon. Millie, I feel your pain because this is a serious matter and lives have been lost. You are also a seasoned politician who has been in this House for some time. You could have easily raised it in a different manner procedurally. I agree that some of these things do not require procedure. There are too many things that do not ordinarily require procedure. If we bring all of them together, we will become an un-procedural House. You have had your day but in future, if you have issues, even of a different nature; raise it using the correct Standing Orders. You rose as if there was something out of order. Yes, it was out of order, but you know the specific things on which we raise points of order within the precincts.

Let us go to the next Order.

## BILLS

### *First Reading*

#### THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND (AMENDMENT) BILL

*(Order for First Reading read - Read the First Time and  
ordered to be referred to the relevant Departmental Committee)*

### *Second Reading*

#### THE KENYA DEPOSIT INSURANCE (AMENDMENT) BILL

*(Hon. Rahim Dawood on 18.8.2021 – Morning Sitting)*

*(Resumption of Debate interrupted on 18.8.2021 – Morning Sitting)*

**Hon. Deputy Speaker:** On this particular one, we had a balance of 27 minutes and there was a Member on the Floor. Which Member was that?

*(Hon. Deputy Speaker consulted with the Clerks-at-the-Table)*

**Hon. Deputy Speaker:** Yes, Hon. Fabian Muli. Are you in the House? You had a balance of six minutes. In the absence of Hon. Fabian Muli, he forfeits his minutes. Therefore, we will go to other Members who wish to contribute. We only have 27 minutes. I can see Hon. Pukose is on top of the list. Had you contributed? Hon. Sankok had also contributed. We have Hon. Paul Mwirigi. Had you contributed to this or do you want to speak to the next one? Hon. Dawood?

*(Loud consultations)*

If any Member wants to speak, please press the intervention button, so that I do not have to call all your names and put you on the list. Press the intervention button. I will notice that. Hon. Ogutu, do you want to speak to this one? I do not think so. Let me see the one who has just pressed now. Hon. Murugara. It seems that the only option we have is to ask the Mover to reply. I have only seen one Member who wants to contribute. That would be the last one and then you reply. Other Members may come and want to contribute on something that has already been dealt with.

Proceed, Member for Gilgil, Hon. Wangari.

**Hon. (Ms.) Martha Wangari** (Gilgil, JP): Thank you, Hon. Deputy Speaker. I rise to support this Bill by Hon. Dawood. He is just trying to tidy up what has been in practice. As you know, the current payout is pegged at about Kshs500,000 for any bank or institution that sinks or goes under. That means that as a regulation, it can be easily moved. It becomes a moving variable. He is trying to correct that anomaly and ensure that we do not have conniving institutions that go behind the regulations to make adjustments without following the due process. By putting it at Kshs1 million and in an Act of Parliament, it gets more weight. The Kenya Deposit Insurance Corporation (KDIC) will be obliged to peg it at Kshs1 million. That means that we will have more security for those institutions. It being in law is better than being in the regulations. Therefore, I thank Hon. Dawood for that.

I support the Bill.

**Hon. Deputy Speaker:** That was brief. Therefore, let us have the Mover replying.

**Hon. Rahim Dawood** (North Imenti, JP): Thank you, Hon. Deputy Speaker. I wish to reply. When I brought this Bill, the Leader of the Majority Party complained that we did not need it. The essence of the Bill was lost in partisanship. When I brought the initial Bill in 2018/2019, it had gone round to the Budget and Appropriations Committee and it went to the Departmental Committee on Finance and National Planning twice...

**Hon. Deputy Speaker:** Hon. Dawood, I have to be very clear on something. You said the Bill was lost. We have not lost any Bill yet. You are actually moving the last bit. I want you to reply.

**Hon. Rahim Dawood** (North Imenti, JP): Hon. Deputy Speaker, it was not lost on the Floor of the House. It was lost in the committees because it took more than three years to come to the Floor of the House. My colleague says it was misplaced but in the process, it finally made it here.

When the Parliamentary Budget Office came to the Departmental Committee on Finance and National Planning and the Budget and Appropriations Committee, they recommended... With this Bill in place, the saving culture in the country will improve. They even said that the money going to the Exchequer will be more than what they are getting at the moment.

When I initially proposed to raise it from Kshs100,000 to Kshs1 million, it was not just out of the blues. When Chase Bank went under, the Governor of the Central Bank of Kenya increased the amount that could be given out to Kshs1 million. That was the basis. This is because Kshs100,000 in 1989 is not the same as Kshs100,000 in 2021. That is why when the Kenya Deposit Insurance Corporation (KDIC) came up with a regulation to raise it to Kshs500,000 in 2020, that did not suffice because a regulation can be withdrawn at any time and that is why I have put it at Kshs1 million.

Like I said last time, this is insurance and if we are so sure that KDIC and the Central Bank of Kenya are up to the job, there should be more supervision so banks do not fall. This means they

will not use that money. They have more than Kshs130 billion in deposits at the moment as insurance from concerned banks.

Hon. Deputy Speaker, with this, I beseech my colleagues to pass this Bill because there is nothing wrong with it and it intends to assist our people when a bank goes under. At the moment, as we speak, the liquidation of Imperial Bank has not yet been completed six years down the line. For Chase Bank, some people took a hit. The Departmental Committee on Finance and National Planning has surprised me because in their first Report, they did a pre-publication of this Bill and gave it a thumbs-up. However, in their second Report, they said it would not work because it would incur a lot of expenses which we cannot afford. I beseech my colleagues because this is for our people who have money in banks. We cannot have it at Kshs100,000 or Kshs500,000. What about someone with more than Kshs500,000? Where does he/she go?

With those few remarks, I ask you to allow *Mhe. Millie* to say one or two words. Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** No! This is because we had an opportunity to give Members time. Hon. Dawood, if you have to do this in future, you need to do it early so that we can understand you will save some minutes for your colleagues. For this one, I do not think we will open it and neither are we going to put the Question for now for obvious reasons. Therefore, I am deferring it to the next opportunity. Let us go to the next Order.

*(Putting of the Question deferred)*

## BILL

### *Second Reading*

#### KENYA FOOD AND DRUGS AUTHORITY BILL

**Hon. Deputy Speaker:** Hon. Pukose, proceed to move your Bill.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Deputy Speaker. I beg to move:

THAT, the Kenya Food and Drugs Authority Bill (National Assembly Bill No.31 of 2019), be now read a Second Time.

This Bill seeks to establish the Kenya Food and Drugs Authority to provide for the regulation and management of food, drugs and chemical substances, to provide for the regulation of medical devices and other health technologies and to give effect to the principles and objects of devolved governments in food safety regulation and for connected purposes.

I want to give general comments on why we are talking about the Kenya Food and Drugs Authority. The Kenya Food and Drugs Authority is central to the universal healthcare in terms of strengthening the regulatory systems. It also gives credibility and authenticity of the regulated medical products, what we call maturity level three and opening up broader markets for products and expertise. When we talk of maturity level three, it means Kenyan products can be sold in other areas within the region. Normally, with maturities, they go up to level five. The only countries that have attained maturity level three in Africa are Ghana and South Africa. The rest of the countries have not achieved it.

That way, it means our pharmaceutical products can be sold within any other region outside Kenya, if we achieve maturity level three. Also, under the World Health Assembly (WHA)

Regulation No.6720, which is in keeping with international practices and guidance from the World Health Organisation (WHO), it also helps us to safeguard the health of the public by ensuring quality, safety, and efficacy, effectiveness of medicines, food and related health products. Health is a contributor to economic development, and is a critical and integral part of the health policy as set out in the Fourth Schedule of the Constitution, 2010 and Health Act, 2017, Section 62. This Bill aims to establish an autonomous regulatory Authority to harmonise and consolidate the regulation of the trade-in management and aspects of utilisation of all health products and technologies.

What are the benefits of having KFDA? It will support and improve the regulatory capacity of the pharmaceutical products in Kenya and eradication of substandard and falsified medicines. This is because occasionally, you go to a place and find the medicines being consumed could be substandard, falsified or spurious.

It will also strengthen and harmonise regulatory systems in Kenya to improve predictability and efficiency of marketing approvals. This is so that innovative new health technologies can be delivered and used sooner, ultimately improving health outcomes of patients in need. This also avoids duplication of regulatory review, accelerates scientific risks benefit adjusted reviews, facilitates recognition and accelerates access. Towards this end, the scope of Food and Drug Safety legislation is generally defined by the category of the products.

**Hon. Deputy Speaker:** Order! Member for Samburu East and the other Member who I do not know come from which county, please, I indicated that we must keep safe social distance. Actually, I said it is only people from the safe home because we know from the same house could be different. Please let us keep safe distance because it is good. Proceed, Hon. Dr. Pukose.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Deputy Speaker. The purpose of the KFDA Bill is to safeguard the health and safety of consumers with regard to broad categories of products which they routinely consume. Those are food and medicines. The measures outlined in the Bill seek to ensure that food is safe and of adequate nutrition and the medicines and other products used in health care are safe, efficacious and of acceptable quality.

The Bill is expected to address chronic weaknesses in the existing regulatory and control systems. In as far as drugs are concerned, Kenya has a national regulatory authority for assuring the quality, safety and efficacy of medicines - and this is the Pharmacy and Poisons Board. However, the current enabling law, the Pharmacy and Poisons Act, done in 1957 through Cap244, is outdated and presents numerous challenges to the functionality of the Pharmacy and Poisons Board and I will give examples.

The Pharmacy and Poisons Board regulates the profession of pharmacy and medicines. Although this model was common practice in the 1950s, the health landscape and health sciences involved have changed dramatically and consequently the regulatory approaches have evolved. In today's world, regulating the competences of health professionals and pharmacists is very different from regulating the quality or efficacy of a medical product like medicine. Therefore, there is need for harmonisation and adoption of the agreement between the East African Community (EAC) partner states, that each country adopts a Food and Drugs Authority (FDA) institutional model of regulation.

The regulation of medical devices including diagnostic devices has been, perhaps, the most fragmented. Until the late 90s, there was no clear global framework for regulating medical devices, although they were deemed to be medical products. Initial attempts by the Pharmacy and Poisons Board to implement a regulatory framework for medical devices were met with resistance and conflict from other professions, particularly nurses and laboratory technicians and technologists.

The regulatory bodies of those professions had made attempts to fill the historical gap through expanding their mandates to include the regulation of various categories of medical devices. The ensuing conflict resulted in several instances of litigation aimed at retaining control over the market for medical devices.

Hon. Deputy Speaker, with specific categories in as far as how the KFDA contribute to the Big Four Agenda... I have talked about the universal healthcare which is important. I have talked about economies in terms of business, medicines, medical devices and biological products. It might be too technical when we talk about biological products, but I know some Members will understand. In medicine, we talk about therapeutic, meaning products that can treat. They have to be safe. They have to perform the intended function and are produced using appropriate standards and the benefits to human health associated with their use are favourably balanced against the risk of harm from the use of such products. We also have veterinary medical products which should also be safe, efficacious and of good quality. They are used in a manner that promotes human and animal health goals.

This Bill will affect the governance and institutional arrangements in that it is intended to strengthen the Pharmacy and Poisons Board to become a regulatory authority. The development of the KFDA Bill has moved in tandem with the ongoing regional integration, particularly within the East African Community (EAC). One of the successful ventures is the harmonisation of the regulatory agreements within the EAC which was done as an EAC scientific directive on establishment of FDAs by member States. What is the current status? Currently, within the EAC countries, countries like Uganda, Rwanda and Tanzania have what we call regulatory authorities. It is only in Kenya that we are lagging behind. Therefore, it is important for us to be able to adopt this so that we can move as a country.

The rationale for the proposed integration of the regulation of food and drugs is anchored on the tenets of science, particularly toxicology, that is, all chemicals and biological substances are potentially poisonous to humans whether in their natural state and under normal conditions of use or when prepared, used or applied inappropriately. Such chemical or biological substances can enter the human body through food, animal or plant origin, whether raw or cooked, processed or unprocessed; or medicines and medical products of all forms, including human vaccines and human blood for transfusing; or medical devices and products used to diagnose disease; or cosmetic products; or through veterinary medicines when administered to food-producing animals or through various chemicals used in agriculture, industrial or mining applications.

Under Articles 43 and 46 of the Constitution, every person is guaranteed the right to the highest attainable standard of health and the right to be free from hunger and to have adequate food of acceptable quality and the protection of their health, safety and economic interests, respectively. The responsibility to ensure that food and drugs are safe for human consumption is, therefore, that of both the national Government and the county governments. This is based on the fact that while the national Government has the general responsibility to develop policies on health, agriculture and veterinary sciences, the county governments have the obligation to implement such policies. The Health Act No. 21 of 2017 is the overarching legislation providing for the regulation of healthcare services, healthcare service providers, healthcare products and health technologies. Section 62 of the Health Act recommends for the establishment of a single regulatory body for health products and technologies. The single regulatory framework contemplated under Section 62 of the Health Act has assigned the functions to, *inter alia*, licensed health products and health technologies, licensed manufacturers and distributors of health products, conduct laboratory testing and inspection of manufacturing, storage and distribution facilities of health products and

technologies, control of clinical trials, conduct advertising and promotion, post marketing surveillance for quality, safety and disposal of health products and health technologies and regulate contractors for medical devices and physical security for products, including radioactive materials and biological products.

The Health Act further provides that the legislation contemplated under Section 62 shall provide for the granting of marketing approval only by a technically competent body after appropriate assessment has established that such a product generally meets the recognised standards and approval made subject to conditions notably with respect to the conduct and content on promotion and advertising. Despite the proposed establishment of a single regulatory body to regulate the health products and technologies and the provision on the grant of marketing approval only by a technically competent body, under the Health Act 2017, the Bill under Clause 12 provides that the primary object of the proposed establishment of the Kenya Food and Drugs Authority, herein referred to as the Authority, shall, *inter alia*, provide for the regulation, investigation, inspection and approval of food, health products and technologies and related matters in the public interest, and to ensure adequate and effective standards and guidelines for regulation of health products and technologies. Additionally, the Bills prohibit, under Clause 79, the advertising of any health products and technology without the written permission of the Authority. Further, the Bill mandates the Authority, under Clause 113 to, *inter alia*, develop regulations with respect to the labelling, packaging and offering, exposing and advertising for sale of food, drugs, health products and technologies, and provide a manner and procedure in which clinical trials may be conducted in Kenya.

Hon. Deputy Speaker, I know there have been expressions of fear from other quotas in as far as regulations of food products are concerned. We agreed as the Departmental Committee on Health that this Bill will not deal with matters that are not health-related. Those that are managed by other departments like agriculture are not going to be touched in this Bill. We are in concurrence with that. As I move this Bill, I want to ask those who are outside listening to this Bill not to fear because we will not interfere with other areas. We will only have what is health-related in this Bill; those that are managed by the public health officers within the Ministry of Health. We shall not touch anything that is not within the Ministry of Health in this Bill.

This Bill will also have various departments within it; what we call advisory committees. Under the advisory committees, we will have medicines, medical devices, biological, therapeutic products and scientific advisory committees such as advisory committees on prescription medicines. We will have an advisory committee on the safety of medicines, medical devices, complimentary medicines, biological and safety of vaccines. As you may be aware, with COVID-19 issues, vaccines are a major issue. We have other vaccines too. So, we will have an advisory committee on vaccines and for the scheduling of substances. We will have an advisory committee on medicines and advisory committee on chemical scheduling.

For the regulations of clinical trials, a national health ethics committee... Right now, if you want to approve any trials, you seek for approval from the Kenyatta National Hospital Ethics Committee. However, we need to have a national advisory committee on ethics; what we will be calling a national health ethics committee that approves any clinical trials within our country.

On combating anti-microbial resistance, we will have a national anti-microbial stewardship advisory committee. More often, you find people buying antibiotics over the counter without prescriptions. If you went to other countries like the United States, the European countries and even South Africa, you can never buy antibiotics over the counter. That is because it leads to anti-microbial resistance.

For prevention and control of poisoning, there will be a national poisons information service and provisions for the designation of poisons centres. You will find that people have taken in some poisons in whatever corner it is. How do you access information on what you need to do in as far as poisons are concerned? These are emergencies. People who have taken “rat rat” and are in the corner of Kabuchai, can call the national poisons centre and be advised on what to do.

For appeals from decisions made under the KFDA Act, we will have the Kenya Food and Drugs Tribunal. This is a tribunal that will have a lot of activities because where do you appeal in case of any issues like that?

So, with those few remarks, I know this is a very interesting Bill. I really want to compliment the Departmental Committee on Health. They have put a lot of energy in this. I know wherever the Chairperson is, she is listening. The ward chief and the committee are here representing her. I saw Hon. Eseli Simiyu and Hon. Dr. Nyikal around and they have put a lot of energies in this Bill. The Ministry of Health and the Pharmacy and Poisons Board have also put a lot in this Bill. All the stakeholders of Path International have put a lot in this. I want to appreciate Path International for their role in terms of putting a lot of efforts in this.

John Paul wherever you are and your team, I want to thank you very much for supporting this Bill.

This is a Bill that will revolutionise drugs and medicines within this country.

**Hon. Deputy Speaker:** You know, Hon. Pukose, you can give your thanks and compliments later once you have heard what the other Members have said, so that you do not thank this one then it turns that the ones who support you more are the ones who speak later.

**Hon. (Dr.) Robert Pukose (Endebess, JP):** Yes. I will thank them once they contribute. Thank you for that guidance.

I ask the House to support this Bill. It is good for our country. It is a Bill for future generations and we should benefit from it as a generation.

With those few remarks, I want to move the Bill and ask the Ward Chief to second.

**Hon. Deputy Speaker:** You know, that is a name not known on records. So, I am trying and struggling to know who this ward chief is. If you mean the Hon. Martin Owino, the Member for Ndhiwa, that other name is not on record. I am told it is somewhere as he passes a few constituencies closer to his. That is when that name kicks into the mind of members of his constituency.

**Hon. (Dr.) Robert Pukose (Endebess, JP):** Hon. Deputy Speaker, Hon. Martin Owino, also known as Ward Chief.

**Hon. Deputy Speaker:** Now that is better. Hon. Chief Owino then.

**Hon. Martin Owino (Ndhiwa, ODM):** Thank you, Hon. Deputy Speaker. I am a son of a chief. My dad was a chief. I am so happy to second this Bill on behalf of the various Members of the Departmental Committee on Health. I also want to thank Hon. Pukose for his indulgence. We have tossed him back and forth in order to have some agreement on this Bill because it was touching on several Acts and through the public participation, we had to harmonise some of those Acts.

I also want to say upfront that we had the two ministries, the Ministry of Agriculture and the Ministry of Health, sit together to deliberate on this Bill. So, I rise to second the Kenya Food and Drugs Authority Bill No. 31, 2021. This Bill is going to protect consumers. That is the key word we can use here. I had a chance to go to China and our mission was to find out why they are exporting substandard things to Kenya. We saw a raft of different categories of commodities and people choose for themselves. Why did we get all these coming through our borders? It comes to

the same thing we are talking about now; the regulatory authority. It is upon us to admit what is coming to the country and what should not come in. This is what this Bill is going to address. That said, I must also emphasise that, as a Committee, we have amendments which he alluded to and I am happy he has done that. The issue of drugs and food is quite different and the definition of foods is different. The nutrition is also controlled by the nutrition council. Livestock was crowded in drugs, pesticides and fertilizers. Implementing this Bill, if passed as it is, would be very difficult. I thank Dr. Pukose because he agreed that we separate drugs from food. The proposed amendments that will be introduced during the Committee of the whole House will affect the Title. Also, the responsibilities will be different because food will now be under agriculture.

This Bill addresses safety issues of the health products and technology. Health depends on the quality of the products that we allow to be brought into our country. If our bodies are subjected to sub-standard drugs, the body might not be sensitive to them and disease progression will continue for sure; and we will have more complications. It is important that this Bill is passed. It will strengthen the regulatory authority to do that.

The other issue is the quality of the substance. Safety is one thing and quality is also another. It addresses something that is safe or of not good quality. All the two, if addressed properly, will also give birth to efficiency. In health, efficiency is very vital. If there is delay in the supplies, because they are subjected to sub-standard regulations, people will die. If they are brought late, when a disease has progressed, we will be dealing with another level of care.

The Universal Health Care (UHC) was mentioned by the originator and it is also anchored on the value of health. If low quality products are administered onto the body and you do not get well, even getting back to the hospital will be a big problem. That is why many Kenyans look for alternative medicine. This Bill is trying to cure that. If we allow quality products and doctors prescribe them, we will know they are of good quality and it will add value to healthcare.

The control over what to buy over the counter and what not to buy used to be enforced by the Kenya Pharmacy and Poisons Board but that is no longer happening. Anybody can walk into any establishment, especially a chemist, and buy what they want. We hope when the Bill is enacted, it will add more power to control drugs.

I yield my time to Members to comment on this. We dealt with it in the Departmental Committee on Health for a long time. It is a good Bill. In closing, I want to make sure that Members understand that the Bill has been moved as it is but there are proposed amendments that will be introduced, which will separate drugs from food. Food will be under agriculture. Those in the agriculture sector are drafting another Bill for food separately. This is because we also ventured into very many countries which have combined them and found that they are not very effective. Tanzania is one of the countries that established a food and drugs authority but they are now trying to separate the two. The United States of America (USA), the pioneer of food and drug authority, has also evolved. The name is still there but there are separate entities which have been formed to deal with food or drugs separately.

With those few remarks, I beg to second.

**Hon. Godfrey Osotsi** (Nominated, ANC): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is out of order, Hon. Osotsi?

**Hon. Godfrey Osotsi** (Nominated, ANC): Hon. Deputy Speaker, you will agree with us that this Bill...

**Hon. Deputy Speaker:** How can I agree even before I get to know what you want to say? What is out of order?

**Hon. Godfrey Osotsi** (Nominated, ANC): My point of order is that the Mover of this Bill, my good friend, Dr. Pukose, clearly indicated that the doctors in this House are in agreement, that is, Dr. Mishra, Dr. Nyikal and Dr. Simiyu, but they are not here! The Bill is quite technical. I wish they were here so that they help us understand some of the technical issues in it considering the fact that there is no Report on the Bill.

**Hon. Deputy Speaker:** Hon. Osotsi, you are out of order. First, Hon. Pukose did not say that. I heard Dr. Pukose say that the Members of the Departmental Committee on Health are in agreement, but that is neither here nor there. Committees are secondary institutions. The primary institution is this House. So, Members will contribute, whether there are doctors or not. That should not be a major issue. Whether the doctors will be here or not, we will turn a blind eye to that aspect.

What is it, Whip of the Majority Party?

**Hon. Emmanuel Wangwe** (Navakholo, JP): Hon. Deputy Speaker, with the permission of Hon. Osotsi, allow me to inform you, as a reminder, that...

**Hon. Deputy Speaker:** Therefore, it is not a point of order rather it is a point of information.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Yes.

**Hon. Deputy Speaker:** Hon. Osotsi must accede to it. Do you want any information?

**Hon. Godfrey Osotsi** (Nominated, ANC): Hon. Deputy Speaker, I said that in the absence of a Committee Report that should have guided us, we need more information and the doctors would be in a better place to guide us.

**Hon. Deputy Speaker:** If you are talking about a Committee Report, that would be a real substantial issue. The only thing is that you talked about Members not being here, but there is something you did not say. Do you want information from the Whip of the Majority Party?

**Hon. Godfrey Osotsi** (Nominated, ANC): *(Off record)*

**Hon. Deputy Speaker:** Okay, you accept by nodding. So, let us hear what information he has.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Deputy Speaker. I appreciate my good friend, Hon. Osotsi. Looking at the Bill I have with me, it is written in English. It has no medical jargon in it. Therefore, I inform Hon. Osotsi to get a copy of the Bill. It is in plain English and it can be well understood. One can debate it even if one is not a medic.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** That is a problem now. Hon. Osotsi, the problem with accepting information sometimes is that it might not be extremely good. I do not think the information was necessary. I am sure you can see it is in English. Allow me to propose the Question so that we go to debate.

*(Question proposed)*

Hon. Members, I will go by the requests on the list. As usual, Hon. Sankok is on top of the list.

**Hon. David ole Sankok** (Nominated, JP): Hon. Deputy Speaker, it is not by coincidence that I am called "Nominee 001". Even in coming to this House, you will affirm that I arrive here before you and leave after you because I have to earn from my sweat.

**Hon. Deputy Speaker:** That is obviously correct. It depends. There are people who should come to wait for others and there are people who come after others have waited. You belong to

the first category. The Deputy Speaker, obviously, belongs to the other. So, you are doing what you are supposed to do.

Proceed.

**Hon. David ole Sankok** (Nominated, JP): Thank you very, much Hon. Deputy Speaker. At the outset, I support the Bill that has been brought here by a world renowned surgeon, Hon. Dr. Pukose. He has seen the problems that Kenyans face, especially because of the upsurge in cases of cancer and non-regulated food and drugs. I support the Kenya Food Bill, which will birth the Kenya Food and Drug Authority that will house all regulatory organs of all the foods and drugs in our country.

Currently, regulation of food and drugs in our country is haphazard, to say the least. We remember Matiang'i and the mercury in sugar. We could not understand how mercury ended up being in sugar. What is the rationale in somebody putting mercury in sugar and selling the compound at the price of sugar? Mercury is more expensive than sugar! So, we could not understand. If we had such a regulatory authority in place, it would be easier for us to ascertain the truth. This is because we have witnessed situations where products from the Small Medium Enterprises (SMEs) are destroyed in the pretext that they are counterfeit and not fit for consumption. We have seen butcheries being paraded in media in the name that the preservatives of the meat products they sell to the citizens are not up to standards that are fit for consumption. All these can be true, but do we have the professionalism of determining products that are fit for human consumption and the ones which are not?

Hon. Temporary Deputy Speaker, whatever you consume either as food, supplements or medicine will eventually reflect on your health and lifespan. Our lifespan in Kenya is not comparable to other countries with such regulatory authorities that ensure that everything that they consume are professionally regulated. So, this Bill by Hon. (Dr.) Pukose has come as a saviour to the Kenyan citizens who are incurring a lot of medical bills courtesy of consumption of foods or intake of medicines that are not fit for human consumption.

This Bill is very important. The Ministry of Agriculture, Livestock, Fisheries and Cooperatives may not be comfortable when we talk about food. We are not talking about food in terms of the food contents such as grains, beans, vegetables, *et cetera*. However, we are talking in terms of drugs that are within the food products.

When animals are injected by veterinary doctors, it is advisable that milk from those animals is not consumed within 14 days after injection. The meat of such animals should also not be consumed within one month after the injection. However, these products end up in our markets and finally on our tables within three or four days after the injection because at times the sick cow does not get better and the owner decides to sell it. Some of these practices are not well regulated.

Some people spray insecticides on vegetables and tomatoes. I come from an area where irrigation is practised along the Ewaso Ng'iro River. I have seen tomatoes being sprayed with chemicals but I cannot recall the name. They spray the tomatoes so that they can become bigger or ripen faster. The following day, they are on our tables. Are they fit for human consumption? Is it the cause of the upsurge of cancer cases? That is what Hon. (Dr.) Pukose is trying to address. Being a medical practitioner and a world-renowned surgeon, he must be having first-hand experience with regard to that because he still offers free medical treatment and surgeries to his constituents whenever he is in the constituency. This is a well-informed Bill because of the problem that we are facing.

Cosmetics are even worse and they really need to be regulated. Our ladies are into looking beautiful and attracting men at the expense of looking into their kidneys and other organs that may

fail because of the overdose of some of these chemicals that are used in lightening their skins. The skins are lightened by drugs that destroy melanin. For the cosmetics to stick in one's body, one needs a sticker. Most of the time, these stickers are heavy metals like lead and mercury. If you use them in your lipsticks, you might end up transferring the same mercury and other poisonous chemicals to your spouses.

Hon. (Dr.) Pukose talked about maturity level 3 that enables us to have products that we can sell beyond our borders. Currently, it is only South Africa and Ghana whose drugs and pharmaceutical products are at maturity level 3. It means they can sell and get foreign exchange beyond their borders. However, in our case, we can only produce and use them within our borders. We cannot sell them to other countries because we are not regulating them.

This authority will also regulate and ensure that only prescribed medicines are sold. In Kenya, you can buy antibiotics over the counter. If you go to other countries, you must have a registered doctor's prescription. It is so that people do not use medicine that will end up making them resistant, or even getting side effects in their bodies. Examples of those antibiotics are penicillin and cephalosporins like cefaclor. However, the common citizens do not understand that these two antibiotics have a common thing called beta-lactam ring which is the cause of resistance from bacteria that produces beta-lactamase that breaks down the ring. So, you end up having cross-resistance.

Hon. Temporary Deputy Speaker, I want to conclude because I can see my time is up. I would like to implore Hon. (Dr.) Pukose to allow us to bring an amendment to include regulation of assistive devices used by persons with disabilities (PWDs). I have a Bill in this House that will enable the National Hospital Insurance Fund (NHIF) to cover the provision of assistive devices to PWDs. These assistive devices for PWDs like crutches, callipers, wheelchairs and hearing aids are prescription equipment. What I use may not be used by Hon. Dennitah. If you end up giving a wheelchair to somebody who is able to use crutches, he or she will end up becoming more disabled because of the dormancy that comes with a wheelchair. Otherwise, he or she would have exercised using crutches running up and down.

I would also like to implore Hon. (Dr.) Pukose...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Thank you, Nominee 001.

Let me have the Member for Igembe South, Hon. Mwirigi Paul.

**Hon. John Paul Mwirigi** (Igembe South, Independent): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill. It is a very important Bill. The current regulations ought to be further regulated to put more safety in the use of medicine. It is normally said that a healthy country is a wealthy country. When we regulate this sector, we will be able to receive medicine of good quality because at times the unregulated medicines that are sold in our country are substandard and of low quality. Therefore, if we pass this Bill, the medicines will be of good quality.

When we market the medicines without regulations, our economy will not grow. We have some products that can be used to make medicines and earn foreign exchange to this country. However, without good regulations, we will not get market beyond our borders. So, this will help us to market something which is of good substance outside there. People seeking medical attention every now and then may be safe because the medicine and the care they will receive will be of good quality. That will happen if regulations are put in place. In most cases, there is no advice given to patients concerning some of the medicine which is sold over the counter. You can buy whatever medicine you want without any restriction. That way, one tends to misuse medicine.

Also, on the advertisement of the medicine, Hon. Pukose has clearly elaborated that in order for anybody to advertise the medicine, the prescriptions must be authorised by regulation so that people do not advertise something that is not of good substance. The nutritional content of the medicine being sold will also be enriched. It is because there is a body that will be overseeing and regulating it so that, at least, the people consuming it cannot be harmed or affected by the medicine.

There are risks people encounter when they use substandard medicine. People die because of using medicine which is not prescribed, or is of low quality. Now the quality and the medicine being used or being sold will be of good quality and our people will be in good health. This will help to improve health facilities within our country. Most of the people will be rushing there to get medicine because it is of good quality. When we strengthen the advisory board, none of the private medical facilities which people open to fetch money will exist. Those ones will be regulated by the advisory board. Our people will be in a safe country where quality health is offered. Also, people who misuse medicine will not get that loophole anymore.

So, this Bill is a good one. It will enable our health facilities to grow well and our people to live well. With those remarks, I beg to support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. The Hon. Member representing the people of Gilgil, the Hon. Wanjira Wangari.

**Hon. (Ms.) Martha Wangari** (Gilgil, JP): Thank you, Hon. Temporary Deputy Speaker.

I rise to support this Bill. The reason we have more confidence in it is the Mover of the Bill who is a medical practitioner. In terms of the need for the Bill, we are in agreement. I see this Bill was conceptualised and published in 2019. That was even before we were really hit by the Covid-19 pandemic. The need for this control has been amplified in the last two years. Many Members in this House will agree. For the last three months to six months, the number of burials that we have had to attend as Members of Parliament (MPs) and many families that have suffered is quite big. Is there a need to regulate? I say, definitely. But, the Seconder of the Bill, I heard him being called *Wuod* Chief, Hon. Owino, had alluded to some of the issues that would concern some of us. I think the issue of drugs and medicine needs to be separated from that of food. One, it is because the conflict of the two ministries will arise if this goes the way it is. We need the responsibility to be put where it is. The issue of agriculture is squarely under the Ministry of Agriculture, Livestock, Fisheries and Co-operatives. It is not just about the food and the selling. It starts from the planting, the fertilisers that are used, the chemicals that are used and goes all the way to the distribution. So, I think we can separate these two issues. That will go a long way to ensure that it is neat, as a regulation, so that we do not become ambiguous and leave room for manipulation. We are, as a House, clear as to what needs to be done.

I am very concerned about the issues that have been raised in this Bill in terms of fake medicine and substandard medicine. But even as we look at universal healthcare services in this country, this needs to go hand-in-hand so that we do not harass villagers who are just looking for help in buying medicine. We should take care of both their welfare and make sure that we get the accessibility and affordability considered. This now goes to the role of the counties in this issue. Why do I say that? I have a village in Gilgil called Thugunui. If someone wants to get a doctor's prescription, they will have to go to Gilgil town or Nakuru town. You will spend Kshs1,000 to go get a prescription which may be an emergency. Unless these things are locally available, it will still become very hard to implement. I say that because, just a few years ago, we had the Pharmacy and Poisons Board. It tried to even effect the banning of selling of Viagra over the counter. Why? It is because Viagra is supposed to be prescribed by a doctor. But, how many are buying it over

the counter? How many are dying from those *unprescribed* and uncontrolled products? This issue has to be looked at holistically, in terms of getting healthcare close to the people.

I have said it before and counties need to take note of this: we must separate the issue of primary healthcare and that of referral healthcare. Let us localise immunisation, family planning, malaria, and diarrhoea. All those things or ailments should be handled at the local level—in the dispensaries and the health centres. That would now ease or make it easy for referral hospitals to deal with more complicated matters that would be referred to them. So, I think we can look at it that way.

I also want to talk about regulations. I say that because, in this country, even when we introduced the curfews and the restrictions in restaurants, we have seen corrupt people, maybe, in the police and regulatory institutions, taking advantage to also harass genuine people who are working and doing their business.

Looking at the role of the Board, Part N says that the Board can appoint inspectors and order inspection of any premises. That is quite open-ended. If it is not regulated, it would amount to abuse and can easily be manipulated to just harass people who are doing genuine business. I hope this will come out clearly in the raft of amendments that have been referred to by the seconder of the Bill.

Two years ago, I had an issue of hawkers at the Toll Station in Gilgil, where the Authority seized some items and destroyed them saying that they were substandard. There was no court order or any legal way of explaining to the people who were affected. The Authority burnt the items even before the affected individuals could have any recourse. Also, if you remember, just a few years ago, the President went and destroyed some drugs that had been seized and someone turned up with a court order. I have seen the issue of roping in the Judiciary in the Bill. Part 24 of the Bill gives a lee-way. It says that if someone has reasons to believe that a food item that a person has processed, manufactured or distributed is not in compliance with this Act or any law, that person shall immediately initiate procedures to withdraw the food item from the market. So, there has to be clear mechanisms of logging complaints on issues of substandard food items and withdrawal of the same that does not give room for witch-hunt arising from business rivalry. There should be no room for manipulation of the regulatory authorities to witch-hunt a person or a competitor.

Hon. Temporary Deputy Speaker, on the issue of food, we previously had sugar that was contaminated and maize with aflatoxin. Foodstuffs which are not good for human consumption adversely affect the health of human beings. Issues of food and medicine are interrelated but I think we should separate them so that we have a clear way of dealing with them separately in the Ministries responsible for agriculture and health, respectively.

The role of the counties needs to come out very strongly. I say so because the Constitution, in Schedule Four, devolves agriculture and health. The implementers are mostly the county governments. Therefore, we must get away from centralising what has already been devolved to the county level. We can centralise the issue of policy but the implementation must bring on board the county governments and the relevant organisations at that level of government. I say so because when the health function is not working, we always blame the county governments. Therefore, in this case, we should retain the policy making function at the national level and leave implementation to the county governments.

Recently, we were dealing with the issue of vaccines. Nobody in the world had a marking scheme on how to deal with the Covid-19 pandemic. It has really taught us a lot of things. Recently, there was uproar that some vaccines had been taken by one person or an interested party so as to start distribution. That is how we will lose the war on vaccinations in dealing with this pandemic.

The Government must be squarely responsible for the vaccination campaign. I say so because it would mean that the issue of some vaccines that are not up to standard will be eliminated. The Government must be squarely responsible so that we do not open this serious campaign for economic value or political value. If we go that route, we will lose it.

I hope we will be able to take control of the issues of vaccination just the way we do with children. We should do it the way we deal with Polio vaccination, where shots are taken to children door-to-door in residential areas. I hope the Departmental Committee on Health will also ensure that we get to that level with the Covid-19 vaccination. Let us make it mandatory. Let us help achieve the herd immunity that we desperately need so that we deal with this pandemic once and for all. Why would we even open up to teachers to decide whether they want to be vaccinated or not? I think we need to get to a level where people are required to take the shots. Even if it means having people arrested for refusing to be vaccinated, so be it. We should make vaccination mandatory.

With those many remarks and reservations, I beg to support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Member for Suba North, Hon. Millie Odhiambo Akoth.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity.

Let me thank Hon. Pukose for bringing this Bill. As he was moving, I was a little concerned initially because I thought he meant that there is no a legislative framework, but he clarified that, indeed, there is a legislative frame work only that he is seeking to make it better, which is a good thing. If there is one thing that we Kenyans have, then it is a very strong legislative framework. However, our challenge is usually on the implementation. Therefore, I would want to encourage us, as a country, to focus strongly on ensuring that we implement what we pass.

I will try to be very brief because I have only read a little bit about this law. However, I want to indicate that as a country, we must emulate the rest of the world in moving towards specialisation. We have countries that are now moving towards medical tourism. For you to effectively have medical tourism, you must have very clear standards for people to have faith and trust in the country as a medical tourism destination. That is why you find many Kenyans headed to India. It is because India has regulated and provided standards in the health sector. That is why Turkey is also becoming another destination for medical tourism. You find the same with other categories. As a country, even as we look at the social issues that affect us, we must also learn that we must manage the country as a commercial entity for it to make sense because the era of charity is long gone. Countries must know that they must have a competitive age in order for them to attract investment. The era when donors would come to African countries and throw in a lot of money because we are poor is long gone. Countries must take care of themselves.

In that process, we must build our capacity in what we want to do. Kenya has an opportunity not just in food but in medicine too. That is why this Bill is very important. As an agricultural country, we have an amazing wealth of food items. I am really shocked. Some countries are allowed to export their fish to our country yet we actually produce fish in large quantities. How do we first ensure, in terms of production, that we reach areas that traditionally have that sort of expertise? Why do we want to put a lot of emphasis on fish being processed in Thika when we have Suba North as the producer of fish? Why not build the capacity there? Why do we want to diversify tea into other areas when we know that Kericho and other places in central Kenya are doing very well? How do we then make our tea more marketable elsewhere? Above all,

it is an issue of standardisation so that our products are not trusted just within but also outside the country.

I was worried that we have not provided for one category that is significant. I have seen that we have made provision for herbal medicine. If you look at the medicines that are used for all manner of treatments, most of them are herbal. If you ask our forefathers, which you do not even need to... Even our parents know that we would be struggling with very major diseases that conventional medicines cannot cure. All that your grandmother tells you is to chew certain herbs and you are as fit as new. We have not equally invested in that. That is why I am happy with their definition of food, herbal medicines and therapeutic cosmetics. I am happy that we are investing in that as well.

Kenya has become an end-user of therapeutic cosmetics. We should provide standards because there are things that are not allowed in other countries. In the United States of America (USA), the Food and Drug Administration (FDA) will not allow certain cosmetics that we use here in Kenya, especially for lightening skin. I do not know why our girls cannot just be okay with the beautiful skin colour that they have. However, because some people would like to lighten their skins and it is their right, how safe are those cosmetics? This is so that people do not suffer from different cancers merely because we did not provide standards.

Again, as I had indicated, because I was away on parliamentary duty, I have not had time to exhaustively look at this. I will look at it, especially in reference to those core areas I have spoken about. I am very passionate about herbal medicines or medicinal plants. I did my first Masters in Intellectual Property Rights on plant genetic resources and realised that we are missing a lot in terms of the resources we have that we take for granted and that are amazing. Perhaps there may be a cure for COVID-19 in our medicinal herbs, but we do not invest in them. We take them for granted. I will look at this.

I thank Hon. Pukose for bringing this Bill to better our standards and make us more marketable as a country and as a destination for medical tourism. I am hoping that we can use this together with other standards to elevate our country. Those standards include security and infrastructure.

As Members of Parliament, whenever we go for benchmarking trips abroad, there should be something that comes out of that. It is embarrassing when you see countries that should not be where they are, or they should be competing at the same level with us, getting way ahead of us. Why? We have allowed corruption to take centre stage. Countries like Rwanda come to copy Kenya and implement what we have in our blueprints. They come and implement what we have in our laws. I encourage us to go beyond what we pass and ensure that we implement it. Otherwise, I support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well, Hon. Millie. Let us have the Member for Tharaka, Hon. Murugara Gitonga.

**Hon. George Gitonga** (Tharaka, DP): Thank you very much, Hon. Temporary Deputy Speaker. Let me add my voice to this Bill.

From the outset, I am a little bit taken aback because Hon. Osotsi was asking doctors to come and interpret this Bill for us. The Chief Whip of the Majority Party told him that the Bill is in simple English and everybody can understand it. When I look at the Bill, it does one simple thing which is to establish an authority that will deal with food, drugs and chemical substances. When I look at the legal framework - which is what Hon. Osotsi should have asked about - the Bill has nothing to do with public health and the Acts made thereunder. It has nothing to do with the Poisons Act that deals with medicine and other things.

The Bill is anchored on an Act of Parliament, namely, Chapter 254 of the Laws of Kenya known as the Food, Drugs and Chemical Substances Act. It is an Act as old as you can imagine, especially when I see that its Regulations were made in 1978. Therefore, this Bill has nothing to do with the Agriculture, Fisheries and Food Authority Act which deals with the growing and husbandry of food.

This Bill has everything to do with the control of the quality of food, drugs, and chemical substances. Therefore, as we debate, we need to make it clear that we cannot introduce amendments to deal with how we grow food or how it is distributed. The Bill deals with how you package food and store it before you offer it for consumption. The same applies to drugs. It touches on how you manufacture, package and offer those drugs and other chemical substances, including cosmetics and therapeutic substances, for sale.

The Bill is very timely because since the enactment of the Food, Drugs, and Chemical Substances Act, Chapter 254 of the Laws of Kenya, there has been no one to implement it and the regulations made thereunder. From my practice of law, I know for sure that in Nairobi, even the defunct Nairobi City Council *askaris* used to try to enforce that Act. They would raid supermarkets to see whether the food, drugs and chemical substances in there conform to the main Act. In addition, they would look for whether the food had storage instructions. That is what this Bill deals with. Does the food have an expiry date? That is exactly what is covered by this Bill. If they were unable to understand the rest of the Act because of the complexity of the issues involved, they would run to the Pharmacy and Poisons Board or the Kenya Bureau of Standards to try and interpret whether the Act was being complied with or not. What came out of it was amazing. People could not understand who was actually supposed to enforce that Act.

Because of that default, Hon. Pukose, the Departmental Committee on Health and all the other stakeholders have come up with a Bill to establish an authority that would take charge of the Food, Drugs and Chemical Substances Act and the Regulations made thereunder. That is the Bill we have today and are debating. If I am wrong, Hon. Pukose can inform me. I give him that permission.

This appears to be a thorough Bill. It is satisfactory for all intents and purposes because we need an authority through which we will be able to establish whether the food in supermarkets, hotels and wherever else food is found is compliant with the standards set in the Standards Act or other Acts of Parliament. Similarly, we need an authority which will tell us whether the drugs we consume or buy - whether from across the counter or from chemists - are in conformity with the standards. Standards are found in various Acts. Almost every good has an Act of Parliament that deals with its standards, including the Standards Act itself, which has various categories such as the standards applicable to food, drugs, chemicals and whatever other substances we are talking about.

This Bill needs to be passed. It has been lying around since 2019. Thank heavens it has now come to the House. We hope to complete its debate today and if we do that, we can pass it and have it implemented immediately. That would be of benefit to the country.

This Bill deals with various issues which I will not go through because I saw they are actually what an authority should do. This is an authority established under the Act, there are requirements on how it will be established and who will sit in it. We have provisions regarding its responsibilities and it will be about manufacture, packaging and distribution of food, drugs and chemical substances.

When it will be proposed that we make a detachment of the food element from the drugs, I will have a problem with the parent Act. This is because it deals with three aspects in one Act.

So, how do we detach? If we do so, it means we will have to detach the main Act and it will be a little bit awkward for everybody. Then, there are various schedules in it which are part of what the authority will be doing.

Most importantly, I wish to commend the sponsor and mover of the Bill for Clause 113 in the Miscellaneous Provisions, Part (xv) of the proposed Bill, where the authority will make regulations. These regulations encompass almost everything the main Act deals with, including how to manufacture food, what additives to put in it and everything else. All this is exactly what the Food Drugs and Chemical Substances Act deals with. Therefore, this is intravenous to that Act and should be passed as it is so that the authority comes into force and starts implementing that particular Act and not this one.

With those remarks, I beg to support that we pass this Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Let me have the Member for Kabuchai, Hon. Majimbo Kalasinga.

**Hon. Majimbo Kalasinga** (Kabuchai, FORD-K): Thank you, Hon. Temporary Deputy Speaker, for allowing me to contribute to this very important Bill by Dr. Pukose. First and foremost, this Bill has been given the name Food and Drugs and unless amendments are made, as Hon. Owino has said, it will create serious confusion.

In the first place, when we talk about food, we have food that moves from the farm to the fork and cannot meet medical levels. For example, if you go to the farm, harvest and take a pot to cook, this is from farm to fork. It will be serious if we put this under Food and Drugs because it will create confusion. When you look at food safety, this is a procedure. The first product in the food process is a raw material of another process. Stages one, two and three are processes and if we talk of this being stage one there will be confusion. The department of food and agriculture is the one to give us real traceability in case we have a food problem. For example, aflatoxin originates from the farm.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order! There is this Member here. I do not want to mention your name. You must go back. You cannot just cross over. Go to the back, bow and then have your seat. Hon. Member you can continue.

*(Hon. (Ms.) Safia Sheikh crossed the Floor without bowing at the Bar)*

**Hon. Majimbo Kalasinga** (Kabuchai, FORD-K): Thank you, Hon. Temporary Deputy Speaker. I hope my time will be considered. I have taken time to study this Bill and realised that it is borrowing much from one very serious Food and Drug Administration (FDA) of the United States of America (USA). The FDA is a body that was formed in 1927 in the USA and it has had serious challenges since its origin. At the moment, it has metamorphosed and improved by separating food from drugs. We are borrowing from an Act of 1927 and yet, as at now, we have different bodies handling these two different things. We have the USA Department of Agriculture, Environment Protection Agency (EPA), Centre for Drug Evaluation and Research, Centre for Biologists Evaluation and Research, Centre for Food Safety and Applied Nutrition among others. Looking at where we have borrowed this from, there is separation. If we move like this...

Back in our country. Looking at what we have under food in agriculture, you realise that we have serious institutions like Agriculture and Food Authority (AFA), Directorate of Livestock Production, the Director of Veterinary Services, Kenya Agricultural and Livestock Research Organisation (KALRO), Kenya Bureau of Standards (KEBS), Kenya Dairy Board, Kenya

Fisheries Service, Kenya Marine and Fisheries Research Institute (KMFRI), Kenya Plant Health Inspectorate Service (KEPHIS), National Biosafety Authority (NBA) among others. All these bodies give capacity to the Department of Agriculture to test food. I support the mover of this Bill and agree that there is need for an amendment to separate the food and drugs department. This will make the Bill better. I support.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Member for Tigania West, Gen. Mutunga Kanyuithia.

**Hon. John Mutunga** (Tigania West, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to add my voice to this. I have a strong background in agriculture and would like to be very useful to this House.

I would like to start by thanking Hon. Dr. Robert Pukose for sponsoring this Bill, putting in a lot of effort and maintaining momentum as he pushed for this Bill. He points out very clearly that this is a regulation concerning medicine, pharmaceutical practice, food, scheduled substances, therapeutics, cosmetics and medical devices which are related in this particular respect. This is a huge legislation which has 15 parts and 115 clauses, so it is a big law.

As a Member of the Departmental Committee on Agriculture and Livestock, I can state that we had an opportunity to interrogate this Bill with respect to asking ourselves the basic question: should we support passage of this Bill as it is, or recommend separation of food and drugs? I will give specific reasons why we should separate food from drugs.

As a Committee, we examined the Bill at length and particularly looked at clauses touching on food. We looked at the way they are seated within the Bill and the provisions proposed in it. There are certain concerns which as a Committee, we would wish to bring to the attention of this House even as we make a decision then we make an informed decision. The philosophy of control of medicines is remarkably very different from that of the food. As an honourable Member has stated, food is from the farm to the folk. There are many processes and institutions that are involved. It is actually what we are calling multi-institutional and multi-sectoral in terms of the handling.

There are certain ways which we need to look at in terms of the control of these two, food and drugs. I would like to highlight, specifically, drugs. When it comes to medicine, approval and registration of the product is necessary for the medicine. Approval and registration of food is not necessary. It is important to note that the registration for food is not necessary. We do not need an institution to regulate registration of food. There is also huge and intensive efficacy trials of medicines before they are authorised and released for use. There is nothing like that required for food. Food is produced. As long as it is safe for consumption and as long as it has the right ingredients or the right provisions in terms of minerals and other provisions, then it is given for people to eat.

The third issue is that each product is approved for a specific disease. Each medical product is approved for a specific disease or a group of diseases that are related in terms of medicine. On the other hand, food is basically tied to the natural metabolism of the body. It responds to the functional aspects of the body – the physiology of the body. We eat so that we can be able to grow and to basically have the energy to play and do other things. The fourth issue that is important and glaring is that reporting of the side effects is mandatory for medicine. On the other hand, when it comes to food, reporting of *allergenicity* or rather the allergies that could be found in food and the intolerance levels is what is required. So there is a clear difference between the two.

Finally, for medicines, the market authorisation holder of medicine is responsible for the documentation. On the other hand, the authorisation in terms of food is multi-sectoral and multi-institutional and I will be able to enlist some of these institutions if given the opportunity. As we said, the safety of the food is from the farm to the folk. Different agencies are involved. In this case, it is multi-sectoral as I have indicated. I would like to list the institutions that are involved in governing the food safety issue. One of them is the Agriculture and Food Authority in this country. There is the directorate of livestock production which is involved in livestock production or livestock-related foods. It is the directorate of veterinary medicine which takes care of the disease control and the safety of the food. Indeed, I need to emphasise here that the directorate of veterinary medicine is the Kenyan recognised competent authority. Unless the Director of Veterinary Services declares meat safe for consumption, we cannot sell outside this country. So, it is the only recognised competent authority.

There is also the Kenya Agriculture and Livestock Research Organisation (KALRO), which does research for livestock and crops in this country. There is the Kenya Bureau of Standards (KEBS). We know about it. There is Kenya Dairy Board in terms of milk, the Kenya Fisheries Services for fish, the Kenya Marine and Fisheries Institute for purposes of training and research on fisheries and the National Environmental and Management Authority (NEMA). We all know what NEMA does. There is the National Biosafety Authority, the Pest Control Products Board, the Public Health Department, the State Department of Crops Development, the Veterinary Medicines Directorate, and finally the State Department of Water.

Having said that, it is important to realise that all those institutions work in collaboration. One output of an institution becomes an input into the other institution. So, in this case, we cannot just say one institution will be able to control everything. It is impossible. Many countries have tried this and they have come back to separate. Indeed, I would like to thank the Departmental Committee on Health because they have realised it is not possible to combine food and drugs in one legislation. They have to be in two separate legislations. On the other hand, there is the issue of regulation. When it comes to medicines, the regulation of medicines requires maybe one or two institutions. After production and the research of the medical substances, it has to go through efficacy trials and after these trials, the approval process. After the approval, it is, therefore, passed through one body – the Pharmacy and Poisons Board, which registers and controls the distribution. On the other hand, it is not possible for food.

When it comes to food safety, regulation has to be done by many institutions. Alongside these institutions, there is the need to look at feeds. Feeds also need to be looked into. Feed is what is given to the animals. We eat animals. We eat meat. We drink milk and take the eggs. We eat fish as well. What gets into the fish, milk and meat is consumed by human beings. There is a set of diseases called zoonotic diseases. Zoonotic diseases are those that are transferable from animals to humans, like diseases through milk. On the other hand, there are those substances that remain in the crops, milk or meat residues. We have regulations that determine the maximum residual levels, in other words the largest amount that should be contained in a specific substance so that it can be cleared safe for human consumption.

Coming back to the recent times, many countries have gone back to separate these legislations. The Food and Drug Administration has heavily borrowed from the Pure Food and Drugs of America of 1906. The FDA must make an attempt to inject efficiency in its regulatory functions. For us to have efficiency in regulation, we must be able to ensure that these institutions are left to do their work as competent authorities and experts in that area. When you look at the American case, seven institutions are involved and not one. They are the US Department of

Agriculture, the Environmental Protection Agency, the Centre for Drug Evaluation and Research, the Centre for Biological Evaluation and Research, the Centre for Food Safety and Applied Nutrition, the Centre for Veterinary Medicine and the...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Member, your time is up. I can see you have a lot but because of interest of time, allow me to give the Floor to another Member. Hon. Members, we are almost in our last year. You should be able to plan your time. However, let me give you the time to say whether you support the Motion or not.

**Hon. John Mutunga** (Tigania West, JP): Hon. Temporary Deputy Speaker, I support the Bill to be separated so that we have a Bill for drugs and a Bill for food and feeds. Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, let us observe our own Standing Orders that have given a time limit to a debate of a Bill, Motion or anything else that we are debating as passed by the House. Next is the Member for Kwanza, Hon. Wanyonyi Kevin.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Hon. Temporary Deputy Speaker, thank you for the opportunity. I just want to echo what Hon. Mutunga has said. I think he did not conclude. Basically, I support the Bill that Hon. Pukose has brought. I want to say it is a start because, if I got him right, he referred to two countries in Africa, that is, South Africa and Ghana, which have come up with this kind of regulation. However, regrettably, as much as I support this Bill, I think we need to look at it in detail because it is a very technical one. We need to have a presentation from the committee.

All I would say is, this Bill is a start. We need to have regulation. We need to have an authority that will deal with both pharmaceutical and agricultural aspects. We have told Hon. Pukose that we will make amendments at the Committee of the whole House. I remember reading somewhere in the newspapers that Tanzania had the same approach. Eventually they had to change because it was not working. As I said, it is a start. It could not work because they found it very difficult to implement this particular approach. Therefore, I do not want to waste so much time on it. We support Hon. Pukose for coming up with this Bill. At the Committee of the whole House, we will come up with amendments so that we can have two authorities, that is, one dealing with control of drugs and another one dealing with medicine and food.

People are dying out there! People are calling me from home. About seven people have died. People are just collapsing and dying. It could be the food they are eating which is not properly regulated. The meat consumed, both chicken and beef, is not regulated. People are dying from unknown diseases. So, with this authority in place, we will be able to trace and control the imports and drugs that are used for livestock and the food that we are planting. We are eating food that is already poisoned. This is a beginning.

I support the Bill, but ask that we be detailed in our debate as Members so as to separate these authorities. We need to form another authority that deals with food to regulate the entry of some of the foods that we have in this country. People are dying out there. If this continues, it will come down to, "What did you do as a Member of Parliament?" "What regulation did you have?" Without wasting so much time, I support this Bill. We are going to look at this matter in detail and even remove some of the issues cited. We will form an authority that deals wholesomely with food intake in this country.

I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Osotsi.

**Hon. Godfrey Osotsi** (Nominated, ANC): Thank you, Hon. Temporary Deputy Speaker for the opportunity to raise my voice on this very important Bill. At the outset, I support the Bill but with some reservations just like all the other Members who spoke before me have said. We will have time at the Committee of the whole House to interrogate this Bill further and possibly bring in amendments. I want to agree with the Members who have spoken that there is a need to actually separate food from drugs. This is a very fundamental and key Bill. Apart from regulating the medicines, pharmaceutical practices, food, drugs, scheduled substances, cosmetic, blood, medical devices and many other things, this Bill is seeking to repeal the entire Pharmacy and Poisons Board Act. It is also seeking to repeal the Food, Drugs and Scheduled Substance Act and it is also seeking to repeal the Narcotics Drugs and Psychotropic Substances Act. So, it is a very key.

However, allow me to raise concerns. The entire leadership of the Departmental Committee on Health is not in this House as we are discussing this Bill. The Chairperson is not here. The Vice Chairperson is not here. That is why I had raised concerns earlier on, that this Bill needed to be treated differently. We are concerned because even the Report was not given to us. So, in the Committee of the whole House, we want the Committee to take the lead so that the amendments we are going to propose to this Bill...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Osotsi, there is an intervention by Hon. Member for Endebess, Hon. Pukose.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Temporary Deputy Speaker. Without interrupting my colleague, I just wanted to let the Chair know that the Vice Chair, Hon. Kutuny was with me here. He is appearing before another committee. He sought my permission to attend to other matters. We had agreed that Hon. Owino seconds the Bill then I will be here throughout. All that you are contributing will be captured on the *Hansard* and the committee will take note of what you are saying. Thank you.

**Hon. Godfrey Osotsi** (Nominated, ANC): Thank you, Hon. Dr. Pukose for that clarification. We expect the committee to do quite a lot at the Committee of the whole House so that they can guide the rest of us.

I have a few reservations which I would like considered at the Committee of the whole House. The first one is on the issue of blood. This Bill seeks to also regulate blood and the blood products. You are aware that this House passed a Bill, the Kenya Blood Transfusion Service Bill. Looking through the transitional section, I do not see that included here. I can see similarities between what this Bill is proposing and what we passed under the Kenya Blood Transfusion Service Bill, 2020. So, the committee can look at that and make appropriate amendments so that we do not end up with two pieces of legislation doing the same thing.

The other issue of concern is that the Bill proposes to create the National Quality Control Laboratory. I do not know how this sits in with the other functions of KEBS which could be having the same function. I think that is another thing especially when it comes to food. Also, the Anti-Counterfeit Authority. How does it sit in with some of these issues? When I look at the Acts to be repealed, I do not see it listed there. Maybe the committee can also look at that.

I want to agree that there is need to enhance regulations of all these products as listed because of increasing cases of cancer. Before COVID-19, we were burying so many people who were dying of cancer. We are still burying them, only that our focus is on COVID-19. Cancer cases are on the increase. This could be because of our people consuming substandard and in some cases, dangerous products which affect their health. The other important issue is in terms of functions of the Ministry of Agriculture and the Ministry of Health. I have heard, informally, that the Ministry

of Agriculture is not comfortable with this Bill. It would have been very important for us to know their feelings about it so that as we make decisions on it, we also capture those feelings.

Clearly, there are some ambiguities which need to be looked at during the Committee of the whole House stage. For example, Clause 12 gives the Authority powers to examine, grant, issue, suspend, cancel and revoke licences or permits that are issued under the Act, but Clause 102 appears to contradict this by giving the courts powers to order licences to be cancelled. This will bring a lot of confusion and some people may take advantage of it. The power to issue licences or revoke them, as is the practice, should be with the Authority and not shared with the courts. One can go to court and get orders to cancel a licence that has been issued to an individual. For example, a licence can be issued to a doctor or a pharmacist who has been in college for six or more years, like Dr. Pukose, then someone goes to court and gets cancellation orders and one loses the licence. Those are some of the ambiguities I have noted.

The spirit of this Bill is in line with the World Health Organisation's guidelines. It is something that we need to have in the country. It is long overdue. Separating food from drugs is very important. We need to look at it. At the same time, this Bill tries to consolidate various pieces of legislations into one. I do not know how it will work. The Agriculture and Food Authority Act, which tries to consolidate various agricultural products in one law, has not been good. That is why we are going back to the Tea Act, the Sugar Bill and the Coffee Bill. That is another thing the Committee needs to look into and advise us accordingly.

I support the spirit of the Bill with intent to introduce amendments during the Committee of the whole House.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Member for Navakholo, Hon. Wangwe Emmanuel.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. Allow me to also join my colleagues in appreciating Dr. Pukose, the Member for Endebess. In the early days, it was called "end of the best." Now it is formally called Endebess.

I have two approaches to use in contributing to the Kenya Food and Drugs Authority Bill. There is the issue of food, which is entirely agricultural, and that of drugs, which is entirely domiciled in the Ministry of Health. However, I have a reservation I want to put forward. During the Committee of the whole House, I will be proposing amendments to that effect. My issue is that whereas the Bill addresses very key issues, it brings on board various other existing Acts which makes it very difficult for administration.

Agriculture is not just production. You cannot produce what you cannot consume. You produce something to consume. The end result is what we refer to as "marketing of agricultural products." We converge at the World Trade Organisation to make sense of what we produce. How are we going to integrate the marketing of food items with the marketing of drugs? That is the main issue I will be seeking to propose amendments on so that we can state clearly how we are going to integrate the two. The Bill does not address that aspect.

Kenya is signatory to very many conventions. We associate in agriculture through the Food and Agriculture Organisation (FAO) whereas in the medical world, we meet at the WHO. How are we going to integrate the two and make sure that when this Bill is assented to, we will sort out the mess in the industry?

I appreciate Hon. Pukose because he has addressed very pertinent issues in terms of the drugs side. It is something to implore. We passed a Bill on medical tourism and we will be marketing Kenya as a medical destination. We should have this Bill in place so that when we have drugs, we do not have to get them and not take advantage. Looking at what is happening in the

marketing today, people go for what is not necessary, but call it drug. Through this Bill, there will be substantive observation and monitoring of drugs and substances.

France, which is very friendly to Kenya, thought it fit to approach the western region, where I come from, and we now export a very good product called *mukombero*. I do not know how to call it in English. The product is an African “Viagra” and many of my colleagues...

*(Hon. (Dr.) Robert Pukose raised his voice)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Pukose is shouting. You should request to inform him.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Hon. Temporary Deputy Speaker, he is a medical man. So, he understands.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Do you want him to inform you?

**Hon. Emmanuel Wangwe** (Navakholo, JP): Yes, I will appreciate his information, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): He should have requested to inform you. Nevertheless, I heard what he said from afar.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Hon. Temporary Deputy Speaker, I would say it is an aphrodisiac. It is a herbal aphrodisiac. It enhances male performance.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I am sure Hon. Wangwe cannot even pronounce it since he is not a doctor.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. For real, I will not be able to repeat that word. It is very complex. It took Hon. Pukose six years to read to know what it is, but in English, I would say that it enhances male performance. Why should people buy the blue pill yet we have such herbal medicine?

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): There is an intervention by Hon. Osotsi.

**Hon. Godfrey Osotsi** (Nominated, ANC): Hon. Temporary Deputy Speaker, we are confused. They say it enhances men’s performance. So, the question is which performance? Performance in talking, reading or walking? Which performance? They need to be clear.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Emmanuel Wangwe, can you please clarify to the Member the performance you are referring to?

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. I like what Hon. Osotsi has said. He comes from the village like I do. When we say “male performance”, we cannot say “female performance.” A man has only one performance other than what he thinks about. Therefore, that is what I referred to.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Carry on.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. The Bill by Dr. Pukose, which I really appreciate, takes cognizance of the fact that we must not market any product over the counter and give it to our people as it considers issues of herbal medicine and herbal products. That is where I come from. In the early days, herbal medicine was the in-thing. Many of our folks did not go to hospitals. Instead, some roots and herbs were taken and they took effect. India has taken the same angle and most of the countries in the world are doing the same. The only thing we need to have is a very well organised body to regulate existing herbal medicine and herbal products.

I would also ask Dr. Pukose to allow me to propose amendments in two fronts. One is on the issue of the director-general, whom he proposes to run the organisation. He has laid down several recommendations, but the last one is too general. He has said: "Any other qualification." I feel that will leave an opportunity for anybody to canvass and say that it is a general provision. That provision has to be very specific so that it guides the Authority on who qualifies to be a director-general.

I would like to appreciate the Bill in Clause 23 which specifically provides what a person shall not sell in terms of food; anything that contains poisonous or harmful substances or is unwholesome or unfit for human consumption. That provision being specific, makes the Bill very comfortable and welcomed on my side.

I also want to appreciate the Bill on the issues highlighted by Hon. Mutunga. The Bill is cutting across several existing Bills. However, what is it that other countries have done? Through the history he has given us and the history that I have, the United States of America (USA) tried through the Food and Drug Administration (FDA), but it was unable to move forward. The FDA exists through seven other agencies like the US Department of Agriculture, Environmental Protection Agency, Centre for Drug Evaluation and Research, Centre for Biologics Evaluation and Research, Centre for Food Safety and Applied Nutrition, Centre for Veterinary Medicine and the National Centre for Toxicological Research.

Whereas we are putting this body at the apex, at the Committee of the whole House, I would like to request Hon. (Dr.) Pukose to allow us to align existing local bodies that are going to report to the agency.

With those remarks, I beg to support. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Let me have Hon. Safia Adan Sheikh, Member for Marsabit County.

**Hon. (Ms.) Safia Sheikh** (Marsabit CWR, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I will be very short and I want to speak to unprescribed medication. When purchasing drugs over the counter, our patients need to have prescriptions from their doctors. If this Bill is implemented, it will help the patients not to use wrong medication. It is important for the drugs stores owners to also request for prescription before they sell any medication to patients.

I beg to support. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. I am sure Hon. (Dr.) Pukose has noted that, and of course, we will have the Committee of the whole House stage where we can bring amendments to the Bill and the House will vote on the same.

The Member for Kuria East, Hon. Kitayama Maisori.

**Hon. Marwa Kitayama** (Kuria East, JP): Asante sana, Mhe. Naibu Spika wa Muda. Naomba nianze kwa kumshukuru mwenzangu, Mhe. (Dkt.) Pukose, kwa Mswada huu. Ninaunga mkono ila kwa marekebisho. Ni vizuri kwamba Mswada huu umeonyesha, kuanzia mwanzo, kwamba unataka kuboresha maisha ya Wakenya kwa upande wa madawa, lishe na afya zetu.

Nimefurahishwa sana na Mswada huu kwa sababu unalenga kuhakikisha kuwa madawa ambayo tunapata kama wananchi wa Kenya ni kulingana na maagizo ya daktari ili ukinunua dawa ni nzuri kwa afya yako. Hiyo ndiyo sababu ninasema kuwa tunahitaji kuwa na marekebisho tusije tukawa na Mswada ambao badala ya kurahisisha kufikia huduma ya afya, unapinga mtu ambaye anatoka sehemu pembezoni - mfano yule mama ambaye anaishi mahali panaitwa Biasimui ama Ngochoni - asiweze kufikia na kununua dawa kwa sababu hakupata daktari ambaye ataandika dawa ile anayohitaji kutumia. Kwa hivyo, kuna haja ya sisi kukubali kwamba Mswada huu

unaendeleza maisha yetu na afya zetu, lakini pia vipengele vyake visije vikawa kwamba vinazuia tusifikie tiba kwa yule mtu ambaye hana uwezo ama madaktari hawako kwa karibu kuweza kupata kile tunaita *prescription*.

Pili, Mhe. Naibu Spika wa Muda, ni vizuri tukubali kwamba chakula na dawa vinaingiliana. Mswada huu unalenga kwamba tuweze kudhibiti mambo haya kwa pamoja. Ni kweli. Lakini, unaweza ukaona kwamba tendo la kula chakula kizuri lenyewe ni tiba. Vile vile, kupata dawa nzuri yenyewe ni tiba. Ndio maana nasema ni vizuri tusitofautishe mambo haya. Yanaelekea vizuri. Yanapendeza, ndio. Lakini, ingependeza zaidi kama tungeangalia mambo ya dawa yaende katika laini yake na yale ambayo ni ya chakula yaende katika laini yake. Ndiyo maana napendekeza kuwe na marekebisho ya kutofautisha ili mambo ya dawa yaangaliwe kivingine na haya ambayo ni ya chakula yaangaliwe kivingine.

Mwisho, sheria nzuri ni ile ambayo inafanya kazi kwa urahisi na inaeleweka vile vile kwa urahisi, ili yule mama ambaye yuko pale nyumbani asije akapatikana katika ile hali ya kunyanyaswa kwa sababu sheria ni ngumu kwake kuelewa. Ndio maana kutofautisha kutarahisisha kidogo kwa sababu tuna taratibu zetu za tangu jadi ambazo tunaishi nazo. Yule mama ambaye yuko pale kijijini atajua jambo hili liko hivyo kwa sababu ni kawaida. Lakini tukiingiza katika usomi huu halafu tukamshurutisha kwamba afuate hayo na kwamba kuna sheria ilihali yeye anajua akiondoka atachuna matawi fulani akaweze kupata tiba, itakuwa pia tunamzuia na kumushurutisha kwamba akaishi maisha yake kwa kuwa na wasiwasi kwamba huenda alichokuwa akifanya na ni kizuri kinakuwa tatizo. Kwa hivyo, ninasapoti Mswada huu sana lakini nasema kwamba ingependeza zaidi kama tungetofautisha ili tuwe na kile kinaangalia mambo ya dawa na iwe ilivyo na kile kinaangalia mambo ya lishe na chakula kiwe tofauti. Hii ni kama walivyofanya nchi zingine ili tusiwe tunatengeneza sheria ambayo baada ya miaka miwili tutagundua kwamba haifai na tunarudia tena. Kwa mfano, walivyosema wenzangu, kama Marekani walianza mwaka 1920 na wao wakagundua kwamba inabidi watofautishe, mbona sisi tusianze moja kwa moja kwa kuchukua kile Wazungu wanaita *best practice* na kuanza hapo na hapo na kuendeleza kwa haraka haraka? Kwa hivyo, katika ile Kamati ya Nyumba Nzima au *Third Reading*, nitapendekeza tuwe na huo utofauti lakini *in principle*, uhai wa Mswada huu upo. Mswada huu ni mzuri. Ni Mswada unaoendeleza afya zetu. Vile vile, unawachunga Wakenya wasihangaishwe na watapeli ambao tumewaona hapo nyuma kidogo tulipokuwa tukisafiri katika mabasi haya ya umma. Ungekuta kwamba anaingia mama ama anaingia baba na anaanza kuuza madawa kwenye mabasi hayo na hakuna udhibiti wa aina yoyote ile.

Kwa hivyo, ninaamini huu ni Mswada mzuri na utatusaidia ili tuweze kufikia mahali pa kutofautisha haya mambo mawili moja kwa moja kabla ya kuenda mbele halafu baadaye kuwe na haja ya kufanya hivyo.

Mhe. Naibu Spika wa Muda, ninaunga mkono marekebisho hayo.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Asante na karibu sana, Mhe. Maisori, Mbunge wa Kuria East.

Mhe. wa Wajir South, Mohamed Sheikh. I heard he is in the concentration room. Member for Bonchari, Hon. Oimeke Pavel, you have the Floor.

**Hon. Pavel Oimeke** (Bonchari, ODM): Thank you, Hon. Deputy Speaker. I rise to support the Bill. As it has been said by various speakers, the regulation of food and drugs is long overdue. We have had many entities that are responsible for regulation of food and drugs in this country. I want to echo the sentiments of Members of this House that there is need to separate food from drugs. There seems to be confusion that if you look at the entire Bill as sponsored by Dr. Pukose, 99 per cent is about drugs, medicines and other things. However, there is a very small section that

has been dedicated to the aspect of food. I want to quickly go to the section that covers food, namely, Clause 22. It talks about manufacturing, processing, warehousing and distribution. There is definitely going to be a serious confusion with other entities that have the same mandate in terms of regulating food. When you talk about processing, take for instance when you go to a supermarket, nowadays they cook and that is food processing. If you go there, you can get French fries and bread. The aspect of requiring one to be licensed by the Kenya Food and Drugs Authority will hinder a lot of things, especially the aspects of cottage industries in this country. Therefore, as we go through the Second Reading, I propose that Dr. Pukose and the rest of the team to look at this aspect to make sure that we do not have confusion.

I would also want to draw your attention to Clause 6(2), where the proposed Bill has provided for a term limit for the Director-General. Typically, I do not know why this is the case. A Director-General serves a term of three years while we have a chairman who is seconded by the President serving a term of four years. However, in this Bill, if you look at Clause 6, the Director-General has been reserved a term of four years. I will also request that Dr. Pukose looks at the amendment to make sure that the term is three years and also be explicit on the term of the chairman. The chairman, typically, serves a term of four years to make sure that there is consistency in the operations of the public service. This is meant to ensure that there is no confusion.

I would also like to draw the attention of the House to Clause 77(1) (a), which talks about the National Quality Control Laboratory. That laboratory, if you look at it, has a provision of setting the standards. This mandate belongs to the Kenya Bureau of Standards (KEBS). Let us also be careful not to have cross-cutting or shared responsibilities among Government entities. Let it be clear who is responsible for what. I can see that the National Quality Control Laboratory is focusing on drugs and not food. Let us be clear about the safety of food and not the quality of food or drugs. Therefore, we need to be very clear in this Bill.

Hon. Temporary Deputy Speaker, I finally draw your attention to the clause that talks about the financial aspect of the Authority. There is provision for funds to be provided from the Exchequer. However, I would prefer that that clause refers to the Public Finance Management Act, 2012. Amendments to that effect should be introduced to this Bill to make sure that there is no confusion when it comes to the financial aspects as provided in other Acts of Parliament. As it is, this Bill has an aspect of confusion in this regard.

Therefore, when we come to the Third Reading, I will support the Bill with those few amendments.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Amendments are very welcome during the Committee of the whole House.

Let us have the Member for Matayos, Hon. Odanga Makokha.

**Hon. Geoffrey Odanga** (Matayos, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I also support the Bill as sponsored by Hon. Pukose because we really need regulations that go with the times. The current laws have been in existence since the 1950s to date, and many changes have taken place in the world today.

I also support it because it gives an opportunity for our medicines and drugs to very easily find markets outside the country, be it in the region or worldwide. As the sponsor said earlier, in Africa, only Ghana and South Africa have reached Level 3. If that is the case, we also need to move with speed to be on the same page with the other countries that are already ahead of us.

However, as other Members have already noted, lumping food, medicines and drugs together is something that we need to consider, so that separate laws handle each of them. In fact,

as the Departmental Committee on Agriculture and Livestock, we have already started looking at the Agriculture and Food Authority (AFA) as it is today to have separate Acts for each of the scheduled crops. That is the way we should go with the Kenya Food and Drugs Authority.

Many countries in the world have gone full throttle in making safety regulations to ensure that their drugs are safe for use by humans and for other purposes. As a country, we need to go that way because we see the benefits that countries where the Food and Drugs Authority has been adopted are gaining. However, as it has been said, at the Committee of the whole House, we will need to propose amendments, particularly those that will separate food from drugs.

I support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Hon. Members, there being no other Member willing to contribute to this, I call upon the Mover to reply.

**Hon. (Prof.) Jacqueline Oduol** (Nominated, ODM): *(Spoke off-record)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I cannot see you on the request list.

**Hon. (Prof.) Jacqueline Oduol** (Nominated, ODM): *(Spoke off-record)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Yes, Hon. Member, but with the way we make requests, I am unable to see you. Now that you have raised your voice, you can have your one minute. Let me give it to you now that you have indicated that you want to speak before the Mover replies. I order that the officers in the IT Department ensure that our cards are captured.

**Hon. (Prof.) Jacqueline Oduol** (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker. As I logged in, I had wondered why both the intervention slot and the other button were on. However, I really appreciate the opportunity.

Allow me to also add my voice in support of the Bill. When we look at the object and the main reasons that Hon. (Dr.) Pukose saw as important in moving this Bill, it is clear that the Kenya Food and Drugs Authority Bill, 2019 seeks to ensure that we have an Authority established so that the fragmented legislations in place are pulled together. I want to agree with Members that this is a very important Bill which seeks to ensure that we have a framework that will safeguard public health. So, we are looking at a cross array of very important parameters. We are looking at issues that relate to medicines, pharmaceuticals, food, drugs and therapeutic cosmetics.

Other than looking at the very specific aspects addressing public health, there is also the key issue of how to deal with Authorities already in existence and how this will come together. I agree with what Members have said that we do not want to lump food and drugs together. I am of the view that it is important to determine what aspects of food we are dealing with. Looking at the main reasons presented in the object of the Bill, my understanding is that it is leaning more towards issues relating to health and pharmaceuticals. We are dealing with national health products, regulating them and safeguarding public health.

This might not necessarily imply that we cannot have issues relating to food and drugs in the same Bill. I think what is important is to determine whether it is the food aspects that are particularly important when dealing with regulating health. As I support, I want to urge that as we go to the Committee of the whole House through the respective committees and particularly the Departmental Committee on Health, we should have a clearer indication, report and exposition. This will help us to see the obtaining situation with regard to legislation, existing Authorities, the kind of overlaps and relationships that we have between food and drugs in this regulatory system.

I want to conclude by saying that it will be useful to determine this because I see the use of terms like “Authority” and “system” in the Bill is almost alternate. This should not be the case

because the Bill is about the Kenya Food and Drugs Authority. Looking at the objects, it is referring to the national health products regulatory system and at other times the Authority. So, it will be important to ensure that we have clarity and not alternate use of terms in ways that would cause confusion and misunderstanding.

Hon. Temporary Deputy Speaker, I support and thank you for the opportunity.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, there being no other interest from the Members to speak to this, I call upon the Mover to reply, Hon. Pukose Robert.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Temporary Deputy Speaker. From the outset, I want to thank every Member who has contributed to this very important Bill which is very historic for Parliament. I think when the history of this Parliament will be written, this is one of the very important Bills that this House will have passed.

I would like to thank every Member and more so, the Departmental Committee on Agriculture and Livestock, for having looked at the Bill critically and especially on matters food. I welcome all your contributions and have heard everything you have said.

The Departmental Committee on Health had a discussion with the Departmental Committee on Agriculture and Livestock. They had also had a discussion with the Principal Secretary, Agriculture, Professor Hamadi Boga, Harry Kimutai and the technical team from the Ministry of Agriculture. We were invited to the United States of America to look at how FDA operates. Those matters that you have elaborated are exactly what happens there. There is a role for health in as far as food is concerned. That part that is done by the public health is what we will see how best we can retain it within the Bill so that the gains that have been made by the public health cannot be lost. However, we would not want to interfere with matters that are handled by the various departments within agriculture because they should not disrupt the gains that we have already had as a Government. Therefore, when we go to the Committee of the whole House, we will be welcoming them.

Recently, this House passed the Bill on blood transfusion services. This was also captured in our retreat which we had with the Committee because the same Departmental Committee on Health dealt extensively on the blood transfusion services establishing the National Blood Transfusion Authority. I know that was raised by Hon. Osotsi. That will be addressed. There are issues which were also raised by Hon. Oimeke on matters of the National Quality Control Laboratory. The National Quality Control Laboratory is a department within the Pharmacy and Poisons Board that handles issues of analysis. It is there, but the holder of the quality standards is KEBS. In this Bill, we have enhanced the role of KEBS because they are supposed to hold every institution accountable on matters quality and they are the ones who certify all the institutions within our republic on matters quality. Even when it comes to standards and everything, it has to be done by KEBS. We have enhanced some of the activities which KEBS has not been doing in this Bill so that KEBS plays a major role in as far as standardisation of drugs within our market is concerned. So, what we have done is to enhance it.

Hon. Members, with those few remarks, I beg to reply. Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, the House is not properly constituted for me to put the Question on the Kenya Food and Drugs Authority Bill (National Assembly Bill No.31 of 2019). I order that the putting of the Question on the same be deferred.

*(Putting of the Question deferred)*

Next Order!

*Second Reading*

THE EMPLOYMENT (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let me have Hon. Gideon Keter, MP, to move the Second Reading.

**Hon. Gideon Keter** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. I beg to move that the Employment (Amendment) Bill 2019 be now read a Second Time.

The Bill went through the First Reading on 26<sup>th</sup> February 2020 and was thereafter committed to the Departmental Committee on Labour and Social Welfare pursuant to Standing Order No.127. In summary, the Bill seeks to amend Section 9 of the Employment Act 2011 in order to reduce the cost incurred by the youth while job seeking. Many of the unemployed Kenyans consist of persons below the age of 35 and mostly first-time job seekers are unable to afford clearance certificates required by employers for purposes of employment. To that end, the Bill provides that employers may only request for any clearance for compliance certificates only upon granting an offer of employment.

The employer is granted reprieve if it is ascertained that the employee cannot provide the compliance or clearance certificates. If the employee does not satisfy the mandatory requirement on ethics and in compliance to that end, the employer may withdraw the offer of employment.

The current national requirement is that those seeking employment in the public sector should get clearance from Kenya Revenue Authority (KRA), Directorate of Criminal Investigations (DCI), Ethics and Anti-Corruption Commission (EACC), Credit Reference Bureau (CRB) and Higher Education Loans Board (HELB). Clearance certificates ordinarily sought by employers relate to certification of the status of a potential employee tax compliance, ethics and integrity, credit worthiness and criminal liability. By inference, the relevant institutions that issue the said clearance certificates are EACC, HELB, KRA, DCI and the CRB. The issuance of clearance certificate ought not to be treated as a revenue stream by public entities mandated to issue the same. I know CRB charges Kshs2,200 for the clearance certificate while the DCI charges Kshs1,050 for the certificate of good conduct, which is valid for one year from the date of issuance. Whereas the EACC does not charge any fee, jobseekers incur advocate's costs relating to the commissioning of self-declaration form which is required to be sworn in the presence of the Commissioner of Oaths. I propose that the self-declaration form contained in the First Schedule to the Leadership and Integrity Act be amended to remove the requirement for commissioning by a Commissioner of Oaths or a magistrate.

The application and processing of compliance or clearance certificate by the relevant entities should be automated in order to facilitate the acquisition of such documents and reduce attendant cost of manual processing of such documents. While it is necessary for an employer to require an applicant to submit the compliance or clearance certificate as a condition for confirmation of employment, the requirement should not be used to lock out applicants at first instance or recruitment or an application.

The Bill provides that an employer who intends to enter into a written contract of service may, in compliance with Chapter Six of the Constitution, request an employee to submit

mandatory clearance certificate from the relevant entities and may withdraw an offer of contract of service, where the employee does not submit the mandatory clearance certificate. The constitutional underpinning of ethics and integrity is provided in Article 10(2)(c), 73(2) (a) of the Constitution and Section 12(a) of the Leadership and Integrity Act.

The statutory requirement for compliance with ethics and integrity is also provided in Section 52 of the Leadership and Integrity Act, 2012 which provides that the provisions of Chapter Six of the Constitution and Part II of the Leadership and Integrity Act except Section 18 shall apply to all public officers as if they were State officers. The provisions of Chapter Six apply to State and public officers. The mandatory clearance certificate from the relevant entities is mainly a requirement during the recruitment of such officers pursuant to the Constitution and relevant laws as regards private employers. It is at the discretion of such employers to determine what mandatory clearance or compliance certificate will be required.

In conclusion, the enactment of this Bill shall not occasion additional expenditure to public funds.

With those few remarks, I beg to move and request Hon. Kabinga to second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Kabinga.

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Temporary Deputy Speaker. I wish to second this very important Bill brought to this House by Hon. Gideon Keter. This Bill could not have come at any other better time than this time when our youth are out there struggling to get jobs. This Bill is simply reducing the cost incurred by the youth while seeking jobs.

I am concerned about the agony they go through in processing the various documents. These are young men and woman seeking jobs, probably, for the first time. They are subjected to seeking compliance certification or clearance from four different institutions so as to be considered for jobs. This Bill simply postpones that process until it is confirmed that the job seeker will actually be getting the job.

The Committee subjected the Bill to various stakeholders who were involved in the clearance and compliance documents. They were all in agreement that this is a good proposal. We did not come across any serious opposition on the same. This affects the youth and we are not saying that the compliance and clearance processes are not necessary. We are simply saying that the processes could be done once the job seeker is confirmed or is deemed to have provided the necessary documents to be given the job.

The processes that our young men and women currently go through to get jobs, especially those from universities and other institutions of higher learning, are discouraging. This is more so when one goes through the rigorous processes of police clearance, medical check-up and other processes only to be told that he has failed the interview. When such jobs come up again, the young men and women feel discouraged when they remember the kind of processes they will have to go through again to make their applications. It is for that reason that we are saying that we need to have this Bill passed, so that our youth will no longer be subjected to document processing when they are in unknown state. These documents are required to be attached to the application forms. So, at that stage, the young man or woman does not know whether they will get the job. Just to go for the interview or not be called for the interview yet they have gone through the rigorous process is not proper. Some of them even borrow money because as alluded to by the Mover, most of these processes are costly. Young men and women simply borrow money to acquire the documents only for them to fail to be called for interviews after presenting their applications. Therefore, we want a process where our youth are not locked out of jobs even before they are interviewed. We want to encourage them to apply. We would also like to encourage employers to take them through the

interview process. Once an employer is sure of giving someone a job, then that person will process the necessary documents.

There will be other associated Bills that may need to be amended. We will be looking at them, as a Committee, once this Bill passes through the various stages. There are other laws that require issuance of clearance and compliance certificates including the Leadership and Integrity Act of 2012. Once we pass this Bill, other related Acts may also be amended to ensure that the Act that will arise from this Bill is fully implementable.

As a Committee, we may also propose amendments in the Committee of the whole House to strengthen the Bill, especially Clause 2, to ensure that the Bill is strong and clear enough, so that when it comes to implementation, there will be no ambiguity.

I hope the passage of this Bill will enable our youths to find it necessary to participate in employment opportunity seeking initiatives because there will be no costs associated with the process. We have talked to a number of youths and whenever they make an application, they fail to do subsequent applications considering the cost they incur with only one application. We are saying that with this Bill, the youth will no longer be burdened with the costs and they should now find it necessary to participate in as many opportunities as possible that come so as to acquire the jobs.

We hope that institutions that are involved in the processing of compliance and clearance certificates do not take this as a way of earning money. Therefore, they should not have any problem in postponing this process until the youth is fully confirmed to have been given a job. It is also our hope that employers will continue to create more jobs under the Big Four Agenda. The Government should grow more industries to employ our youth and also encourage the informal sector to absorb as many youths as possible. Both the formal and informal sectors can then absorb many of our youths without much hindrances that have been caused by document processing so as to reduce the number of unemployed youths out there.

With those few remarks, I beg to second and hope that once this Bill is passed, information will be disseminated widely for our youths to know that they will no longer be required to process these documents as they were obligated before.

I second. Thank you.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I will give the first slot to Hon. Dennitah Ghati.

**Hon. (Ms.) Dennitah Ghati** (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to congratulate Hon. Gideon Keter who represents youths in this august House. From the outset, I support the Employment (Amendment) Bill that is before the House.

I am happy because as a House, we are actually showing intentions to protect the young people of this country. Every year, we have many fresh graduates from universities and other institutions of higher learning who seek employment in this country but the process that must be followed is not easy.

Unemployment amongst the youth in this country is way too high. You realise that there are some graduates who leave universities and other institutions of higher learning without their own certificates probably because they have not cleared school fees yet they have to face the job market to look for employment. Immediately, the employer subjects these fresh graduates to so

many documentations such as tax compliance certificate from the KRA, certificate of good conduct from the Directorate of Criminal Investigations, and clearance certificate from HELB, yet these graduates have not even cleared school fees from universities, it becomes very difficult for them to get jobs.

The intention of this Bill, which is a progressive Bill, is to protect majority of our graduates and young people who roam our streets in search of employment.

I congratulate Hon. Keter because the Bill is seeking to cut costs. We have to reduce the cost that the young people incur before they are given a job offer. We have to consider the youth of this country with disabilities who graduate from universities and have to come all the way to Times Tower and Anniversary Towers for KRA and HELB services respectively. They come all the way from the Isibania border or from Turkana to get these documents yet they are not even guaranteed of the jobs they are toiling to get certificates for.

Hon. Temporary Deputy Speaker, we need to prepare our young people. Every university must prepare their students with all this information while at university as they seek to graduate and leave. That is when young people will understand what it means to be out there and look for employment. Of what use is a degree when it cannot put food on your table? It is high time we coached and mentored our young people towards the courses they take in university. When young people leave university, get into the streets and get into the hassle of looking for a job and applying, they will have spent all their savings to go to HELB, KRA, DCI, and everywhere to look for the documentation before they even get the jobs. They are not guaranteed of employment. I am happy this House is giving a new lease of life to our fresh graduates from universities by amending or bringing this Bill to the House.

In various organisations or employers, as stated in this Bill, young people seeking employment should be employed first and even get at least three months before they get the documents. At least, they will save money and ensure that they have the job first before they go back to their institutions of learning or universities to look for these documents. How can we make it easier and lessen the hassle that our youths encounter? I come from the county of Migori, right from Rongo Constituency, at the border of Kisii and Migori to Isibania border, and every time I am in the county, I see a huge number of young people roaming our streets looking for employment. When you tell a fresh graduate from university that they have to go and look for these documents for them to apply for jobs, they completely give up. This is the job our Huduma Centres in our counties must do apart from universities that prepare our young people to get into formal employment. We have to ensure that even our institutions of higher learning do not only focus on formal jobs or employment. How can we strengthen our informal sector, so that Technical and Vocational Education and Training (TVET) institutions and our other institutions can enhance the capacities of our young people to get employment?

Hon. Temporary Deputy Speaker, for those reasons, this is a progressive Bill. It speaks for the youth of this country. It talks about employment. That is why, at the Committee stage, I will bring amendments to ensure that the youth with disabilities, who also want to get employment, are taken into consideration.

Allow me to thank the Member and support the Employment (Amendment) Bill by Hon. Gideon Keter. Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Hon. Members, given the number of requests that we have, this is a Bill that has been moved by Hon. Gideon Keter, let me give opportunity to Hon. Oduol Ombaka. You will have one minute just to register your voice.

**Hon. (Dr.) Christine Ombaka** (Siaya CWR, ODM): Thank you, Hon. Temporary Deputy Speaker, for this opportunity.

It is true that what has been presented here is highly supported. I as a Member who has been supporting students who want to get clearance with some little funds from my pocket, I find it very frustrating. Young people who have opportunity to get jobs are losing them simply because it is so difficult to get the documents. First of all, getting to where the documents are found is not easy. Transport is expensive. They are not employed and they have no income.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Member for Siaya County, Hon. Oduol Ombaka, I need to interrupt you. You will have a balance of nine minutes when this business comes up next time, and you will have priority in speaking. The Motion has a balance of three hours and ten minutes.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, the time being 1.00 p.m., the House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 1.00 p.m.