



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT**

**NATIONAL ASSEMBLY**

**THE HANSARD**

**22<sup>nd</sup> October 2026**

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## THE HANSARD

Thursday, 22<sup>nd</sup> October 2026

*(The House met at 2.30 p.m.)*

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

### PRAYERS

### QUORUM

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

*(The Quorum Bell was rung)*

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

*(Several Members entered the Chamber)*

Members on their feet, take your seats.

### COMMUNICATIONS FROM THE CHAIR

#### DELEGATION FROM THE PARLIAMENT OF MALAWI

**Hon. Speaker:** Hon. Members, I wish to introduce to you a delegation from the Parliamentary Service Commission of the Parliament of Malawi, who are seated in the Speaker's Row. They are:

- |                                   |   |                                                                                                                               |
|-----------------------------------|---|-------------------------------------------------------------------------------------------------------------------------------|
| 1. Rt. Hon. Sameer Gaffar Suleman | – | Speaker of the National Assembly of Malawi, and Chairperson of the Parliamentary Service Commission of the Republic of Malawi |
| 2. Hon. Chifundo Makande          | – | Commissioner                                                                                                                  |
| 3. Hon. Daniel Chitonya           | – | Commissioner                                                                                                                  |
| 4. Hon. Penjani Kalua             | – | Commissioner                                                                                                                  |
| 5. Hon. Ismail Mkumba             | – | Commissioner                                                                                                                  |
| 6. Hon. Beatrice Mwale            | – | Commissioner                                                                                                                  |

The delegation, accompanied by their Deputy Clerk, Mr Chikondi Kachinjika, and two senior members of staff, is in the country to engage with the Parliament of Kenya to gain insights into the structures, systems, and practices that support the effective functioning of the Parliamentary Service.

On my behalf and that of the National Assembly, I welcome the Hon. Speaker and his delegation and wish them fruitful engagements during their stay in the country. I also confirm that this morning, I had a very fruitful engagement with the delegation led by my brother, Hon. Sameer Gaffar Suleman. You are all welcome.

Leader of the Majority Party, I invite you to welcome my brother, the Speaker of Malawi, to our Parliament.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. Allow me to welcome our visitors from the Parliament of Malawi. Thank you for deepening the relations between our two nations and, more so, our two Parliaments. We all have much to learn from each other. I was in Malawi in 2016. It is a very beautiful country with great potential. We can work together as the two Parliaments to improve our people's lot. We look forward to working with you and engaging more deeply with you during your sessions.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Leader of the Majority Party. Hon. Members, you may have noticed that the names of the Malawi delegation all sound like names from coastal Kenya. I am sure you know the Mwales, the Mkumbas, and the Kaluas of Kenya. That shows that Africans are one.

#### DELEGATION FROM THE NATIONAL ASSEMBLY OF NAMIBIA

**Hon. Speaker:** Hon. Members, in addition to our colleagues from Malawi, allow me to introduce and recognize a delegation from the National Assembly of Namibia. The delegation is seated in the Speaker's Gallery and is in Kenya to undertake a benchmarking visit to the National Assembly to exchange experiences, learn from our institutional practices and intensify best practices and innovative approaches that may inform improvements in the operations of the National Assembly of Namibia.

On my behalf and that of the whole House, I welcome the delegation from Namibia to our Parliament and wish them fruitful engagement.

Next Order.

#### PETITIONS

**Hon. Speaker:** Hon. Members, we have two petitions. I will present to you one that came to my office, and Hon. Kihungi will present another one from his constituents.

#### IMPLEMENTATION OF 2025-2029 CBA FOR PUBLIC UNIVERSITY EMPLOYEES

**Hon. Speaker:** Hon. Members, Article 119 of the Constitution accords any person the right to petition Parliament to consider any matter within its authority. Further, Standing Order 225(2)(b) requires the Speaker to report to the House any petition other than that presented by a Member.

In this regard, Hon. Members, I wish to report to the House that my Office is in receipt of a Petition...

*(Hon. Sabina Chege stood in her place)*

Order, Hon. Sabina Chege. Take your seat. You are out of order.

In this regard, Hon. Members, I wish to report to the House that my Office is in receipt of a Petition from Dr Constantine Wasonga Opio, PhD, National Secretary-General of the Universities Academic Staff Union (UASU); Dr Charles Mukhwaya, National Secretary-General of the Kenya University Staff Union (KUSU); and Mr Odoyo Ogenga, National Trustee of the Kenya Union of Domestic, Hotels, Educational Institutions, Hospitals and Allied Workers (KUDHEIHA).

The Petition concerns the negotiation, funding and implementation of the 2025 to 2029 Collective Bargaining Agreement (CBA) as well as the funding of salaries for employees of public universities. The Petitioner states that the three trade unions collectively represent approximately 30,000 university employees and that they advocate for the protection and improvement of their terms and conditions of service, as well as the promotion of the quality of university education in the country.

Hon. Members, the Petitioners aver that the parties to the dispute signed a return-to-work formula on 23<sup>rd</sup> November 2024, committing themselves to concluding negotiations and implementing the 2025 to 2029 CBA by 1<sup>st</sup> July 2025. They state that a subsequent return-to-work formula was signed on 5<sup>th</sup> November 2025, under which the parties again committed themselves to concluding the negotiations and implementing the CBA within 30 days. Regrettably, although those return-to-work formulas brought an end a period of industrial unrest and were intended to restore industrial harmony in public universities...

*(Hon. Jared Okello consulted loudly)*

Order, Member for Nyando. Order!

Regrettably, although those return-to-work formulas brought an end a period of industrial unrest and were intended to restore industrial harmony in public universities, the commitments made were not honoured by the Cabinet Secretary for Education and the Inter-Public Universities Councils Consultative Forum (IPUCCF).

The Petitioners further state that on Monday, 21<sup>st</sup> September 2026, the Salaries and Remuneration Commission (SRC) informed the unions representing university staff that neither the Cabinet Secretary for Education nor the National Treasury had provided a written commitment guaranteeing that the financial obligations arising from the CBA for public universities would be met through the National Exchequer. That disclosure raised serious concerns regarding the credibility and practical viability of the negotiations that had been ongoing at Machakos University since 2025, particularly in the absence of a clear and binding commitment on the source of funding required to implement the agreements.

The Petitioners are concerned that the Cabinet Secretary for Education and the IPUCCF, nonetheless, proceeded with the negotiations without first securing or disclosing a clear written commitment from the National Treasury or the Exchequer. This left fundamental financial issues unresolved and rendered the negotiation process incomplete and potentially illusory.

The Petitioners contend that in the absence of Exchequer funding for the remuneration and other employment-related obligations of public university staff, any reliance on alternative funding mechanisms, including student fees and market-based funding models, would result in the discriminatory treatment of university employees. They note that this is particularly disturbing when compared with other public officers whose remuneration is funded directly through the Consolidated Fund and appropriations that are approved by the National Assembly.

The Petitioners, therefore, raise concern that the Cabinet Secretary for Education and the National Treasury have effectively adopted a funding mechanism for public universities whose legal basis is, in their view, unclear under the applicable legal framework, while relying on that mechanism to contest, limit or deny the Government's outstanding funding obligations.

The Petitioners state that the failure to resolve the dispute has led the unions to embark on a nationwide strike that commenced on 2<sup>nd</sup> October 2026. During the strike, they presented a financial counter-offer to the unions, which the Petitioners consider inadequate and insufficient to provide a basis for concluding the outstanding CBA. The Petitioners state that, the efforts to resolve the dispute through ongoing engagements with the IPUCCF, the Cabinet

Secretary for Education and an Inter-Ministerial Committee have not yielded a resolution of the CBA dispute, thereby necessitating the intervention of the National Assembly.

The Petitioners, therefore, pray that this House urgently intervenes to:

1. Ensure that the National Treasury makes provisions for adequate financial resources and the necessary budgetary appropriations to enable the conclusion, signing, registration and implementation of the 2025 to 2029 CBA for employees of public universities.
2. Ensure that the funding framework governing public universities is established on a clear and lawful statutory basis and is consistent with the Constitution and applicable legislation.
3. Make any other recommendations that the House may deem appropriate to address the concerns raised by the Petitioners.

Hon. Members, having determined that the matters raised by the Petitioners fall squarely within the authority of this House, and that the issues raised in this Petition are not pending before any court of law, constitutional body or any other legal body, I hereby commit the Petition to the Public Petitions Committee for consideration pursuant to Standing Order 208(8).

The Committee is required to consider the Petition and report its findings to the House and the Petitioners in accordance with Standing Order 227(2).

I thank you.

**Hon. Speaker:** Yes, Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, thank you for presenting that Petition. I seek your indulgence to request that the Public Petitions Committee also engages with the Departmental Committee on Education and, perhaps, a few Members of the Departmental Committee on Labour, who are aware of the ongoing issues. As the Petitioners have stated, this is an old CBA matter. Members who sit in the Departmental Committee on Labour, and the Departmental Committee on Education, know what pertained to those CBA agreements.

Allow me to also call for sobriety and dialogue between the unions and the Ministry of Education. In the last two weeks or so, I saw some union leaders assert that they have no business whatsoever with the Salaries and Remuneration Commission (SRC). The Members of the Petitions Committee to whom we are committing the petition are subject to the SRC.

I have listened to what the Petitioners are saying. They would want this done through appropriations from the Consolidated Fund. I am asking for sobriety because if monies are to be appropriated from the Consolidated Fund, then we are obligated by the Constitution to go through the SRC in fixing the remuneration of any public or State officer who is being paid through the Consolidated Fund.

I take this opportunity to also ask our very learned colleagues in our public universities to exercise some level of sobriety and give dialogue a chance.

**Hon. Speaker:** Not all of them are learned, but they are educated.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Let me refer to them as learned educators, or simply, our good educators.

**Hon. Speaker:** My Deputy will tell you that being learned is the preserve of only one profession.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, I know where you were heading, but I am not a member of that particular profession. I am an accountant, not a lawyer. I know it is you lawyers who consider yourselves learned.

**Hon. Speaker:** Yes. As for you, you are educated.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Our good educators have every right to demand what they justifiably believe is due to them. However, they should also give dialogue

a chance and appreciate the dictates of our new Constitution. If money is to be appropriated from the Consolidated Fund, then we cannot shove away the SRC. The SRC exists because we enacted a new Constitution that created it as an independent constitutional commission to look into the remuneration of public and State officers. Therefore, we cannot just shove them aside and say that there is a CBA and we have no business with the SRC.

Hon. Speaker, as the third most powerful person in the country, you have, at times, had to eat a humble pie and sit down with the SRC to negotiate. That is all I am asking of our union leaders. To demonstrate sobriety and a willingness to engage in dialogue. I am confident that, through negotiations, we can find a lasting solution to this matter. It is our young people who are studying in universities who suffer when they are unable to attend classes or sit for their examinations because of strikes.

Therefore, I urge the Members of the Public Petitions Committee to give this Petition the priority it deserves so that we resolve that issue and enable the students to return to class and pursue their studies.

Thank you.

**Hon. Speaker:** Yes, Hon. Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Speaker, thank you for giving me the opportunity. Let me also join in support of the Petition.

*(Hon. Johnson Naicca entered the Chamber without bowing to the Chair)*

**Hon. Speaker:** Order, Hon. Naicca. Go back to where you have just come from and do what you should do.

*(Hon. Naicca proceeded to the Bar and bowed to the Chair)*

Go on, Hon. Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Speaker, I sympathise and empathize with my former colleagues in the lecture halls. The CBA we are talking about was negotiated many years ago. I feel their pain that the implementation of the same has been piecemeal and slow. I understand why they feel like they have been mistreated by the people of Kenya. I want to associate myself with the sentiments of the Leader of the Majority Party.

Given the nature of this Petition, I am not sure that the Public Petitions Committee will do justice in addressing this matter, which is professional and concerns a specific area. I, therefore, beseech you to exercise your discretion and probably set up an *ad hoc* committee comprising of Members of the Departmental Committee on Education and the Departmental Committee on Labour. This would provide an opportunity to deal with this matter, particularly because it has become an annual ritual.

Every year, when new students report to their universities in September and October, lecturers stage industrial action that destabilises and disorganises students, especially first-year students. You can imagine leaving your village while excited to study, only to find that the day after you register, university lecturers have gone on strike, leaving you stranded and idle. As we always say, an idle mind is the devil's workshop. Those are young people, and we do not want the devil to make a workshop out of their minds. Sometimes, what they do with their free time can be very disorganising. Imagine a girl or a boy who has travelled all the way from Sigulu Island to Nairobi for the first time to join 'The' University of Nairobi, only to be left idle with nothing to do. That can be very confusing. I just want to urge the lecturers, the Government and all those concerned to put the welfare of our learners first while ensuring that lecturers get a fair return for their sweat and labour, so that we can progress this country.

Thank you.

**Hon. Speaker:** Hon. Wandeto, you have two minutes.

**Hon. Geoffrey Wandeto (Tetu):** Thank you, Hon. Speaker. I also want to add my voice to this Petition. Thank you for bringing it to the House. It is a very deserving Petition. I think all of us in this country are aware that there is not much learning that is happening in most of our public universities because either the lecturers are on strike or students cannot afford school fees to attend university. We, indeed, continue to witness systematic underfunding of universities in this country, starting with the failed university funding model, which we are now told has been revised but is still struggling. Many Members of this House will tell you that they are flooded with cards and harambees from students who want to join universities because the student funding model is not working.

Hon. Speaker, if there is an issue which the Government does not seem to have taken seriously, it is the issue of higher education. If we have dreams of getting to Singapore, we cannot get there if we put the lives of our university students on hold. As we build refineries, we will need engineers to operate them. As we undertake all those major infrastructure projects on our journey to Singapore, we cannot get there if we put on hold university students who are studying engineering and medicine. All those are important for the progress of this country. I urge the Public Petitions Committee to take this matter very seriously and call out all the stakeholders. For once, let us resolve the university funding crisis. Be it salaries or student fees, let us resolve it once and for all.

**Hon. Speaker:** Yes, Hon. Karemba.

**Hon. Muchangi Karemba (Runyenjes, UDA):** Thank you, Hon. Speaker. Allow me to associate myself with the thoughts of the Leader of the Majority Party and Hon. (Dr) Oundo because, coincidentally, I served in the Departmental Committee on Education in the last Parliament. I also served as Chairperson of the Departmental Committee on Labour. The issues that have been raised in the Petition fall under the jurisdiction of the Labour and Education Committees. At your discretion, we can adopt a joint working approach.

**Hon. Speaker:** You are running away from responsibility?

**Hon. Muchangi Karemba (Runyenjes, UDA):** I am not doing so, Hon. Speaker. I am only being realistic.

**Hon. Speaker:** Thank you, Hon. Karemba. Hon. Leader of the Majority Party, I direct that the Petition be handled by the joint Committees of Education and Labour. We will excuse Hon. Karemba and his team to continue doing the good work that they are doing on other petitions.

Before I call Hon. Kihungi, allow me to acknowledge, in the Public Gallery, Mombasa Academy from Nyali, Mombasa; and, in the Speaker's Gallery, Moi University students from Kesses, Uasin Gishu County.

On my behalf and that of the House, I welcome the students and those who are accompanying them to the Parliament. Hon. Kihungi.

#### DISPARITIES IN TEA PRICING AND EARNINGS ACROSS TEA-GROWING REGIONS

**Hon. Peter Kihungi (Kangema, UDA):** Hon. Speaker. I rise to present Public Petition No.28 of 2026 regarding disparities in tea prices and farmers' earnings across tea-growing regions in Kenya.

I, the undersigned, on behalf of tea farmers from Kangema Constituency and other tea-growing areas of Murang'a County, draw the attention of the House to the following:

THAT, tea farming is a foundational pillar of Kenya's agricultural economy, providing sustainable livelihoods to hundreds of thousands of smallholder farmers and

contributing significantly to rural employment, household income, foreign exchange earnings and broader economic development across tea-growing regions.

THAT, tea farmers across different regions of the country receive varying prices and overall returns for each kilogram of green leaf delivered to tea factories, with significant disparities reported among factories and tea-growing regions, including distinct variance between regions situated East and West of the Great Rift Valley.

THAT, those wide variations have raised profound concerns regarding the fairness, consistency and transparency of the mechanisms that are used to determine green leaf payments, monthly advances and annual bonuses, calling into question whether existing pricing and payment arrangements adequately safeguard the economic interests of all tea farmers.

THAT, tea farmers producing under comparable conditions, particularly those supplying factories classified as Zones 2 and 3 in Murang'a County, reportedly receive substantially different returns, with payments reaching up to Ksh49 per kilogram in Zone 2, compared to Ksh31 per kilogram in Zone 3, depending primarily on geographical location and the specific factory to which the green leaf is delivered.

THAT, those persistent disparities in earnings severely undermine the capacity of farmers in lower-paying regions to meet escalating production costs, including labour, fertiliser, farm maintenance, transportation and other vital agricultural inputs, thereby threatening the long-term viability of tea farming and the socio-economic welfare of affected households.

THAT, inadequate disclosure of the specific metrics used to determine green leaf prices, monthly payments, operational deductions, loan recoveries and annual bonuses prevents farmers from independently verifying their earnings and where necessary, seeking justified administrative recourse or clarification.

THAT, the Ministry of Agriculture and Livestock Development, the Tea Board of Kenya, the Kenya Tea Development Agency (KTDA) and the respective tea factory companies bear statutory and administrative responsibilities for the regulation, development, management, processing and marketing of tea, necessitating heightened accountability and transparency in determining farmers' remuneration.

THAT, Article 10 of the Constitution of Kenya, 2010, enshrines the national values and principles of governance, including equity, social justice, inclusiveness, equality, non-discrimination, transparency and accountability, while Article 46 guarantees consumer rights, including the right to information that is necessary to gain full benefit from goods and services. Article 43 provides for economic and social rights, underscoring the necessity of policies that protect the economic well-being of farming households.

THAT, Section 5 of the Tea Act, 2020, mandates the Tea Board of Kenya to regulate the tea industry, coordinate stakeholder activities and facilitate equitable access to resources, facilities and industry benefits, providing a clear statutory framework for evaluating whether current institutional practices effectively address the prevailing inequities.

THAT, the Petitioner does not seek absolute uniformity in payment per kilogram, irrespective of legitimate variations in leaf quality, prevailing market conditions, factory performance or variable operational costs. Rather, the Petitioner seeks a fair, transparent, objectively justified and accountable pricing framework that prevents arbitrary disparities and ensures reasonable and equitable returns for produce.

THAT, despite concerted efforts to have those grievances addressed by the relevant administrative and regulatory authorities, the matter remains unresolved, thereby necessitating the urgent intervention of the National Assembly. That the issues

raised in this Petition are not pending before any court of law, tribunal or other constitutional or legal body.

Therefore, your humble Petitioner prays that the National Assembly, through the Departmental Committee on Agriculture and Livestock:

1. Inquire into the reported disparities in yearly pricing and overall earnings of tea farmers across tea-growing regions and factories in Kenya, specifically examining the criteria, formulae and administrative factors utilised to compute payment per kilogramme, monthly disbursements, operational deductions, loan recoveries and annual bonuses.
2. Investigate the root causes of those financial disparities including variations in tea quality, realised auction prices, factory management efficiencies, operational overheads, indebtedness, marketing arrangements and determine the proportional impact of each factor on overall growers' returns and,
3. Make such recommendations as the Committee may deem fit and expedient to resolve the grievances raised herein and establish a transparent, equitable and sustainable pricing framework for Kenya's Tea industry.

And your Petitioner will ever pray.

**Hon. Speaker:** Thank you, Hon. Kihungi. Yes Hon. Mogaka.

**Hon. Stephen Mogaka** (West Mugirango, JP): Thank you, Hon. Speaker. I thank the Member for Kangema for bringing this Petition. I come from the Gusii region, which is a tea-growing area where the issue of tea has been a menace to farmers for decades. I request that, as the relevant Committee investigates and responds to this Petition, it seeks to understand why more than 63 years after Independence, our researchers have not come up with a solution involving additives and fertilizers that can make the quality of our tea crop to be the same everywhere.

We have a problem where certain regions of this country, particularly the Mount Kenya Region, gets very high yields from their tea while other regions are told that the quality of their tea is not comparable. Is it not possible for this country, more than 63 years after Independence, to introduce or develop fertilizers and other additives that can bring the quality of tea in this country at par across regions? Those disparities are not only annoying, but are also very demoralizing to farmers.

Therefore, the Committee that is dealing with this Petition is invited to visit and listen to the grievances of farmers in tea-growing regions such as Gusii, Kericho and other areas, because Kenya is one and we should be able to achieve parity. That is why researchers are in laboratories. They are supposed to give us what it takes to achieve equality.

I thank you.

**Hon. Speaker:** Hon. Karemba. One minute each.

**Hon. Muchangi Karemba** (Runyenjes, UDA): Thank you, Hon. Speaker. The issue of tea and the amount of money farmers earn in bonuses need to be looked into. I come from a place where farmers earned up to Ksh50, which was the highest. However, when you talk to the farmers, they are still complaining about how much money they earned. Therefore, when I listen to other Members complaining about what their farmers earned, I can only imagine that this is an issue that the Departmental Committee on Agriculture and Livestock needs to look into because the issue of quality is not necessarily about where the tea comes from but also about the buyers at the Mombasa Tea Auction.

Let the Departmental Committee on Agriculture and Livestock delve into this issue. I also invite Hon. Members from the Gusii region and other regions to come to Mount Kenya region, particularly my constituency, and benchmark just as the Vice-Chairperson of the Departmental Committee on Agriculture and Livestock did this year. He was very excited to see how tea is processed and the quality we produce in Embu. Thank you.

**Hon. Dorice Donya** (Kisii County, WDM): Thank you, Hon. Speaker. The issue of tea bonuses is hurting our farmers. In fact, our farmers are devastated. They do not know what has been done to them. They have been made sick and are now using anti-depressants. When they are harvesting tea, farmers are told to pick two leaves and a bud. That is what they are doing. Is it not the same crop? It is! We cannot say that tea from Western, Rift Valley and Nyanza is useless, while tea from regions where farmers are earning Ksh50 is useful tea. Tea is the same product. In fact, let them emulate Safaricom. Credit worth Ksh100 is sold at Ksh100 in Nairobi, Lokichogio and everywhere.

The only thing that differentiates Kenyans is politics where one can say one term or two terms but, when it comes to tea, they are making Kisii farmers suffer. We are business people. Our learners excel in good schools but when it comes to tea sales, farmers in Kisii, Rift Valley and Western regions get almost nothing. Why? They have defiled the farmers. They have poisoned tea farmers, and we are not happy about it. How can they give farmers in Nyanza region Ksh12 per kilogram and give farmers elsewhere Ksh50 per kilogram and tell us to go and benchmark? Is it a different crop for our farmers to go and benchmark? What are they supposed to benchmark on? *Usawa* should be *usawa* for everyone. This issue has made us unable to sleep in our homes because farmers are asking us: “You are the politicians! What are you doing?” We are not okay. This thing is affecting our farmers. It should be balanced...

**Hon. Speaker:** Point made Hon. Donya. Hon. Ikiara.

**Hon. Dorothy Muthoni** (Nominated, UDA): Thank you, Hon. Speaker. I thank the Member for Kangema for bringing this Petition to the House this afternoon. I share in the pain of Hon. Dorice Donya. The farmers in Meru have suffered the same fate. If there is an area where people earn their living through toil and sweat, it is tea picking. Tea is picked in the morning hours. The women and men who do that job have to carry baskets on their backs. The areas where they pick tea are extremely cold ever. It is like Siberia because there is no sunshine deep within the tea benches where they pick the tea. We state today that the Departmental Committee on Agriculture and Livestock should give us an acceptable explanation as to why we are being told that some areas are earning a certain amount while others are earning less.

Tea, to me, is tea. The Meru farmers should not suffer by being told that the quality of their tea is not the best in the market. We should not suffer by being told that the cost of production is very high. It is high time that we interrogated the Kenya Tea Development Agency (KTDA) and obtain sufficient and convincing answers. But the only answer that will satisfy our farmers, especially the Meru farmers, is an assurance that our tea will go to the market and fetch the best bonuses. I share in their pain. It is women and other vulnerable people who pick tea leaves.

**Hon. Speaker:** Point made. Next is the Hon. Deputy Speaker.

**Hon. Gladys Boss** (Uasin Gichu County, UDA): Thank you, Hon. Speaker. Mine is just a point of information. We seem to be focused on tea prices or complaining about quality, but the challenge has to do with the Tea Research Institute, which is under the Kenya Agricultural and Livestock Research Organisation (KALRO).

In every part of Kenya, there is a different variety of tea. The researchers are supposed to continuously research to get seedlings that are pest-resistant or better quality. It is important for the Public Petitions Committee to look into how much work has been put into the Tea Research Institute. For example, the Coffee Research Institute had a 34-year break in developing seedlings. After that, it became difficult for the farmers to get good quality coffee. It all lies with the research, production and development of new seedlings.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Mong'ina. Give Hon. Jerusha the microphone. There is one next to you.

**Hon. Jerusha Momanyi** (Nyamira County, JP): Thank you, Hon. Speaker. As a Kisii woman, I am crying today. The issue of tea prices has made most of us not to sleep in our homes. Our farmers are crying all over. We would like to understand why farmers in the Gusii region get the least bonuses. The type of tea that we sell is almost the best.

We have rain throughout in the Nyanza region. If there is a place where the best tea is found and grown, it is in Kisii. But farmers have despaired. They have said their children would not go to school. We would like to understand why most people from the Nyanza region, especially the Kisii people, are not equal to the rest of the Kenyans. Why do our people get the least bonus? Departmental Committee on Agriculture and Livestock Chair, we are crying. Our people said we must not move out of this House until we get the answers. We want the answers so that our children can go to school.

Thank you, Hon. Speaker.

**Hon. Speaker:** You have made your point. Next is Hon. Nyakundi.

**Hon. Japheth Nyakundi** (Kitutu Chache North, UDA): Thank you, Hon. Speaker. I would like to concur with the rest of the team. Let *usawa* be *sawa*. Let us not have *usawa* which is not *sawa* on other things. It is sad for our farmers, especially where I come from.

I grow tea. I got Ksh16 per kilogram in the current bonus, while the rest of the country got Ksh53 or Ksh56. Our tea is the same as the tea that is grown in the Central Kenya region. If there is an issue with production or quality of the tea, those people should give us the seedlings that are required so that we plant the tea that they want. This will enable us to get the same bonus as the rest of the country. It is sad that farmers can wake up in the morning, toil each and every single day and then get a paltry Ksh12 or Ksh14 per kilogramme.

There were some reforms that were introduced in the coffee sector. It is doing well now. Fertilizer subsidy is being provided to other farmers. They are now doing well. Sugar-cane farmers are also doing well. Currently, we have a problem in the tea sector. We need to solve it now because our farmers are sick and tired of the bonus that they get.

**Hon. Speaker:** Thank you. Hon. Kirima, you are next.

**Hon. Moses Kirima** (Central Imenti, UDA): Thank you, Hon. Speaker, for giving me this opportunity to contribute to this emotive and important Petition.

*(Hon. (Dr) John Mutunga Kanyuithia  
consulted with Hon. Brighton Yegon)*

**Hon. Speaker:** Chairman, Hon. Mutunga! I hope you are listening. Stop that conversation and listen. Go on, Hon. Kirima.

**Hon. Moses Kirima** (Central Imenti, UDA): Hon. Speaker, the tea issue has been politicised in the Republic of Kenya. Last year and last year but one, farmers in my factory got a good bonus of over Ksh50 per kilogram. But in the latest payment, the factory where I am a member and tea farmer, paid only Ksh37 per kilogram. There are a number of things that determine tea prices.

First and foremost, we do not understand why we got Ksh60 per kilogram last year but one, but we got only Ksh37 per kilogram this year. It means that there is interference, in one way or another. It may be out of the laws which are passed this House. The tea levy affects the outcome of the bonus. The type of tea which we have planted, the type of soil on which the tea is planted, and how we handle our tea before it is taken to the factory, affect tea prices. There are a lot of expenses for fertilizers and labour.

Hon. Speaker, can the Committee clarify how a factory gets Ksh60 per kilogram in one year and gets Ksh37 per kilogram in the subsequent year? As my colleagues from other regions have said, this issue has been politicised. It should be clear that it is not this House which

determines the price of the crops which we plant. It is determined by the products and sales from the buyers and sellers.

Thank you, Hon. Speaker.

**Hon. Speaker:** Leader of the Majority Party, can you hold on so that I can give an opportunity to two or three Members before you contribute?

Proceed, Hon. Sabina Chege.

**Hon. Sabina Chege** (Nominated, JP): Thank you, Hon. Speaker. I would like to speak as a tea farmer and a member of the Departmental Committee on Agriculture and Livestock.

I would like to inform this House that this matter of tea has not just started now. Last year and early this year, the Departmental Committee on Agriculture and Livestock visited many tea factories. The issue in the tea sector is about tea factory management. Members are talking about the quality of tea that is either in the West or East. This is managed from the tea factory.

We have politicised the tea industry which affects the way we elect the directors. There is a Report - because the President gave a directive that an audit should be done by the Tea Board of Kenya. Two weeks ago, part of that audit report was brought before our Committee. I would like our Hon. Members to take time to go through that initial audit Report. There is another one that started from 5<sup>th</sup> October to the end of this month.

There is a lot of mismanagement in the tea factories. Members need to educate the farmers. When they are electing the board of directors, they should consider their qualifications and understanding of the industry. There is a lot of money that is being taken by the directors. The loans that are borrowed by the tea factories are paid by the farmers. At the end of the day, the board of directors deduct the loans from the bonus, and farmers are given little money. Unfortunately, some of the factories that give good bonuses take loans from financial institutions to impress the farmers, without disclosing the source of the money.

When we get the audit report from the Tea Board of Kenya, the reality of the matter will be known, but the management of tea factories must be re-looked.

**Hon. Speaker:** You have made your point. Member for Kericho, proceed.

**Hon. Beatrice Kemei** (Kericho County, UDA): Thank you, Hon. Speaker, for giving me this opportunity to contribute. I am a tea farmer.

**Hon. Speaker:** Hon. Members, if you get a chance to speak, take one minute because I can see Members who have raised their hands.

**Hon. Beatrice Kemei** (Kericho County, UDA): Hon. Speaker, I am a tea farmer. The bonus is between Kshs14 and Kshs35 per kilogram in factories in Kericho County. This tells us that the farmers are really suffering. The cost of production is very high. Most farmers grow tea only. Their children go to school because of growing tea. If there is mismanagement of the factories, and a problem with growing tea and type of soil, what can the Ministry do to make sure that the farmers get better payment? I ask the Departmental Committee on Agriculture and Livestock to do something about it because the farmers are helpless. They cannot only talk about the directors of the factories...

**Hon. Speaker:** Proceed, Hon. Osero.

**Hon. Patrick Osero** (Borabu, ODM): Thank you, Hon. Speaker. I am also a member of the Departmental Committee on Agriculture and Livestock.

As Hon. Sabina Chege has said it. We visited the tea growing regions as a Committee. Members from the Eastern region went to the Western region and those from Western region went to the Eastern region. However, there is something that is being ignored in this House.

The Kenya Tea Development Agency (KTDA) pooled resources for what is called hydropower energy to cut the cost of production of tea. The hydropower program was concentrated more in the East of the Rift Valley. The cost of production is nearly 50 per cent of the earnings. This is where the problem lies. Our farmers are getting Ksh17 per kilogram

while farmers in the East of the Rift Valley are getting over Ksh50 shillings per kilogram as tea bonus. It is not lost on us that the hydropower projects were delivered majorly in the East of the Rift Valley, thus cutting down the cost of tea production in that region.

Thank you.

**Hon. Speaker:** Next is Hon. Pukose.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): Thank you, on behalf of the people of Cherangany in Kapsara and Kapretwa, where we also grow tea. At times, we think of Central, Nyanza and Kericho when we talk about people who grow tea. When you meet them, those are miserable and yet, they have invested in their farms. I think Members from those areas should appear when the Committee is looking into the matter so that the issues are articulated and all our people within the country enjoy their bonus equally. If we have hydropower factories being concentrated in Eastern, why not in Western so that we have equality? That is why we are saying *usawa ni sawa*. Thank you

**Hon. Speaker:** Hon. (Dr) Mutunga, you hear the mood of the House. You can feel it. I will give the Leader of the Majority Party as the last on this. Or have you abandoned your intention to speak to this?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. First, I want to thank Hon. Kihungi for bringing the Petition and, more importantly, because I have carefully listened to all the issues that have been raised, especially the very passionate presentation by Hon. Dorice Donya, who is the County Women Representative of Kisii County. All the issues that Members have raised, and what the Petitioners are saying are, indeed, true. However, the solution lies in this House. We have the Tea Bill before this House. I was looking for a letter that the Clerk had already written. The Chair of the Committee will tell us where they are on the matter.

The Clerk had written to the Ministry of Agriculture to give their views on the proposed amendments to the Tea (Amendment) Bill. When I asked the Chair whether he was following, I was engaging with him and his Vice-Chair, Hon. Brighton. They are gone. The issues that are bedevilling the tea sector are basically man-made problems. The issue of inability to do direct sales is being dealt with through the Tea (Amendment) Bill. When the Chair finalizes with the Ministry, very soon after recess, we shall finalize with the Bill.

Hon. Speaker, if you remember, you ruled that we retract our steps because of the actions of the Member for Gatundu South, Hon. Kagombe, who doubles as the Member for Gatundu South and Director of KTDA. There was a direct conflict of interest in his participation in the processing of the Bill as he pushed through amendments without declaring his interest. I must thank you because you protected tea farmers in a very big way. What bedevils our tea industry is abuse of office by the leadership of tea factories.

In some tea factories, you have directors who can hardly read or write. They are people with no experience in management, but they are managing tea factories. What do you expect to be the end result? There must be disparities in terms of how much farmers in such factory will earn as tea bonuses vis-a-vis in the factories that are being led by proper corporate governance experts. Those are people who have work experience in corporate environment, who can even reach out to market their tea better.

I can assure tea farmers that those solutions will be sorted out by the Tea (Amendment) Bill which will address such issues, including reduction of the tea levy from 2 per cent to 1 per cent or something like that because those are matters that the Chair and the Committee on Agriculture are engaging with the Ministry.

This is to notify all our people that when there is conflict of interest, problems will always be there. We are the ones who passed the Conflict of Interest Bill in this House. It is unfortunate that Hon. Kagombe did not have the wisdom to either declare interest or step aside

in the adjudication of this Bill. We would have finished with those issues a long time ago were it not for his lack of wisdom.

I ask the Chair of the Departmental Committee on Agriculture and Livestock to expedite the consideration of the Bill because it will, in a great way, help us to solve the issues at the factory level and, more importantly, deal with where and how you market your tea. Once we open up direct sales, a tea factory in Kangema will be able to sell its tea directly to Sainsbury's in the United Kingdom (UK) or to any other buyers in Germany, and there will be value addition.

Hon. Speaker, allow me to mention the CEO of Equity Bank, Mr James Mwangi. I have seen the excellent work that he is doing with farmers in Murang'a. He is teaching them how to do orthodox tea and value addition. I am told they have a shop somewhere in Germany or in the Netherlands. That is how to add value to our tea and make sure that farmers get value for their very hard work. I, therefore, want to ask those of us who come from tea growing areas to follow up on the processing of this Bill. The Leader of Minority Party, Hon. Junet, and myself, we are only partakers of tea. We do not produce tea in our constituencies. Hon. Speaker, even you, being from Western Kenya, you are also a great partaker of tea.

As tea drinkers, we will support you. Those of you who are from tea producing areas, because tea has been one of the cash crops that have enabled many people in the former White Highlands to take their kids through school and to have a reasonable level of income, we will support you to make sure that our tea farmers get value for their tea just like coffee farmers are today getting value for their coffee. It is not fair that in one area farmers get a bonus of Kshs18 per kilogram while those in another area get Kshs50 per kilogram. I heard Hon. Karemba say that farmers in Runyenjes got a bonus of about Kshs50 per kilogram but in other areas, farmers got bonuses of Kshs18 and Kshs10 per kilogram. It is not fair. Probably, farmers in Runyenjes and other areas would get better bonuses if there was proper management of factories under KTDA, and proper marketing to ensure that we have no conflict of interest.

I thank Hon. Kihungi and urge those of us who are from the tea growing areas to be here when the Chair tells us when he completes the task that he is doing, so that we can complete the processing of the Bill. The Petitioners were right to bring that matter to this House so that we are able to finalize with the Tea Bill. It is unfortunate that it is one of us who made us go steps back with your guidance because, again, it would have been very wrong had we proceeded with the Bill in the manner it was being done when one of us had exercised lack of wisdom.

I do not know whether it is misplaced priorities for getting your peoples' representative and not a tea broker or a director. As leaders, we should also be able to weigh our options and know whether our personal interests should prevail over the greater public good. That is what we are called upon to do. I do not say that with any bad intent on the Member for Gatundu South, but it was wrong. Thank you, Hon. Speaker, for pointing it out because that is the way we should conduct business in this House. Thank you.

**Hon. Speaker:** Hon. (Dr) Mutunga, you have heard the passionate sentiments on Hon. Kihungi's Petition. Ordinarily, this Petition would have gone to the Public Petitions Committee. Hon. Brighton, are you not the Vice-Chairperson of the Departmental Committee on Agriculture and Livestock? I am addressing both of you. This Petition will come to you and you must do justice to it.

Some of us come from coffee-growing areas. When a kilogram of coffee goes for Ksh30 in Central Kenya, it should also go for Ksh30 in Western Kenya. When the price rises to Ksh120 or Ksh130, it rises across the country. Why would a tea farmer in one part of the country receive a bonus of Ksh50, while a farmer in another part receives Ksh20? You have quite some work to do. Bring a report to the House within the shortest time possible. Also, proceed with the Bill that is pending before the House.

Hon. Brighton, what is it?

**Hon. Brighton Yegon** (Konoin, UDA): Hon. Speaker, last year, you sent us to the field to establish why there was a significant disparity between the price per kilogram of tea in the West of the Rift Valley and the East of the Rift Valley. We conducted an inquiry, prepared a Report and tabled it in this House.

Hon. Speaker, I am also a tea farmer, and my factory performed dismally. I believe my factory received a second payment of Ksh16 per kilogram, which was among the lowest. I think the lowest payment this year was about Ksh12, while the highest was about Ksh58. There are many issues which need to be addressed. One of them is being addressed by the Tea (Amendment) Bill, which I am co-sponsoring in this House. The Bill is at the Third Reading stage, under the Committee of the whole House. As the Leader of the Majority Party has said, we need to fast-track it so that we address many issues, including provision for direct sales by tea factories.

When all our tea is taken to Mombasa for auction, the farmer does not get value for money. We, therefore, need direct sales so that factories can negotiate directly with buyers. The buying price should not be lower than the price achieved at the auction over a three-month period. There are also issues relating to value addition that need to be addressed, as well as the strengthening of the Tea Board of Kenya.

**Hon. Speaker:** Are those not the issues you intend to address in your response to the Petition? Please deal with the Petition and bring a report to the House, which I will allow the House to consider and debate. Hon. (Dr) Mutunga, do you need 60 days or less?

**Hon. (Dr) John Mutunga Kanyuithia** (Tigania West, UDA): Thank you very much, Hon. Speaker. I would like to appeal to Members of this House. First, to obtain the report we produced following the inquiry so that we can all be adequately informed. This will enable us to interrogate the Ministry's response when it is presented. I do not know what the Ministry will say.

As the Ministry responds, we can interrogate its response. Without the report, we shall be dealing with those issues in the dark.

**Hon. Speaker:** Hon. (Dr) Mutunga, deal with the Petition as presented by Hon. Kihungi.

**Hon. (Dr) John Mutunga Kanyuithia** (Tigania West, UDA): It is okay, Hon. Speaker.

**Hon. Speaker:** Yes.

**Hon. (Dr) John Mutunga Kanyuithia** (Tigania West, UDA): There is only one thing that I wanted to mention, Hon. Speaker. The Clerk of the National Assembly wrote to the Ministry on 29<sup>th</sup> September to address certain issues arising from the Amendment Bill. Some of those issues relate to what is being discussed in the House today.

If you wish, Hon. Speaker, I can highlight those issues so that Members can know that we are addressing them.

**Hon. Speaker:** Not now!

**Hon. (Dr) John Mutunga Kanyuithia** (Tigania West, UDA): Okay, Hon. Speaker. We shall deal with those issues as they arise.

Thank you very much.

**Hon. Speaker:** Thank you. Before I call the next Order, Hon. Members, we have students from Kipsinendet Secondary School in Kuresoi North Constituency, Nakuru County and Ereteti Comprehensive School from Narok East Constituency, Narok County. They are seated in the Public Gallery.

On my behalf and on behalf of the House, I welcome the students, their teachers and those accompanying them to the House of Parliament. We wish you a pleasant and informative visit.

Next Order.

## PAPERS

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

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, I beg to lay the following Papers on the Table:

1. The following Legal Notices, Explanatory Memoranda, Regulatory Impact Assessment from the Office of the Cabinet Secretary, Ministry of Health—
  - (a) Legal Notice No.203 of 2026 relating to the Public Health - Declaration of Formidable Epidemic Disease Order, 2026; and,
  - (b) Legal Notice No.204 of 2026 relating to the Public Health - Ebola Disease Rules, 2026.
2. Reports of the Auditor-General and Financial Statements for the year ended 30<sup>th</sup> June 2026, and the certificates therein in respect of the following—
  - (a) Wings to Fly-Promotion of Youth Employment Through Scholarships Phase II (Wings to Fly IV) Project Grant/Credit Number BMZ No. 2018 67 399 - Ministry of Education - State Department for Technical, Vocational Education and Training;
  - (b) Kenya- China TVET Project Phase III on Establishment and Upgrading of Equipment in Technical, Vocational Education and Training Workshops Project Grant/Credit No. GCL20250100818 - State Department for Technical, Vocational Education and Training;
  - (c) Youth Entrepreneurship and Innovation Multi-Donor Trust Fund (YEI-MDTF) TVET and Entrepreneurship (TVETE) ADB and ADF Project ID NO. P-KE-IAE-003 Grant No.ML-0064 - State Department for Technical, Vocational Education and Training;
  - (d) Skills Initiative for Africa (SIFA) Project Grant/Credit NO. AUDA-NEPAD/KFW 2015 69 052/FW1/KEN/005, AUDA-NEPAD/KFW 2015 69 052/FW1/KEN/015 and AUD-NEPAD/KFW 2015 69 052/FW1/KEN/017- Ministry of Education - State Department for Technical, Vocational Education and Training;
  - (e) Support to Waste Management at Lake Victoria South Project Grant/Credit No.BMZ-No.201365352-Lake Victoria South Water Works Development Agency;
  - (f) Water Sector Development Programme-Lake Victoria South (Kisumu, Kisii, Nyamira and Litein) Loan No. BMZ-No.2010 65 861 and Grant No.BMZ 2010 70 457 - Lake Victoria South Water Works Development Agency;
  - (g) Receiver of Revenue Financial Statements - National Police Service;
  - (h) Second Kenya Devolution Support Program (KSDP II) Credit No. IDA-7447-KE - County Government of Kakamega;
  - (i) Mandera County Teaching and Referral Level 5 Hospital - County Government of Mandera;
  - (j) Second Kenya Devolution Support Program Credit No. IDA-7447-KE - County Government of Bungoma;
  - (k) Strengthening Drought Resilience for Small Holder Farmers and Pastoralist in the IGAD Region, Project Number 03/DRESS-EA/07/OSS-KE/20 - State Department for Environment and Climate Change;
  - (l) Kenya Watershed Services Improvement Project (KEWASIP), Credit No. IDA 7830-KE - State Department for Forestry;

- (m) National Council for Children's Services;
- (n) Golf Hotel Limited;
- (o) East Africa Skills for Transformation and Regional Integration Project (LOAN No.6434-KE) - State Department for Roads;
- (p) Roads Annuity Fund - State Department for Roads;
- (q) Horn of Africa Gateway Development Project (Loan No.6768-KE) - State Department for Roads;
- (r) Enhancing Community Resilience and Water Security in the Upper Athi River Catchment Area, Kenya Project Number: GCF/NEMA/FP175 - National Environment Authority;
- (s) Karatina University;
- (t) Increasing the Global Implementation of GHS Through a Pilot Focusing on Africa-Project Number S1-32ECL-000048 - State Department for Environment and Climate Change;
- (u) Green Zones Development Support Project Phase II Project Number: P-KE-AAD-005 - Kenya Forest Service;
- (v) Kirinyaga University;
- (w) East Africa Regional Transport, Trade and Development Facilitation Project (CREDIT No.5638-KE IDA) - State Department for Roads;
- (x) Second Kenya Devolution Support Program (KSDP II) Credit No.IDA-7447-KE - County Government of Mombasa;
- (y) Nyandarua County Kenya Devolution Support Program II;
- (z) Second Kenya Informal Settlements Improvement Project (KISIP2) - County Government of Nyandarua;
- (aa) Migori County Second Kenya Devolution Support Programme-County Government of Migori;
- (bb) Kenya Maritime Authority Staff Mortgage and Car Loan Scheme;
- (cc) East Africa Skills for Transformation and Regional Integration Project (LOAN No. 6434-KE) - Kenya Coast National Polytechnic;
- (dd) Wanjohi Girls Secondary School- Nyandarua County;
- (ee) Kenya Education Management Institute;
- (ff) State Department for Science, Research and Innovation;
- (gg) Consolidated Kenya Pipeline Company PLC;
- (hh) Global Fund-Reducing the Burden, Ensuring Sustainability and Accelerating Progress Towards Malaria Elimination in Kenya Grant No: KEN-M-TNT-4149 - State Department for Public Health and Professional Standards;
- (ii) COVID-19 Health Emergency Response Project - Credit Number 6598-KE - Ministry of Health;
- (jj) Promotion of Youth Employment Through Scholarships Phase II (Wings to Fly IV) Project Grant/Credit Number BMZ No.2018 67 399 - State Department for Basic Education; and,
- (kk) Development of Schools Infrastructure in Nyamira County Project, Credit Number KF LOAN 853 - State Department for Basic Education.
- (ll) Promotion of youth employment through Scholarship Phase Two, and Wings to Fly Four.
- (mm) Development of Schools' Infrastructure in Nyamira County, Project Credit Number KF Loan 853 from the State Department for Basic Education.

3. Reports of the Auditor-General and the Financial Statements for the year ended 30<sup>th</sup> June 2026 and the certificates therein in respect of the following:
  - (a) The Senate; and,
  - (b) Second Kenya Devolution Support Programme, County Government of Bungoma.

Thank you.

**Hon. Speaker:** Rahab Mukami.

**Hon. Rahab Mukami** (Nyeri County, UDA): Thank you, Hon. Speaker. I beg to lay the following Paper on the Table:

Report of the Delegation to the Pan-African Parliament on the proceedings of the Second Ordinary Session of the Sixth Parliament of the Pan-African Parliament held from 15<sup>th</sup> May to 2<sup>nd</sup> June 2023 in the Gallagher Convention Centre Midland, South Africa.

**Hon. Speaker:** Next Order.

### NOTICES OF MOTIONS

#### NOTING OF REPORTS OF THE KENYA DELEGATION TO THE 6<sup>TH</sup> PARLIAMENT OF THE PAN-AFRICAN PARLIAMENT

**Hon. Speaker:** Hon. Rahab Mukami.

**Hon. Rahab Mukami** (Nyeri County, UDA): Thank you, Hon. Speaker. I beg to give notice of the following Motion:

THAT, this House notes the Reports of the Kenya Delegation to the Second Ordinary Session of the Sixth Parliament of the Pan-African Parliament, and the Extra-ordinary Session of the Sixth Parliament of the Pan-African Parliament, held in Midrand, South Africa, from 15<sup>th</sup> May to 2<sup>nd</sup> June 2023 and 20<sup>th</sup> to 27<sup>th</sup> March 2024, respectively, laid on the Table of the House on Thursday, 22<sup>nd</sup> October 2026 and Thursday, 2<sup>nd</sup> May 2024.

Thank you.

**Hon. Speaker:** Yes, Hon. Maungu.

#### ADOPTION OF 2<sup>ND</sup> REPORT OF PIC ON GOVERNANCE AND EDUCATION OF AUDITED FINANCIAL STATEMENTS OF STATE CORPORATIONS

**Hon. Dick Oyugi** (Luanda, DAP-K): Thank you very much, Hon. Speaker. I beg to give notice of the following Motion:

THAT, this House adopts the Second Report of the Public Investments Committee on Governance and Education on its consideration of audited Financial Statements of State Corporations (Training Colleges/Institutions) for the Financial Years 2018/2019, 2019/2020 and 2020/2021, laid on the Table of the House on Tuesday, 20<sup>th</sup> June 2023.

Thank you.

**Hon. Speaker:** Hon. Members, we have a Supplementary Order Paper which has been circulated, and I am sure you have seen it. We are going to proceed as follows...

*(Loud consultations)*

Order! We will stay Questions and Statements. I have got very many of them. I have about 13 listed requests for statements, two for response, and about three other Members who are not on the list but who have approached the Chair wanting to request

for statements. So, we will stay those statements for now and go straight into the Committee of the whole House at Order No.8 on the Elections (Amendment) (No. 2) Bill, (Senate Bill No.29 of 2024). This is part of the National Dialogue Committee (NADCO) Report products and it is time-bound. Once we finish that, we will come back to Order No.7 to deal with Questions and Statements before we go on with the Order Paper as set out. Call out the next Order. Hon. Members, will you be upstanding?

### COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

#### IN THE COMMITTEE

*[The Temporary Chairman  
(Hon. Farah Maalim) in the Chair]*

#### THE ELECTIONS (AMENDMENT) (NO. 2) BILL (Senate Bill No. 29 of 2024)

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Members, we are in the Committee of the whole House and we are dealing with the Elections (Amendment) (No. 2) Bill, (Senate Bill No. 29 of 2024).

*(Loud Consultations)*

Order, Hon. Members. Proceed.

#### Clause 3

**The Temporary Chairman** (Hon. Farah Maalim): Mover to move the amendment.

**Hon. Aden Mohammed** (Wajir East, JP): Thank you, Hon. Temporary Chairman. I beg to move:

THAT Clause 3 of the Bill be amended by deleting paragraph (c).

*(Question of the amendment proposed)*

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

*(Clause 3 as amended agreed to)*

*(Clause 4 agreed to)*

#### Clause 5

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Caroli Omondi, do you have an amendment?

**Hon. Caroli Omondi** (Suba South, ODM): Yes, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Farah Maalim): Proceed to move your amendment.

**Hon. Caroli Omondi** (Suba South, ODM): Thank you, Hon. Temporary Chairman. I beg to move:

THAT Clause 5 of the Bill be amended by—

- (a) deleting paragraph (b) and substituting therefor the following new paragraph—
  - (b) by deleting subsection (4) and substituting therefor the following new subsection—
    - (4) The firm engaged under subsection (1) shall conduct the audit and report to the Commission within a period of thirty days from the date of engagement and the firm shall cause the report on the audit of the Register of Voters to be published in at least two newspapers of nationwide circulation.
- (b) inserting the following new paragraph immediately after paragraph (b)—
  - (c) by deleting subsection (5) and substituting therefor the following new subsection—
    - (5) The Commission shall, within fourteen days of receipt of the report under subsection (4), publish the report on its website and submit the report to the National Assembly and Senate.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Farah Maalim): Yes, Hon. Aden.

**Hon. Aden Mohammed** (Wajir East, JP): Thank you very much, Hon. Temporary Chairman. I stand to oppose the proposed amendment. It is onerous. The Act has already taken care of it.

**The Temporary Chairman** (Hon. Farah Maalim): Please, talk loudly.

**Hon. Aden Mohammed** (Wajir East, JP): What he is proposing is adding more onerous responsibilities to the IEBC. So, I oppose the proposed amendments.

**The Temporary Chairman** (Hon. Farah Maalim): Anybody? Yes, Hon. Kaluma. Use the next microphone on your right side.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): I thank you, Hon. Temporary Chairman. Kriegler advised that we avoid this deeply contentious and substantive amendments to laws governing elections, at least, one year to elections. The Independent Electoral and Boundaries Commission is an independent Commission that is established under Article 248 like others. It is a Commission that we can oversight.

I had initially proposed an amendment to delete the entire Section 8A because the matters that are being assigned to an auditor, an independent audit firm under Section 8A, are already covered by the Commission under the current Section 8. I only thought it through and said that it could be dealt with later so that we do not engender suspicions.

There is no reason other than increasing costs unnecessarily, Hon. Members. Why should we have the IEBC in charge of the register, in charge of the audit of the register and its revision, and then take taxpayers' money and give it to another firm? We are looking at billions of shillings here for things which are not implemented.

Therefore, I oppose that provision. I request the Members to consider that it is a provision that could be looked at later and not now.

**The Temporary Chairman** (Hon. Farah Maalim): Fair enough. Leader of the Majority Party.

**Hon. Kimana Ichung'wah** (Kikuyu, UDA): Hon. Temporary Chairman, I want to join Hon. Kaluma. I have nothing more important to add.

I oppose.

**The Temporary Chairman** (Hon. Farah Maalim): Anybody else? Hon. Caroli, you can have one more bite at it. Proceed.

**Hon. Caroli Omondi** (Suba South, ODM): Hon. Temporary Chairman, our Constitution requires a lot of transparency and lays down various accountability structures. What we are talking about here is the audit of the voter register for purposes of determining how many people have exited the register by way of death. The best way to do this, because the registration of voters is done by the IEBC while the registration of deaths is done by an independent office, is to have an independent person or institution outside those two entities to conduct the reconciliation and inform the public about who remains validly and genuinely on the register.

That is why the practice has been to have an independent audit of the voter register, with a report or a summary of that report made available to the public for purposes of transparency, as contemplated in our Constitution. I am even shocked that Members who, a few years ago, were calling for an audit of the register are now opposing it because of...

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Junet.

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Temporary Chairman, this is not a new matter, as Hon. Caroli is trying to present it. This is an issue that this House dealt with a long time ago, and we said that the IEBC must engage independent auditors to audit the register and report to Parliament. That is because the IEBC is overseen by Parliament. Constitutionally, it reports to Parliament. This is not a register for a co-operative society. This is a register of Kenyans. Data protection issues come into play. We are saying that the audit should be conducted as provided for in the law, but the auditors should report to Parliament. This is where the representatives of the people are.

**The Temporary Chairman** (Hon. Farah Maalim): You have to realise that this is at the Committee of the whole House Stage. Hon. Wandeto, I will allow one or two more contributions. Please, give the microphone to Hon. Wandeto.

**Hon. Geoffrey Wandeto** (Tetu, UDA): Hon. Temporary Chairman, I think we recently heard somebody saying that dead voters would vote. Yesterday or the day before, you saw him appearing before the IEBC. The more safeguards we put in place to avoid those sorts of characters who are basically calling into question the integrity of our elections, the better.

Therefore, I support an independent audit as an extra layer of scrutiny. What harm does it bring to this process?

**Hon. Peter Kaluma** (Homa Bay Town, ODM): On a point of order.

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Kaluma, you have the Floor.

**Hon. Gladys Boss** (Uasin Gishu County, UDA): On a point of information.

**The Temporary Chairman** (Hon. Farah Maalim): Do you wish to be informed by Hon. Gladys Boss?

**Hon. Geoffrey Wandeto** (Tetu, UDA): Yes, she may.

**The Temporary Chairman** (Hon. Farah Maalim): Proceed, Hon. Boss. I think the contention here is about the stage we have reached in our journey towards the next election. Perhaps, the more contentious issue concerns the Kriegler Report. Maybe what you need to do is explain how fundamental this matter is at this time. Anyway, proceed.

**Hon. Gladys Boss** (Uasin Gishu County, UDA): Thank you, Hon. Temporary Chairman. I just wanted to confirm and inform Hon. Wandeto that there is no possibility, in our current electoral system, of dead voters voting unless you are going to bring fingers from the morgue. It is impossible. I know the system and I designed it. That is exactly why we introduced biometric identification of voters.

In the old register, dead voters could vote but, right now, it is impossible. Therefore, I think I want Kenyans to obliterate that mindset. That is how you begin to discredit elections before they happen. It is not going to happen.

Secondly, once somebody places their fingerprints, they are immediately deleted from the register and then they are given ballot papers. Later, when the counting is being done, the

fingerprints will be reconciled with the ballot papers issued. Therefore, that is impossible. I do not think it is something Kenyans should worry about. It is dangerous for us to continue repeating that story. Thank you.

*(Hon. Caroli Omondi spoke off the record)*

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Kaluma has the Floor. Hon. Caroli, do you wish to add something? Are you taking another bite at the debate, or are you raising a point of order?

**Hon. Caroli Omondi** (Suba South, ODM): On a point of order.

**The Temporary Chairman** (Hon. Farah Maalim): What is your point of order?

**Hon. Caroli Omondi** (Suba South, ODM): I think we need to debate what the real issue is. The real issue is that our Constitution requires us to have an accurate register of voters. The best way to ensure that we have an accurate register of voters is to conduct an audit after registration and compare the various databases containing the relevant information. That is what we want.

**The Temporary Chairman** (Hon. Farah Maalim): That is a point of argument. Proceed, Hon. Kaluma.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Chairman, the audit provided for in the provision Hon. Caroli is addressing is an audit conducted after elections, and not before. What he is talking about is verification of the register. Hon. Caroli, I beg you to look at Section 8A of the current Act, which you are amending, alongside Section 8. The point we are making, together with the mandate of the IEBC under Article 88 of the Constitution, is that the power to audit, revise and update the register is vested in the IEBC by the Constitution and Section 8.

Therefore, you cannot take that power away from an independent Commission, which Parliament can oversight, and transfer it to another body while requiring that body to report to the IEBC rather than to Parliament. That is why we are rejecting the amendment. It is unconstitutional.

*(Loud consultations)*

**The Temporary Chairman** (Hon. Farah Maalim): Order! Order! Hon. Members, this is the Committee of the whole House Stage. The debate must be as limited as possible.

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

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

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

*(Clause 5 agreed to)*

*(Clauses 6, 7 and 8 agreed to)*

*Clause 9*

**The Temporary Chairman** (Hon. Farah Maalim): Mover, proceed. You have an amendment.

**Hon. Aden Mohammed** (Wajir East, JP): Thank you, Hon. Temporary Chairman. I beg to move:

THAT, Clause 9 of the Bill be amended in paragraph (a) by inserting the word “assembly” immediately after the word “county” in the proposed new paragraph (b).

The justification is to clarify that the registration undertaken by the IEBC relates to county assemblies. It is a minor typographical error. We are simply adding the word "assembly" there.

*(Question of the amendment proposed)*

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

*(Clause 9 as amended agreed to)*

*Clause 10*

**The Temporary Chairman** (Hon. Farah Maalim): Mover, move the amendment.

**Hon. Aden Mohammed** (Wajir East, JP): Hon. Temporary Chairman, I beg to move:

THAT Clause 10 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph—

(b) in subsection (1) by deleting the word “nominated” appearing immediately after the words “may be” in the opening statement and substituting therefor the word “registered”;

This is simply to limit the amendments in this clause to the replacement of the word "nominated" with the word "registered".

**The Temporary Chairman** (Hon. Farah Maalim): You are supposed to give a justification. Have you given the justification?

**Hon. Aden Mohammed** (Wajir East, JP): We are moving from nominations to registration. That is the whole point.

*(Question of the amendment proposed)*

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): On a point of order, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Farah Maalim): What is your point of order?

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Chairman. I request that the Mover explains a little further when he is moving. We can see that it is changing from ‘registration’ to ‘nomination’, but why? Can he give it a little more flesh so that it makes sense?

**Hon. Kimani Ichung’wah** (Kikuyu, UDA): On a point of order, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Farah Maalim): What is your point of order, Hon. Ichung’wah Kimani?

**Hon. Kimani Ichung’wah** (Kikuyu, UDA): Hon. Temporary Chairman, just to guide the Chair, a number of the amendments he will move will relate to the words ‘nominate’ and ‘register’. Just for information, the distinction is that the Independent Electoral and Boundaries Commission (IEBC) does not nominate or involve itself in the nomination of candidates. It

only registers candidates. A lot of the clean-up the Chair will be referring to relate to that distinction.

We are removing the word ‘nominate’ from the language in the Bill or Act to differentiate nomination and registration of candidates. The IEBC registers you as a candidate. The day you submit your nomination papers after you are nominated by your political party, then IEBC appoints a day to present your nomination papers and thereafter registers you as a candidate. Many of the amendments the Chair will move will relate to that. The Chair will not need to keep explaining that every now and then.

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, while the amendment is very plausible and progressive, Kenyans are used to the term ‘nomination’. Therefore, if you tell your people you are going to be nominated by IEBC...

**The Temporary Chairman** (Hon. Farah Maalim): There is a fundamental difference between those two words.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Yes, and that is why I am saying that it is important that, as we go along, IEBC must be called upon to explain to the ordinary Kenyan whether registering means as a voter or otherwise. You know, we are used to the parlance of nomination. The IEBC needs to be facilitated to conduct civic education so that the people can understand the difference. My supporters might wonder what is happening.

**The Temporary Chairman** (Hon. Farah Maalim): Fair enough. Hon. Caroli, take the last bite on this. Proceed.

**Hon. Caroli Omondi** (Suba South, ODM): Thank you, Hon. Temporary Chairman. I like the way the Leader of the Majority Party has explained it. I think it would be useful if he educated us, especially those who are not in the Committee. They have introduced a new definition of nomination which is restrictive to only those who go into elections through political parties. There are independent candidates. Draw the distinction and educate us.

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

**The Temporary Chairman** (Hon. Farah Maalim): What is your point of order, Hon. Junet?

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Temporary Chairman, if you look at the law as is, there is a lot of confusion as to whether it is the political parties that are the ones that conduct nominations or the IEBC. It is trying to distinguish the two. Now, political party nominees and independent candidates will be registered by IEBC at the same time during what we called the nomination day. That is now the registration day.

**The Temporary Chairman** (Hon. Farah Maalim): I think that is a very straightforward linguistic clarification.

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

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

*(Clause 10 as amended agreed to)*

*(Clauses 11, 12, 13, and 14 agreed to)*

Clause 15

**The Temporary Chairman** (Hon. Farah Maalim): Mover?

**Hon. Aden Mohammed** (Wajir East, JP): Thank you, Hon. Temporary Chairman. I beg to move:

THAT Clause 15 of the Bill be amended by inserting the following new paragraphs immediately after paragraph (a)—

(aa) by deleting subsection (2B);

(ab) by deleting subsection (2C);

I will try to explain further. This is to amend the Act by deleting the provisions that require the involvement of IEBC. In those provisions, IEBC is supposed to be involved in party primaries, but we are now removing its involvement in party primaries and political party nominations. This aligns with the provisions of nomination of candidates through the powers of political parties. We are removing them as part of the functions of IEBC. They are not its functions. I beg to move.

*(Question of the amendment proposed)*

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

*(Clause 15 as amended agreed to)*

#### Clause 16

**The Temporary Chairman** (Hon. Farah Maalim): Mover?

**Hon. Aden Mohammed** (Wajir East, JP): Thank you, Hon. Temporary Chairman. I beg to move:

THAT Clause 16 of the Bill be amended by deleting paragraph (c) and substituting therefor the following new paragraph—

(c) in subsection (3), by—

(i) deleting paragraph (b) and substituting therefor the following new paragraph—

(b) is the symbol of another independent candidate within the same county or of a political party; or,

(ii) deleting paragraph (c) and substituting therefor the following paragraph—

(c) so nearly resembles the symbol of another independent candidate within the same county or political party or any other legal entity registered under any other written law.”

The reason for this is that we have many independent candidates. I think Hon. Caroli talked about this. They are required to have symbols that are different from any other candidate in the Republic of Kenya. This amendment allows independent candidates to have different symbols within the county. For example, there is no reason why an independent candidate from Wajir should not have a similar symbol to an independent candidate from Migori. You know that the number of symbols has dwindled and some offensive symbols are not allowed. We are, therefore, reducing the number of symbols only to within the county.

**The Temporary Chairman** (Hon. Farah Maalim): Fair enough. Order, Hon. Members.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Junet?

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Temporary Chairman, I support the amendment because independent candidates have suffered in this country. The Constitution

allows people to run as independent candidates but, getting symbols during an election is very difficult. For whatever reason, everyone wants to have a cock. People are competing for cocks.

*(Laughter)*

**The Temporary Chairman** (Hon. Farah Maalim): Why?

**Hon. Junet Mohamed** (Suna East, ODM): I do not know why! Every man wants to have a cock as his symbol. This amendment allows candidates from different parts of the country and from different counties to have the same symbol.

**The Temporary Chairman** (Hon. Farah Maalim): Fair enough.

**Hon. Junet Mohamed** (Suna East, ODM): The cock symbol can only be found in one county. Therefore, if a candidate from Migori has a cock as their symbol, the rest have to look for hens.

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Caroli.

**Hon. Caroli Omondi** (Suba South, ODM): Hon. Temporary Chairman, while I agree with the intention, I think we are missing a point here. The differentiation should be within the electoral area, in other words, the seat. If you say an independent candidate within the same county, a member of county assembly (MCA) running within an electoral unit called a ward or a political party will be denied a symbol if it is being used by somebody else. It is not clear to me. I would like to get further explanation.

**The Temporary Chairman** (Hon. Farah Maalim): Mover, can you clarify whether it is within the same electoral area?

**Hon. Aden Mohammed** (Wajir East, JP): Hon. Temporary Chairman., the electoral area envisaged is the county.

**The Temporary Chairman** (Hon. Farah Maalim): Is it county or a ward?

**Hon. Aden Mohammed** (Wajir East, JP): It is within the county. You can have the same symbol in another county. A senator who is being elected by the whole county cannot have a similar symbol to an MCA. It will look like they are members of the same party. That is why there should be a distinction within a county.

**The Temporary Chairman** (Hon. Farah Maalim): Next is Hon. Raso, followed by Hon. Kiborek.

**Hon. Ali Raso** (Saku, UDA): Thank you, Hon. Temporary Chairman. We make laws for very ordinary people. Many of our rural folk are illiterate. They are assisted voters. If you mix symbols, no matter the level, it will create confusion during the election. That is why this amendment is so important, and we must support it.

**The Temporary Chairman** (Hon. Farah Maalim): Fair enough. Hon. Kiborek, are you still interested? Then let us have Hon. Millie Odhiambo.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Chairman, I support this. Even though the issue of the cock seems to be predominantly a male concern, women in our area tend to prefer something called *dwasi*, which translates to a dairy cow. The cock issue does not bother women. However, I do wish the Committee had also considered incorporating colours. In every election, I find myself facing an independent candidate who is competing against me, and they are so confused. Often, they wear all white resembling church choirs. The Committee should have considered colours. It would be beneficial to allow independent candidates to have distinct colours. Nonetheless, this is a good amendment and I support it.

**The Temporary Chairman** (Hon. Farah Maalim): Fair enough.

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

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

*(Clause 16 as amended agreed to)*

*(Clauses 17 and 18 agreed to)*

*Clause 19*

**The Temporary Chairman** (Hon. Farah Maalim): Mover.

**Hon. Aden Mohammed** (Wajir East, JP): Hon. Temporary Chairman. I beg to move: THAT, Clause 19 of the Bill be amended by deleting paragraph (a).

The justification for this is that we need to maintain the autonomy of political parties concerning the party list. It is the province of political parties to decide whom they will nominate, in which area, and for what position.

**The Temporary Chairman** (Hon. Farah Maalim): This diminishes the possibility of people going to court.

*(Question of the amendment proposed)*

Hon. Millie Odhiambo followed by Hon. (Dr) Oundo.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): The use of the term "nomination" is very confusing. There is a nomination to run for office and then the nomination in the party list. If this refers to the nomination in the party list, then I would urge the Committee to reconsider. It is very unfortunate when you are dealing with a party list, even if it is the mandate of the parties to nominate. For instance, you may have six slots but assign them all to one ward, disregarding other candidates in other wards.

I recall a time in Homa Bay County when Ndhiwa Constituency did not have a nominated candidate, while another constituency had up to three nominees. This goes against the principles of equality and fairness. I urge the Committee to reconsider this. I believe the nomination process by the Senate in this context is quite commendable.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): I also join Hon. Millie Odhiambo, the "bad girl," in reconsidering this proposed deletion of provisions in the original Bill. The Bill requires that the party list must only include those who are registered voters in the respective ward. This is meant to prevent abuse by political parties. For example, in the County Government of Busia, you will find that the nominated Members in the County Assembly are individuals nobody has ever seen. They do not live there. They merely come, and some of them actually reside in America.

The intention is very clear because nominations to the County Assembly should be left to the people of the ward and the people of that county. Please, we respectfully ask that you consider this carefully. The intention here is to ensure that a person should not be nominated by a political party under subsection (iv), unless they are, at the date of submission of the party list by the political party, a registered voter in any of the wards in the county where they are nominated. This cured all the mischief.

**The Temporary Chairman** (Hon. Farah Maalim): Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Chairman, the beauty of this National Assembly lies in our diversity. When Hon. (Dr) Oundo, who is all the way from Funyula in Busia engages intellectually with a Member from Nyeri, such as in Tetu Constituency, or Kikuyu in Kiambu, that is the aspiration the Committee aims to achieve, and I fully support it. If we were to reduce all our county assemblies to village assemblies, we would lose the richness that comes from the diversity of our nation.

I want to provide a case example of many Members who have been elected. I mentioned this during the Second Reading. The Member for Ruaraka, Hon. TJ Kajwang', comes from Homa Bay County and yet, he represents a constituency in Nairobi. The diversity of the people who elected Hon. TJ has benefited from his leadership for the past 15 years, and their support continues to this day. However, if we were to limit our framework such that the people of Ruaraka would only elect one of their own, then....

I recall that the Governor for Embu, Hon. Cecily Mbarire, first came to this House as a nominee from a party then led by Hon. Charity Ngilu. Had Hon. Charity Ngilu chosen to nominate only individuals from her village in Kitui, we would never have benefited from the leadership of Hon. Cecily Mbarire. Thus, I implore my colleagues—not "kolliks" or "koligths," especially Hon. (Dr) Oundo, whom I know to be a diligent legislator—to support this amendment. Allow someone from Funyula to have the opportunity to serve in the coastal city of Mombasa. Let us not confine the people of Funyula to only Busia County. Let a nominee who diligently serves my party, UDA, at its headquarters in Nairobi, have the chance to be nominated as a Member of the County Assembly in Kisumu. This will continue to entrench the rich diversity of our people.

**The Temporary Chairman** (Hon. Farah Maalim): Fair enough. Leader of the Majority Party, you have made your point. Hon. Kaluma.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): The amendment we are proposing to delete is in two parts. I want to remind Members to look at the proposed new subsection 8A, which is the primary focus of our discussion. In Homa Bay County, when our late Senator, Hon. Gerald Otieno Kajwang' died, we proceeded to elect Hon. Moses Otieno Kajwang', who was not a voter in Homa Bay, but was registered in Nairobi. He has gone on to do very good work.

Hon. Members, there are numerous individuals who serve in party secretariats or in presidential campaigns. They may be based in Nairobi, but are registered elsewhere. Are we suggesting that they cannot be nominated after elections or during elections to serve in the Nairobi County Assembly, even though they vote in Homa Bay County or elsewhere? If this principle is good for the National Assembly, let us apply it to the county assemblies, while accommodating the diversities that have already been mentioned.

The second part states that nominations under sub-section (iv) by a political party shall ensure equitable representation from all wards within the respective county. This is what Hon. Millie has referred to. To illustrate, we have 40 wards in Homa Bay County. Assume that only one gender is elected. That means the maximum number to be nominated from the opposite gender is 20, for gender balance. Now, how do you ensure equity among those 20 people? How do you spread them across the 40 wards? What is the arrangement for equity? The point, therefore, is that it is impracticable. What we do, in terms of the party processes and the Political Parties Act, is to require the parties to have regional balance. However, you cannot provide for it in this Elections Act. It is impracticable to implement.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): On a point of order, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Farah Maalim): What is your point of order, Hon. Junet? Hon. Junet does not seem to be ready. Hon. Millie, proceed.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Chairman. I do not know why everybody is calling me "Winnie" today.

**The Temporary Chairman** (Hon. Farah Maalim): No! I called you Millie.

*(Laughter)*

I have known you since way back.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Today, you have baptised me, Winnie. I think it is because I was defending Winnie Odinga the other day. That aside, based on the explanations given, I have noticed that there are two issues. Initially, I was focusing on the issue of “A”. My concern, which I wish the Committee would address, is the abuse of that process. From listening to the Members, the concern is that if I sit as a chairperson or an official of a party, I may ensure that my brother, my sister and my uncle are spread out. It cannot be that it is only your family that can bring diversity to Kenya. Let the process not be misused.

On the second issue, which Hon. Kaluma has raised, I wish the Committee would reconsider retaining this provision because it is not about equality; it is about equity. Equity does not mean giving everyone an equal share. For instance, if we only have five nomination slots for women in Homa Bay, it is okay if only five constituencies benefit and the other three do not. We cannot manufacture what is not available. That is equity. However, it would be wrong for all five slots to go to one constituency. That is not right. Equity....

*(A Member spoke off the record)*

I am on a point of order. I am an expert on issues of equity and equality. Equality means giving everybody the same number, while equity means redressing and ensuring justice. They are not the same. Equity is justice. For instance, consider the Equalisation Fund that we have established here. That is why Northern Kenya gets more money than other areas. If it were equality, everybody would get the same amount of money. However, if it is equity, only areas that have been marginalised in the past get it. Therefore, it does not have to go to everybody.

I am calling on the Committee to reconsider and not delete the 8B.

**The Temporary Chairman** (Hon. Farah Maalim): You have made your point, Hon. Millie, not Winnie. I have known you as Millie since the days you were at Cradle. Did we have something called Cradle at one time?

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

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Junet, what is your point of order?

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Temporary Chairman, one of the reasons we have a problem with the Constitution is that we made a Constitution to address all our suspicions.

**The Temporary Chairman** (Hon. Farah Maalim): Yes, all our fears.

**Hon. Junet Mohamed** (Suna East, ODM): Moi used to arrest people and so now, we have to do this. This should be the prerogative of a political party. Even if you legislate here, they will find a way to circumvent it. I am a party operative, and I know what I am talking about. Do not waste your time. You can legislate, but they will find a way around it. I can assure you.

The amendment proposes that all the wards be equal; however, as Hon. Kaluma stated, if we have 50 wards and only 6 nomination positions are available, if you do not allocate a quarter to each ward, those that miss out will go to court and ask why they have been left out. Let us not legislate morality.

*(Loud consultations)*

**The Temporary Chairman** (Hon. Farah Maalim): Fair enough. Order! We have debated.

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

*(Clause 19 as amended agreed to)*

*Clause 20*

**Hon. Aden Mohammed** (Wajir East, JP): Hon. Temporary Chairman...

*(Hon. Junet Mohamed and Hon. Millie Odhiambo-Mabona consulted loudly)*

**The Temporary Chairman** (Hon. Farah Maalim): Order! Hon. Junet and Hon. Millie, you are senior Members of the House. Please, allow the House to continue.

**Hon. Aden Mohammed** (Wajir East, JP): Hon. Temporary Speaker, I beg to move:  
THAT the Bill be amended by deleting Clause 20.

The proposed amendment is sufficiently covered under the Elections (General) Regulations, 2012. We do not need to legislate what is already provided for in the Regulations. Thank you.

**The Temporary Chairman** (Hon. Farah Maalim): Clause 20 to be deleted?

**Hon. Aden Mohammed** (Wajir East, JP): Yes.

*(Question of the amendment proposed)*

**Hon. Caroli Omondi** (Suba South, ODM): On a point of order, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Farah Maalim): Yes, Hon. Caroli. You will have your say, even if you are in the minority. Proceed.

**Hon. Caroli Omondi** (Suba South, ODM): Thank you for that. There is a very important element when it comes to polling stations called geo-referencing. I had a proposal that, while adopting this amendment, we insert the requirement for geo-referencing for every polling station so that when the list of polling stations is published, each has a specific geo-location identity. Now you are surprising us by again saying that you are deleting it. We are opposing. We want to have geo-referencing of polling stations.

**Hon. Aden Mohammed** (Wajir East, JP): This proposal is not about polling stations being geo-referenced. It is just about gazettelement since the proposed amendment is already sufficiently covered under those Regulations. Notably, geo-referencing happens even now. That is why even the Independent Electoral and Boundaries Commission (IEBC) staff have to send the forms from the tallying centres within the respective polling stations. So, it is already geo-referenced.

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Oundo and then Hon. Kaluma.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): I think the intention of the amendment, as contained in the Bill, was to progressively make the election a transparent process. That is why this provides for the point, place or places as a polling station for each electoral area, and then requires publication in the Gazette and electronically of all the polling stations. This is meant to address allegations of non-existent polling stations. So, the purported amendment was to make the polling stations all over the country public. Now, removing it and only providing for it in the Regulations defeats the essence of making an election transparent and accountable. We are simply asking that the geo-reference be published.

**The Temporary Chairman** (Hon. Farah Maalim): You have made your point. Hon. Junet, proceed, followed by Hon. Kaluma.

**Hon. Junet Mohamed** (Suna East, ODM): I totally agree with what Hon. Oundo is saying. He is absolutely right, and that is the right thing to do.

**The Temporary Chairman** (Hon. Farah Maalim): Which is?

**Hon. Junet Mohamed** (Suna East, ODM): That we need to publish and gazette the polling stations. However, that has been taken care of. It is in the Regulations, which are subsidiary laws. The Regulations were passed by this House, and they have the force of law.

**Hon. Peter Kaluma** (Homa Bay, ODM): This provision is already covered in the Elections (General) Regulations. For the benefit of Members, let us reiterate to the general public what happens. Before a place is designated as a polling station, it is first gazetted as a voter registration centre. When it gets the population, it is gazetted as a polling station under those Regulations. When you are registering as a voter, you register to a specific polling station which is already gazetted. That is why we are saying this provision is superfluous.

**The Temporary Chairman** (Hon. Farah Maalim): Member for West Mugirango.

**Hon. Stephen Mogaka** (West Mugirango, JP): Thank you, Hon. Temporary Chairman. I am a member of the Departmental Committee on Justice and Legal Affairs and I confirm that the Committee interrogated this Bill. As we speak, IEBC has already published the polling stations that will be used in the 2027 elections. Registration of voters is already happening in those polling stations. This deletion is for purposes of ensuring that we do not confuse voters. Regulations require that polling stations be gazetted, and they have already been so gazetted.

Thank you.

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Raso, are you satisfied?

**Hon. Ali Raso** (Saku, UDA): Hon. Temporary Chairman, I would like to support this amendment. I am a pastoralist and I represent pastoralists. There is something called a mobile polling station. During difficult seasons, pastoralists move around. You can imagine 200, 300, 500 or 1,000 of your voters move to different wards and constituencies. That is why this regulation is important, and some of us will follow it up so that no person is omitted from voting.

**The Temporary Chairman** (Hon. Farah Maalim): Fair enough, you have made your point. I now put the Question.

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

*(Clause 20 deleted)*

#### *Clause 21*

**The Temporary Chairman** (Hon. Farah Maalim): That is also another deletion. Proceed.

**Hon. Aden Mohammed** (Wajir East, JP): Thank you, Hon. Temporary Chairman. I beg to move:

THAT, the Bill be amended by deleting clause 21.

This amendment was supposed to raise the number of voters per polling station from 700 to 1,000. The more voters there are at a polling station, the longer the voting process will take. Therefore, the Committee proposes retaining the previous limit of 700 voters and rejecting this amendment.

*(Question of the amendment proposed)*

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

*(Clause 21 deleted)*

*Clause 22*

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Kaluma.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 22.

What I am proposing is the deletion of Clause 22. The reasons for which I make that move are two: One, this is a very substantive provision. It is a provision we pushed very hard last time. I know that there have been amendments through nullifications of various subsections of the current provision. But this amendment merely proposes to legislate what the courts have decided. If you look at what is now proposed as Section 39(1), for instance, what it is adding is that the results at a polling station shall be final.

That was decided by the Supreme Court in Raila 1, Raila 2 and Raila 3. It is not adding something. It is already in the realm of judgement law and practice, and well settled by the highest court. If you look at the various provisions, we are just touching things, rewriting law and deleting what exists already. For that reason, this is a very substantive provision. This is the kind of provision the Kriegler Commission advised, that we should not touch it a year to election, but leave it intact.

I thank you, Hon. Temporary Chairman.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Members, we must first address the deletion. If the Motion to delete is defeated, we will then proceed to the amendment. You can only amend text that has not been deleted. Hon. Millie, are you moving to delete the amendment?

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): No! I want to speak to it. I know that if this amendment is carried, then Hon. Caroli cannot bring any amendment. But I just want to say that, perhaps, on the basis of the Kriegler Report, I might support it. Otherwise, if a matter has been decided by court, Parliament has the role to legislate. We should, therefore, legislate. It is only that the timing may be wrong. But on matters that have been decided by court and we have been told as Parliament to legislate, we should.

**The Temporary Chairman** (Hon. Farah Maalim): Okay, proceed, Chair. Hon. Caroli, you will have your moment. We are dealing with the deletion now. Hon. Aden, if you want to contribute to the deletion, it is okay.

**Hon. Aden Mohammed** (Wajir East, JP): Thank you, Hon. Temporary Chairman.

Hon. Temporary Chairman, I support the deletion for two primary reasons: First, all judicial precedents are already integrated into our jurisprudence. Regardless of whether we legislate, the decisions of the Supreme Court constitute a fundamental part of the laws of Kenya. Second, we must avoid the perception of tinkering with a critical section of our election laws, especially since we are less than 10 months away from a general election. The provision in question has been heavily litigated across our last three major elections, and we should maintain its current form. Any subsequent actions by IEBC will be sufficiently guided by existing jurisprudence. I support the deletion.

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Caroli Omondi.

**Hon. Caroli Omondi** (Suba South, ODM): Hon. Temporary Chairman, with all due respect, I think we are running a scam on Kenyans by saying some things here. That because of the Kriegler Report, we cannot legislate. I was part of the group that recruited him. I was in charge of Agenda Four for five years. That was just a recommendation in a Report. It is not binding on this House. It does not oust our legislative authority. In any event, where the courts have pronounced themselves, it is the responsibility of this House to codify the law. We must,

therefore, reduce the decisions of the court into legislative pronouncements by putting them into a law. That is what we are proposing under this particular section. We should not mislead the country that because Kriegler gave us a Report some 14 years ago and because there are some court decisions that are already part of the law, we cannot legislate as a House.

We need to deal with the presidential results because this is the most important thing in this Bill; how the presidential results are tallied, verified, who is responsible for what, how they are communicated to the Republic, how people get to know, how parties can interrogate them and how technology will be used. This issue is so critical that pretending we cannot provide legislative provisions for it is akin to deceiving Kenyans. We cannot allow that. That would amount to a conspiracy to subvert our mandate.

**The Temporary Chairman** (Hon. Farah Maalim): Order! You have made your point. Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Chairman, I support Hon. Kaluma's amendment. It is said that it is only fools who do the same thing over and over and expect different results. And it is true, the Kriegler Report, as the Member for Suba South says, is not law. It was an advisory Report that was adopted by a Parliament in which I did not even sit. It is just as we legislate every day in this House while making reference to the Mwongozo Code of Conduct in our public parastatals and yet, it is not law. It would be foolish to never accept recommendations that were considered by those who were in this House ahead of us. We also agree that if we start tinkering with electoral laws and substantive issues touching on our electoral processes and, more so, in the transmission of results and all those other shenanigans around elections, we stand accused. And I say this with immense respect to many of us.

Yesterday, there were people who were saying that they had been told to come and oppose this Election (Amendment) Bill and yet, the person who was asking them to do so, does not even know what is contained in the Bill. They had simply been told by others out there.

Hon. Temporary Chairman, I wish to associate myself with the wisdom of the Mover of that amendment, Member for Homa Bay Town, Hon. Kaluma, and the Committee. Let us stick to what Kriegler Report advised our country to do.

**The Temporary Chairman** (Hon. Farah Maalim): Let us have as minimum debate as possible on this. Let us have the Leader of the Minority Party, followed by Hon. Oundo.

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Temporary Chairman, I rise to support the amendment by Hon. Kaluma.

First, the Kriegler Report was adopted by this House, the Parliament of the Republic of Kenya. It is a document of this House to which we can refer. More importantly, changing electoral laws on the eve of elections is what led to the post-election violence. The Electoral Commission of Kenya was reconstituted in a manner that was skewed and unacceptable to all parties, and the electoral laws were also changed by the House at the time. Those actions brought about the post-election violence. That is what we are trying to avoid. Those are the lessons we learnt from the Kriegler Report. Therefore, when you propose that the transmission of results must come to my House, then...

**The Temporary Chairman** (Hon. Farah Maalim): Fair enough. Member for Embakasi West.

*(Hon. (Dr) Ojiambo Oundo spoke off the record)*

Order, Hon. Oundo. You will get an opportunity to contribute. Do not worry. You have had many shots at it, while the Member for Embakasi West has also been raising his hand. Hon. Mwenje, proceed.

**Hon. Mark Mwenje** (Embakasi West, JP): Thank you, Hon. Temporary Chairman.

Mine is more of a query. We have gone through Clause 22 which we thought would form part of the Bill. We have now seen the amendment proposed by both Hon. Kaluma and Hon. Chairperson to delete. However, we have not addressed the issue that I believe we need to consider. How will those results be transmitted to the public? That is one of the main issues at hand. We thought we were legislating on it as it was, and I was ready to support the amendment to Clause 22.

**Hon. Gladys Boss** (Uasin Gishu County, UDA): On a point of order, Hon. Temporary Chairman.

*(Hon. Junet Mohamed spoke off the record)*

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Boss is on a point of order.

**Hon. Gladys Boss** (Uasin Gishu County, UDA): On this argument, about the thinking that we can tinker this, we are too close to the election.

Secondly, even if you provide for transmission to the portal, those are not the final results. The whole point of having the transmission system was to have people calm down and enable the country to follow the counting of votes as it progresses. Ultimately, the physical copies of the ballots and the ballot boxes are brought to...

*(Hon. Peter Kaluma spoke off the record)*

**The Temporary Chairman** (Hon. Farah Maalim): Do you wish to be informed by Hon. Kaluma?

**Hon. Gladys Boss** (Uasin Gishu County, UDA): Yes.

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Kaluma, proceed and inform.

**Hon. Gladys Boss** (Uasin Gishu County, UDA): Hon. Kaluma, allow me to conclude before you proceed. We must understand how the process works. People vote. Once they have voted, the votes are counted and the results are announced orally. The actual results form is then signed, after which the Quick Response (QR) code is scanned and the results are uploaded to the portal. However, those are not the final results. The physical records are then taken to the constituency storage and kept there.

The returning officer carries the physical copy to Bomas for the purpose of compiling. If there is a query, the ballot box can be brought back. That is why, the last time the Supreme Court ordered a recount, the ballot box from Tiaty was brought to the Supreme Court, as well as the one from Mombasa, Jicho Pevu's Constituency, among others. That is how the process works.

There is, therefore, nothing wrong with the portal, and there is no need to change it.

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Kaluma.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Members, the point that is being made here is that no provision that is being proposed is intended to rewrite an existing provision that is already in law or one that has already been determined by the Supreme Court. The other information I wanted to give the Deputy Speaker is that it has already been decided and, as we know, an election is a process. The process of the next election has begun. We cannot make changes midway.

**The Temporary Chairman** (Hon. Farah Maalim): Proceed, Hon. Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, the amendments contained in this Bill are what I suppose constitute the negotiated National Dialogue Committee (NADCO) Report. The idea was that whatever had been negotiated upon should be passed. Leader of the Majority Party, I thought you were part of the team?

**The Temporary Chairman** (Hon. Farah Maalim): Proceed. What is your position on the deletion?

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, I am afraid that the deletion seems to be masking a very serious concern raised during the last elections: The issue of opaqueness and delays in transmitting election results. Why should Kenya wait for seven or eight days to declare presidential results and yet, a country such as the United States of America declares results eight hours after voting? The intention of this provision is to ensure that results are submitted electronically.

*(Hon. Junet Mohamed spoke off the record)*

**The Temporary Chairman** (Hon. Farah Maalim): Order, Hon. Junet.

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

*(Clause 22 deleted)*

**The Temporary Chairman** (Hon. Farah Maalim): Order, Hon. Members. Whereas legislation, laws and the role of Parliament are sacrosanct and everyone knows, I remember being in this House when none of you was here, when we had an ordinary Act of Parliament called the National Accord and Reconciliation Act, 2008, which was superior to the Constitution. Even laws are part of a political process, and we are now chaperoning a political process. Proceed to the next clause.

*Clause 23*

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Kaluma, move your amendment.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 23 and substituting therefor the following new clause—

|                                                            |                                                                                                                                                                                                                                                                                                                                                                                                          |
|------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Amendment of<br>section 44 of Cap.<br>7.<br><br>Cap. 411C. | 23. Section 44 of the principal Act is amended by inserting the following new subsection immediately after subsection (4)—<br><br>(4A) In procuring the technology, the Commission shall ensure that, subject to the Constitution, this Act and the Data Protection Act, the technology is accessible and available for scrutiny by candidates, courts and such other persons as required under the law. |
|------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Hon. Members, the amendment I am moving proposes to delete the current proposed subsection (4A) (i), (ii) and (iv) while retaining only (iii).

Hon. Temporary Chairman, I propose so because subsection (4A) says,

(4A) In procuring the technology, the Commission shall ensure that-

(i) intellectual property rights to the technology vest in the Commission.

What are we talking about? When you procure something, it becomes yours. Those are not things to put in law.

Considering that,

(ii) the supplier or their associates have not been found guilty of violating any procurement law, committed a crime,

violated professional standards or been barred from participating in public procurement in any jurisdiction;

Should those be matters for the tender or procurement documents rather than a law like this? Consider (iv)... Hon. Millie, I am sorry you are leaving,

(iv) processing of data is only effected through a server or data centre located in Kenya.

May I ask those who are knowledgeable in Information and Communication Technology (ICT) where this place called the "Cloud" is, or where our information is? Can you locate it within the borders of a country? Where is the 'World Wide Web', Hon. Millie? When we start saying that the server and data centre shall be located in Kenya, what are we talking about? I am requesting that we delete this and amend so that we collate (iii), which ensures that our elections are fair, credible, verifiable, accessible in terms of results and capable of scrutiny. By my amendment, I have deleted (i), (ii) and (iv), while redrafting (iii) as set out in the Order Paper. I beg to move.

**The Temporary Chairman** (Hon. Farah Maalim): What are you deleting?

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Chairman, you have asked a question. If you look at my amendment, it redrafts (iii) without the provisions contained in (i), (ii) and (iv).

*(Question of the amendment proposed)*

**Hon. Members:** Put the question.

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

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

*(Clause 23 as amended agreed to)*

*(Hon. Caroli Omondi spoke off the record)*

**The Temporary Chairman** (Hon. Farah Maalim): Your amendment has automatically fallen. Let us see the next one. Proceed.

*(Proposed amendment by Hon. Caroli to Clause 23 dropped)*

#### Clause 24

**The Temporary Chairman** (Hon. Farah Maalim): Chairperson.

**Hon. Aden Mohammed** (Wajir East, JP): Hon. Temporary Chairman. I beg to move:

THAT, clause 24 of the Bill be amended by deleting paragraph (c).

The justification for that is that section 109 of the Act covers the making of regulations by IEBC for better carrying into effect the provisions of this Act. We, therefore, do not need another section to mirror section 109. It is already covered under Section 109.

Thank you.

*(Question of the amendment proposed)*

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

*(Clause 24 as amended agreed to)*

*Clause 25*

**The Temporary Chairman** (Hon. Farah Maalim): Mover.

**Hon. Aden Mohammed** (Wajir East, JP): Hon. Temporary Chairman. I beg to move:

THAT, clause 25 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph—

(a) deleting subsection (2) and substituting therefor the following new subsection—

(2) A Member of Parliament may be recalled—

- (a) for gross violation of a provision of the Constitution or any other law;
- (b) where there are serious reasons for believing that the member has committed a crime under national or international law; or
- (c) for gross misconduct.

The justification is that we are complying with the court's decisions on the provisions of section 45 of the Elections Act on the right to recall. The case of Katiba Institute & another v Attorney General and another (Constitutional Petition 209 of 2016).

Thank you.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Mwenje, go first.

**Hon. Mark Mwenje** (Embakasi West, JP): Thank you, Hon. Temporary Chairman.

I rise to oppose this provision because it is ambiguous. More importantly, I believe this will not pass the test of our Constitution. This provision talks of gross violation of a provision of the Constitution. How have you determined this issue? It reads: "Serious reason for believing that a member has." How do you determine a serious reason? This is something that can be heavily abused and cannot stand. I beg that you consider the amendment. I know that Hon. Millie is moving an amendment, but in its current format, I urge the House to kindly let us not carry this amendment.

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Junet.

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Temporary Chairman, the office of a Member of Parliament is a very serious one. To qualify to become a President, the Constitution says you must be qualified to be a Member of Parliament. That is how important the office of a Member of Parliament is. Not a governor or a Member of the County Assembly (MCA). For you to become a President, you must be qualified to become a Member of Parliament. You, therefore, cannot say that you want to recall a Member of Parliament where there are "serious reasons for believing." This is not a faith matter. It is a serious matter. That you are "believing that a Member has committed a crime under national or international..." The word "believing." Who is that person to believe? This is not a faith issue.

Let us put serious grounds. I propose that we put grounds similar to those that we normally use to impeach the President and the Deputy President in the Constitution. Those should be the grounds for removal of a Member of Parliament from office. That is because the qualification of a Member of Parliament for election is the same as the qualification for election of the President and the Deputy President. You must remove me on constitutional grounds like violation of the Constitution or gross misconduct; serious things, not believing. What are you believing?

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): On a point of order, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Farah Maalim): Yes, what is your point of order?

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Chairman. You can actually notice by the discussions that this proposed amendment might be defeated. But I was proposing a further amendment that might save it. That would make the proposed amendment constitutional. This is because as it stands, you would be taking away the mandate of constituencies, otherwise as provided by the Constitution. With your permission, I could propose my further amendment.

**Hon. Junet Mohamed** (Suna East, ODM): Propose.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Chairman, I propose that the amendment by the Committee be further amended by deleting part (2)(b) and providing that: “Where a Member has been convicted for committing a felony under national or international law.” This will ensure that you cannot be removed as a Member of Parliament because you accidentally hit somebody outside and they have not even died.

What you are providing here means that even if I have a traffic accident where my car hits another car and I am guilty, I stop being a Member of Parliament. It does not happen anywhere in the world. You must be convicted of a felony under national or international law. A felony is a crime where you deserve to be jailed for how many years? Who are the criminal lawyers? Over six years, I think. For a misdemeanour, it is below three years, I think. So, we cannot have...

I am also suggesting that we amend further and delete the words “gross misconduct.” What is gross misconduct? Yesterday, we were celebrating Hon. Esther. And we said that Hon. Esther Passaris is sexy. Somebody might presume that, that is gross misconduct on my part. I might...

**Hon. Member:** But she is.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Yeah, that is your opinion that she is sexy. Somebody else might think she is not. Or somebody else might think that she is, but...

**Hon. Junet Mohamed** (Suna East, ODM): At 62 years?

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Yeah, she is sexy. I believe she will be sexy even at 70.

**The Temporary Chairman** (Hon. Farah Maalim): Order. Order.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Hon. Junet is discriminating against those of us who are about to be 60 years and above.

**The Temporary Chairman** (Hon. Farah Maalim): Order! Hon. Millie Odhiambo and Hon. Junet, you are out of order.

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

**The Temporary Chairman** (Hon. Farah Maalim): What is your point of order?

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Temporary Chairman, I seek your indulgence. Is it in order for Hon. Millie Odhiambo-Mabona to mislead the country and the House by saying that somebody at 62 years is still sexy...

*(Laughter)*

**The Temporary Chairman** (Hon. Farah Maalim): Order! You are out of order, Hon. Junet. You cannot discuss a Member of Parliament; whether sexy or not, without a substantive motion. Order!

**Hon. Aden Mohammed** (Wajir East, JP): Hon. Temporary Chairman, I want to bring to the attention of the House that the amendment that was proposed by the Committee is word

for word as in Article 145(1) of the Constitution; the removal of the President. This is what it says:

A member of the National Assembly, supported by at least a third of all the members, may move a Motion for the impeachment of the President:

- (a) on the ground of a gross violation of a provision of this Constitution or of any other law;
- (b) where there are serious reasons for believing that the President has committed a crime under national or international law; or,
- (c) for gross misconduct.

I have only read. I have not interpreted or misinterpreted it.

*(Hon. Peter Kaluma spoke off the record)*

**The Temporary Chairman** (Hon. Farah Maalim): What is it, Hon. Kaluma?

**Hon. Yusuf Farah** (Wajir West, ODM): Hon. Temporary Chairman, I am not done. As it was said, the qualification of a President is the same as that of a Member of Parliament.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Sit down. You are messing up the amendment.

**Hon. Yusuf Farah** (Wajir West, ODM): You are not the Chairman. Since I have the Floor, you better sit down.

*(Loud consultations)*

We can add Hon. Millie's amendment. However, I just want to bring to the attention of the House the provisions of Article 145 of the Constitution on the removal of President as it is. Thank you.

*(Hon. Mark Mwenje spoke off the record)*

**The Temporary Chairman** (Hon. Farah Maalim): I will give you a chance to contribute after Hon. Kaluma. Do not worry.

*(Loud consultations)*

Order, Hon. Members. You will all get an opportunity to contribute.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Chairman, this amendment is very good. Although I support the amendment by Hon. Millie, it is not good enough. Hon. Millie.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Yes.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): You may be required to bring further amendments.

Hon. Millie is saying: "A Member may be recalled if they have been convicted of a felony under national and international law." That is an improvement. But I request that we think of two elements. First, you may be convicted, but you have opportunities for appeal. Therefore, the idea of exhaustion of an any appeal or the right of appeal to whatever level should be brought in.

Secondly, a felony is just a serious crime. The law does not define how many years you should be imprisoned. I request that, first, if Hon. Millie may agree, indicate that where a Member has been convicted and imprisoned for a term of, at least, six months. Those are the terms that will warrant removal of a Member from the House. Also, it should indicate where a Member has exhausted his rights of appeal under national and international law. It may be re-

crafted, but in the absence of those qualifications, it will be wrong for us to allow the sovereign will of the people to be jolted at that low level of a constituency.

The representative of the people of a constituency is the Member of Parliament and not the President. So, this must be tightened more.

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Temporary Chairman, I have now changed my mind. We must agree that the qualifications to become a President should be the same as those of a Member of Parliament. Article 145 of the Constitution clearly stipulates the grounds for removal of a President.

If our qualifications, for purposes of an election, are the same, then our qualifications for removal must also be the same. The rules cannot change midway. If Article 145 of the Constitution has clearly stipulated that grounds for removal of a President are gross misconduct and believing that the President has committed a crime under national or international law, I thought that the word “believing” remains in faith-based places. However, now that it is in the Constitution where it says: “Where there are serious reasons for believing that the President has committed a crime under national or international law.” And gross misconduct.

**The Temporary Chairman** (Hon. Farah Malim): “Believing.”

**Hon. Junet Mohamed** (Suna East, ODM): Yes. Those are the three grounds for removal of a President from office. We removed a Deputy President from office on those grounds in this House. Those two are all elected by the people. They have the same qualifications to be elected as Members of Parliament. For those reasons, I beseech the House that let us put the grounds for removal of a Member of Parliament be the same as that of the President.

**Hon. Mark Mwenje** (Embakasi West, JP): On a point of order, Hon. Temporary Chairman.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): On a point of order, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Farah Maalim): What is out of order, Hon. Kaluma? You will be followed by Hon. Mwenje.

*(Hon. Peter Kaluma spoke off the record)*

Go to the next microphone.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): During his term of office, the President cannot be prosecuted because he is not subject to the jurisdiction of criminal courts. That is why we say: “If you have reasons to believe” regarding the removal of a President. However, for a Member of Parliament, you are subject to criminal jurisdiction. You should, therefore, be convicted and disabled from being a representative of the people for you to be recalled.

**The Temporary Chairman** (Hon. Farah Maalim): Let us have Hon. Mwenje.

**Hon. Junet Mohamed** (Suna East, ODM): I had not finished contributing.

**The Temporary Chairman** (Hon. Farah Maalim): I want you to think through what you were saying.

**Hon. Mark Mwenje** (Embakasi West, JP): I requested to rise on a point of order when the Hon. Chairman was contributing. That is because Article 145 of the Constitution refers to the removal of a President. More importantly, what Hon. Kaluma has clarified is the issue I wanted to bring about. That, remember, it is a Motion that will be brought to the House and supported by one third of the Members. It must then pass in this House with two-thirds, then have a trial in the Senate. If we retain it in that format, we will basically lower the threshold. Once a Member is recalled, the voting, which we are about to go to in the next Section 26(A) of the Act, is final. However, the President has an opportunity to have a trial and even remain

in office. However, we are not giving a Member of Parliament the same chance by bringing those provisions.

**Hon. Junet Mohamed** (Suna East, ODM): On a point of information, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Junet, wants to inform you.

**Hon. Mark Mwenje** (Embakasi West, JP): Let him inform me.

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Temporary Chairman, what we are debating is the grounds for removal. However, the process of removal is different. That is why we have covered in this amendment Bill the process of removal from office. It says: “For a Member of Parliament to be removed, a third of the voters in every ward in his constituency must support the process of removing him.”

**The Temporary Chairman** (Hon. Farah Malim): Registered voters?

**Hon. Junet Mohamed** (Suna East, ODM): Yes. What we are discussing here now is the ground for removal. I do not think there are higher grounds than the ones for removal of a President. Remember, the President was elected by seven million people. He also has the will of the people by seven or eight million. We are just laying the ground for removal of a Member of Parliament, but the process is different. Instead of taking the Member to the Senate for trial the way we do to the President, we are taking the process to the constituency where we have registered voters. That is why we have put a threshold of a third of the voters in every ward who must support that impeachment or removal.

**Hon. Kimani Ichung’wah** (Kikuyu, UDA): On a point of order, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Farah Malim): What is out of order, Hon. Kimani?

**Hon. Kimani Ichung’wah** (Kikuyu, UDA): Let me support Hon. Junet in trying to prevail on Hon. Millie and Hon. Kaluma that we concur with the Committee on the grounds under Article 145 of the Constitution on removal of a President. Hon. Junet has ably demonstrated that there is a difference between the threshold and the process.

Secondly, I think that we are also forgetting that the Elections Act already has reasons why you would be recalled as a Member of Parliament which were nullified by the court. What Hon. Millie is saying is what was nullified by the court. We would, therefore, be legislating in vain because the court already nullified what you are saying. The Act states that:

2) A member of Parliament may be recalled where the member—

- (a) Is found, after due process of the law, to have violated the provisions of Chapter Six of the Constitution.
- (b) Is found, after due process of the law, to have mismanaged public resources.
- (c) Is convicted of an offence under this Act.

That is basically what Hon. Millie is saying. It is what I want to inform the House and prevail on you that we agree with the Committee and what Hon. Junet is saying that we go with what is provided for under the impeachment of the president under Article 145.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): On a point of order, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Farah Maalim): What is your point of order, Hon. Millie?

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you. Hon. Temporary Chairman, I urge Hon. Members, to listen very carefully.

**The Temporary Chairman** (Hon. Farah Maalim): Yes.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): I urge Hon. Ichung’wah to listen carefully. First, I agree with the Hon. Chairman of the Committee when he reads Articles 144 and 145 of the Constitution, except that they have nothing to do with a Member of Parliament. The heading on Article 144 read: “Removal of the President on grounds of

incapacity.’’ (It is incapacity). Then we should replicate all the incapacity and put it for an MP, if that is what we are saying.

Secondly, removal of the President by impeachment. So then, put all of it. But if we have decided we are replicating the grounds for the Presidency, then we must replicate the process. You cannot tell us, like what is proposed, that you must be removed by one-third of your constituencies. We will be putting the constituencies under perpetual elections because, I can tell you, almost 90 per cent of the Members of this House will be recalled by one-third. Why? Because it is very difficult to find any Member who is elected by three-quarters. We usually get a simple majority. I know Members who have been elected here with 5,000 votes. But because they just managed the 5,000 and others got 2,000, 3,000, 5,000 or 6,000 votes, especially when you have many candidates, but those guys will gang up. If we are following the presidential grounds, then let us follow the presidential process. We cannot then lower the process for removal.

**The Temporary Chairperson** (Hon. Farah Maalim): Hon. (Dr) Ojiambo Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairperson, the issue of recall has been a very contentious issue. While the amendments by the Committee are laudable, the one where there are serious reasons to believe that the Member has committed a crime under national and international law, including this aspect of a Member missing a series of sittings in Parliament, is double punishment. In any case, in our Standing Orders and even in the law, if a Member of Parliament misses a certain number of sittings, automatically that Member loses their seat. That is already a provision. I would suggest - if the Committee Chairperson could listen – and I do not know where he has disappeared to - we remove Clause B. Just delete Clause B. Let the criminal process follow its course. Once you are unable to attend Parliament for a certain number of sittings, you automatically lose your seat. Why again this double jeopardy?

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Temporary Chairperson, let us first be clear. The matter that we are dealing with is a constitutional matter. It is the Constitution that brought the provisions of recall. What we are expected of as a House is to create the enabling legislation on how to do the recall. Members of Parliament, since the new Constitution, have been hiding to implement this matter. Members are elected by their constituents from certain parties, for certain principles. They come to Nairobi here and change their principles, like what Hon. Oundo has done. He was elected an ODM Member, then he goes to something called The Equitable Party. Those people must be recalled. They must be brought back to their constituents. They want to hide here. Time for hiding is gone. You must be recalled by the people.

**The Temporary Chairperson** (Hon. Farah Maalim): Hon. Kuria Kimani?

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Chairperson, I want to weigh in on this matter. I want to implore the old adage that the law is an ass. Therefore, if the Constitution talks about the qualifications of a President, which is the same as that of a Member of Parliament, what should happen on this particular matter? The qualifications, the requirements of the President must be the same as that of a Member of Parliament. That is why I am praying that Hon. Millie should drop her amendments.

I support the amendments as proposed by the Leader of the Minority Party, Hon. Junet, and the Committee. Let us stick to the Constitution. Whether we like it or not, that is the Constitution of the Republic of Kenya. If you are not happy about it, we are sorry but that is the Constitution of the Republic of Kenya. Go for a referendum and change the Constitution if you really want to change the Constitution.

**The Temporary Chairperson** (Hon. Farah Maalim): Hon. Members.

*(Loud consultations)*

Can we have a concurrence between the Leader of the Majority Party, Hon. Millie and the bulk of you?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Chairperson, I want to propose, for the sake of proceeding, that the Chairperson agrees to drop parts B and C. Then we adopt Hon. Millie's as a new part B. Clause C is very vague and general. Gross misconduct! Looking at you in a menacing manner may be misconstrued as gross misconduct.

**The Temporary Chairperson** (Hon. Farah Maalim): Order! Order! There is an amendment by Hon. Millie Odhiambo. What is your point?

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Temporary Chairperson, I want to oppose that amendment. I know it has not been moved, but let me ask you something. There are grounds for removal of the President of the Republic of Kenya in the Constitution. You want to water down now and tell me that I must be convicted first so that I can be removed. Conviction is a process. I have to be taken to the Court of Appeal, to the Supreme Court, to the Court of Elders, to the court of Hon. Farah, and to everywhere.

**The Temporary Chairperson** (Hon. Farah Maalim): Order, Hon. Junet.

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Farah's court is in Dadaab. That is where he listens to judgement. Let the grounds be like the ones for the President and Deputy President.

**The Temporary Chairperson** (Hon. Farah Maalim): Order, Hon. Members. For your information, the law for removing a Member of Parliament from his position was very clear before. You have to be convicted, be sentenced to a time not less than six months, exhaust all the appellate processes, and only then can you lose your seat.

*(Loud consultations)*

Order. Can I finish? The Chair is addressing the House. Now that you want to have an amendment, the position of the President and the position of a Member of Parliament are two distinctly separate things. A President cannot, on a civil matter or a criminal matter, be prosecuted while he or she is in office. That is why a Member can be prosecuted. You can be prosecuted for a criminal offence, for a civil offence, and be convicted and be sent to jail.

*(Hon. Junet spoke off the record)*

Order, Hon. Junet. For you to be able to get the right balance, you must make sure that you do not abuse the process. Hon. Millie has said it. If Members have been opposed by at least a third of the electorate, not the population of every ward.

*(Hon. Junet spoke off the record)*

It is not such a difficult thing to put that together because that is not a majority. And that is not what they have used. Can you listen first of all? You see, while I am addressing you, you are thinking about how to put a point. Listen to me first and try and internalise what I am telling you. Internalise what I am trying to say. What I am trying to say is that it is not going to be such a difficult thing. In your third year or second year, for that one third to be collected all over as signatures. Okay? Hon. Junet, the debate has been about you.

**Hon. Junet Mohamed** (Suna East, ODM): No, Hon. Temporary Chairperson. This is a very important issue. You see, removal of a Member of Parliament is not going to come necessarily only through criminal offence. There are people who are elected from their constituencies by their people on certain principles or parties, but when they reach here, they find something else and just go away. We want to recall somebody like Hon. (Dr) Oundo for

leaving ODM and going to the empty party. We want to mature our democracy. If you are elected on a certain party, you remain in that party for the five years you are in Parliament.

Hon. Temporary Chairman, if you water down the grounds...I agree with you that the President and the Members of Parliament are different. On that, you are very right. The President cannot be sued when he is in office, but you know the court processes in Kenya. If I am taken to court, by the time my case ends, I will have finished my term. There will be nothing to recall, like what Hon. Oundo has done to us.

*(Laughter)*

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Millie, proceed.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you.

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Millie, can you move your amendment, and then we put your amendment to a vote?

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Yes, Hon. Temporary Chairman.

*(Hon. Kimani Ichung'wah and  
Hon. Kuria Kimani consulted loudly)*

**The Temporary Chairman** (Hon. Farah Maalim): Order, Leader of the Majority Party. We are listening to an amendment by Hon. Millie first, and then we put it to a vote.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Chairman, let me move a further amendment to the Committee's amendment.

**The Temporary Chairman** (Hon. Farah Maalim): Yes.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended in clause 25 by deleting sub-clause (2)(b) and (c) and substituting therefor with the words, "where a Member has been convicted for committing a felony under national or international law," and by deleting paragraph (c).

Hon. Temporary Chairman, one of the reasons is the Constitution. I agree with the Chair when he refers to the Constitution, except that he referred to the wrong Article. The right Article is 104 on the right to recall. Let me read for you the exact wording.

104. (1) The electorate under Articles 97 and 98 have the right to recall the member of parliament representing their constituency before the end of the term of the relevant House of Parliament.

(2) Parliament shall enact legislation to provide for the grounds on which a member may be recalled and the procedure to be followed.

It says Parliament shall enact legislation to provide for the grounds, not on the presidential ones but the grounds on which a Member may be recalled and the procedure to be followed. It is not the presidential one. It is basically saying that this House has the mandate to set that up.

I agree with Hon. Junet. That principle can form a reason for recall. I am a liberal democrat and I can tell you that I agree. Part of the reason I do not agree with my party sometimes is when we fail to follow those rules that Hon. Junet is talking about. But I agree with you that if you have a Member in the House who has departed from the principles of the party, they need to be recalled. But we must also, in another law, find out how we discipline our own parties so that they follow their own rules.

On that basis, I would request Hon. Junet to bring a further amendment to provide that a member who has departed from the principles of their party can be recalled. There is no problem with that. However, I think it is wrong to suggest that we must use Articles 144 and

145. There is nothing stopping us from using them, but if we do, we should apply the same threshold. We cannot set a very high threshold for the removal of a President and then lower it when it comes to a Member of Parliament.

**The Temporary Chairman** (Hon. Farah Maalim): Order.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Chairman, unlike other Members, I speak my truth, even in an election year. Next year, Members will come back here in September, crying as people would remove them after just two months.

**The Temporary Chairman** (Hon. Farah Maalim): Order, Hon. Millie Odhiambo, you have made your point.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): *Mimi siogopi!* Let us say the truth.

**The Temporary Chairman** (Hon. Farah Maalim): Order.

*(Question of the further amendment proposed)*

Okay, let us have the debate now.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Chairman, as the representatives of the people, we are bound by the leadership and integrity provisions of the Constitution, especially Chapter 6. We cannot be here, constitutionally required to legislate on the recall of Members of Parliament, and then make it difficult for people to recall us. That is why I say that the position held by a Member of Parliament is held in trust. If the people have reason to believe that you have committed a crime, you should not tell them that you must first be convicted. The people elected you and, if they can muster the numbers, you should go home.

Hon. Temporary Chairman, I oppose this amendment by Hon. Millie, and support the amendment by the Committee. Let us make it easy for the people of Kenya to hold us to account. Hon. Temporary Chairman, you see the misbehaviour here in Parliament...

*(Laughter)*

**Hon. Aden Mohammed** (Wajir East, JP): Hon. Temporary Chairman, while I sympathise with the sentiments of my sister, Hon. Millie, the reason we are here, and we are legislating today, is because the courts have found this Section unconstitutional. Section 45(2)(c) of the original Act, not the amendments, says that a Member of Parliament may be recalled if convicted of an offence under the Act. That is the provision that was declared unconstitutional. Therefore, we cannot sit here as a House and re-enact what has already been found unconstitutional. This amendment should not even see the light of day.

*(Hon. Millie Odhiambo-Mabona spoke off the record)*

It is true that Article 104 talks about recall, but you need to cross-reference all the Articles. Article 104 says Parliament should legislate. When we are legislating, we have to look for somewhere to reference, and we are referencing Article 145.

Again, we were here one and a half years ago, impeaching a Deputy President on the same grounds. We did not say that he was elected, as my leader said, with seven million votes. We used gross misconduct. Thank you.

*(Several Members spoke off the record)*

**The Temporary Chairman** (Hon. Farah Maalim): Okay.

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

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

*(Clause 25 as amended agreed to)*

*(Hon. Millie Odhiambo-Mabona consulted loudly)*

Order, Hon. Millie.

*(Clauses 26, 27, 28 and 29 agreed to)*

*Clause 30*

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Kaluma, proceed. Do you want it to be deleted?

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Yes. Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 30.

The essence of my amendment will be to delete Clause 30. I am doing so because the matters being dealt with under Clause 30 of the Bill are essentially the ones we amended in Clause 23.

*(Question of the amendment proposed)*

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

*(Clause 30 deleted)*

*(Clause 31 agreed to)*

*Clause 32*

**The Temporary Chairman** (Hon. Farah Maalim): Proceed.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 32.

The essence of the amendment is to delete this clause because it provides for evaluation of the electoral process by the IEBC. The power to evaluate the electoral process is already vested in Article 88 of the Constitution. So, this is over-legislation.

*(Question of the amendment proposed)*

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): I totally agree with Hon. Kaluma, regardless of our differences. In any case, nothing stops a court of law from ordering scrutiny. This is over-legislation. I am sure the evaluation will not determine whether Hon. Oundo has changed his position. As the Leader of the Minority Party has stated, we are safe on that. Having a different political position is not a crime. We have another way of dealing with the matter. I totally agree with Hon. Kaluma. I support his amendment. We depart from political parties because they have deviated from their ideologies.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): On a point of information, Hon. Temporary Speaker.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Inform me, Leader of the Majority Party.

*(Laughter)*

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Chairman, I agree with Hon. Oundo that changing political affiliation is not a crime, but it is political conmanship. When you campaign to people espousing certain ideals of a political party and then, once elected, you depart from it, it amounts to political conmanship.

*(Loud consultations)*

**The Temporary Chairman** (Hon. Farah Maalim): Order, Hon. Members. He did not call you a conman. He said it is political conmanship.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Give Hon. Oundo the microphone. He had not finished his contribution. He is a good man.

**The Temporary Chairman** (Hon. Farah Maalim): Okay, proceed.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, I was contributing, but I allowed him to inform me. I have received the information. Each political party has a manifesto or clear principles; those are the rule of law and protection of the marginalised...

**The Temporary Chairman** (Hon. Farah Maalim): Does that relate to Clause 32 of the Bill?

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): I am informing him that refusing to be a member of a political party, when it has diverted from its principles, is not political conmanship, but being true to the calling of the people.

**The Temporary Chairman** (Hon. Farah Maalim): Order.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Oundo, the political party is always right.

**The Temporary Chairman** (Hon. Farah Maalim): Order.

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

*(Clause 32 deleted)*

*(Loud consultations)*

**The Temporary Chairman** (Hon. Farah Maalim): Order, Hon. Members. We will now move to new clauses.

#### *New Clause 4A*

THAT the Bill be amended by inserting the following new Clause immediately after Clause 4—

Amendment  
of section 7  
of Cap. 7.

7. Section 7 of the principal Act is amended by inserting the following new subsections immediately after subsection (2)—

(3) The Commission shall maintain and publish, on its website and in the affected electoral areas, a register of transferred voters detailing the former

and current registration centres or electoral area not less than ninety days preceding an election.

(4) The register under subsection (3) shall include the date of the application for transfer and the date of transfer of the voter's registration particulars from one electoral area to another.

(5) The Commission shall maintain a record of the applications for transfer, including all relevant forms, supporting documents and details of the authorization officer, which shall be at all times made available and accessible to the public through the Commission's website.

*(The new clause was read a First Time)*

**The Temporary Chairman** (Hon. Farah Maalim): Where is Hon. Caroli? I call upon the Mover to move Second Reading. Hon. Caroli, proceed.

**Hon. Caroli Omondi** (Suba South, ODM): Hon. Temporary Chairman, what I am proposing here is that...

**The Temporary Chairman** (Hon. Farah Maalim): Order. Move it first.

**Hon. Caroli Omondi** (Suba South, ODM): Hon. Temporary Chairman, I beg to move that the New Clause 4A be now read a Second Time.

**The Temporary Chairman** (Hon. Farah Maalim): Now proceed with your justification.

**Hon. Caroli Omondi** (Suba South, ODM): Hon. Temporary Chairman, I propose that we have a new register of voter transfers. We have voters who have transferred, but they are still in the register of where they were originally registered. For transparency, we should have a register of those who have transferred in the affected electoral areas.

Thank you.

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

**The Temporary Chairman** (Hon. Farah Maalim): Proceed, Hon. Kimani.

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Chairman, I rise to oppose this particular amendment that is being proposed by Hon. Caroli Omondi. From the context, he wants the Commission to publish all the voters who transferred from one polling station to another. With all the noise and toxicity in the electoral cycle, that will profile those people who have transferred from one polling station to another.

We have heard statements being made by politicians about particular people being perceived to vote in a particular direction. They might not be allowed in particular places. When that information is available, it will be unfair and discriminatory. There should be no data published about people who have transferred from one polling station to another. Let us have the people who are registered in that particular polling station. As long as I am registered to vote in a particular polling station, it does not matter whether I was registered before moving there.

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Raso.

**Hon. Ali Raso** (Saku, UDA): Thank you very much, Hon. Temporary Chairman. Hon. Caroli is a lawyer of good standing who believes in the Constitution.

*(Hon. Njeri Maina and  
Hon. Naomi Waqo consulted loudly)*

**The Temporary Chairman** (Hon. Farah Maalim): Order, Hon. Njeri Maina and Hon. Waqo.

**Hon. Ali Raso** (Saku, UDA): Hon. Temporary Chairman, I rise to reject that particular amendment. Hon. Caroli is a lawyer of good standing. According to the Constitution, a voter can vote anywhere in the Republic of Kenya. If Hon. Caroli proposes that it is wrong to vote in Marsabit because you live in Nairobi, it is wrong. We should not allow it to happen.

Thank you.

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Njeri.

**Hon. Njeri Maina** (Kirinyaga County, UDA): Hon. Temporary Chairman, I get the mischief that Hon. Kuria Kimani, Member for Molo, has spoken about. It is also critical because we have had conversations that apparently even aliens may be registered to vote and abuse the democratic rights of Kenyans. It is only fair to have full disclosure so that Kenyans can know who is voting at a particular polling station.

**The Temporary Chairman** (Hon. Farah Maalim): You have made your point, Hon. Njeri. It is well noted. Hon. Gikaria.

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

**Hon. David Gikaria** (Nakuru Town East, UDA): Thank you, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Farah Maalim): What is your point of order, Hon. Junet? Order, Hon. Gikaria.

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Temporary Chairman, my colleague has imputed an improper motive about IEBC that aliens can be registered. We should not go in that direction because I know what she means. According to this group, anybody who is not in the Democracy for the Citizens Party (DCP), their grasshoppers' party, is an alien in Kenya.

*(Laughter)*

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Gikaria and then Hon. Boss.

*(Loud consultations)*

Order, Hon. Members.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): On a point of order, Hon. Temporary Speaker.

**The Temporary Chairman** (Hon. Farah Maalim): What is your point of order?

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Njeri has said aliens are possibly being registered. That goes to the sovereignty of the nation. I am standing on the relevant Standing Order provisions to require that she substantiates whether that is happening. It cannot be ignored.

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Njeri, is it true that you said aliens are being registered?

**Hon. Njeri Maina** (Kirinyaga County, UDA): I said "possibly". It is very important for Hon. Kaluma to understand proper grammar. I said, "they may be registered". We have seen in media stations that identity cards are being issued to persons who are not Kenyans.

*(Loud consultations)*

**The Temporary Chairman** (Hon. Farah Maalim): Order, Hon. Members. That is a very serious allegation.

*(Loud consultations)*

*(Hon. Njeri Maina consulted loudly)*

Order! Order, Hon. Njeri! You are a dignified Member of Parliament. The rules are very clear here. If you make a sweeping statement like that one, you must substantiate it, and if you cannot, you withdraw it. Moreover, in the process of substantiating it, if you need time, we can give you more time, but you have to do it.

*(Loud consultations)*

Hon. Njeri, can you substantiate your sweeping statement that aliens are being issued with identity cards?

**Hon. Njeri Maina** (Kirinyaga County, UDA): I have indicated that aliens may. I presume that you understand the meaning of the word “may”. It is information in the public domain and implies that it can be done that way...

**The Temporary Chairman** (Hon. Farah Maalim): You said it is in public knowledge that identity cards are being issued to aliens.

**Hon. Njeri Maina** (Kirinyaga County, UDA): It is in the public domain.

**Hon. Gladys Boss** (Uasin Gishu County, UDA): On a point of order, Hon. Temporary Chairman.

*(Loud consultations)*

**The Temporary Chairman** (Hon. Farah Maalim): Yes, Hon. Gladys Boss. Hon. Njeri, you must be held accountable for the veracity of whatever you say. Why you enjoy immunity here, and you cannot be taken to court, is because you have certain privileges and immunities. But you cannot abuse them. Hon. Njeri, I was in this House when you were barely in primary school.

*(Hon. Njeri Maina spoke off the record)*

Order! You used to be a member of my Committee.

**Hon. Junet Mohamed** (Suna East, ODM): On a point of information.

**Hon. Gladys Boss** (Uasin Gishu County, UDA): I am already on a point of order.

**The Temporary Chairman** (Hon. Farah Maalim): Proceed, Hon. Gladys.

**Hon. Gladys Boss** (Uasin Gishu County, UDA): There has to be a clarification here. Currently, the IEBC is registering Kenyans in, at least, 22 to 25 countries—from Australia to Canada and the United States of America. Those are Kenyan citizens who also hold dual passports as Canadian citizens. Is that person an alien? That is where the confusion is coming from. When you go to Uganda, you will also find that someone has dual citizenship and our country allows it. You are just not clear about it.

*(Loud consultations)*

**Hon. Kimani Ichung’wah** (Kikuyu, UDA): Hon. Kaluma rose on a point of order on a very important matter—the very serious and dangerous allegations purportedly made by Hon. Njeri. They also cast aspersions on the integrity of our electoral processes. The statements politicians utter carelessly on the Floor of this House, at funerals or in ‘grasshopper’ meetings, or wherever, have always led us into crisis every election year.

The Hon. Speaker did very well two weeks ago when Hon. Ndindi Nyoro tried to do the same on this Floor. We must maintain the same standards. Hon. Njeri Maina cannot use the

Floor of Parliament to disparage the institution of the IEBC or perpetuate rumours, and then tell us it is out there in the public domain because some small television station aired a story purporting this or that.

**Hon. Junet Mohamed** (Suna East, ODM): On a point of information, Hon. Temporary Chairman.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Chairman, I will allow the Leader of the Minority Party to inform me.

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Temporary Chairman, I do not intend to impute any improper motive on anyone but what Hon. Njeri has said is fairly bad. I know, and I can tell you on the Floor of the House, without any reasonable doubt, that the alien that Hon. Njeri is talking about is you, the Hon. Chairman in this Committee of the whole House. Can you defend yourself?

*(Laughter)*

**The Temporary Chairman** (Hon. Farah Maalim): Order, Hon. Members. Hon. Raso, I will give you an opportunity.

*(Loud consultations)*

Order, Hon. Members! The Hon. Chairman is addressing the House.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): On a point of order on Hon. Junet. How can he call the Hon. Temporary Chairman an alien?

*(Loud consultations)*

**The Temporary Chairman** (Hon. Farah Maalim): Order, Hon. Members! Standing Order 91, verbatim, that is, word for word, says:

“(1) A Member shall be responsible for the accuracy of any facts which the Member alleges to be true and may be required to substantiate any such facts instantly.”  
Note: “May be required.” You may also have leeway to take a different date and say that you will come back and substantiate.

“(2) If a Member has sufficient reason to convince the Speaker that the Member is unable to substantiate the allegations instantly, the Speaker shall require that such Member substantiates the allegations not later than the next sitting day, failure to which the Member shall be deemed to be disorderly within the meaning of Standing Order 107 (Disorderly conduct), unless the Member withdraws the allegations and gives a suitable apology, if the Speaker so requires.”

I have heard you and not just what other Hon. Members are saying. The Hon. Members have raised it, and you have two choices right now: Either to substantiate that actually identity cards are being issued to aliens....

*(Loud consultations)*

Order! Or withdraw and apologise to the House, or seek a date to bring this substantiation. Yes Hon. Njeri.

**Hon. Njeri Maina** (Kirinyaga County, UDA): Thank you. I seek two weeks to bring evidence on the Floor of this House that, that it is happening. Thank you.

**The Temporary Chairman** (Hon. Farah Maalim): Order, Hon. Njeri. We have been talking about how people need to be properly informed in terms of language.

*(Hon. Junet Mohamed consulted  
loudly with other Members)*

Order, Hon. Junet. I was saying that you should get your language and English right. It says “not later than the next Sitting”. The House will adjourn, and the next Sitting is at least a week from now; that is 3<sup>rd</sup> of November. That is the latest you are allowed to bring the information. Otherwise, you will come and apologise to the House and withdraw.

**Hon. Njeri Maina** (Kirinyaga County, UDA): Very well, Hon. Temporary Chairman. If I can, I will have a five-hundred-page document. Thank you.

**The Temporary Chairman** (Hon. Farah Maalim): Fair enough. It is so directed that you substantiate this on the 3<sup>rd</sup> of November when the House resumes.

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

That is the end of that one.

*New Clause 13A*

THAT the Bill be amended by inserting the following new Clause after Clause 13—

Amendment of section 26 of Cap. 7.      13A. Section 26 of the principal Act is amended by inserting the following new subsection after subsection (1)—

(3) A person who registers as a voter during the period when registration of voters is suspended for the purposes of a by-election as contemplated under section 5(1)(b), shall not be eligible to contest in the electoral area affected by the by-election.

*(The new clause was read a First Time)*

**The Temporary Chairman** (Hon. Farah Maalim): This is by the Hon. Chairperson of the Departmental Committee on Justice and Legal Affairs. Proceed.

**Hon. Aden Mohammed** (Wajir East, JP): Hon. Temporary Chairman, I beg to move that the New Clause 13A of the Bill be read a Second Time.

The justification is that Section 26, which provides additional disqualifications for registration of a candidate, is the appropriate section as proposed by the Senate. Hon. Temporary Chairman, as you will remember, we asked for a deletion of Clause 3, and re-ordering what was in Clause 3 to be part of this New Clause 13A. It is just re-arranging.

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

**Hon. Members:** Put the Question!

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

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

*(Several Members consulted loudly)*

**The Temporary Chairman** (Hon. Farah Maalim): Order, Hon. Oundo, Hon. Caroli and Hon. Junet.

*New Clause 26A*

Amendment of  
section 47 of  
Cap. 7.

THAT the Bill be amended by inserting the following new Clause after Clause 26—

26A. Section 47 of the principal Act is amended by subsection (5) and substituting therefor the following new subsection—

- (5) A recall election shall be decided by—
- (a) a simple majority of the voters voting in the recall election; and,
  - (b) the concurrence of at least one-third of—
    - (i) the registered voters in every ward of the affected constituency, in the case of a member of the National Assembly; or
    - (ii) the registered voters in every constituency of the affected county, in the case of a member of the Senate.

**The Temporary Chairman** (Hon. Farah Maalim): Mover.

**Hon. Aden Mohammed** (Wajir East, JP): I beg to move that New Clause 26A be read a Second Time. This Clause relates to the debate we had earlier on the recall of Members. We have already discussed the grounds for recall. This Clause provides the procedure for recalling a Member of Parliament.

It seeks to safeguard the integrity of the recall election. A Member may be recalled on the grounds we have already approved, provided that the recall is supported by a simple majority of the voters participating in the recall election. In addition, for a Member of the National Assembly, at least one-third of the registered voters in every ward of the affected constituency must concur. For a Member of the Senate, at least one-third of the registered voters in every constituency of the affected county must concur.

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

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Millie.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Chairman. Whether I stand alone or not, I stand by my truth. I oppose this amendment. If we adopted the same grounds for the removal of the President, we should also adopt the same process for removal.

We are imposing a very onerous task on Kenyans. After every election, we could have re-elections in almost every constituency within two months because the proposed threshold is too low. Kenyans are very political. Whether one wins fairly or not, opponents may still challenge the outcome.

I once met a person who lost an election by more than 15,000 votes. Seventeen years later, he told me that I stole his election. That is the reality, whether people like it or not. If this amendment is passed, we will see the consequences as a country. I do not engage in political populism. This is a wrong provision. We should adopt the same standard as provided for the President, including the two-thirds threshold and the process through Parliament. What is good for the goose is good for the gander.

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Junet, followed by Hon. Caroli.

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Temporary Chairman, I consider the issue of recall one of the most difficult matters to legislate on because it directly affects Members of this House.

We have borrowed the grounds for removal from Article 145 of the Constitution, which provides for the removal of the President. However, the process cannot be the same. The Constitution expressly provides for the removal of the President through a two-thirds majority in the National Assembly, with the Senate acting as the trial House. You cannot subject a Member of Parliament to trial in the same House. A Member must instead be taken back to the electorate.

This amendment provides that the recall must be supported by, at least, one-third of the registered voters in every ward of the affected constituency. If a Member has five or six wards and has lost the confidence of the electorate in all of them, that Member does not deserve to remain in Parliament. If a Member has lost the favour of the electorate and, at least, one-third of the registered voters in every ward support the recall, the Member should be removed. Members should not hide behind the law in this House to avoid accountability to the electorate.

**The Temporary Chairman** (Hon. Farah Maalim): Order, Hon. Junet. Some of you appear to be living in a utopian world.

*(Loud consultations)*

Order. In Kisii, for instance, there may be 15 contestants in an election. Out of an electorate of 120,000, the winner may receive only 12,000 or 13,000 votes. This is because our electoral system for Members of Parliament differs from the one that is used to elect the President. A presidential candidate must obtain 50 per cent plus one of the votes. I am explaining some basic principles.

*(Hon. Peter Kaluma consulted loudly)*

Hon. Kaluma, can you be a good “girl”?

*(Laughter)*

The system that is used to elect Members of Parliament is called the first-past-the-post system. The candidate with the highest number of votes wins. If all the opponents' votes are combined, they may account for 75 or even 80 per cent of the votes and yet, the winner still enters Parliament. I know of a constituency in my County with 37,000 registered voters where the winning candidate received only 5,000 votes.

It would, therefore, not be difficult for the electorate to mobilise one-third of the registered voters in every ward to support a recall. Hon. Aden knows this very well. The irony of this House is that, once Members are elected, they often feel insulated and believe they have arrived. Five years later, the electoral system reminds them otherwise. May I tell you one thing?

**Hon. Members:** Yes.

**The Temporary Chairman** (Hon. Farah Maalim): As the Member for Dadaab, I know that there are several electoral systems. Those include the majoritarian and proportional representation systems. We must consider the implications of the provisions Hon. Junet is proposing.

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Temporary Chairman, there is a court ruling...

**The Temporary Chairman** (Hon. Farah Maalim): Yes...

*(Hon. Junet Mohamed spoke off-the-record)*

**The Temporary Chairman** (Hon. Farah Maalim): Order! We have heard you for a considerable time. Sit down. The Member for West Mugirango.

**Hon. Stephen Mogaka** (West Mugirango, JP): Thank you, Hon. Temporary Chairman. As a Member of the Justice and Legal Affairs Committee (JLAC), I wish to inform the House that the proposed amendment seeks to align the law with court judgments. Previous Parliaments enacted legislation prescribing the grounds for recalling a Member. However, the courts nullified those grounds, allegedly for lack of adequate public participation. I emphasise the word “allegedly”, notwithstanding that there was no law regulating public participation at the time. We respect the courts, but their decisions nullified the grounds that were enacted by Parliament. This House must, therefore, align the law with those decisions and undertake public participation. The people of Kenya must be allowed to determine the grounds on which they may wish to recall their Members of Parliament. The amendment is, therefore, consistent with the court decisions. The public has not yet provided us with the grounds on which it wishes to recall a Member of Parliament.

We must also remember that candidates in Kenya rarely accept defeat. Whenever they lose an election, they claim that it was rigged. We should, therefore, allow the process to proceed and let the country move forward, recognising that the winner takes all.

I thank you, Hon. Temporary Chairman, for giving me the opportunity to contribute.

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Caroli Omondi.

**Hon. Caroli Omondi** (Suba South, ODM): Thank you very much, Hon. Temporary Chairman. I think we need to really understand what the basis of a recall is constitutionally. By the way, it is one of those aspects of our Constitution that were blindly borrowed from the South African Constitution.

The process of recalling Members of Parliament lies in the fact that within those constitutional systems, it is the parties that go to elections. So, in South Africa, when you go to vote, you vote for a party; you do not vote for an individual. It is the same concept as the party list. So, where the party is on the ballot, and they win 60 per cent of the vote, they allocate seats to 60 per cent of the parliamentary membership; the party has the power to recall you when they disagree with you. That is the basis of a recall. In a system where an individual is elected by the people directly, you have to wait for a referendum in the next general election, unless you have been charged in a criminal court, tried and convicted. In which case, even in our old Constitution, if you were sentenced to more than six months, you were automatically out of your seat. So, we need to understand the concept of recall.

Even if we want to provide the conditions upon which you should be recalled, we must provide mechanisms for trial, which are independent of the electorate, so that you will be subjected to a court process or another tribunal that will find you guilty, after which the members of the public can recall you.

*(Loud consultations)*

**The Temporary Chairman** (Hon. Farah Maalim): Listen to what Hon. Caroli is saying.

**Hon. Caroli Omondi** (Suba South, ODM): This is a serious constitutional question.

**The Temporary Chairman** (Hon. Farah Maalim): You are not listening.

**Hon. Caroli Omondi** (Suba South, ODM): Yes, and please, pay attention. Today, I have witnessed something very strange in this House. Recommendations that were built out of the National Dialogue Committee (NADCO) when Baba was alive have been trashed and thrown out in all their forms today because it is now convenient. So, please, listen to me. One day, it will come back to haunt you. You cannot recall a Member because you have disagreed with them or because you disliked them.

**The Temporary Chairman** (Hon. Farah Maalim): Go ahead and finish.

**Hon. Caroli Omondi** (Suba South, ODM): You can only be recalled after you have been tried and found to have committed gross misconduct when you have been directly elected by the people. Otherwise, they wait until the next elections.

Thank you, Hon. Temporary Chairman.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): On a point of information, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Farah Maalim): Okay, what is your information?

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Members, this is what the previous law...

*(Loud consultations)*

**The Temporary Chairman** (Hon. Farah Maalim): Order.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): This is what the previous law prescribed, in agreement with the position I see Parliament taking. It was previously Section 48 of the Elections Act, Hon. Temporary Chair. It provided that a recall election shall be valid if the number of voters who concur in the recall election is, at least, 50 per cent of the total number of registered voters in the affected county or constituency. So, that is what it was.

This was taken to court in the Katiba Institute case, and the court said this is too onerous for the people seeking to recall their representative to do so. It is among the provisions that were, therefore, nullified, and Parliament was required to enact provisions.

What I see the Committee was dealing with, Hon. Temporary Chair, is that if you put 50 per cent, the court has said no. So, it means the court wants less. Now, if you go lower, how do you ensure that it is not a localised area, but people who are generally spread across the constituency? And that is why I think there was a settlement on a third in each ward, which still goes to this. You may agree within a ward, but if you have, like, seven wards, how will people agree, including in your own ward, to recall you? That is what we are dealing with.

So, your argument, Temporary Chair, is right; the guidance from the Chair is right, and the guidance and the thinking from the Members is right, but the court disagreed with us.

**The Temporary Chairman** (Hon. Farah Maalim): Order. The court disagreed with this because of the lack of public participation.

*(Hon. Peter Kaluma spoke off-the-record)*

**The Temporary Chairman** (Hon. Farah Maalim): Order! Order! Hon. Kaluma, you are a lawyer and a learned friend. You have to understand the basis on which the court took a position on this matter. It was only for one reason. It was not about the merits and demerits or anything else, but for lack of public participation.

*(Hon. Peter Kaluma spoke off-the-record)*

Adequate public participation. There you go. I am a member of the Departmental Committee on Justice and Legal Affairs by the way. You are not a member of that Committee. Yes, Hon. Raso.

**Hon. Ali Raso** (Saku, UDA): Thank you, Hon. Temporary Chairman. If we go by this, many Members who are serving in this House will lose their seats. This is because getting one-third from every ward to oppose a sitting Member is very easy. It is just like closing your eyes and walking in space. For that reason, whether it is public participation or otherwise, the threshold for removing the people's representatives must be high enough so that the process is not abused.

Thank you, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Elachi at the back there.

**Hon. Beatrice Elachi** (Dagoretti North, ODM): Thank you, Hon. Temporary Chairman. Let me give an example. Let us say the ward is in Nairobi. A ward has 26,000 people. One-third of that is about 8,000 people. If I have five wards, some of which may have 40,000 people, it will be high. It will be the same, even if it is less in Dadaab Constituency, to use your constituency, Hon. Temporary Chairman. Getting them together will be a task. Let us not appear as though we are trying to protect ourselves against something that may eventually go to court and come back to bite us. I think one-third per ward is okay.

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Members,

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

Let us go to the next one.

### *New Clause 33*

**The Temporary Chairman** (Hon. Farah Maalim): Chairman, move it.

THAT the Bill be amended by inserting the following new Clauses immediately after Clause 32—

Amendment of section 109 of Cap. 7. 33. Section 109 of the principal Act is amended by—

(a) deleting subsection (3) and substituting therefor the following new subsection—

(3) The Commission shall make or amend its regulations and publish them in the *Gazette* not later than four months before the date of a general election.

(b) by inserting the following new subsection immediately after subsection (3)—

Cap. 2A. (3A) The Commission shall subject the regulations made or amended pursuant to subsection (3) to public participation in accordance with the Statutory Instruments Act.

(c) deleting subsection (4).

*(The new clause was read a First Time)*

**Hon. Aden Mohammed** (Wajir East, JP): Hon. Temporary Chairman, I beg to move that the new Clause 33 be now read a Second Time. This clause proposes to delete spent provisions requiring proposed regulations to be approved by the National Assembly, which applied to the first General Election under the enactment of the Elections Act. Therefore, this is house cleaning.

The other thing is that it requires the IEBC to publish regulations and subject them to the constitutional requirement of public participation. Therefore, in one area, we are deleting spent provisions while in the other, it is required that the regulations be published and subjected to the constitutional requirement of public participation.

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Members,

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

Hon. Oundo?

**Hon. (Dr) Oundo Ojiambo** (Funyula, ODM): Hon. Temporary Chairman, as much as I agree with the amendment and I hope the Chairperson is listening, I thought that probably New Clause 33 could just be an over-legislation. This is because the Statutory Instruments Act is very clear that before regulations are presented or submitted, they must demonstrate that there was public participation, and that is why they submit documents to prove the same. I really do not see the need to repeat the same thing that is already expressly provided for in the Statutory Instruments Act. That will be over legislation and copying and pasting. I just wonder why.

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

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

#### Clause 2

**Hon. Aden Mohammed** (Wajir East, JP): Hon. Temporary Chairman, I beg to move: THAT, Clause 2 of the Bill be amended by—

(a) deleting paragraph (c) and substituting therefor the following new paragraph—

(c) deleting the definition of “political party” and substituting therefor the following new definition—

“political party” has the meaning assigned to it under Section 2 of the Political Parties Act;”

(b) by deleting paragraph (d).

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

**The Temporary Chairman** (Hon. Farah Maalim): What is your point of order?

**Hon. Junet Mohamed** (Suna East, ODM): I want to bring to your attention that in the New Clause 26A that we have just agreed to, the Senate recommended that only a simple majority is required for a recall election. However, we recommended that a recall election requires at least one-third of registered voters in every ward. We have now gone back to a simple majority being sufficient to recall a Member of Parliament.

**The Temporary Chairman** (Hon. Farah Maalim): A simple majority of what?

**Hon. Junet Mohamed** (Suna East, ODM): A simple majority of voters who can vote in a recall election. That is what the law is.

**The Temporary Chairman** (Hon. Farah Maalim): Let us proceed with Clause 2. The Chairperson of the Departmental Committee on Justice and Legal Affairs has an amendment. Proceed.

**Hon. Aden Mohammed** (Wajir East, JP): Hon. Temporary Chairman, I beg to move: THAT, Clause 2 of the Bill be amended by—

(a) deleting paragraph (c) and substituting therefor the following new paragraph—

(c) deleting the definition of “political party” and substituting therefor the following new definition—

“political party” has the meaning assigned to it under section 2 of the Political Parties Act;”

(b) by deleting paragraph (d).

The definition of “political party” provided under the Political Parties Act is comprehensive. We are deleting the definition of the term “political party” in the Bill. It should be as provided under the Political Parties Act. That is the justification.

Next is the requirement for having a valid identification card. Valid identification is not based on nationality, but it is purely for identification. Even if you register to vote with a passport and it expires, it is still valid. It identifies you as a person. If my passport indicated that I am Aden Daudi in 2010, even if it expires, I will still be Aden Daudi.

Thank you, Hon. Temporary Chairman.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Farah Maalim): Member for West Mugirango.

**Hon. Stephen Mogaka** (West Mugirango, JP): Hon. Temporary Chairman, this is a very important amendment. This is because currently, identification at the polling centre is pegged to the document you used to register as a voter. However, every citizen of this country is entitled to vote or elect their leader. The lack of a valid driving licence or passport is not a reason for any voter to be disenfranchised and sent away from the polling centre.

Therefore, this amendment makes universal suffrage practical and ensures nobody is denied their right to cast their vote merely because of expired documents. An expired passport is just an expired travel document. Citizenship never expires. Therefore, this will help increase voter turnout. After this legislation is passed, we will urge Kenyans to turn out at polling stations to vote with whatever identification documents they have.

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

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

*(Clause 2 as amended agreed to)*

*(Loud consultations)*

**The Temporary Chairman** (Hon. Farah Maalim): Leader of the Majority Party, you are not being recalled. Kindly approach the Clerks-at-the-Table.

## PROCEDURAL MOTION

### EXTENSION OF THE AFTERNOON SITTING

**The Temporary Chairman** (Hon. Farah Maalim): Proceed, Leader of the Majority Party.

**Hon. Kimani Ichung’wah** (Kikuyu, UDA): Sorry, Hon. Temporary Chairman. I was waiting for the microphone. I beg to move the following Procedural Motion:

THAT, pursuant to the provision of Standing Order 33, I beg to move that the Sitting Time be extended until the conclusion of business indicated as Orders No.7 and 8 in today’s Order Paper.

Considering the time, we only have 33 minutes to conclude the Committee of the whole House. Some Members are still waiting for their statements, which we skipped to allow the Committee of the whole House to proceed.

I beg to move and request Hon. Junet Mohammed to second the Motion.

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Temporary Chairman, I second.

**The Temporary Chairman** (Hon. Farah Maalim): Fair enough.

*(Question proposed)*

*(Question put and agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

Mover.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Chairman, I beg to move that the Committee do report to the House its consideration of the Elections (Amendment) (No.2) Bill, (Senate Bill No. 29 of 2024) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

IN THE HOUSE

*[The Deputy Speaker  
(Hon. Gladys Boss) in the Chair]*

## MOTION

CONSIDERATION OF REPORT ON SENATE AMENDMENTS  
TO THE ELECTIONS (AMENDMENT) (NO. 2) BILL  
(Senate Bill No. 29 of 2024)

**The Deputy Speaker** (Hon. Gladys Boss): Order, Hon. Members.

*(Hon. (Dr) Ojiambo Oundo consulted loudly)*

Order, Hon. Oundo. Mover.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Deputy Speaker, I beg to move that the Motion for agreement be amended by inserting the words, "subject to recommittal of New Clause 26A". I request Hon. Kaluma to second the Motion.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Deputy Speaker, I second.

The reason for this recommittal is that whilst we had prescribed the grounds for the recall of a Member of Parliament...

*(Loud consultations)*

Hon. Deputy Speaker, there are very loud consultations.

*(Hon. Mark Mwenje consulted loudly)*

**Hon. Deputy Speaker:** Hon. Mwenje, let us pay attention. This is important.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Deputy Speaker, we are at an important stage. We are seeking to comply with the Constitution and court decisions. We have prescribed the grounds for the recall of a Member of Parliament. However, those grounds are very easy to invoke. We have not provided for the number of people or voters who should sign in approval of a recall petition. If we do not recommit this provision, even one or two people could cite the prescribed grounds and initiate the recall of a Member of Parliament. It is, therefore, necessary that we recommit this provision to prescribe a minimum number of voters in a constituency who must support a recall. Those are the people who elect a Member of Parliament. Otherwise, we risk placing the country in a state of perpetual elections and contestations throughout the term. I second.

*(Hon. Millie Odhiambo-Mabona spoke off-the-record)*

**Hon. Deputy Speaker:** Let me propose the Question first.

*(Question proposed)*

Now you can debate. Hon. Millie, you can go first.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Deputy Speaker. It is very good to stand on principle. I have listened to Hon. Kaluma, who is speaking to the principle of representation. He argues that we should not give people flimsy reasons to recall Members of Parliament.

That is why, in my proposed amendment, I indicated that we need to be serious when we are dealing with the recall of a Member of Parliament. I do not pander to populist issues. It is for that reason that I reluctantly support the recommittal. However, we need to be very serious when dealing with matters of this nature. We often find ourselves, as Members of Parliament, frustrating ourselves.

**Hon. Deputy Speaker:** Hold on, Hon. Millie. I want you to speak only to the Motion to recommit or not to recommit. We shall then return to discuss the merits of the new clause.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Hon. Deputy Speaker, the reason I am speaking to the issue of recommitting or not recommitting is precisely that we do not always stand on matters of principle. We need to be serious and listen to one another. Sometimes, we get too excited and end up shooting ourselves in the foot. Otherwise, I reluctantly support the recommittal.

*(Question put and agreed to)*

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[The Deputy Speaker  
(Hon. Gladys Boss) left the Chair]*

## IN THE COMMITTEE

*[The Chairlady (Hon. Gladys Boss) in the Chair]*

THE ELECTIONS (AMENDMENT) (NO. 2) BILL  
(Senate Bill No. 29 of 2024)

*(Recommittal of New Clause 26A)*

**Hon. Chairlady:** Mover, Hon. Kuria.

*(Hon. Stephen Mogaka consulted loudly)*

Hon. Mogaka, please allow us to proceed. Proceed, Hon. Kimani.

**Hon. Kuria Kimani** (Molo, UDA): Thank you, Hon. Chairlady. I beg to move:

THAT, New Clause 26A be amended by inserting the following new Clause after Clause 26—

Amendment  
of section  
47 of Cap.  
7.

26A. Section 47 of the principal Act is amended by subsection (5) and substituting therefor the following new subsection—

(5) A recall election shall be decided by—

(c) a simple majority of the voters voting in the recall election;  
and

(d) the concurrence of at least one-half of—

(iii) the registered voters in every ward of the affected constituency, in the case of a member of the National Assembly; or

(iv) the registered voters in every constituency of the affected county, in the case of a member of the Senate.

*(The new clause was read a First Time)*

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

**Hon. Chairlady:** Now you can debate. Yes, Hon. Mogaka.

**Hon. Stephen Mogaka** (West Mugirango, JP): Thank you, Hon. Chairlady. I wish to apply my legal mind to the proposed amendment. If we propose a 50 per cent recommendation per ward, that presupposes that the other 50 per cent are against it. We will, therefore, be enacting a likely deadlock where we have a tie. On what basis will a Member be recalled if 50 per cent of each ward says he gets recalled and the other 50 per cent refuses?

I suggest that for us to be progressive, the irreducible minimum threshold for recall of any Member to be 50 per cent plus one so that we know that a ward has decisively made a decision to recall. While I appreciate the recommendation, let us not create a deadlock within the legislation and, therefore, create a new crisis.

I thank you.

**Hon. Chairlady:** The Minority Leader.

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Chairlady, thank you very much for giving me an opportunity to speak on this matter. I wish the Leader of the Majority Party can

listen to me. I want to bring to the attention of this House that we did this legislation that we had done earlier, it was taken to court and nullified for two major issues. One, there was no proper public participation and two, the court said that the 50 per cent threshold that we had put was onerous for the public to achieve. So, if we repeat the same mistake as proposed by Hon. Kimani of putting the threshold at 50 per cent of the registered voters, we will be repeating what the court rejected.

I want us to go with the proposal of the Committee that the recall at the constituency level be supported by one-third of the electorate or a one-third of the voters in every ward in a constituency. If we repeat what the court rejected, we will be legislating in vain because the Bill will be taken back to court again and the court will reject it for the same reasons that it rejected the previous one. People should not fear. There is nothing to fear. If you have lost a third in every ward, you do not deserve to be a Member of Parliament. Go and do farming or other things. Being a Member of Parliament is not the only job that exists in Kenya. You can be a farmer, or you can be a professional such as a lawyer. Go and practise your profession. You should not impose yourself on the people.

**Hon. Chairlady:** Leader of the Majority Party.

**Hon. Kimana Ichung'wah** (Kikuyu, UDA): Hon. Chairlady, let me say, first, that it is true what Hon. Junet says that the 50 per cent in every ward will suffer the same fate as the earlier provision in the Act. In any case, many of us are not elected by 50 per cent of the registered voters in each ward. That is a fact of life. Therefore, you cannot say that I was elected by a simple majority, but now impose a higher threshold for recall. I just want to prevail upon us to agree with the Committee's proposal of a third of the registered voters in every ward. In any case, it will still not be easy for someone acting out of malice to convince 50 per cent plus one of the people voting in an election. If that happened, it would mean that you were already unpopular with your people and that there was something you had done to deserve to go home.

Secondly, if someone can convince a third of your voters in every ward, including your home ward, that you should go home, Hon. Mulyungi, it would mean that there is something absolutely wrong that you have done to the people.

I agree that we should not legislate in fear. We legislate for posterity. We do not legislate for ourselves. I agree with the Committee, and I want to prevail upon the Member who moved the recommittal to restore the earlier provision of a third in every ward and a simple majority. Since I am on record on national television, I do not want to say much. However, in whose interest are we legislating? Is it in your interest or in the interest of the people of Kenya?

I beg to stop there.

**Hon. Chairlady:** Okay, Hon. Daudi.

**Hon. Aden Mohammed** (Wajir East, JP): Hon. Chairlady, I wish to move a further amendment to the amendment moved by Hon. Kimani Kuria. I want us to restate the original proposed Section 26A in the Order Paper, which read as follows:

THAT the Bill be amended by inserting the following new Clause after Clause

26—

Amendment of  
section 47 of  
Cap. 7.

**26A.** Section 47 of the principal Act is amended by subsection (5) and substituting therefor the following new subsection—

(5) A recall election shall be decided by—

(e) a simple majority of the voters voting in the recall election;  
and

(f) the concurrence of at least one-third of—

(v) the registered voters in every ward of the affected constituency, in the case of a member of the National Assembly; or

- (vi) the registered voters in every constituency of the affected county, in the case of a member of the Senate.

I beg to move.

*(Question of the further amendment proposed)*

**Hon. Deputy Chairlady:** Can I put the question? Let me allow Hon. Kuria.

**Hon. Kuria Kimani** (Molo, UDA): I think it is important for us to really understand the importance of this particular provision because there are two matters that have been proposed in New Clause 26A. One is a recalling. If constituents are not happy with you, they make a decision to recall you. That is why we say without this further amendment they will need at least a third of every ward to recall you. As further amended, I agree with the Chair of the Committee, but also important for you to note 26A(5)(a). A recall election shall be decided by a simple majority of the voters voting in the recall election. After the recall, there will be an election. It is provided for in 26A(5)(a) that whoever wins that election will be determined by a simple majority. I wanted to make that clear for this House because there was contestation behind the scenes about what a simple majority of the voters as meant in this amendment.

With that, I support the Chair's amendment.

**Hon. Deputy Chairlady:** Hon. Farah.

**Hon. Farah Maalim** (Dadaab, WDM): Hon. Deputy Chairlady, our Constitution was a hodgepodge of many other constitutions in the world. As Hon. Caroli had put it, and as part of the 10<sup>th</sup> Parliament that passed that Constitution, we borrowed many things from many different places. The environment in those different places was different. Our electoral system was different from theirs. For example, South Africa has what you call proportional representation. Every party assumes that it is going to win all the 290 constituencies, as we have it here now, and they make the list of the people who will be in that election. If the party wins 60 per cent of the votes, then it stops there. If it wins 5 per cent, it stops at that. That is why the party is more important. The relationship between the constituency and the individual is different because you represent the nation.

In our country, I know of a constituency that had about 30,000 registered voters, but the Member of Parliament, who is here with us, was elected by less than 6,000 votes. We are legislating for posterity. People like me have been here for long, but I will not be here long after this. Maybe, one more term, and that is about it. We will go. We do not want to get into a situation which we have a litigation nation. My fear is that you will finish an election, and the next thing you know is people are collecting signatures. It will not be very difficult because signatures will be collected even without the voters signing.

80 per cent of the ladies, men and folks in my constituency are illiterate. With this method of collecting signatures, somebody can falsify that information in one way or the other. We will have a litigation nation with activism throughout. That is basically where the problem is. The President, for example, must be in office, at least, for two-and-a-half years. Only after that can you try. At that time, we proposed that when you go into office, you will be given a grace period for you to prove yourself. I do not know whether it was carried or not. If the constituents are not very happy with you, only then can they recall you. As it is, you can be recalled six months after you have been elected to Parliament. Courts are not there to legislate. Can I just finish?

**Hon. Deputy Chairlady:** Yes.

**Hon. Farah Maalim** (Dadaab, WDM): I am not doing it out of fear. I have received more votes than anyone in this constituency has throughout history, including during my previous tenure. I am still going to get more votes this time, but we have a significant difference to address. Consider Kisii, for example. They are a very clannish society. In this case, you may have 120,000 votes, yet the winner may only secure 13,000 or 14,000 votes. One candidate

may have 14,000, another 13,000, and another 12,000, and this fragmentation continues. It is quite easy for those groups to come together and say: "Let us remove him and initiate this process." Be that as it may, I have made my point on record because we will live through history and see how this will be abused.

**Hon. Chairlady:** Mover, I believe it is a good idea to stipulate the cut-off period for when a person should be recalled. That is a good suggestion.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Chairlady, let us take advantage of the fact that this is a Senate Bill. Since this is an amendment to the Bill as it came from the Senate, then we will have the Mediation Committee under the Constitution and the Standing Orders to consider it. I want us to reflect on that reality and think of better ways to enhance this provision. When this matter goes to the Mediation Committee, we should aim to come up with an agreeable, conclusive, and comprehensive mediated version that can then pass. I support this amendment and urge Members to approve it as it stands, as we will have the opportunity to refine it later. We need to think deeply and constitute our team to join the Mediation Committee for an agreed version.

At one level, I believe we should not make it difficult for the people of Kenya to recall their elected representatives. However, on another level, we must also make it very difficult so that we alert the electorate to make conscious decisions during elections, rather than acting on extraneous considerations. I support the amendment in its current form. If there are improvements that are suggested, including guidance from the Chairlady, let us use the time between now and when the Bill is before the Mediation Committee to enhance it. But for now, let us pass it as it is.

**Hon. Chairlady:** Hon. Members, just to clarify what was previously there, when it came from the Senate, the grounds for recalling a Member included misconduct likely to bring hatred, ridicule, contempt, or disrepute to the office, and persistent desertion of the electorate without reasonable cause. Can you see how subjective this was? It is quite dangerous because what does "desertion" mean? What does "bringing contempt and disrepute" mean? Those terms are not specific issues. We have amended this. Now, the contention lies in the criteria for recall and the number of votes in the election.

Additionally, another contentious point is this: At what point do they qualify for recall? A recall after six months does not allow sufficient time to establish the grounds. Thus, it should ideally be after two years or two-and-a-half years. With this in mind, Members, our debate can centre on those aspects. Yes, Hon. (Dr) Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Chairlady, we will have another bite at this, as Hon. Kaluma has indicated, but we must reflect clearly. It seems that after the recall process has been completed, one will be subjected to an election, which essentially mirrors any other by-election. In any election, there is a simple principle, as Hon. Farah Maalim has articulated. The winner is the one who crosses the line first. This is a matter that we need to reflect on. Hon. Kaluma, if you happen to be in the Mediation Committee, this is something we must examine closely and clarify. Are we introducing additional provisions and requirements for elections as a Member of Parliament, whether for the main election or a by-election? After the recall process is successful, we will be subjected to a by-election. If that happens, does a by-election have any threshold other than a simple majority? If we introduce another tier of one-third in the counties, wards, and the rest, it will end up like a by-election and the rules are simple and straightforward. That is a debate we must review.

**Hon. Chairlady:** Hon. Oundo, you are mistaken. The proposed amendment proposes that for one to be recalled, they will need one-third of the registered voters in every ward. If one is successfully recalled, they then proceed to a by-election which is decided by a simple majority. So, you have it wrong.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Yes, that is why I need it to be that clear to Kenyans.

**Hon. Chairlady**: I have made that clear.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Kenyans need to understand this clearly because they might imagine that once they have collected the document...

**Hon. Chairlady**: What you are debating is moot. It is not relevant. It is a simple majority.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Yes, I just wanted to bring it to the attention of Kenyans. At this particular stage, it is not the end of the process. There will be a further by-election...

**Hon. Chairlady**: Let us make progress.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): One can, therefore, appreciate that if they initiate the process, they are fully aware of how costly, time-consuming and onerous it is.

**Hon. Chairlady**: Hon. Oundo, I have clarified it for you, but now you are repeating it.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Thank you, Hon. Chairlady.

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

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

**Hon. Chairlady**: Mover.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Chairlady, I beg to move that the Committee do report to the House its consideration of the Election (Amendment) (No. 2) Bill, (Senate Bill No. 29 of 2024), and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

## IN THE HOUSE

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

## MOTION

CONSIDERATION OF REPORT ON THE  
ELECTION (AMENDMENT) (NO. 2) BILL  
(Senate Bill No. 29 of 2024)

**Hon. Speaker**: Hon. Chairlady.

**Hon. Gladys Boss** (Uasin Gishu County, UDA): Hon. Speaker, I beg to report that the Committee of the whole House has considered the Election (Amendment) (No. 2) Bill, (Senate Bill No. 29 of 2024), and approved the same with amendments.

**Hon. Speaker**: Mover.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, I beg to move that the House do agree with the Committee in the said report. I request Hon. Junet Mohamed to second the motion for agreement with the report of the Committee of the whole House.

**Hon. Speaker:** Hon. Junet.

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

**Hon. Speaker:** Thank you.

*(Question proposed)*

*(Question put and agreed to)*

## BILL

### *Third Reading*

#### THE ELECTIONS (AMENDMENT) (No. 2) BILL (Senate Bill No. 29 of 2024)

**Hon. Speaker:** Mover.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, I beg to move that the Elections (Amendment) (No. 2) Bill, (Senate Bill No. 29 of 2024), be now read a Third Time.

As I request the Leader of Minority Party to second, allow me to thank Members who have stayed on during this Committee of the whole House. It is one of the longest Committee of the whole House that we have had to consider because electoral matters are, indeed, very emotive at times and, as I said in the Committee, we are legislating for posterity. Therefore, we need not worry even on the recall clauses as we have passed them because they will serve the best interests of the people of Kenya. They will help make our democracy more effective and good for our country; and also make our political parties vibrant.

Through these amendments, the role of IEBC, in terms of conduct of the electoral processes, is clear. The IEBC will not be seen to be involved in any way in political party affairs. The IEBC will only register candidates for elections that they will be presiding over and not to be involved in party nominations. I know many a times reports are done by part of our mainstream media and on social media that may make Kenyans believe that there is mischief that is being done by the House. That is why I said during Second Reading that we have been very careful to ensure that we do not have very substantive amendments that may alter the course of our electioneering processes a year before the elections. This is for those who are out there and who are purporting that we are making amendments to electoral laws closer to the election to facilitate any form of mischief. The people who say those things are people who already know that they are losing the election because they have nothing to sell to the people of Kenya. As you have seen even today, those people are not in the House. But you will find them in rallies over the weekend making all manner of allegations.

Let me thank the Departmental Committee on Justice and Legal Affairs; the Chair, in absentia; and Hon. Kaluma, who had amendments to this Bill. We sat the whole afternoon yesterday with the Leader of the Minority Party, Hon. Kaluma, the Chair of the Committee and a few Members of the Committee to try and do some winnowing and agree on those amendments. They were very gracious to come together and compromise on what was in the best interest of the country.

Hon Speaker, I beg to move and request Hon. Junet to second.

**Hon. Speaker:** Hon. Junet.

**Hon. Junet Mohamed** (Suna East, ODM): Thank you, Hon. Speaker. As I second, I am happy that today the National Assembly has discharged its mandate in making sure that the election ahead of us is conducted in a manner that meets the expectations of the people. This is a National Dialogue Committee (NADCO) Bill. We have done everything possible to make sure that everything that was agreed in the NADCO process is captured in the Bill. The Bill came from the Senate, and I am very proud that all the issues that were canvassed in the NADCO process have all been taken care of.

Having said that, there is a problem in this country. People think that winning the election is about the electoral laws. No, it is about the people. It is the people who will ultimately vote for the leader that they want to vote for. We have been legislating on elections since 2007. I hope this last legislation that we have done today will satisfy the expectations of the people, because we have captured what IEBC wanted to be captured. We have captured what was required by the NADCO Report. We have captured the views that we gathered through public participation. We have captured the amendments of the Members of the House. I think people will sooner rather than later realise that elections are not about the laws. Elections are about the people. They are about how you convince the people about your agenda and manifesto. Today, we have passed controversial things that Kenyans never expected us to pass, such as Members' recall.

Hon. Speaker, the public are always of the view that Members would never legislate a recall process. Today, we have done it. Let those naysayers out there who have been saying that Members do not want to be recalled explain what they will now say. We have legislated this entire afternoon to ensure that we have a piece of legislation that guides the public on how they can recall their Member of Parliament. That is how bold this House is. The 11<sup>th</sup> and 12<sup>th</sup> Parliaments could not do it. Now, this Parliament has done it. It was attempted before, but the courts disagreed. But, today, we have done our part and ensured that members of the public are free to recall their Member of Parliament if they so wish, in accordance with the new law we have passed.

Lastly, many people do not take cognisance of what Parliament does. The laws we have passed today will help make our elections free and fair, as well as more transparent, accountable and verifiable. You can compare this law against any other law in the world. I do not think there is any law that can beat the one we have passed today, because we have taken time to consult the public and among ourselves. In conclusion, let the IEBC do its work and let the best candidates win. I second.

**Hon. Speaker:** Thank you very much. Hon. Members, I sat behind here all those hours, and I must salute you for demonstrating that I am presiding over a reading Parliament. You have demonstrated very well that you have gone through the Bill, conducted your research and made comparisons. The level of intellectual industry is very encouraging.

*(Question proposed)*

Can I put the question?

**Hon. Members:** Yes.

*(Question put and agreed to)*

*(The Bill was accordingly read  
a Third Time and passed)*

## QUESTIONS AND STATEMENTS

## STATEMENT

**Hon. Speaker:** Hon. Members, we have many statements that are listed. Let me begin with the Leader of the Majority Party's Thursday Statement.

BUSINESS FOR THE WEEK OF  
2<sup>ND</sup> – 6<sup>TH</sup> NOVEMBER 2026

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(a), I rise to present the following Statement on behalf of the House Business Committee, which met on Wednesday, 21<sup>st</sup> October 2026, to prioritise business for consideration during the week, considering that Tuesday, when the House Business Committee usually meets, was a public holiday. The Committee, therefore, met yesterday morning.

As Members are aware, at the rise of the House today, the House will proceed on a short recess beginning tomorrow, Friday, 23<sup>rd</sup> October 2026, in line with the House Calendar. The House is expected to resume its regular sittings on Tuesday, 3<sup>rd</sup> November 2026, at 2.30 p.m., to continue with the third part of the Session.

Upon resumption of sittings, the House is scheduled to consider the following Bills at various stages:

1. Committee of the Whole House on the:
  - (a) The Competition (Amendment) Bill, 2026; and,
  - (b) The Power of Mercy Bill, 2025.
2. Second Reading of the following Bills, some of which are listed in today's Order Paper:
  - (a) The Sacco Societies (Amendment) Bill, 2025;
  - (b) The Investment and Export Promotion Authority Bill, 2026;
  - (c) The Tourism (Amendment) Bill, 2026;
  - (d) The Kenya Economic Zones Bill, 2026;
  - (e) The Heraldry Bill, 2026; and,
  - (f) The Anti-Doping (Amendment) Bill, 2026.

Additionally, the House will debate the following Motions on Committee reports, should they not be concluded today:

1. Report on inspection visits to Constituency Offices in Nakuru County;
2. The 16<sup>th</sup> Report on the Audited Financial Statements of the NG-CDF Board and the NG-CDF Account for FYs 2022/2023 to 2024/2025;
3. The 11<sup>th</sup> Report on Examination of the Audited Financial Statements for the Tourism Fund and the Tourism Promotion Fund for the Financial Years 2020/2021 and 2021/2022;
4. The 11<sup>th</sup> Report on Examination of the Audited Financial Statements for Various Universities;
5. The 17<sup>th</sup> Report on the Audited Financial Statements of the NG-CDF for Five Constituencies in the Financial Years 2013/2014 to 2024/2025;
6. The 12<sup>th</sup> Report on the Examination of the Audited Financial Statements for Various National Polytechnics;
7. The 18<sup>th</sup> Report on the Audited Financial Statements of the NG-CDF for Constituencies in Narok and Kericho Counties for the Financial Years 2013/2014 to 2024/2025;

8. The 19<sup>th</sup> Report on the Audited Financial Statements of the NG-CDF for the Constituencies in Nairobi and Kajiado Counties for the Financial Years 2013/2014 to 2024/2025;
9. The 13<sup>th</sup> Report on the Examination of the Audited Financial Statements for Various Technical and Vocational Colleges and Technical Training Institutes; and,
10. The Report on the Peace and Security Engagement in Isiolo County and 11<sup>th</sup> Report on Budget Implementation Monitoring for the Financial Year 2025/2026.

As we proceed on this short one-week recess, it is worth noting that the House is awaiting committee reports on various priority matters referred to them, including Bills, treaties, regulations and requests for statements. Notably, there are seven Bills on the education sector reforms that are currently under consideration by the Departmental Committee on Education, on which they shall be embarking on a public stakeholder engagement forum in Nairobi County. I, therefore, urge the relevant committees to utilise the recess period, however short it is, to conclude stakeholder engagements on the Bills and other pending business, so as to report back to the House as soon as the House resumes from the short recess.

I also wish to inform the House that upon resumption of sittings; the House is expected to commence the Budget process for the financial year 2027/2028 within the month of November. This will begin with the submission of the Medium-Term Debt Management Strategy (MTDMS), and the Budget Policy Statement (BPS) by the Cabinet Secretary for the National Treasury and Economic Planning. To this end, I encourage the Budget and Appropriations Committee and the Departmental Committees to align their work plans so as to accommodate the revised Budget timelines.

Finally, I wish Members a wonderful recess period as they devote their time to their families, rejuvenate, and also discharge their parliamentary obligations at the constituencies and county levels.

In conclusion, the House Business Committee shall reconvene again on Tuesday, 3<sup>rd</sup> November 2026 to schedule business for the remainder of that week.

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

**Hon. Speaker:** Thank you, Leader of the Majority Party. Members, I have a special request from Hon. Captain Ruweida to give her an opportunity to request for a statement and rush to an important appointment.

Hon. Ruweida.

## REQUESTS FOR STATEMENTS

### PROLONGED POWER OUTAGE IN FAZA, LAMU EAST CONSTITUENCY

**Hon. Ruweida Mohamed** (Lamu East, JP): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I wish to request for a statement from the Chairperson of the Departmental Committee on Energy regarding power outage in Faza Ward, Lamu East Constituency.

The entire Faza Ward has experienced a power outage which has lasted for more than three weeks, thus disrupting livelihoods, businesses and learning. Further, the generators that initially provided a temporary source of electricity have since broken down, leaving residents without a reliable alternative supply. This has had far-reaching effects particularly on fishermen who undertake large-scale fishing. They have been unable to refrigerate and preserve their catch, thus occasioning losses and undermining the local economy. The outage has also

adversely affected students who are preparing for the Kenya Certificate of Secondary Education (KCSE) examinations by limiting their ability to study and disrupting the effective administration of examinations.

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

1. Reasons for the prolonged power outages in Faza Ward, Lamu East Constituency and measures that are being taken by the Kenya Power Company to restore electricity.
2. The steps that are being taken to repair faulty power generators in Faza Ward and ensure that the residents are provided with alternative supply of electricity.

Every year, I find myself standing in this House to ask questions and make statements to the Ministry of Energy and Petroleum concerning persistent power outages in Lamu East Constituency. This is not just about electricity, but the livelihood of my people.

**Hon. Speaker:** Hon. Ruweida, you are debating your request for statement.

**Hon. Ruweida Mohamed** (Lamu East, JP): Our people deserve reliable and uninterrupted power.

**Hon. Speaker:** Point made.

**Hon. Ruweida Mohamed** (Lamu East, JP): Please help us so that KPLC can come up with permanent solutions to this.

**Hon. Speaker:** Thank you. Hon. Gikaria, that is your Committee. Now that Lamu is the epicentre of new development in Kenya, why should Faza Island still be off grid? Do not just bring a response! Tell us when you come after 3<sup>rd</sup>, when you are going to put Faza Island on the national grid to avoid these persistent requests by Hon. Ruweida.

**Hon. David Gikaria** (Nakuru Town East, UDA): Most obliged, Hon. Speaker.

**Hon. Speaker:** Alright. Bring a response on the week starting 3<sup>rd</sup>.

**Hon. David Gikaria** (Nakuru Town East, UDA): Thank you, Hon. Speaker. Much obliged.

**Hon. Speaker:** Thank you. Yes, Ruweida.

**Hon. Ruweida Mohamed** (Lamu East, JP): That is okay but, for now, we do not have power. Let them do anything they can to restore it immediately. We have a problem. For three weeks, there has been total darkness in Lamu East Constituency.

**Hon. Speaker:** Hon. Gikaria, check with KPLC and furnish my office by Monday what remedial action you will have taken to assist the people of Faza Island and, more so, now that children are going into an exam period.

**Hon. David Gikaria** (Nakuru Town East, UDA): Most obliged, Hon. Speaker. Can I read my statement?

**Hon. Speaker:** Let us have Hon. Abdul Haro.

#### DISAPPEARANCE OF MR ISSAK ABDULLA

**Hon. Adul Haro** (Mandera South, UDM): Hon. Speaker, pursuant to the provisions of Standing Order 44(2), I rise to request a statement from the Chairperson of the Departmental Committee on Administration and Internal Security regarding the disappearance of Mr Ali Issak Abdulla, a National Police Reservist (NPR) officer and a resident of Mandera South Constituency.

On 13<sup>th</sup> September 2026, Mr Ali Issak Abdulla of ID No. (indicated), a 39-year-old NPR officer and a resident of Kaba City Village in Kotulo Sub-County, Mandera County, went missing in Elwak Town, Mandera County. Despite investigations into his disappearance, his whereabouts remain unknown and the family is yet to receive information regarding the

circumstances under which he went missing. The situation has caused great anxiety and distress among the family of Mr Abdulla and the wider community of Mandera South Constituency, who are seeking answers as to the circumstances surrounding the disappearance of their kin.

It is against this background that I request a statement from the Chairperson of the Departmental Committee on Administration and Internal Security on the following:

1. A report on the status of investigations into the disappearance of Mr Ali Issak Abdulla, an NPR officer in Elwak Town, Mandera County, including the circumstances under which he went missing and the steps the National Police Service (NPS) has taken to establish his whereabouts and whether his command has been informed of his disappearance.
2. Report on the number of persons reported missing under unclear circumstances in Mandera South Constituency in the last six months and the status of investigations into the cases.
3. Measures the Ministry of Interior and National Administration has put in place to address incidences of possible arbitrary abductions, enforced disappearances and to ensure security in the region.

Thank you, Hon. Speaker.

**Hon. Speaker:** Chairman, Departmental Committee on Administration and Internal Security. Yes, Hon. Weytan. Do you want to joyride on that?

**Hon. Hussein Weytan** (Mandera East, ODM): Hon. Speaker, I support my colleague on the disappearance of an individual from his constituency, which has really caused a lot of agony to the parents and the relatives. The same happened to a Member of County Assembly (MCA) aspirant in Eastleigh, Mr Mohammed Ismail, whose case I brought to the House in a request for statement almost four months ago. To date, his whereabouts remain unknown. The mother and the parents are always crying. In fact, since the Occurrence Book (OB) was recorded at Pangani Police Station, there has been no information up to now, whether he is dead or alive.

Hon. Speaker, give direction so that a response that is justifiable is brought to the House. Thank you.

**Hon. Speaker:** Hon. Raso, when can you bring a response? Is that MCA still missing?

**Hon. Ali Raso** (Saku, UDA): Hon. Speaker, those matters keep on arising. This is not the first one. Today, as we discussed with my Chairperson, we believe that we must summon the Inspector-General and all those who are charged with security in this country. We cannot allow Kenyans to continue disappearing without answers. We will not only share with the Ministry immediately, but we will also give comprehensive feedback to the House immediately when we resume.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you. Leader of the Majority Party, when we resume, which Cabinet Secretary do you intend to bring to the House?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, we had the Cabinet Secretary for Youth Affairs, Creative Economy and Sports, and the Cabinet Secretary for Interior and National Administration.

**Hon. Speaker:** Was the Cabinet Secretary for Interior and National Administration among them?

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

**Hon. Speaker:** So, Wednesday, 4<sup>th</sup> November 2026?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Wednesday, 4<sup>th</sup> November 2026 was Hon. Mvurya.

**Hon. Speaker:** Bring the Cabinet Secretary for Interior and National Administration first.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): The Cabinet Secretary for Interior and National Administration first?

**Hon. Speaker:** Yes. All Members with disappearance cases can go to the Table Office and highlight them so that the Leader of the Majority Party can list them out for the Cabinet Secretary to deal with when he comes here. Hon. Haro, on 4<sup>th</sup> November 2026, be ready to interrogate the Cabinet Secretary when he comes here.

I have a letter from Hon. Patrick Munene nominating Hon. Sabina Chege to make a request on his behalf. Go ahead, Hon. Sabina.

DELAYED GAZETEMENT AND OPERATIONALISATION  
OF A POLICE STATION IN THARAKA-NITHI COUNTY

**Hon. Sabina Chege** (Nominated, JP): Thank you, Hon. Speaker. On behalf of Hon. Patrick Munene, Member of Parliament for Chuka/Igambang'ombe, I rise to request for a statement regarding the delayed gazetement and operationalisation of a police station.

Hon. Speaker, pursuant to the provisions of Standing Order No. 44(2)(c), I wish to request for a statement from the Chairperson of the Departmental Committee on Administration and Internal Security regarding the delayed gazetement and operationalisation of Kathanje Police Station in Tharaka-Nithi County. Kathwana Town, which serves as the headquarters of Tharaka-Nithi County. It lacks a police station despite its status as a county administrative and commercial centre. To address this gap, Kathanje Police Station was constructed near the county headquarters using funds from the Chuka/Igambang'ombe National Government Constituencies Development Fund (NG-CDF). Four years after its construction, the station is yet to be gazetted and operationalized. The continued delay has deprived residents, businesses, and public institutions of essential security services, thus raising concerns over public safety.

It is against this background that I request for a statement from the Chairperson of the Departmental Committee on Administration and Internal Security on the following:

1. Reasons for the delay in gazetement and operationalisation of Kathanje Police Station four years after its construction using NG-CDF funds;
2. The measures that are being undertaken by the Ministry to expedite the gazetement, staffing and operationalisation of the police station, including the specific timelines for completion.
3. The interim security measures that are put in place to enhance public safety, protect businesses and encourage investment in Kathwana Town, pending the operationalisation of the police station.

I thank you, Hon. Speaker.

**Hon. Speaker:** When can you bring a response or we pile it for 4<sup>th</sup> November 2026?

**Hon. Ali Raso** (Saku, UDA): Yes, Hon. Speaker. That is the best time, if the Cabinet Secretary appears before the House.

**Hon. Speaker:** Hon. Sabina, we will pile it on 4<sup>th</sup> November 2026. Make sure it reaches the Office of the Leader of the Majority Party to be listed. Hon. Mwenje Mark, Member for Embakasi West.

INSECURITY AND VIOLENT DISRUPTIONS  
OF MASHUJAA DAY CELEBRATIONS

**Hon. Mark Mwenje** (Embakasi West, JP): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a statement from the Chairperson of the Departmental Committee on Administration and Internal Security regarding insecurity and violent disruptions of Mashujaa Day celebrations in Umoja 1, Embakasi West Constituency.

Mashujaa Day is a national occasion that is dedicated to honouring the country's heroes and heroines, and promoting national unity. However, on 20<sup>th</sup> October 2026, a group of unidentified persons reportedly invaded the Umoja 1 Swimming Pool Grounds during the celebrations, disrupted the event, assaulted members of the public and vandalised several business premises. CCTV footage from the venue additionally shows three persons nearly drowning in the swimming pool during the incident.

The individuals were allegedly mobilised and transported from areas outside the sub-county, thus raising concerns that the violence may have been premeditated, organised and sponsored. The incident reportedly occurred in the presence of senior security and administrative officials, including the Deputy County Commissioner, two Assistant County Commissioners, three Chiefs, four Assistant Chiefs, the Officer Commanding Police Division and the Officer Commanding Station (OCS) of Umoja 1 Police Post. This raises concerns regarding the adequacy of security arrangements and the response to the violence which warrant investigation.

It is against this background that I request for a statement from the Chairperson of the Departmental Committee on Administration and Internal Security on the following:

1. The circumstances surrounding the invasion and violent disruption of the Mashujaa Day celebrations in Umoja 1 in Embakasi West Sub-County on 20<sup>th</sup> October 2026.
2. The status of investigations into the identities of the perpetrators and those who allegedly mobilised, transported or financed them, including any evidence of political sponsorship.
3. A report on the security arrangements that were made for the celebrations and the action taken by the security and administrative officials present to prevent and contain the violence.
4. The measures that are being taken to protect residents and business owners and prevent recurrence of similar incidents at public events.

I thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Raso, does the request for statement suffer the same fate?

**Hon. Ali Raso** (Saku, UDA): Hon. Speaker, what my colleague has raised was captured on social media. That is not acceptable. It was grisly. We will raise this with the Cabinet Secretary on 4<sup>th</sup> November 2026.

**Hon. Speaker:** Hon. Mwenje, be here on 4<sup>th</sup> November 2026 to interrogate the Cabinet Secretary. Ensure your request reaches the Office of the Leader of the Majority Party to list as one of the requests for statements to be dealt with when the Cabinet Secretary comes.

Hon. Joseph Gitari, Member for Kirinyaga Central.

#### DELAYED PAYMENT AND SUPPLY OF FERTILISER TO RICE FARMERS IN MWEA IRRIGATION SCHEME

**Hon. Joseph Gitari** (Kirinyaga Central, UDA): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a statement from the Chairperson of the Departmental Committee on Agriculture and Livestock regarding the delayed payments and supply of fertiliser to rice farmers in Mwea Irrigation Scheme.

Mwea Irrigation Scheme is a major rice-producing area supporting approximately 15,995 farmers with an estimated area of 33,600 acres under cultivation. Despite their contribution to national food security, rice farmers continue to experience delays in receiving payments for rice purchased by the Kenya National Trading Corporation (KNTC). Those delays have adversely affected their financial stability and ability to prepare for subsequent planting seasons. Additionally, farmers face persistent delays in the supply of fertiliser, thus

resulting in disruptions to planting schedules, increased production costs and reduced agricultural productivity.

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

1. The reasons for the delay in payments to rice farmers by the Kenya National Trading Corporation (KNTC), indicating the total amount that is outstanding, the number of affected farmers and the timeline for settlement of outstanding dues.
2. The reason for delay in procurement and distribution of fertiliser to rice farmers in the Mwea Irrigation Scheme.
3. Immediate and long-term measures that are being taken by the Government to ensure timely and adequate fertiliser supply before the commencement of each planting season.
4. The measures that are being put in place to address the rising cost of rice production and improve the livelihood of rice farmers in Mwea Irrigation Scheme.

I thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Joseph. Hon. (Dr) Mutunga, that is to you. When can you bring a response?

**Hon. (Dr) John Mutunga Kanyuithia** (Tigania West, UDA): First week after recess Hon. Speaker. I think we can do it on 4<sup>th</sup> of November.

**Hon. Speaker:** Bring it on 5<sup>th</sup> of November because 4<sup>th</sup> is already crowded. Hon. Moses Kirima, Member for Central Imenti.

#### DISCONNECTION OF WATER SUPPLY IN CENTRAL IMENTI CONSTITUENCY

**Hon. Moses Kirima** (Central Imenti, UDA). Thank you, Hon. Speaker, for giving me this opportunity.

Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I wish to request for a statement from the Chairperson of the Departmental Committee on Blue Economy, Water and Irrigation regarding disconnection of water supply in Central Imenti Constituency.

Hon. Speaker, many community water projects in Central Imenti Constituency including Thingithu, Kathita, Thamba Ng'ombe, Gatauga, Riji and Rwairi rivers, are funded by residents and provide water for domestic consumption and irrigation.

However, there are reports that the Water Resources Authority (WARMA) has imposed water charges without public participation and disconnected water supply to residents who have not paid the charges. Those disconnections have disrupted access to water for household use and agricultural activities, thus adversely affecting their welfare and livelihoods. This raises concerns regarding the basis for the charges, the process of their introduction and the protection of the access to water.

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

1. The nature and legal basis of the water charges that have been imposed on community water projects in Central Imenti Constituency, including the applicable rates and criteria used to determine the amounts payable.
2. A report on the public participation undertaken, if any, before the introduction of the charges.

3. A report on the circumstances surrounding the disconnection of water supply, including the projects that are affected and notices issued prior to disconnection.
4. The measures that are being taken to restore water supply and resolve the payment concerns, while ensuring continued access to water for domestic consumption of irrigation.
5. The beneficiaries of the water charges, given that all repairs and maintenance of the projects are undertaken by the community.

I thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Chairperson, Departmental Committee on Blue Economy, Water and Irrigation or any member of the Committee. Can you bring a response in the second week after recess?

*(A Member spoke off the record)*

Hon. Josses Lelmengit.

#### IMPLEMENTATION AND FINANCING OF NATIONAL SOLARISATION PROGRAMME IN BASIC EDUCATION INSTITUTIONS

**Hon. Josses Lelmengit** (Emgwen, UDA): Thank you, Hon. Speaker. Pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a statement from the Chairpersons of the Departmental Committee on Education and the Departmental Committee on Energy regarding the implementation and financing of the National Basic Education Institutions Solarisation Programme.

The Ministry of Education, in collaboration with the Ministry of Energy, entered into a partnership with the Kenya Commercial Bank (KCB) to transition public schools to solar energy. The programme seeks to promote clean energy, reduce electricity costs and improve the reliability of power supply in public learning institutions.

However, concerns have arisen regarding its implementation status, financial arrangements, quality assurance, equitable selection of beneficiary schools and long-term sustainability. Clarification is, therefore, required on the cost, financing terms and any repayment obligations that have been placed on participating schools, including the implications for the budget and possible transfer of costs to parents and guardians.

It is against this background that I request for a statement from the Chairpersons of the Departmental Committee on Education and the Departmental Committee on Energy on the following:

1. The number of public basic education institutions targeted under the Programme, the selection criteria and the details of beneficiary schools, disaggregated by county and constituency, including the number of beneficiary schools in Nandi County, and specifically, Emgwen Constituency.
2. The status of the programme, including the progress towards implementation and completion of the first phase, the financing arrangements and the projected implementation timelines for the second phase.
3. The total cost of the programme, the financing arrangement between the Government and the KCB, the applicable interest rate and the estimated installation cost per school, including any financial obligations by the schools.

4. The quality measures assurance that have been put in place to ensure genuine, approved and high-quality equipment, uniform technical standards, adequate warranties and reliable maintenance and technical support.
5. The projected annual energy savings, the mechanisms for independently verifying actual savings and the remedies available where savings are insufficient to meet the repayment obligations. Further, the safeguards in place to ensure that repayments do not compromise essential educational services and infrastructure.
6. The measures that are being taken to prioritise schools with unreliable electricity supply and high energy costs.

I thank you, Hon. Speaker.

**Hon. Speaker:** Thank you. Chairperson of the Departmental Committee on Education. Is any member of that Committee present? Clerks-at-the-Table, direct the Chairperson to bring a response in the second week after the short recess.

Hon. Wamacukuru Githua, Member for Kabete.

#### IMPLEMENTATION OF NAIROBI RIVERS COMMISSION PROJECT IN KABETE CONSTITUENCY

**Hon. Githua Wamacukuru** (Kabete, UDA): Thank you, Hon. Speaker. Pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a statement from the Chairperson of the Departmental Committee on Environment, Forestry and Mining regarding the implementation of the Nairobi Rivers Commission Project in Kabete Constituency.

Residents living along the Gitangu-Gitathuru stream and its tributaries in Kabete Constituency have raised concerns regarding the ongoing demarcation of riparian land reserves under the Nairobi Rivers Commission Project. In particular, affected landowners state that although their title deeds provide for a three-metre riparian reserve, the proposed demarcation seeks to establish wider riparian boundaries, potentially extending into privately owned land and affecting the acreage contained in existing title deeds.

Further concerns have been raised regarding the manner in which the exercise is being undertaken, particularly the lack of adequate public participation and engagement with affected landowners on the scope of the project and the applicable riparian boundaries. This has created uncertainty among residents regarding the specific watercourses affected, the extent of land required for riparian reserves, and the implications of the exercise on their property rights.

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

1. Provide details of all rivers, streams and tributaries within Kabete Constituency that are affected by the implementation of the Nairobi Rivers Commission Project.
2. State when the Nairobi Rivers Commission and the Water Resources Authority intend to undertake public participation in Kabete Constituency on the proposed exercise, particularly with affected landowners.
3. Provide a report indicating:
  - (a) The required width, in metres, of the riparian reserve along the affected rivers, streams and tributaries, and provide the legal basis for the applicable measurements;

- (b) Whether the proposed riparian demarcation will result in a reduction of the acreage contained in existing title deeds and, if so, explain how such changes will affect the landowners.
4. State the measures that have been taken by the Government to institute a compensation mechanism for landowners whose titled properties will be affected by the proposed riparian boundaries, and provide details of the applicable compensation framework.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Wamacukuru. Chairperson, Departmental Committee on Environment, Forestry and Mining. Any member of that Committee? Clerk-at-the-Table, direct them to bring a response a week after recess.

PUBLIC DISCLOSURE OF KENYA'S GOVERNANCE AND  
CORRUPTION DIAGNOSTIC REPORT BY IMF

The request for a statement by Hon. Geoffrey Wandeto is put off to 3<sup>rd</sup> November 2026. He says he is rushing to an appointment elsewhere.

*(Request for Statement deferred)*

Hon. Umulkher, Nominated Member.

DELAYED PAYMENT OF COMMUNITY HEALTH  
PROMOTERS IN GARISSA COUNTY

**Hon. Umulkher Harun** (Nominated, ODM): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I wish to request for a statement from the Chairperson of the Departmental Committee on Health regarding the delayed payments of Community Health Promoters in Garissa County.

Community Health Promoters play a critical role in the delivery of primary healthcare services, particularly in under-served and hard-to-reach areas. Under the existing cost-sharing arrangement, the national Government and the county governments contribute an equal share of 50 per cent towards the payment of monthly stipends for Community Health Promoters. It is concerning that, despite the disbursement of the National Government's share of the contribution, the health promoters in Garissa County are yet to be paid. This raises concerns regarding the utilisation of the disbursed funds, compliance with the agreed cost-sharing arrangements, and the mechanisms that are available to ensure that the county government fulfils its obligations to facilitate payment to Community Health Promoters.

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

1. Provide a report on the total amount disbursed by the national Government towards the payment of Community Health Promoters in Garissa County in the Financial Years 2024/2025 and 2025/2026.
2. State the reasons for the reported delays in payment of Community Health Promoters, including budgetary, administrative or cash flow constraints, if any, affecting the timely release of the funds.
3. State the measures taken by the Ministry of Health to establish whether the funds disbursed by the national Government are utilised for the intended purpose, including accountability mechanisms for ensuring that county

governments fulfil their obligations towards the remuneration of Community Health Promoters under the cost sharing arrangements.

I thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Umulkher. Chairperson, Departmental Committee on Health, or any Member? Professor, when can you bring a response? Two weeks?

**Hon. Prof. Guyo Jaldesa** (Moyale, UPIA): Hon. Speaker, I think we will bring the response two weeks after the House resumes from recess. But my question is, how much power do we have over the county government? But we shall bring the report.

**Hon. Speaker:** Are you asking a question or responding to one?

**Hon. (Prof) Guyo Jaldesa** (Moyale, UPIA): I am responding, Hon. Speaker.

**Hon. Speaker:** Okay. Bring a response in two weeks. Next is the Member for Tigania West, Hon. John Mutunga.

#### LAND OWNERSHIP DISPUTE IN MAILI TATU

**Hon (Dr) John Mutunga Kanyuithia** (Tigania West, UDA): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a statement from the Chairperson of the Departmental Committee on Justice and Legal Affairs regarding a dispute over the ownership of land parcel No. Ruiiri/Rwarera/3999 situated in Maili Tatu, Ruiiri area in Meru County, near the boundary with Isiolo County.

Mr Stanley Naituli Kaliutha and his family have reportedly been occupying the said land since 1984. In 2017, while pursuing its adjudication, Mr Kaliutha was informed that the property was also being claimed by other parties. He consequently lodged a complaint with the Directorate of Criminal Investigations (DCI), which forwarded the inquiry file to the Office of the Director of Public Prosecutions (ODPP). On 20<sup>th</sup> August 2024, the Director of Public Prosecutions (DPP) recommended the prosecution of persons implicated in the matter. However, on 26<sup>th</sup> September 2024, the DPP deferred the criminal charges pending determination of a civil suit before the High Court in Meru.

Mr Kaliutha subsequently sought judicial intervention, alleging a violation of his constitutional right to fair administrative action under Article 47 of the Constitution. In a judgment delivered on 28<sup>th</sup> June 2026, the High Court held that the reversal of the initial decision by the DPP violated the Constitution. The Court directed the DPP to determine the inquiry file within 30 days from the date of the judgement. Despite the judgement, efforts by Mr Kaliutha to obtain information regarding the outcome of the investigations and the status of the inquiry file have reportedly been unsuccessful. The prolonged delay has hindered his access to justice and left the dispute unresolved, with his family at risk of losing their land.

It is against this background that I request for a statement from the Chairperson of the Departmental Committee on Justice and Legal Affairs on the following:

1. The status of the inquiry file submitted by the DCI to the ODPP regarding the ownership of land parcel No. Ruiiri/Rwarera/3999 situated in Maili Tatu, Ruiiri area of Meru County, near the boundary with Isiolo County;
2. Reasons for the delay in communicating the outcome of the investigations and the determination of the DPP to Mr Stanley Naituli Kaliutha.
3. Measures that are being taken to ensure timely resolution of the matter and facilitate access to justice for the affected family.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. (Dr) Mutunga. Let us have the Chairperson of the Departmental Committee on Justice and Legal Affairs or any other member of that Committee? Clerk, direct them to bring a response two weeks after recess.

Next is the Member for Ijara, Hon. Abdi Ali Abdi.

## UPGRADING OF ROADS IN IJARA

**Hon. Abdi Ali Abdi** (Ijara, NAP-K): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a statement from the Chairperson of the Departmental Committee on Transport and Infrastructure regarding the deplorable condition of the Masalani-Ruka-Ijara and the Ijara-Sangailu-Hulugho-Sinai roads in Ijara Constituency.

Those roads serve as critical transport links for residents of Ijara Constituency and neighbouring areas. The Masalani-Ruka-Ijara Road is also important in the context of the Lamu Port-South Sudan-Ethiopia Transport (LAPSSET) Corridor Project, given its potential to improve connectivity and facilitate trade in the region.

However, the two link roads are in a deplorable state and become largely impassable, particularly during the rainy season. This situation causes significant hardship to the residents who rely on the roads to access markets, health facilities, schools and other essential services. The poor condition of the roads also hampers the transportation of livestock, agricultural produce and other goods, thereby disrupting trade, undermining livelihoods and constraining economic activities in the region.

Hon. Speaker, it is against this background that I request the Chairman of the Departmental Committee on Transport and Infrastructure to apprise the House of the following:

1. The status of the integration of the Masalani-Ruka-Ijara Road into the Lamu Port-South Sudan-Ethiopia Transport (LAPSSET) Corridor Project.
2. The progress made towards upgrading the Ijara-Sangailu-Hulugho Road from gravel to bitumen standards under the LAPSSET Corridor Project.
3. The proposed financing arrangements and implementation timelines for upgrading both roads to bitumen standards, including the anticipated commencement and completion dates.
4. The measures being undertaken to maintain the roads and ensure that they remain passable during the rainy season, pending their upgrading to bitumen standards.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Abdi. Chairman of the Departmental Committee on Transport and Infrastructure. Hon. Harun, are you a Member of the Committee? Does any Member wish to joyride? One minute.

**Hon. Umulkher Harun** (Nominated, ODM): Thank you, Hon. Speaker, for giving me this opportunity. The request for statement that has been raised by the Member for Ijara is very crucial. Two weeks ago, a mother was bitten by a snake and died because the venom spread due to the deplorable state of the roads in the area. It is important that we look into this matter.

**Hon. Speaker:** Thank you. Clerk-at-the-Table, direct the Chairman of the Departmental Committee on Transport and Infrastructure to bring a response a week after the short recess. Let us have Hon. Mohammed Abdikadir, the Member for Lagdera.

## HUMAN-WILDLIFE CONFLICT IN LAGDERA

**Hon. Abdikadir Mohamed** (Lagdera, ODM): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I wish to request for a statement from the Chairman of the Departmental Committee on Tourism and Wildlife regarding the persistent threat caused by marauding elephants in Lagdera Constituency, Garissa County. On 13<sup>th</sup> October 2026, a 64-year-old herder, Mr Mukhtar Abdoy, of the stated ID number was reportedly trampled to death by an elephant while grazing his livestock in Benane Village, Lagdera Constituency.

In the same area, the elephant also reportedly trampled two camels to death, resulting in further losses to a pastoralist family whose livelihoods depend on livestock keeping. Hon.

Speaker, the incident follows earlier attacks reported in September 2024, when an elephant killed a resident, Mr Khalif Jellow, in Togdub Sub-Location, while two herders sustained serious injuries after being attacked by elephants in the area near Modogashe Town. The recurring incidents raise serious concerns about the effectiveness of existing interventions to prevent wildlife from straying into human settlements and grazing areas.

Hon. Speaker, it is against this background that I seek for a statement from the Chairman of the Departmental Committee on Tourism and Wildlife on the following:

1. The circumstances surrounding the fatal elephant attacks in Benane Village and the immediate response by the Kenya Wildlife Service, including whether the animals involved have been located and the measures taken to prevent further attacks.
2. The interventions being undertaken by the Kenya Wildlife Service to monitor elephant movements into Lagdera Constituency, particularly into Benane Village, Togdub, Lagdera, Modogashe and surrounding areas, and to protect residents, herders and livestock from elephant attacks.
3. The status of compensation to the families of the late Mukhtar Abdo Hussein and other residents affected by elephant attacks in the constituency, including the processing of pending claims for the death, injuries and livestock losses.
4. The long-term measures that have been planned by the Government to address recurring human-wildlife conflict in Lagdera Constituency, including the establishment of early-warning systems, deployment of rapid response and development of appropriate barriers or wildlife corridors to reduce encounters between elephants and human beings.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Mohamed. Chair, Departmental Committee on Tourism and Wildlife. Hon. Abdi, are you a Member of the Committee? Yes. Bring a response two weeks after the short recess.

**Hon. Abdi Ali Abdi** (Ijara, NAP-K): Yes. Thank you.

**Hon. Speaker:** Thank you. Is Mohammed Ado in the House? Yes, Hon. Abdi?

**Hon. Abdikadir Mohamed** (Lagdera, ODM): You know, a similar incident happened sometime in 2004. The matter was brought to the House and canvassed with the concerned department. The Kenya Wildlife Service promised to do something, but that is the last time we heard of them. So, this matter has become persistent, and the concerned people are not doing anything about this issue. I just want to know that because it is not the first time that I am bringing this kind of statement to the House.

**Hon. Speaker:** Do you want me to give them a shorter period to bring you a response?

**Hon. Abdikadir Mohamed** (Lagdera, ODM): Yes, please.

**Hon. Speaker:** A week after the week starting on 3<sup>rd</sup>.

**Hon. Abdikadir Mohamed** (Lagdera, ODM): Okay.

**Hon. Speaker:** Okay. So, is he in the House? Table the response.

**Hon. David Gikaria** (Nakuru East, UDA): I also have a request for statement.

**Hon. Speaker:** Just hold on Hon. Gikaria.

**Hon. Abdikadir Mohamed** (Lagdera, ODM): The question he is raising also affects my constituency. Who is raising the matter? Hon. Mohamed Abdi. The matter he raised also affects my constituency and so, if you can raise it, then we can respond to it.

**Hon. Speaker:** No! We do not work like that. It is not your request for statement.

*(Laughter)*

If the Questioner is not in the House, the practice is that the respondent Chair tables the Statement. They will read it, and if they want to pursue the matter, they will come to your committee and interrogate further. So, table the Statement. Hon. Gikaria, what is it?

**Hon. David Gikaria** (Nakuru East, UDA): You had approved a request for statement for me.

**Hon. Speaker:** Let us finish with Hon. Mohamed Adow. You are the Chair of the Departmental Committee on Energy. Table your response. It looked like a dissertation in the university. Why is it too long? I saw pages and pages of the response.

**Hon. Mohammed Adow** (Wajir South, ODM): They are annexures.

*(Hon. Mohammed Adow laid the document on the Table)*

**Hon. Speaker:** Okay. Then I will give you an opportunity to request your statement. Having tabled that. Tell your colleague, Hon. Abdi, that he will find that response in the Table Office. Hon. Gikaria:

#### FISHING ACTIVITIES IN LAKE NAKURU

**Hon. David Gikaria** (Nakuru East, UDA): Thank you, Hon. Speaker. I request for a statement regarding fishing in Lake Nakuru. Pursuant to provisions of Standing Order No. 44 (2) (c), I wish to request for a statement from the Chairperson of the Departmental Committee on Blue Economy, Water and Irrigation regarding fishing activities in Lake Nakuru.

Recently, the Cabinet Secretary for Mining, Blue Economy and Maritime Affairs indicated that fishing activities in Lake Nakuru should be permitted. However, despite this guidance, officers of KWS continue to harass fishermen who undertake fishing activities in the lake. The directive and uncertainty regarding the status of fishing in Lake Nakuru have disrupted fishing activities and adversely affected the livelihoods of fishermen and their families who depend on the lake for sustenance.

It is against this background that I request for a statement from the Chairperson of the Departmental Committee on Blue Economy, Water and Irrigation on the following:

1. The reason for the continued harassment of fishermen undertaking fishing activities on Lake Nakuru by officers of KWS, despite clear guidance from the Ministry of Mining, Blue Economy and Maritime Affairs allowing fishing in the Lake.
2. Measures that the Ministry has taken to stop the harassment of fishermen in Nakuru who rely on fishing activities in Lake Nakuru.
3. The licencing procedure that applies to fishing in Lake Nakuru and the reasons for applying stringent licencing requirements for sustained fishing.

Thank you.

**Hon. Speaker:** As a matter of interest, Hon. Gikaria, do we have any environmental reports on the pollution? I keep on reading online and in other publications.

**Hon. David Gikaria** (Nakuru Town East, UDA): Hon. Speaker, I...

**Hon. Speaker:** Let me finish. You know, Nakuru was my first workstation as a magistrate in 1982. I keep reading reports that Lake Nakuru is heavily contaminated and polluted. Have you taken steps to ensure the safety of our people? The livelihoods of fishermen are important, but the health and safety of consumers of fish are equally important. Have you consulted the public health authorities to establish the levels of pollution and contamination in the lake? As a Member from Nakuru, I would be interested in that.

**Hon. David Gikaria** (Nakuru Town East, UDA): Thank you, Hon. Speaker. Yes, during my second term, I made a request for the same, and the Ministry of Environment,

Climate Change and Forestry subsequently submitted a report. However, we disputed that report and also wanted to bring our...

**Hon. Speaker:** What did the report say?

**Hon. David Gikaria** (Nakuru Town East, UDA): The concern was that the fish found in Lake Nakuru had excessive levels of lead. However, we requested a second opinion. When the fisheries team conducted its assessment, it presented a report that contradicted the earlier findings. Therefore, Hon. Speaker, as you have directed, it would be good for us to obtain a report, if one is available, establishing the current status of the lake. I agree with you. However, that fish has been consumed for many years.

**Hon. Speaker:** Two wrongs do not make a right.

**Hon. David Gikaria** (Nakuru Town East, UDA): Correct. It is only that there has not been any indication.

**Hon. Speaker:** You will expand the request for your Statement to ask the Fisheries Department and Public Health to also furnish this House with a public health report on the levels of pollution and contamination of the lake so that, as we allow human activities to continue, subject to the fact that the entire lake ecosystem is a national park. So, the safety of the fishermen is also important but, more important, is also the consumers of the products of that fishing. Thank you.

**Hon. David Gikaria** (Nakuru Town East, UDA): Correct, Hon. Speaker. Much obliged. Thank you.

**Hon. Speaker:** Hon. Hussein Weytan, is the Chairperson of the Departmental Committee on Lands in the House.

*(Hon. Josses Lelmengit spoke off-the-record)*

Yes, Hon. Lelmengit, do you have the response?

**Hon. Josses Lelmengit** (Emgwen, UDA): Yes.

**Hon. Speaker:** Go ahead.

## RESPONSE TO STATEMENT

### RESERVATION OF COMMUNITY LAND IN MANDERA EAST CONSTITUENCY

**Hon. Josses Lelmengit** (Emgwen, UDA): Thank you, Hon. Speaker. I have the response for a statement regarding the reservation of LR No. 33285 community land in Mandera East Constituency.

Hon. Speaker, the National Land Commission (NLC) acknowledges receipt of the request for a statement pursuant to Standing Order 44(2)(c), regarding reservation of a LR No. 33285 in Mandera East Constituency to the Ministry of Defence.

The Commission noted that the request arises from concerns regarding the legal basis, justification and the processes leading to the reservation of the said parcel for military purposes that the County Government of Mandera had earlier communicated its decision to the Ministry of Defence vide letter Ref. CG/CS/PS-MOD/001 of 2019 dated 28<sup>th</sup> October 2019, under Annex 01 as provided, to set aside land for military use on account of strategic security interests and need to enhance national security along Kenya's borders with Somalia and Ethiopia.

The Ministry of Defence subsequently applied to the NLC vide the letter Ref. DHQInfra/395/4/ Lands dated 3<sup>rd</sup> June, 2022 in Annexure II seeking facilitation of land documentation and issuance of ownership instruments for the parcel identified as LR No. 33285 for purposes of establishing a military camp.

The request submitted to the Commission was accompanied by the supporting documents including correspondences from the County Government of Mandera. Certificate of land ownership of Ref. MCGMDR East 319/2021 dated 6<sup>th</sup> of April, 2021 in Annexure III; part development plan Ref. No. NRB 327/2021/01 dated 11<sup>th</sup> January, 2021 in Annexure IV and; survey plan FR No. 672/168 dated 18<sup>th</sup> May, 2022 in Annexure V relating to the parcel.

The Commission, in exercise of its constitutional mandate under Article 67(2)(a) of the Constitution of Kenya, is responsible for managing public land on behalf of the national Government and county governments and is, therefore, mandated to process reservations of public land for public purposes. As part of the Commission's due diligence procedure, a joint inspection involving officers from the Commission, Ministry of Defence and other relevant Government agencies was undertaken between 18<sup>th</sup> and 23<sup>rd</sup> September, 2023 to establish the grounds status of the parcel.

The inspection established that the parcel identified as LR No. 33285 is located in Karo Town within Mandera East Sub-County, Mandera County. The parcel measures approximately 4,882.3 hectares. It is rectangular in shape and is demarcated by boundary beacons in accordance with the approved survey plan. The inspection further established that the parcel was devoid of physical development at the time of inspection and is served by a 30-metre-wide access road.

Upon completion of the necessary procedures, the Commission issued a reservation order reserving the parcel for use by the Ministry of Defence as a military camp and training area. The reservation was communicated to the Principal Secretary, Ministry of Defence by the letter Ref.F8080/12, dated 21<sup>st</sup> July, 2025 in annexure XI.

The reservation of the parcel was undertaken pursuant to the provisions of Sections 15, 16, 17 and 18 of the Land Act, 2012, which empowers the National Lands Commission to reserve public land for specific public purposes, including national security installations. The reservations were further effected...

**Hon. Speaker:** How much more is left?

**Hon. Josses Lelmengit** (Emgwen, UDA): Just a page, Hon. Speaker. I will be done in three minutes. The reservations were further effected in accordance with Section 105(ii) of the Land Registration Act, 2012 which provides for the reservations and registration of the public land for the designated public use.

The reservation order provides conditions requiring the management body to prepare and implement a land use and management plan within 180 days of the reservation. The reservation further requires the management body to comply with the environmental and planning laws, including undertaking an environmental and social impact assessment prior to the commencement of any major development project on the land.

The reservation order also provides for safeguards, including regulated access to community livelihood areas such as grazing corridors, livestock watering points and salt leaks where applicable, and the protection of the environmentally sensitive areas within the parcel.

The management body was further required to maintain clear demarcation and security of the parcel boundaries and to coordinate with the relevant agencies to ensure proper management and sustainable use of the land. The reservation of LR No. 33285 in Mandera County was, therefore, undertaken in support of the national security objectives while ensuring compliance with the Constitution and the applicable statutory framework governing the management of public land.

Finally, the Commission remains committed to managing public land in accordance with the Constitution and the law, while balancing national development priorities with the interests of local communities.

I hereby submit.

**Hon. Speaker:** Hon. Weytan.

**Hon. Hussein Weytan** (Mandera East, ODM): Thank you, Hon. Speaker. This is a very unfortunate response. It is just a public relations gimmick that is intended to respond to your instructions to ensure that the response is brought today. The reason they have been hiding the response for the last six months is that they knew they were going to bring such a response.

That land is measuring over 49 square kilometres. It is grazing land, and very fertile grazing land. In fact, five kilometres from that area is a military camp called Omar Jilo, which I asked my people to give to the military so that it could carry out its security duties.

Unfortunately, the entire process was conducted in an opaque manner. The process started in September 2019, when I was not the Member of Parliament for Mandera East Constituency. Throughout that period, the entire process was conducted secretly. I submitted all the correspondence to the Committee. I spoke to the Chairperson today, and he confirmed to me that he himself could not present this response when it was received because he considered it unsatisfactory.

**Hon. Speaker:** The Speaker takes cognisance of the fact that the Member of the Committee has legitimately presented a response to your request. So, do not cast aspersions on anybody.

**Hon. Hussein Weytan** (Mandera East, ODM): Thank you, Hon. Speaker. Yesterday, when I raised the matter and you gave directions, they rushed to present the response. This is not a new response. This is exactly what they had, because the Clerk showed me what I saw.

**Hon. Speaker:** Challenge what he has said.

**Hon. Hussein Weytan** (Mandera East, ODM): What I am saying is that this response is unsatisfactory. The people of Mandera East Constituency are not aware of exactly what was transpiring from September 2019 up to the time the Gazette Notice was issued. That is when the people woke up to find that their land had been taken. Our military is a disciplined force. It cannot take land belonging to poor citizens of Mandera by force. Of course, it cannot. One thing I know is that the military has taken land just five kilometres away, which it is now using properly without any problem.

Unfortunately, this was done secretly by the Mandera County Government and the Ministry of Defence without the people knowing. In fact, the people only became aware of it when the Gazette Notice was issued.

**Hon. Speaker:** You say the military is disciplined, then you say...

**Hon. Hussein Weytan** (Mandera East, ODM): Hon. Speaker, kindly assist the people of Mandera East Constituency by giving directions so that the relevant authorities can bring a satisfactory response that can help me as the Member of Parliament. That is because I have been trying to stop them. Clashes were almost breaking out in Mandera.

**Hon. Speaker:** Who is in occupation of the land?

**Hon. Hussein Weytan** (Mandera East, ODM): That is why I rose to raise the question yesterday. The military moved to the site three days ago. I spoke to the officers in charge, and they told me that they had 49 square kilometres. That is 12,072 acres of land, and it is the land through which people access River Daua. People living upstream move towards the river to access water. Unfortunately, if that area is closed off, they will not be able to pass through it.

Furthermore, the authorities have been telling my people that this is an airport for Mandera. That is what they have been telling my people. They did not disclose that this was a military training site. Hon. Speaker, kindly assist my people. This is causing a lot of problems. People depend on livestock for their livelihoods. Thirty thousand people will be affected by this issue.

**Hon. Speaker:** Point made. Hon. Lelmengit.

**Hon. Josses Lelmengit** (Emgwen, UDA): Thank you, Hon. Speaker. First and foremost, I would like to inform the Member that the Chair was also committed in a similar programme in his constituency.

*(Hon. Hussein Weytan spoke off the record)*

**Hon. Speaker:** You are out of order.

**Hon. Josses Lelmengit** (Emgwen, UDA): Hon. Speaker, you know that the National Land Commission facilitates the transaction and transfer of land. This was a request made by the Minister of Defence way back in 2019.

*(Hon. Hussein Weytan spoke off the record)*

**Hon. Speaker:** Let him finish.

**Hon. Josses Lelmengit** (Emgwen, UDA): It got no objection from the county government. If the county government had an objection, they would have literally objected via a letter or their responses. They wrote an acceptance letter. I really pity the Hon. Member, but according to the available records, the county government responded that they had no objection and, therefore, they offered the land. The National Land Commission proceeded to give an allotment letter for the process to continue. That is my response.

**Hon. Hussein Weytan** (Mandera East, ODM): On a point of order, Hon. Speaker.

**Hon. Speaker:** What is your point of order?

**Hon. Hussein Weytan** (Mandera East, ODM): Hon. Speaker, is the Member in order to say that the county government gave direction and there was no objection, while he knows that only the people can decide what happens to the land through public participation?

**Hon. Speaker:** Hold on, Hon. Lelmengit. Yes, Member for Lafey.

**Hon. Abdirahman Mohamed** (Lafey, JP): Thank you, Hon. Speaker, for giving me this opportunity to also add my voice on this Statement. Much has been raised by the Member of Parliament for Mandera East. This issue affects a community that we represent. As he has said, the corresponding letters attached to the response to statement have been done secretly. As a community and as leaders, we came to know when the Gazette Notice was published. We sought the attention of His Excellency the President and held a meeting with him. He actually made calls to the concerned authorities and he has instructed them to stop that construction. We have also opted to go to court. We have obtained a court order and its ruling is coming up in November or next month.

**Hon. Speaker:** So, the matter is in fact in court?

**Hon. Abdirahman Mohamed** (Lafey, JP): It is in the court for injunction.

**Hon. Speaker:** That is a failure to disclose material facts. We do not debate matters that are pending before court.

**Hon. Abdirahman Mohamed** (Lafey, JP): Yes, Hon. Speaker. The matter is in court and we are now worried why the Ministry of Defence is in a hurry to occupy that space when His Excellency the President has already given instructions that they should not go to that site. We also went to court. I thank you because we have got this response because of the directive you gave yesterday. I kindly request you to give direction because they have already been there for a week and they are doing site mobilisation. If they can stop that site mobilisation, the Departmental Committee on Lands can visit that area and come up with a proper report. This matter might bring conflict between the Ministry of Defence and the communities that live in that area. To avoid that, we kindly request you to give a directive to the Ministry so that the Departmental Committee on Lands can visit the said area to come up with a proper response.

**Hon. Speaker:** Yes, Hon. Abdikadir.

**Hon. Abdikadir Mohamed** (Lagdera, ODM): Thank you, Hon. Speaker. I just want to raise one simple question. Since this matter affects an entire community, was enough public participation done before that land was given to the military?

**Hon. Speaker:** Hon. Josses, was there public participation?

**Hon. Josses Lelmengit** (Emgwen, UDA): Thank you, Hon. Speaker. As I mentioned, the NLC only facilitates, and there are processes involved. Once the county government has accepted that the land is free for allocation, I assume there must have been a public participation exercise that was conducted by the county government. I thought security issues were a priority for the county government. For the county government to have accepted and laid no objection to the Ministry of Defence, they must have considered...

**Hon. Speaker:** Is the no objection in writing?

**Hon. Josses Lelmengit** (Emgwen, UDA): Yes, it is. Moreover, it comes with conditions. When the NLC grants land for use, there are conditions and guidelines, such as the requirement to fence and demarcate the area for security reasons, among others.

**Hon. Speaker:** Very well. Hon. Hussein, have you spoken with your county government? It appears that your county government is the one that has alienated land to the military.

**Hon. Hussein Weytan** (Mandera East, ODM): Hon. Speaker, you are a lawyer and a Senior Counsel, and you know that the process is supposed to begin with public participation. This issue affects three wards: Arabia Ward, Libehia Ward, and Khalalio Ward. I personally visited the area, and the residents are not aware of any such developments. The entire process was conducted secretly.

**Hon. Speaker:** That is what I am asking.

**Hon. Hussein Weytan** (Mandera East, ODM): We do not understand why the county government did this. When I inquired with the locals, they informed me that the land was meant for an airport, which is what they were told. However, the *Kenya Gazette* is now indicating a military training site. This is completely different. When I asked further, I was told it is an airport for Mandera, named Karo International Airport. But it is not an airport. It is a military training base. There are suitable sites that are available for an airport similar to those in Kisumu, Eldoret, or Mombasa, which the people of Mandera would not oppose. We can identify those sites, and the elders are willing to co-operate. That land is being used for something that is totally different. It is a military training centre, and we already have a military camp five kilometres away - the Omar Jilo Military Camp.

**Hon. Speaker:** Thank you. Hon. Josses, we can revisit this matter in three weeks. Please check, with the assistance of the Clerk's Office, the Department of Defence, the NLC, and the County Government of Mandera. If it turns out that your county government alienated the land to the military, then the arena for dispute lies elsewhere. The Member for Lafey has also informed us that this matter is actively in court. Is that correct?

**Hon. Hussein Weytan** (Mandera East, ODM): Yes, we have a conservatory order. However, it appears they are not honouring it, which is why I felt compelled to raise it here.

**Hon. Josses Lelmengit** (Emgwen, UDA): Hon. Speaker, this happened between 2019 and 2021.

## ADJOURNMENT

**Hon. Speaker:** Hon. Members, it is now time to adjourn the House. Will you be upstanding? Having concluded Orders No.7 and 8, and the time being 8.24 p.m., the House stands adjourned until Tuesday, 3<sup>rd</sup> November 2026, at 2.30 p.m.

*(The House rose at 8.24 p.m.)*

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